



Corporate Services Scrutiny Panel Quarterly Public Hearing with the Minister for External Relations

THURSDAY, 13th FEBRUARY 2014

Panel:

Senator S.C. Ferguson (Chairman)

Deputy J.G. Reed of St. Ouen (Vice-Chairman)

Witnesses:

Senator Sir P.M. Bailhache (The Minister for External Relations)

Mr. T. Walker (Director, International Affairs)

Mr. D. Walwyn (Deputy Director, International Affairs)

Topics Discussed:

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[14:12]

Senator S.C. Ferguson (Chairman):

To straighten out the housekeeping, there is I think a notice that it is privileged and general health warnings.

Deputy J.G. Reed of St. Ouen:

It is in front of you.

Senator S.C. Ferguson:

Oh, it is just in front, yes. Oh, I am sorry, I should have remembered Deputy Rondel and Constable Mezbourian are unfortunately unable to be here this afternoon. They very much regret missing it. Now, if we could go round, please, for the benefit of the people who do the transcriptions and say who we are and what our titles are. Right, if we can start with the Business Plan, Minister, what are your priorities for 2014?

The Minister for External Relations:

I think we have, broadly speaking, 4 priorities, Chairman, although, of course, the common policy of the Council of Ministers is the document to which we work and anything that requires to be done under that common policy is part of our work for the year. But so far as priorities are concerned, we obviously have a first priority in building up our relationships in London.

[14:15]

The London office opened about 6 months ago and we will very shortly be moving into the premises that have been rented for the office. There are numbers of engagements involving the diplomatic community, the political community, members of the House of Commons, members of the House of Lords. What is, I think, a good development is that a representative of Jersey Finance Limited will be working from the London office so that there is the opportunity of making sure that the interests of the Island in numbers of different domains are tied together. Secondly, we have a priority of developing our relationship with France. I have said many times before that France is our closest geographical neighbour and that good relations with the Government of France are extremely important to the Island. To turn it on its head, if we have bad relations with any part of the French Government, as we did last year, that can have very serious consequences. So we are taking advantage of the goodwill generated by the removal of Jersey from the blacklist to build up relations with the national Government in Paris. I was in Paris yesterday with the Constable of St. Helier attending a meeting of the Groupes d'Études des Îles Anglo-Normandes, representing Guernsey as well as the Guernsey Minister could not be present. We had a very

useful general discussion there and explained again our position so far as the blacklist was concerned. Thirdly, the European Union. As you know, the European elections take place in May. There will be a new set of European Commissioners in October and through the Brussels office we are working in a number of different areas to represent the interests of different elements of our Government and our industry to make sure that no unpleasant surprises come over the horizon from the European Union. Then, fourthly, we are, as always, engaging with emerging major economies in the Gulf area and in the Far East in particular. The Chief Minister is due to go to the Gulf in May, I think, and the Minister for Treasury and Resources is due to go to Saudi Arabia in June or July. Those are the principal areas where we are trying to advance our interests.

The Deputy of St. Ouen:

You speak about building relations with France, and obviously you highlighted a particular matter and tax exchange information that came to light. Perhaps slightly a little bit more close to home or more current is an issue that is being faced by one of our local transport providers. I just wondered whether or not you felt it necessary or even if you had been consulted about the issues that surround that particular matter and have offered or tendered any advice or help.

The Minister for External Relations:

We have taken the view up until now, Deputy, that this was a matter between a private company and its employees, an employer/employee dispute, but obviously it is having a damaging effect on our economy. So we are looking at ways in which it might be possible for us to intervene in a constructive way, but these are very early days. I do not think I can really say any more than that at the moment.

Senator S.C. Ferguson:

Yes, it seems a little odd that the French union is now, according to the press, demanding that Condor register their boats and apply French union principles to their workforce. Is this the sort of thing that you could usefully talk to our French neighbours about?

The Minister for External Relations:

Well, I think the first difficulty from my perspective is trying to identify what part of our neighbour we should be trying to engage with; in other words, whether it should be with the regional Government, with the Prefecture in Ille-et-Vilaine or whether it should be some branch of the national Government in Paris. As I say, that is work in progress and I cannot really say any more than that at this stage.

The Deputy of St. Ouen:

Regardless of the fact that it is a private company, just to reinforce what you said before, you are aware that this particular matter could have an impact on the Island both directly with the transport link and indirectly because of the fact that we have other French companies that are based and working within our Island?

The Minister for External Relations:

Yes, I would think that is absolutely right, Deputy, if I may say so. We have fishermen who want to export their catch to France and to Spain and at the moment they are prevented from doing that, so it is a damaging matter so far as we are concerned. We cannot sit back and do nothing.

Senator S.C. Ferguson:

You have mentioned that there are going to be visits by the Chief Minister and the Minister for Treasury and Resources. What visits do you anticipate undertaking over the next few months?

The Minister for External Relations:

I go very regularly to London. I am going to be going to Paris in a week's time to attend the Foire de l'Agriculture, which is a very important agricultural event in Paris drawing in huge numbers of exhibitors and paid a great deal of attention by the French political class. So I shall be going with Deputy Labey in her capacity as an Assistant Minister of the E.D.D. (Economic Development Department) to Paris for a day in order to attend that fair and also to sign an agreement with Monsieur Le Grand, because we attend this fair thanks to the good offices of the Département de la Manche and former Senator Le Grand. The understanding has been reached that we will commit to attend this fair for the next 3 years, and so an agreement will be signed to that effect.

Senator S.C. Ferguson:

By an agreement you mean we will have a stand?

The Minister for External Relations:

We will have a part of the La Manche stand, yes.

Senator S.C. Ferguson:

Right. So it will not be a Jersey stand, it will be Jersey, part of the La Manche area?

The Minister for External Relations:

Well, we contribute to the costs of La Manche in having the La Manche stand, but we will have a corner of the stand and this is an extremely generous arrangement so far as the Département de

la Manche is concerned. The costs for Jersey are very low, but it gives us the opportunity or gives our industry the opportunity to exhibit their wares and to develop possible markets in France.

The Deputy of St. Ouen:

Is this show simply focused on agriculture or does it include fisheries?

The Minister for External Relations:

That is a good question. I do not know is the honest answer. I think probably it is just agricultural. I was there last year and I cannot remember seeing any fish.

The Deputy of St. Ouen:

Why I ask is that obviously we have direct agreements with France regarding fishing rights and waters around our Island. I just wondered what importance is placed on that and how that relationship is being developed or not.

The Minister for External Relations:

Yes, we do have, as you say, a very important relationship in fisheries with both the administrators and the fishermen from Brittany and from Normandy and there is a committee which was set up at the time when the Anglo-French Treaty was signed governing access to the waters between Jersey and France. So far as I am aware - and, in fact, I was asked this question and there was some discussion about it in Paris yesterday - the relationship is working very well.

The Deputy of St. Ouen:

Is the main aim of attending events such as the one in Paris to promote trade between France and the Island or does it extend further than that?

The Minister for External Relations:

I think there are two reasons for it. The first one is to give our producers the opportunity to show their wares and so to develop trade with France. The second reason is more broadly political because the Conseil Général de la Manche has been extremely supportive of Jersey in a number of ways. Certainly, in recent years they have funded in part the boat that operates between Jersey and Normandy and that is very much in our interests as well as in the interests of the Normans. Because Monsieur Le Grand has extended this invitation to Jersey to participate with La Manche in the fair, it would be churlish, I think, to refuse and to not take part. So there is a broader issue of building up good relations with our neighbours.

The Deputy of St. Ouen:

We also have a Maison de la Normandie situated in St. Helier. Am I right in saying that is funded from La Manche or, no, it is the other...?

The Minister for External Relations:

It is partly funded. It is "Maison de la Normandie et de la Manche." So it is funded both by the region and by the department. But that gives me the opportunity, perhaps, to say that another important development in France, which perhaps I should have mentioned in answer to the Chairman's question, was the establishment of the new partnership with Guernsey in Normandy and Brittany and the establishment of an office which rejoices under the acronym of B.I.A.N., the Bureau des Iles Anglo-Normandes, which you will probably know better than me, Deputy, but my understanding is that 'B.I.A.N.' could also mean 'good' or 'well' in the Jersey-French language. So it is a very happy acronym, we think. We are going to be doing this with Guernsey for the first time and we are due to appoint a new head of the office. Interviews I think will take place at the end of the month and that, with the funding that is going to come in from Guernsey, will over the next couple of years enable us to do many more things regionally than I think we have been able to do before.

Senator S.C. Ferguson:

Is the current head of the office retiring then?

The Minister for External Relations:

He has, yes.

The Deputy of St. Ouen:

Just turning our direction to London for a minute, there was some discussion around the overall cost and funding of the London office and staffing and resources. You have already mentioned that Jersey Finance will be working from that office so perhaps the first question is could you tell us whether or not there is a contribution that is being made by Jersey Finance towards the cost of the London office and, secondly, whether or not, thinking of the partnership that we have entered into with Guernsey and France, that has been reciprocated in the London office?

The Minister for External Relations:

Well, can I take the last part first and I might ask Tom perhaps to deal with the first question. Guernsey certainly is contributing to the cost of the new office in Caen. It will be dealt with progressively because this is a new commitment so far as Guernsey is concerned, but over the next couple of years or 3 years we hope that there will be a full contribution from Guernsey to the costs of the Normandy office. Would you like to deal with...

The Deputy of St. Ouen:

In regards to the London office, do we have the same arrangement?

The Minister for External Relations:

With Guernsey? Not yet, no. I hope that in time we will be able to operate a joint Channel Islands office, but it is not something which Guernsey is able to contemplate at the moment.

Senator S.C. Ferguson:

How much is it going to cost?

The Minister for External Relations:

The London office?

Senator S.C. Ferguson:

Yes.

The Minister for External Relations:

Do you have the figures, Tom?

[14:30]

Director International Affairs:

Yes. The Assembly supported £600,000 per annum for the London office in the Medium-Term Financial Plan and that is the budget that we are working to. So we calculated that as being the likely cost based on the assumption that we would have to at least initially operate the office as Jersey only and without Guernsey. The Channel Islands Brussels Office costs £400,000 each for Jersey and Guernsey, so their total budget is £800,000. We managed to do the London office for a little less because we knew that we would just have Jersey only funding to start off with.

Senator S.C. Ferguson:

That is the forecast?

Director International Affairs:

Yes, everything.

Senator S.C. Ferguson:

It is in Queensgate I think or Queen Anne's Gate?

Director International Affairs:

Yes, it is near to St. James's Park tube.

Senator S.C. Ferguson:

Just round the corner from Carteret Street, which seems appropriate. [Laughter]

Director International Affairs:

Indeed. In answer to your question about Jersey Finance, we thought about that because we did consider a process whereby we would recharge other Government departments or promotional bodies for use of the facility if they just wanted to use it for a few days or have someone based there, but in the end we decided all we would be doing is just moving essentially public money around and we just decided it was inefficient and just a waste of money to do that. So instead what we decided to do was to treat it a bit like the way a sovereign state would treat an embassy in that the Government takes responsibility for having that facility and then it serves the broader interests of the country. That is the decision we have taken because it seemed more efficient than sending invoices between two publicly funded authorities.

Senator S.C. Ferguson:

Yes. There will be a permanent member of Jersey Finance staff, then, based in London?

Director International Affairs:

Yes.

Senator S.C. Ferguson:

This will be a new post, presumably? I know it will not be paid for by the States.

Director International Affairs:

Jersey Finance have had someone in London for a while and really they are questions for Jersey Finance more than me, but my understanding is that they have done some moving around of their people following the McKinsey Review. I think that the gentleman who was focused almost exclusively on London has now been asked to focus a lot on promoting commercial ties with Russia through London, because as you know we get referrals through the magic circle firms from Russia through to us. Then that has meant that they have not had someone commercially focused just on the City, so that is the new post that they will put in place.

The Deputy of St. Ouen:

How many individuals will be permanently occupying or employed supporting...located in the London office?

Director International Affairs:

Three. The London office will have 3 staff, yes.

The Minister for External Relations:

Although we have various people seconded to the London office in order to gain experience and so on. We have one of our members of staff from the External Relations Ministry in London now, so that makes a total of 4 people working on the...

The Deputy of St. Ouen:

Yes, developing a skills and knowledge base?

The Minister for External Relations:

Indeed.

Director International Affairs:

Yes, they will be there for 6 months in order to add to their professional development and gain firsthand experience of Westminster and Whitehall.

Senator S.C. Ferguson:

Yes. Does that mean you are going to have to expand the number of people in your staff and perhaps ask for an Assistant Minister?

The Minister for External Relations:

There are no plans to ask for an Assistant Minister at the moment because I do not think there is a spare one available. If the Troy rule were changed, then maybe we would be able to have an Assistant Minister, which would be quite helpful.

The Deputy of St. Ouen:

Picking up on one of the other priorities that you mentioned, talking about working closely with emerging economies, very recently we have been informed that efforts have been made within South Africa and the mining. I just wondered with concerns that surround that activity in that country how does that fit with the principle identified in the common policy for external relations No. 5, which is joining with others in supporting sustainable development and poverty reduction in developing countries. Can you talk about what your involvement is in that area at the moment? How do you deal with issues of poverty and other matters when promoting the Island and encouraging trade between a country or one of its companies whose activities in that country may not necessarily fit some of the human rights rules and criteria that we have all signed up to?

The Minister for External Relations:

It is not easy and it is not just a question of human rights. It is a question of corruption and whether or not one should engage with Governments whose record in those particular domains is perhaps less than perfect. But on the other hand, if one is trying to encourage developing countries to develop their internal capacity to deal with administration, to deal with tax, to deal with all the things that a sovereign state has to deal with nowadays, one cannot necessarily treat such countries as pariahs. If one does not engage with countries which may not have perfect records in all respects, then the opportunity of helping them to change and to develop their internal capacities is diminished. So that is one aspect of it. Then, of course, the other aspect of it is nakedly commercial. Some of these countries are emerging tigers, economic tigers, and they present commercial opportunities which we would be foolish to ignore. So I think it is necessary to advance carefully but we cannot turn our backs on emerging countries which present opportunities and which also need our help.

The Deputy of St. Ouen:

In the light of the pressure that has been placed on this Island over the last 2 or 3 years with regards tax transparency and compliance with European rules and regulations as well as other countries, what efforts are you - representing obviously and delivering the common policy - placing on the importance of Know Your Client?

The Minister for External Relations:

Well, very high importance not only because of our commitment to sign tax information exchange agreements and so on, but also because Know Your Client is a very fundamental international standard. We subscribe to the view that Jersey should comply with all international standards.

The Deputy of St. Ouen:

How do you ensure that those that our finance industry may choose or be encouraged, in fairness, to enter into arrangements with not only fulfil and meet the principles as described in the common policy that the Council of Ministers have signed up to or, indeed, the other underlying arrangements that we have entered into with countries worldwide around the finance industry and the like?

The Minister for External Relations:

I do not know whether you want to add to this, Tom, but I would have thought that that is principally the responsibility of the regulator, the Jersey Financial Services Commission. It is their duty to ensure that regulated entities in Jersey know their customers and are able to keep on top of changes of beneficial ownership and are able to answer questions when proper questions are put to them by the regulator. I do not know whether Government has any further responsibility.

Director International Affairs:

We do have a role to ensure that all of the agencies and bodies in the Island are complying with the necessary standards. Most of the Know Your Customer standards come from the Financial Action Task Force as part of the anti money laundering regime. That was what the I.M.F. (International Monetary Fund) was assessing us against back in 2009. Then last year all of the Crown Dependencies became members of the Council of Europe Moneyval organisation, and the Moneyval Committee of the Council of Europe is the European regional anti money laundering body. They will be conducting further assessment of the Island later this year. There will then be another assessment in 2016/2017 against the new Financial Action Task Force standards, which are even higher than the old ones. Our role in that is to make sure that the Island is prepared and that all of the relevant bodies have done what they are supposed to have done. One of the things that I do for the Minister is to chair something called the Jersey Financial Crime Strategy Group, and that brings together senior officials from the Jersey Financial Services Commission, the Gambling Commission, Treasury, Home Affairs, Joint Financial Crimes Unit, the States of Jersey Police, a whole range of bodies who are involved with this anti money laundering mechanism. We are very rigorous. We go through the standard. We look at past assessments. We work through all the actions and recommendations that have been made which the Island needs to implement. We implement them. We make sure that we are in good shape for our next assessment. I think probably in your broader role in the Assembly you sometimes see some of those coming down the mechanism towards you as updates to money laundering orders and things like that, but that is all part of that bigger, broader standard on anti money laundering, which includes Know Your Customer.

The Deputy of St. Ouen:

We have nothing to be frightened of, I hasten to add, and we should be proud of the actions we have taken to ensure that we are transparent in our financial dealing. I sometimes struggle or find it difficult to understand that on the one hand we have pressure placed on us to provide this transparency in improving the financial arrangements which we know are already very robust, and yet, if you take another view, we have recently in the last 2 or 3 years seen greater activity undertaken by the Government to engage with countries who are not and would not be considered compliant but equally have significant policy and social issues that do not necessarily marry up with the picture we are painting with regards the I.M.F. and the European Union.

Director International Affairs:

Yes. There are perhaps two slightly separate points and I will try and disentangle the two. In terms of the risk coming into the Island, as the Island engages more with emerging economies, then what you will find is that the Jersey Financial Services Commission regulations on things like Know Your Customer have different levels and grades depending upon who the customer is and

where they are. So the risk to the Island is managed through a multi-level approach to Know Your Customer. A customer in London is treated at one level of Know Your Customer standards and a customer in South Africa is treated slightly differently because it is a risk-sensitive system. So the approach that the industry is required to apply depends upon the risk that that particular piece of business represents.

The Deputy of St. Ouen:

How sensitive are we as a Government to...

Director International Affairs:

Then that is the second part of your question. So one part of the question is the risk coming into the Island, and I understand that. That is dealt with through variable levels of regulation and scrutiny depending on the risk. That is one of the things that the Jersey Financial Services Commission checks when it goes and does its inspections of institutions. So that is the way it works. It works like that all round the world.

[14:45]

The other question is really the other way, to do with Jersey entering into diplomatic and commercial relationships with countries that have difficulties with corruption, difficulties with human rights, that work outside the western European norms. Like Sir Philip said earlier, that is very difficult. I think that it is necessary to engage and to engage positively those countries in order to aid and assist their development, and you can see that the countries do evolve. They become more exposed to what we would regard as western standards. They improve over time. They evolve. But it is a very difficult balance and I do not think that we would shy away from the difficulty in making that balance.

The Minister for External Relations:

No. It is a difficulty which I think the Government as a whole is very much alive to. We have had some very vigorous debates in the Financial Services and External Relations Advisory Group in relation to the signature of a tax information exchange agreement with a particular African country, which negotiations have been going on for some time and where I think we are poised to sign. It is a country with a history of difficulties in terms of corruption in particular and so what does one do? Do we refuse to sign a tax information exchange agreement because they have these difficulties or do we take the optimistic view, which is that we would be encouraging the development of a better internal system in this country by signing a tax information exchange agreement with them, enabling them to get information about their citizens who might be avoiding their obligations to pay

tax in that particular country? We have taken the view on balance that it is better that we should sign.

The Deputy of St. Ouen:

Can I give you a hypothetical example? The idea is to try and get a sense of how you may or may not deal with this particular matter. We are all aware of the low consignment issue. The Island encouraged business to come and operate from here, then obviously through pressure from the U.K. (United Kingdom) we found that that industry all but disappeared. If we had had an External Relations Department and a Minister for External Relations at that time, what are the sort of issues that you would have been flagging up prior to the Island committing itself to welcoming and pursuing that particular activity, be it that it was financially beneficial at the time?

The Minister for External Relations:

It is a difficult question. If one casts one's mind back to the early days of the development of the fulfilment industry, there was a concern expressed by Government through the then Minister for Economic Development who did, indeed, try to prevent some of the large companies which were seeking to establish themselves in Jersey where it was an entirely artificial and naked attempt to avoid value added tax. Some of these big companies were, in fact, turned down and sent away, so there was an attempt to prevent the immoderate exploitation of the tax relief. But I think it is also important to add that when the case went before the English court the judge found that there was nothing improper in what had been done in Jersey so that the withdrawal of the tax relief enterprises in Jersey was a piece of economic self-protection by the United Kingdom and had nothing whatsoever to do with anything improper that was being done in Jersey. Now, one can complain about that and probably would have complained about it differently, but I do not think that it can be said that the Government either a few years ago or more recently was careless about the implications of the fulfilment industry.

The Deputy of St. Ouen:

Chair, one last question on this particular matter. As Minister for External Relations and responsible to deliver the common policy as agreed by the Council of Ministers, what emphasis do you place on protecting and promoting the Island as a jurisdiction against the economic aspects and growth that we also seek to achieve?

The Minister for External Relations:

There is a tension there. One of the paragraphs of the common policy is that we seek to assist in the identification, monitoring and reduction of external systemic risk to Jersey's economy. So we do always have to keep a weather eye open for the potential economic consequences with foreign countries of activities that are taking place in Jersey. Sometimes the Economic Development

Department will be encouraging particular kinds of trade with foreign countries which make us nervous and we then have a discussion as to whether the risk outweighs the commercial benefit that would result.

The Deputy of St. Ouen:

Right, so your priority would be the Island first, economic issues second?

The Minister for External Relations:

Well, both, yes. **[Laughter]** Our concern in the External Relations Department is to try to avoid collisions. We do not want to see Jersey coming up in overt conflict with any foreign country as a result of commercial activities that are taking place in the Island, whether they are in the financial services sector or, indeed, in some other sector.

Senator S.C. Ferguson:

Carrying on from that, though, you mentioned systemic risk and so on and the E.U. (European Union). I think you might have mentioned them in the same sentence. We have a new E.U. treaty coming down the track which is aiming, as far as I can gather, for closer union, and they are talking now about political union and so on. How are we going to cope with Jersey in this sort of ambience?

The Minister for External Relations:

I am not sure, Chairman, that I am entirely au fait with the treaty that you have in mind. I think the more pressing problem, so far as I am concerned, is what the United Kingdom's position might be in the aftermath of a referendum in 2017 on the U.K.'s relationship with the European Union. I think that is probably not the choice you are talking about.

Senator S.C. Ferguson:

My understanding is that that is all part of the new treaty that is coming along, I think, is it not?

Director International Affairs:

There is a debate in Europe as to whether there would be a new treaty or treaty change. Different Member States have different views on whether they would wish to see a new treaty. Partly this is driven by the results of the euro crisis and whether treaty change is required to create the institutions to protect the future stability of the euro, and the Germans, the French and others seem to have different views on whether they would find treaty change desirable. Then partly it is driven by a discussion from the U.K. and the Dutch and others about whether they would wish to reopen treaty negotiations as well. So at this stage it is not clear whether there will or will not be a new round of treaty negotiations and a fresh treaty.

Senator S.C. Ferguson:

Well, Barroso is talking about political union and I have heard Angela Merkel talk about it, too.

Director International Affairs:

Yes, there is a lot of opinion.

Senator S.C. Ferguson:

This is something that will affect us.

Director International Affairs:

There are a lot of opinions on it and Europe will come down one side or the other of that debate in due course, but I think that is the treaty change potentially that we are talking about, which is a little up in the air at the moment, yes. As you say, it is possible to speculate that there will be treaty change and that those that wish for treaty change will get their way, and then it will be a treaty negotiation with, I think, the U.K. and possibly the Dutch and others pulling in one direction and the Germans and judicial integration is pulling in a different direction.

Senator S.C. Ferguson:

Yes, but as I say Barroso and his adjuncts are busy talking about political unity, which is our sovereignty down the proverbial.

Director International Affairs:

Of course.

The Minister for External Relations:

Absolutely right, but our fixed position is Protocol 3. That is the embodiment of our relationship with the European Union, which is protocol to the United Kingdom's Treaty of Accession. So it is only if the United Kingdom's Treaty of Accession disappears that our Protocol, we think, we hope, will be up for renegotiation or challenge. Even if there are treaty changes and the U.K.'s Treaty of Accession remains the same, then we hope that our relationship with Europe will not be altered.

Senator S.C. Ferguson:

Yes. We are not a member of the E.U. under Protocol 3 but we continue to adopt E.U. directives. Is this really in our best interests?

The Minister for External Relations:

If it was not in our interests we would not do it.

Senator S.C. Ferguson:

There is an awful lot that sneaks in and you find that various departments have adopted bits of legislation or directives and you do not realise it until something crops up and you ask a question in the States.

Director International Affairs:

I think there is a feature of all legislative regimes in that you will find that a lot of countries in Europe will adopt the European standard as set through a European directive as the one that they want to work to. In the same way, a lot in Asia and the Caribbean adopt the American standard. There is a lot of American law in Caribbean and Asian countries because the Americans have set the de facto standard. I think that is probably what you are referring to where there is no obligation on the Island to adopt a particular European approach to regulating something, but the Ministers have decided that independent of any obligation it is in the best interest of Islanders that we work to that same standard. Therefore, there is effectively voluntary adoption. An example of that in our area is probably the airport and the aviation rules where essentially we have chosen to adopt the European standard because that makes it simpler for the airlines who are travelling from the U.K. into French airspace into our airspace and to work to a different standard increases their costs and makes it more complicated so everyone's ticket price goes up and it is not a particularly desirable thing for Islanders. So the airport, a lot of the regulations surrounding air safety and security is a voluntary adoption of the European standard. Is that the kind of thing that you are thinking of?

Senator S.C. Ferguson:

Yes, except that, as I say, it is put to me on occasions that the F.A.A. (Federal Aviation Authority) standards are perhaps more appropriate. I looked through that very splendid list of implementations that you did in answer to my question. We have the bees, diseases of animals, various types, medicines, advertising. I think herbal medicines are something where they keep bringing in some fairly draconian regulations.

[15:00]

Director International Affairs:

The ones to do with animal husbandry health tend to be under Protocol 3, so we are obliged to do those by and large. The ones under herbal remedies are half in and half out of Protocol 3. I think it is a debating point. Then this comes back to reputation, on the point that Deputy Reed was making, in that it probably would be possible for the Island to sit outside of herbal remedy rules but I think that the judgment that the Health Department has made is that that has been damaging to our reputation and that a number of representations have been made to the U.K. and elsewhere

regarding mail order herbal remedies which have been sold through Jersey - no real economic value to us, do not really create a lot of jobs here or do not create any jobs here essentially, have been in the past post-box operations - and the adoption of the European standard is to make sure that that is nipped in the bud before it becomes a reputational problem and the Island gains a reputation for substandard mail order herbal remedies.

Senator S.C. Ferguson:

Yes, but if we talk generally our E.U. regulations generally come via London?

Director International Affairs:

No.

Senator S.C. Ferguson:

They get gold plated in London and then they get gold plated when they get here, and it is another several civil servants.

Director International Affairs:

That might have been the case in the past but I do not know. Since I have been responsible for these matters in Jersey that has not been the way that our Law Draftsmen and Law Officers have worked. What they have tended to do...so on the airport where the decision is taken that it needs to run to the European standard, what they do is they go back to the base directive. They do not use the U.K. law, they use the directive and implement that in a Jersey law sensitive way. I do not know whether in the past they used to use the U.K. law as a proxy, but certainly in my experience they do go right back to the base law.

The Minister for External Relations:

Certainly, I signed two Ministerial Orders this morning which did exactly that and which implemented a particular European directive by reference to the directive itself. The fact is, as you rightly say, we are a third country. We are outside the European Union, but on the other hand we are a blip on the edge of a huge land mass. It is quite difficult sometimes not to go along with trends that are well established in the land mass to the east and south of us. Certainly, if we wish to trade in that particular area with Europe then we obviously would find it difficult if we did not comply with those standards.

Senator S.C. Ferguson:

If it applies to trade, yes, because Protocol 3 is mainly concerned with trade and travel and so on. Anyway, we are also - if I can go on from that - members of the Common Travel Area, but we are not required to follow the provisions of Schengen. What are the pros and cons of this position?

The Minister for External Relations:

Well, we are part of the Common Travel Area because we always have been.

Senator S.C. Ferguson:

Well, yes, fair enough.

The Minister for External Relations:

We have had the right of abode in the United Kingdom and we have had the right for 800 years or more to travel to and from England. The Common Travel Area, which now includes the Republic of Ireland with the British Isles, gives us the capability to move freely within that area. It would be nice, I have always thought, to be part of the Schengen area and part of the Common Travel Area, but so long as the United Kingdom, which is the sovereign state, is not part of the Schengen area I do not think there is any possibility of Jersey becoming a part of the Schengen area unless, of course, we became a sovereign state.

Senator S.C. Ferguson:

Your idea of the pros and cons?

Director International Affairs:

The con perhaps will be if you did not have the Common Travel Area, so if you were to withdraw from the Common Travel Area and were to then join Schengen, what you would be signing up to would be fixed border controls between here and the U.K. You would have to go through border control when you get off the plane at Jersey. You would have to queue up for border control and passports in Gatwick because it is only the common travel area that enables that free flow to and from the U.K.

Senator S.C. Ferguson:

Yes, but you would have free travel between St. Malo and Jersey from the Schengen area.

Director International Affairs:

Yes, but...

The Minister for External Relations:

There are not many boats in... **[Laughter]**

Director International Affairs:

If Islanders wish to do all their travelling through France, then yes, I could see that Schengen would be more attractive.

Senator S.C. Ferguson:

Well, then it would open you to all the 28 countries of the E.U. effectively, would it not?

Director International Affairs:

In terms of not having to...well, no, I think the only tangible difference is that you would not have to queue up for passport control going to and from France.

Senator S.C. Ferguson:

Yes, but anyone who was within the Schengen area could travel into Jersey.

Director International Affairs:

Passport free, yes.

Senator S.C. Ferguson:

Yes, right. Okay. The 2009 I.M.F. review on anti money laundering and combating the financing of terrorism recommended that Jersey should implement a number of provisions. When are those provisions going to be implemented?

Director International Affairs:

The provisions are almost fully implemented. We are working on the last few recommendations now and we hope to have the overwhelming majority completed before we have our Moneyval assessment later this year.

The Deputy of St. Ouen:

Moving on a little bit, I would like to ask what is the current status of work to extend the United Nations Convention on the Rights of the Child to Jersey?

The Minister for External Relations:

It has been going on for far too long, but by chance I was in London two days ago at a meeting with the new Minister, Lord Foulkes. I was told by one of his officials that the blockage which had been taking place in the Department for Education had been cleared and that they hoped to be able to tell us in very short order that the recommendation for the ratification of the convention had been passed to the Foreign Office so it could be ratified on behalf of Jersey. So I am told that ratification is not far away.

The Deputy of St. Ouen:

Can you just briefly describe the process? We have applied to the U.K.?

The Minister for External Relations:

We have applied to the Ministry of Justice asking them to take the necessary steps to ratify the convention on our behalf. Before they would in the ordinary course of events for the standard treaty pass on that request to the Foreign Office and the Foreign Office would then take the steps with the treaty signatory for the notification to be given. In the context of the U.N. (United Nations) Convention on the Rights of the Child, there are a number of United Kingdom departments which have an interest and before the Ministry of Justice will pass it to the Foreign Office they need to be satisfied that each of the departments of the United Kingdom Government is content that whatever we have done to comply with the convention meets the requirements of the U.K. So that has been the delay in recent months or perhaps even years. The Department for Education in the U.K. has been concerned to make sure that what our law was complied with the obligations of the convention but, as I understand or understood it two days ago, they are poised to send it to the Foreign Office for ratification.

Senator S.C. Ferguson:

How are we going to prevent the same sort of misuse of this as we have seen with the human rights legislation?

The Minister for External Relations:

Misuse of...?

Senator S.C. Ferguson:

The Convention on the Rights of the Child. The human rights legislation arising from the Human Rights Convention has been grossly misused on occasion. How are we going to end up preventing the same thing happening with this?

The Minister for External Relations:

I would hope that the Convention on the Rights of the Child is one of those conventions which would not give rise to the perceived difficulties of the Convention on Human Rights. I remember many years ago that when we sought to ratify the convention the only objection which seemed to be standing in the way at that time was a wish by the local newspaper to use young people to...I should not say "use"; to employ young people to deliver the paper. The provisions and our law did not comply with that. I think it was an age question. You were not allowed to employ children below the age of 10 and some newspaper children were 9 perhaps, and so that prevented the convention from being ratified at that time. I cannot envisage - I do not know whether Tom can - any problems that would be likely to be coming forward.

Director International Affairs:

I guess what...

Senator S.C. Ferguson:

The minute you start talking rights somebody will think of a way to get...

Director International Affairs:

That is my assumption, that the thrust behind your question was that we are joining in the process generally in western democracies of providing people with rights and when people are provided with rights which are legally enforceable sometimes they try and enforce them. **[Laughter]**

Senator S.C. Ferguson:

It is really what are the sort of tucked away rights that we have under common law, Magna Carta and the Bill of Rights, whereas they might not have it under Roman and Napoleonic codes.

Director International Affairs:

No, giving rights to individual citizens which are legally enforceable through the courts is a comparatively modern practice in the last 50-100 years or so.

Senator S.C. Ferguson:

Perhaps that is why the Americans will not sign up to it, because they are inalienable rights. Right, one little thing: can you provide any specific examples of where the creation of a Minister for External Relations has been beneficial and where achievements have been made that would not have been possible under the previous political structure?

The Minister for External Relations:

Yes. I think we would still be on the blacklist of France if there was not a Ministry for External Relations, and that would have caused quite considerable economic damage to the Island. The work of my officials in getting us off the blacklist was work that would probably not have been capable of being done 5 or 6 years ago. I think that in the financial services industry there probably was an expectation that we would still be on the blacklist at this time, and some surprise that we have managed to extricate ourselves from this particular problem.

The Deputy of St. Ouen:

Sorry, Minister, to interrupt, but are you saying that the Chief Minister, if he had chosen to get involved, would not have been able to achieve the same result as you as the new Minister for External Relations?

The Minister for External Relations:

No. I am not saying that, but the Chief Minister has a lot of other problems on this plate. I think the creation of a Ministry for External Relations has enabled the officials in my department to concentrate upon a discrete area of activity which was not really properly dealt with 5 or 6 years ago. The blacklist I think is one classic example of the ability to engage with French officials at the right level with knowledge of the way in which the French Administration worked, a capacity to speak to them in the French language, and the result of that was that we were successful in getting Jersey off the blacklist.

The Deputy of St. Ouen:

Since becoming Minister for External Relations, are you still of the view that the Island's foreign policy should be agreed by the Council of Ministers and simply presented to the States Assembly as a report?

The Minister for External Relations:

As an alternative to being debated by the States Assembly?

The Deputy of St. Ouen:

As an alternative to being agreed by the Assembly itself?

[15:15]

The Minister for External Relations:

Well, I think it is all part of the question of: who is the Government of Jersey? If the Council of Ministers is the Government of Jersey, as it is under ministerial Government, then it must be the Council of Ministers which establishes the foreign policy. You cannot have a Government which is bound to conduct a foreign policy which has been set by somebody else. If you had a committee system where the Members of the States as a whole were the Government of Jersey, that would be a different matter, but that is not the political system we have.

The Deputy of St. Ouen:

It is interesting to hear your comments because it depends what emphasis and importance, I suppose, you place on a common policy for external relations. But if you are saying that it should be just owned by the Council of Ministers, the danger is that if the States as a whole come to a conclusion that they believe that that common policy that is being adopted and promoted by the Council of Ministers is not acceptable, they are left with little choice but to remove the Council of Ministers.

The Minister for External Relations:

Yes. Well...

The Deputy of St. Ouen:

I ask is that really the approach that would be beneficial to the Island and the States as a whole, or would it be better to look at some way of gaining approval of, agreement of, a common policy in the same way that obviously the Chief Minister seeks agreement around a strategic plan?

The Minister for External Relations:

I think so far as the common policy is concerned, it must ultimately be set by the Council of Ministers because the Council of Ministers is the Government of the Island. But to try to look at the matter more constructively, I am sure there are ways in which the Assembly as a whole can play a part in contributing towards the development of the policy that the Council of Ministers ultimately adopts. For my part as the Minister for External Relations, I am very open to any ideas which either the Scrutiny Panel or, indeed, others might have for giving Members as a whole the opportunity to debate specific issues with a view to amending the policy if it is thought fit at the end of the day.

Senator S.C. Ferguson:

Super. Thank you very much indeed, Minister. I think we had better let you go. **[Laughter]**

The Deputy of St. Ouen:

Thank you for your time.

Senator S.C. Ferguson:

We look forward to skewering you on a further occasion. **[Laughter]**

Director International Affairs:

Thank you very much.

The Minister for External Relations:

Thank you.

[15:17]