



Corporate Services Scrutiny Panel

Quarterly Hearing with Minister for External Relations

THURSDAY, 9th FEBRUARY 2017

Panel:

Deputy S.M. Brée of St. Clement (Acting Chairman)

Deputy K.C. Lewis of St. Saviour:

Connétable C.H. Taylor of St. John

Senator S.C. Ferguson

Witnesses:

The Minister for External Relations

Director, External Relations

Head of Service, External Relations

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[15:31]

Deputy S.M. Brée of St. Clement (Acting Chairman):

Welcome, Minister, to this public hearing with the Corporate Services Scrutiny Panel. I would remind you that this is a public hearing and I draw your attention to the notice on the desk in front of you which, I am sure, you have seen many times but nevertheless it is only correct that I do so. Members

of the public and the press, once again, just to remind you, this is a public hearing. If I could ask you, please, to remain quiet at all times and could everybody please ensure that any mobile devices and phones are at least set to silent mode just so we do not disrupt proceedings. In accordance with the request from the public, if we could ensure that everybody speaks reasonably loudly and clearly so that everybody can hear. Before we start, for the benefit of the tape, if we could go round and introduce ourselves. My name is Deputy Simon Brée. I am vice-chairman of the Corporate Services Scrutiny Panel. For the purposes of this quarterly hearing I am acting chairman.

Deputy K.C. Lewis of St. Saviour:

Deputy Kevin Lewis, panel member.

Connétable C.H. Taylor of St. John:

Constable Chris Taylor, panel member.

Senator S.C. Ferguson:

Senator Sarah Ferguson, panel member.

The Minister for External Relations:

Philip Bailhache, Minister for External Relations.

Director, External Relations:

David Walwyn, Director, External Relations.

Head of Service, External Relations:

Kate Nutt, Head of Service, External Relations.

Deputy S.M. Brée:

Thank you very much indeed. Minister, it probably does not come as a surprise but an awful lot of our questions are going to be around the Brexit area and your department's involvement in that. Now, on 31st January, Minister, you lodged a report and proposition on Brexit, that is P.7/2017. Could you explain the reasons for doing so at this particular point in time?

The Minister for External Relations:

Yes. There are 2 reasons for lodging the report and proposition. The first reason is that I wanted to bring Members up to date with what has been happening since the last report of the Minister of External Relations that was lodged in July or June of last year. The second reason is that I wanted to invite the States to take the opportunity to assert their primacy so far as legislation in Jersey is

concerned and to endorse the intention of the Council of Ministers in due course to bring forward legislation to appeal the 1973 law.

Deputy S.M. Brée:

So was your decision influenced in any way by the decision of the U.K. (United Kingdom) Supreme Court to require a vote in Westminster on the U.K.'s plans for Brexit?

The Minister for External Relations:

Up to a point I think the answer to that question is yes. Certainly there was a lot of work done in my ministry when the challenge to the United Kingdom Government was first launched and the decision of the High Court was that the Prime Minister needed the assent of Parliament before she could press the Article 50 trigger and give notice of her intention to leave the European Union. So we obviously gave some consideration to the position of the Island in that context and the conclusion at the end of the day was that while we did not think it appropriate to engage in the litigation in London we thought that we ought to invite the States to recognise that the United Kingdom was going to leave the European Union and that our laws would, as a result, be affected and that the States would want to assert that it was their responsibility to legislate for Jersey and therefore to repeal the 1973 law.

Deputy S.M. Brée:

Moving on slightly, will Brexit affect Jersey's constitutional relationship with the United Kingdom?

The Minister for External Relations:

We do not know. We hope not. Our expectation is that our constitutional relationship will remain the same. We have certainly made it clear to the United Kingdom Government that we want to retain all the essential elements of the existing relationship.

Deputy S.M. Brée:

For those less knowledgeable than yourself, Minister, could you briefly just define our constitutional relationship with the United Kingdom then as it stands today?

The Minister for External Relations:

I suppose in a nutshell the Island has autonomy in all respects except in relation to defence and in relation to international relations where the United Kingdom has responsibility, certainly for our defence, and for our international relations as a matter of international law. The other aspects of our relationship which are important in a Brexit context are our membership of the Common Travel Area, our ability to move freely to and from the United Kingdom, our ability under ancient charters

to export goods freely to the United Kingdom and to receive goods free of tax from the United Kingdom. That is probably it in a nutshell.

Deputy S.M. Brée:

Okay. So would you define our constitutional relationship as being with the United Kingdom or with the Crown?

The Minister for External Relations:

Our relationship constitutionally is with the Crown. We are a Crown Dependency and our relationship goes back, as you know, to 1066 when the Duke of Normandy conquered England and became the King of England and as part of Normandy we then engaged in a union of the crowns and we became ...

Deputy S.M. Brée:

So really our constitutional relationship is with the Crown as opposed to the United Kingdom, is that correct?

The Minister for External Relations:

Yes, it is.

Deputy S.M. Brée:

So when we talk about a constitutional relationship with the United Kingdom that is not legally sound?

The Minister for External Relations:

Well, our constitutional relationship is with the Crown but the responsibility, for example, for the conduct of foreign affairs is the responsibility of the United Kingdom because technically the Crown has deputed to the United Kingdom Government the responsibility for conducting foreign affairs and technically again, as deputed for Jersey, in the right of Jersey, the responsibility for conducting foreign affairs on our behalf; the nation state. The international legal entity is the United Kingdom.

Deputy S.M. Brée:

Okay. Moving on somewhat, could you advise us what was the purpose of the visit recently by the Justice Select Committee?

The Minister for External Relations:

The Justice Select Committee is the committee of the House of Commons which has the responsibility of enquiring into the work of the Ministry of Justice. Part of the responsibility of the

Ministry of Justice is looking after the interests of the Crown Dependencies and acting as an interlocutor between the Crown Dependencies and the United Kingdom Government, and I cannot remember exactly what the - I probably have them here - terms of reference of the Select Committee were but in essence they were coming to Jersey to conduct an enquiry into the Brexit-related activities of the Ministry of Justice so far as the Crown Dependencies were concerned. They wanted to know whether Crown Dependencies were being adequately looked after by ...

Deputy S.M. Brée:

So what did this visit achieve?

The Minister for External Relations:

It was not done in the interests of the Crown Dependencies. It is a review of the functioning of the Ministry of Justice by a Select Committee of the United Kingdom Parliament. Just as you are reviewing my activities now, so the Justice Select Committee reviews the activities of the Ministry of Justice. So what did it achieve? Well, we have not had the report from the Select Committee yet. They are going to report, I believe, at the end of March and so we will see what their conclusions are.

Deputy S.M. Brée:

Would you be prepared to share that report with this panel?

The Minister for External Relations:

It will be a public document.

Deputy S.M. Brée:

It will be; good. Just briefly going back to your proposition. Part of the report refers to the need to repeal the European Jersey Law 1973. What work is your department doing to prepare for the repeal of this particular law?

The Minister for External Relations:

We have a Brexit Department in the Ministry of External Relations which has the responsibility of co-ordinating the Brexit-related activities of all the departments of Government in Jersey. I suppose one of the departments of Government in that sense is the Law Officers' Department and the Law Officers' Department are taking the lead in looking at what laws need to be amended or appealed or replaced in the context of Brexit. So I do not know that my ministry is doing anything specifically in the context of the 1973 law other than co-ordinating the work of, among others, the Law Officers' Department.

Deputy S.M. Brée:

Okay. Before we move on from this section any particular questions from anybody? No. Okay, if we can move on.

Deputy K.C. Lewis:

Minister, you have recently commented in the media on the importance of membership of the World Trade Organisation being extended to Jersey. What is your department doing to achieve this?

The Minister for External Relations:

I wonder if I might ask Mr. Walwyn to answer that question because he has been dealing directly with the officials in Whitehall.

Director, External Relations:

Thank you, Minister. As you said, extension of World Trade Organisation membership to Jersey is an important objective for the Government. The main reason for the need for this extension is in the event that the U.K. defaults to what is commonly being referred to as a "hard Brexit" we would need to fall back on W.T.O. (World Trade Organisation) standards and tariffs. We have been pushing through, or helping other departments with pushing through, legislation in order to achieve the ability to have U.K. membership extended to us. That has included a variety of bits of legislation including, for example, the plant varieties, a law which was passed by yourselves last year, and we are working on other areas of legislation which would include, for example, the Paris Convention on Industrial Rights and other conventions. Once all those matters are in place we would formally write to the Ministry of Justice to seek the U.K.'s agreement to extend W.T.O. membership to Jersey.

Deputy S.M. Brée:

How long will this take though?

Director, External Relations:

Our objective is, of course, to obtain the extension before Brexit Day plus one.

Deputy S.M. Brée:

Do you think it is achievable?

[15:45]

Director, External Relations:

Yes.

Deputy S.M. Brée:

Good.

The Connétable of St. John:

In the U.K.'s White Paper it states that there will be formal quarterly meetings with the Chief Ministers of Crown Dependencies. Which representatives of the U.K. Government will the Chief Minister be meeting and when is the next meeting scheduled for?

The Minister for External Relations:

I think I am going to pass that over to Mrs. Nutt, if I may, as she was present at the last meeting, I think, and would be able to answer that.

Head of Service, External Relations:

So the quarterly meetings are with the Minister; Robin Walker, Brexit Minister. That is with our Chief Minister, Senator Gorst, as well as the Chief Ministers of Guernsey and the Isle of Man. The last meeting also involved Mark Garnier, who is one of the Ministers at the Department for International Trade, because that is one of the additional items on the agenda. I would anticipate over the course of this year and next year that there will be a rotating series of other Ministers attending as and when the agenda requires, depending on the areas that we are looking at at that time.

The Connétable of St. John:

Thank you. What key points will our Chief Minister be making at the next meeting, do you know?

Head of Service, External Relations:

Well, it will very much depend on a number of factors and developments in the U.K. on where the U.K. Government is at that particular time in terms of the Brexit process. You will be aware, I am sure, that we have also been having regular meetings at officer level on our priority work stream areas so there may be developments from those meetings that require discussion between U.K. Ministers and the Chief Ministers as well. It very much depends on the issues of the day to be honest but the point of them is to ensure that we do have a regular and constructive series of meetings that are in the diary and take place to make sure that our concerns are heard and they are understood as far as possible.

The Connétable of St. John:

Do you find that the concerns of other Crown Dependencies are similar to our own?

Head of Service, External Relations:

To date, yes.

The Connétable of St. John:

To date.

Head of Service, External Relations:

In the future ... I mean I would not like to speculate on whether differences might occur. Obviously we are looking at a broad range of areas but at the moment it is very much a joint C.D. (Crown Dependencies) position that is being presented and it is working very well.

The Connétable of St. John:

Thank you.

Deputy S.M. Brée:

Any other questions on that area?

Senator S.C. Ferguson:

With regard to letters of entrustment and foreign treaties and so on, what scope is there for Jersey requesting letters of entrustment to accelerate certain aspects of our Brexit negotiations?

The Minister for External Relations:

We are seeking, as I think I mentioned the last time I attended upon you and I was questioned about it, an entrustment from the United Kingdom Government for the negotiation and conclusion of bilateral investment treaties, and that is a request that was made some time ago. We have had very good co-operation from the Ministry of Justice, not such good co-operation, I regret to say, from some other departments of the United Kingdom Government. I must say that I am extremely disappointed that the entrustment that was requested 2 or so years ago has still not been given. I am given to understand that discussions have been taking place among officials and among Ministers too within a number of departments of the U.K. Government and I hope that we will be getting a positive result which I assume but it has taken a very long time.

Senator S.C. Ferguson:

Is there a particular department that is causing problems?

The Minister for External Relations:

Well, I think the responsible department in this instance is the Department of International Trade, if I have got that correct, which is the lead department so far as bilateral investment treaties are concerned. It is not a department which in the past has had anything to do with the Government of

Jersey so I suppose it is fair to say that they have had some learning to do on the subject of our constitutional relationship with the Crown or with the U.K. and maybe that is the reason for it.

Senator S.C. Ferguson:

So does that mean that we have got further letters of entrustment which are just backing up and forming a queue?

The Minister for External Relations:

It means that there are countries with which we would like to have bilateral investment treaties, the U.A.E. (United Arab Emirates) is one. Rwanda is another. They have requested bilateral investment treaties. They want to complete these treaties with us and at the moment we are not able to do so and that is rather frustrating.

Senator S.C. Ferguson:

Are we always going for these smaller countries? We are not looking for these sort of treaties with places like Australia or New Zealand or ...?

The Minister for External Relations:

I do not think we rule out any particular countries, Senator, but these are the 2 countries with which we have existing trading or existing relationships which are quite good and where we have double taxation agreements and where a bilateral investment treaty will sit naturally with that D.T.A. (double taxation agreement). We have quite a lot of trade with the United Arab Emirates and it certainly would be interesting, I think, if we could secure a bilateral investment treaty with that country. So far as Rwanda is concerned, we have a memorandum of understanding which we hope is going to lead to a number of different advances. So these are the reasons why these 2 countries are the first that we are seeking entrustments for but there are others in the wings as well.

Deputy S.M. Brée:

If I may ask, you mentioned, Minister, that some departments within the U.K. Government you are not seeing good co-operation. Firstly, what form does that non-co-operation take and secondly, why do you believe they are not being co-operative?

The Minister for External Relations:

I do not think I said that we were receiving non-co-operation.

Deputy S.M. Brée:

Well, not good co-operation, I think were the words you used.

The Minister for External Relations:

What I said, I think was, that there had been a very long delay in procuring an entrustment following a request that was made by Jersey's Government some time ago. I have not had any written explanation as yet as to what the difficulty is. There have been a number of meetings between officials and I think that all the concerns that were articulated at that time have been answered so I just do not know at the moment. As I said earlier, I find that rather frustrating.

Deputy S.M. Brée:

So have you not asked for an explanation?

The Minister for External Relations:

I have.

Deputy S.M. Brée:

One is not forthcoming?

The Minister for External Relations:

Not yet.

Deputy S.M. Brée:

So that does seem somewhat strange bearing in mind, as you said, we have already signed certain forms of treaties with Rwanda. This is now requesting a letter of entrustment. I would have thought this would have been very high on your priority list to ensure that we did get it in place.

The Minister for External Relations:

It is very high on my priority list.

Deputy S.M. Brée:

Is there anything we or the Government of Jersey can do to accelerate this process? Are you purely in the hands of the U.K. governmental departments?

The Minister for External Relations:

We are in the hands of the United Kingdom Government. I am told, to be fair, that the Ministry of Justice, which has been extremely helpful in this respect, I think the M.o.J. (Ministry of Justice) has been very supportive of our interests but they are not the lead department. So it is necessary to get the concurrence of a number of United Kingdom departments and because we do not have responsibility for our foreign affairs we just have to wait.

Deputy S.M. Brée:

Okay.

Senator S.C. Ferguson:

The Chief Minister commented recently on the importance of developing relations with countries like Estonia, Malta and Ireland. What is your department doing to develop these relationships?

The Minister for External Relations:

A number of different things depending upon the country concerned. Obviously we engage on a diplomatic level with the ambassadors in London. We encourage the ambassadors of those countries to pay a visit to Jersey to talk to people here who might be interested in developing commercial relationships with others in the country concerned so we received a visit very recently from the ambassador of Estonia and I think that was a very constructive visit. I understand that Digital Jersey is leading a visit to Estonia in June and a number of different organisations and interests are going to be taking part in that visit. One of the reasons, of course, why we need to build up relationships with countries in the European Union is that when the United Kingdom leaves the E.U. (European Union) we will not have the protection of our sovereign state. Our sovereign state will no longer be a member of the E.U. so we have to find other countries in the Union where we had a good relationship so that when things which affect the Island are being discussed in European circles there are at least some people who are sympathetic towards us. The smaller countries are obviously the ones with which we have a more natural affinity. Smaller countries do things in the same kind of way so we are looking to build up relationships with Malta, Cyprus, Ireland and the Baltic countries, of which Estonia is one. I should not ignore, of course, the larger country which is our closest neighbour; France, is very important to us so we try to build up constructive relationships with France and Germany is the leading country in the European Union. We try to develop relations with Germany as well.

Senator S.C. Ferguson:

Yes, because all the other smaller countries will have similar ideas and problems. Have they got enough sway in Europe to be worthwhile?

The Minister for External Relations:

Well, that is a fair point. Of course they do not have the clout of the larger countries but there are a number of areas of competence where unanimity is required and where, if there is a sufficient block of small countries, they can exercise a moderating influence.

Deputy K.C. Lewis:

Minister, if the United Kingdom does not conclude negotiations with the European Union by the 2-year deadline after triggering Article 50, what will Jersey's position and course of action be?

The Minister for External Relations:

Well, that is what people describe as a "hard Brexit" and the legal position will be that our relationship with the European Union comes to an end and there is nothing to replace it. So we will have no right to export goods to the European Union other than ... sorry, we will not have a right to export goods to the European Union free of tariffs and that kind of thing. So much will depend upon whether any trade agreement is in the offing or has been negotiated by the United Kingdom to which we could become a party. We could also, of course, help the situation if we had managed to procure the extension of the W.T.O. agreement to us because there are certain tariffs in there which are more favourable than the tariffs which would otherwise apply.

Deputy K.C. Lewis:

Is your department doing anything to prepare for a scenario whereby the 2-year deadline is not met?

The Minister for External Relations:

Of course we are thinking about it and planning for every contingency to the extent that it is possible to do so and, as Mr. Walwyn mentioned earlier on, one of the very important things is to try to procure that the W.T.O. agreement is extended to us because that will mitigate the effects of the loss of Protocol 3.

[16:00]

So far as the other important aspect is concerned, which is the freedom of movement of people, it is very difficult to do very much positive planning when one really does not know what the objectives of the United Kingdom are nor whether they are going to achieve those objectives. So up to a point we have to wait and see.

Deputy K.C. Lewis:

On a slightly different tack, in a speech at the Institute of Law seminar last month the adviser for international affairs - I will mention the gentleman's name, it was in the media, Colin Powell - raised concerns regarding the European Union's treatment of Jersey post-Brexit due to our Zero/Ten tax regime. Do you agree with that view?

The Minister for External Relations:

I certainly agree with Mr. Powell that there is a challenge for us which comes from an investigation that the European Union is undertaking at the moment with a view to designating, in due course,

countries which are not co-operative from a tax point of view and that process is being undertaken at the moment. A number of countries, 97 I think, have been looked at as being of interest to the European Union, and we are one of them, and we will be responding to the request for further information that the European Union will put to us as those questions are raised.

Deputy K.C. Lewis:

We seem to be coming on and off blacklists at regular intervals. At the moment, presumably, we are fully compliant.

The Minister for External Relations:

Well, we would say we are completely compliant and that we are an extremely co-operative member of the international community. The concern of the European Union is not so much, I think, with the exchange of information as with the zero tax rate. That is the aspect of our administration which they are looking at at the moment.

Deputy K.C. Lewis:

You have touched on this next question slightly, earlier on. He also stated: "That following Brexit Jersey would need to find a new ally in the European Union to promote our interest." Do you agree with that view and if so which new allies have been identified?

The Minister for External Relations:

Well, I think I have probably answered that question in answer to Senator Ferguson but broadly speaking, France, Germany and a number of the smaller countries including Ireland, Malta and the Baltic States.

Deputy K.C. Lewis:

So you are doing work with France and you think there would be benevolence towards us?

The Minister for External Relations:

Our officials went very recently to Germany to talk to German tax officials to try to understand any concerns that they might have might be. We have, as you know, an office in Caen which has responsibility not only for regional relationships but also for relations with the French National Government as well. I think we have more to do in that latter respect. I think that we are a small country and the Ministry of External Relations is a very small department. We have limited resources with which to do the work that could be done but to the extent that we are able to assume developing our relationship with large countries like France we certainly try to do that.

Deputy K.C. Lewis:

We have good relationships, normally, in Brittany but does that extend nationally to the National Government?

The Minister for External Relations:

We do have good regional relationships and I think the existence of those good regional relationships does help us to a certain extent in our relations with the National Government but there are a number of prejudices afloat in political circles in France and we have to try to work on those.

Deputy S.M. Brée:

Okay. I mean that does quite nicely lead me on to the next area of questions. Minister, has your department taken on some of the promotion of Jersey's interests overseas as previously undertaken by Senator Ozouf, particularly relating to financial services?

The Minister for External Relations:

The resignation of Senator Ozouf has certainly affected the work at the Ministry of External Relations because I have worked quite closely with him in a number of domains, particularly the development of our interests in Africa and Rwanda in particular, and in other respects as well. Responsibility for financial services, as you know, has been taken back by the Chief Minister and the responsibility for the other countries that Senator Ozouf undertook have been shared out among other Assistant Ministers and the Chief Minister's Department. So no direct responsibility undertaken by Senator Ozouf now devolves upon the Minister of External Relations but certainly we feel the absence of the Assistant Chief Minister.

Deputy S.M. Brée:

So if nobody from your department has assumed the responsibility or the activities that were undertaken by Senator Ozouf, as I said, particularly with regard to financial services then who is undertaking that activity; going out promoting the Island's industries, ensuring that everybody is aware of our compliance with ... who is doing that work?

The Minister for External Relations:

Well, the Chief Minister is doing it and I am doing it as well. The Chief Minister is going, very shortly, to South Africa and to Rwanda at the invitation of the Rwandan Government and to Kenya, so he will be doing, personally, a number of the things which he had previously delegated to his Assistant Minister.

Deputy S.M. Brée:

Do you believe it correct that the Chief Minister of the Island should be away from the Island for such long periods of time and that somebody else should not be undertaking that role?

The Minister for External Relations:

I do not anticipate a revolution while he is away but I am not sure, Deputy, that it is fair to say that he is going to be away from the Island for a very long period. He may be away for a week. But I think that is a reasonable proposition and indeed it is a function of a Chief Minister to represent the Island externally just as it is the function of the Minister for External Relations.

Deputy S.M. Brée:

Okay. So in your opinion, Minister, what do you believe are the major potential implications of Brexit for the Island's finance industry?

The Minister for External Relations:

Maybe Mr. Walwyn will want to add a few words. I think the primary concern is the effect which a hard Brexit might have upon the City of London because our own financial services industry trades very closely with the City of London and if the City is damaged then it could be that there will be some collateral damage that will be suffered by the financial industry over here. The picture is not all bleak. I mean there are positive signs as well and maybe Mr. Walwyn would like to add a few words.

Director, External Relations:

Thank you, Minister. The main message in terms of early impact on the financial services community would be that we are already outside the European Union for the purposes of financial services and therefore, an important term, is the impact is relatively small on the financial services apart from the macroeconomic effects that the Minister has already referred to. Of course, however, there were shifts in the relationship between the United Kingdom and the European Union which do have an indirect effect on us and one of those is in the area of passporting and equipment which you discussed in-depth at the last Scrutiny Panel meeting. However, on the other hand there are, potentially, opportunities which open up for financial services as they look to the rest of the world for new markets and to develop our business. So the overall message is that we provide a stable and continuous platform from which to conduct financial services throughout the Brexit withdrawal.

Deputy S.M. Brée:

There have been recent musings, if you like, from the U.K. Government about post a hard Brexit London, or the City of London, would be become effectively an off-shore finance centre and they would look at reducing their corporate rate of tax. Do you believe this to be a real threat?

The Minister for External Relations:

I do not think that would be a real threat to us because any reduction of corporate tax by the United Kingdom would be relatively insignificant so far as Jersey's zero rate of tax is concerned. I do not think there is any suggestion that the United Kingdom will move to a zero rate of tax. It might move its tax rate closer to that of the Republic of Ireland or other countries which have a lower corporate tax rate but the position of Jersey, as Mr. Walwyn was saying, remains very much the same. We have been outside the European Union. We have had our zero rate of tax for some time. At present that is not going to change.

Deputy S.M. Brée:

So what work is your department doing, Minister, to promote the interests of the finance industry overseas? Are you doing anything or are you leaving that to the Chief Minister's Department?

The Minister for External Relations:

We work very closely with Jersey Finance Limited. I regularly see Mr. Crook. When I plan overseas visits, for example to the U.A.E., those visits are done very much in collaboration with Jersey Finance so that, among the functions that take place in the U.A.E. are functions which are beneficial to the finance industry. One might meet a senior anchor or some regulator or any other senior official where it would be beneficial to the finance industry to see a good relationship between government and the U.A.E.

Deputy S.M. Brée:

I was predominantly talking about our relationship with the U.K. financial market as most of our business is upstream to London. The question is, in supporting that development of relationships or maintaining relationship what role does the London office play in doing that? Does it get itself involved in that side of things or not?

The Minister for External Relations:

Well, the London office is currently the Jersey London office. It is run by my ministry but it makes itself available and is used by every department of government so ... I do not know, perhaps Mrs. Nutt might say a few words on that.

Head of Service, External Relations:

Well, absolutely. The London office does get involved in supporting the work of financial services. As you know, the financial services team here, within C.M.D. (Chief Minister's Department), leads on that area both promoting the Island in conjunction with J.F.L. (Jersey Finance Limited) in the U.K. and further afield but we work very closely with them. So the head of the London office and his team may help to go out and support them at meetings. They may attend meetings themselves in their own right, particularly with parliamentarians and the diplomatic community, which is where our focus

primarily is. I would say the Financial Services Team and J.F.L. focus primarily on the business, the commercial side, but we work hand in hand very closely together.

Deputy S.M. Brée:

Would you say that the London office tends to predominantly conduct work for one department or another? Would you say it was mainly to do with external relations, that particular ministry's work, or is it evenly spread across various departments?

The Minister for External Relations:

Mrs. Nutt used to run it ...

Deputy S.M. Brée:

I am aware of that, Senator.

The Minister for External Relations:

... so she is probably a better person to answer than me. It is part of the Ministry of External Relations so it would be surprising if the Ministry of External Relations did not have quite a lot of interaction with the London office.

[16:15]

Deputy S.M. Brée:

That was one of the reasons for asking the question.

The Minister for External Relations:

But lots of other departments and there is a man or a woman, from time to time, from J.F.L. who sits in the London office. There is a representative from the Chief Minister's Department who also sits in the London office doing, and has been doing, digital work for the Assistant Chief Minister and the Jersey Overseas Aid Commission uses the London office for its own purposes and so on. It is very widely used.

Head of Service, External Relations:

If I may. I think if you look at the work of External Relations, what we do overlaps and touches on a lot of the work of other departments within the Government of Jersey so the business plan for External Relations for this year focuses, as you would expect, on Brexit but also our wider relations with the UK. We deal with a number of policy areas such as N.H.S. (National Health Service) health charging, education fees; those sorts of things the London office can get involved in to support departments in making contact with and the conversations that they have with their Whitehall

counterparts. Other elements of what we are doing this year will focus on the E.U. quite rightly. Some of that has to take place in London because you are dealing with some of the embassies there, some of the long-haul business trade, the business development work; again, has to take place in London and the London office are there to lead on some of that and to support in other areas. So it is external relations. It is international work. It will have an out-facing aspect to it but it supports a lot of different departments.

Deputy S.M. Brée:

Okay, thank you.

The Connétable of St. John:

Minister, in the past you have said that the best thing for Jersey would be to maintain the status quo. Would you agree that that is looking increasingly difficult?

The Minister for External Relations:

Yes, I think I would and I say that because it looks increasingly likely that there is going to be a hard Brexit and if there is a hard Brexit then the chances of maintaining the status quo in the immediate aftermath of the United Kingdom leaving the E.U. is not quite as strong as I would have hoped it might have been 6 months ago but it is a constantly moving scene. We just do not know whether when the U.K. articulates its more detailed objectives to the European Union and negotiations begin one might suddenly find that it comes in the interests of all the parties to reach an agreement very quickly and we might all be surprised and things might work out much better than at the moment it looks as if they might.

The Connétable of St. John:

With that in mind and unlikely to maintain the status quo, what do you feel now is the best way forward for the Island?

The Minister for External Relations:

The best way forward I think at the moment is to do what we are doing, which is to make it very clear to the United Kingdom Government what our aspirations are, what we hope that the U.K. will be able to achieve for Jersey when negotiations start with the European Union. I do not think there is anything more that we can do at the moment. We cannot engage privately in negotiations with the European Union; this has to be done through the U.K. I think that all we can do is to make it absolutely clear what we want to achieve and to encourage the relevant departments of the United Kingdom Government to achieve those ends.

The Connétable of St. John:

Can you confirm that one of the important items for the Island is the freedom of movement of Islanders within the Common Travel Area?

The Minister for External Relations:

Yes, that certainly is important but that is not a matter for the European Union so I do not envisage any difficulty in that respect. In fact the U.K. Government announced, I think in a White Paper, but certainly announced quite recently that the intention was to maintain the Common Travel Area so far as was possible. There are obviously going to be difficulties so far as Ireland is concerned but I do not think there are any concerns so far as the Crown Dependencies that have yet been articulated about the C.T.A. (Common Travel Area).

The Connétable of St. John:

Going on from that, if the U.K. decides to allow free movement of the E.U. nationals in the U.K. what steps can we take to control onward movements to the Island?

The Minister for External Relations:

Well, in exactly the same way as we do at the moment through the Control of Housing and Work Law.

The Connétable of St. John:

So post-Brexit what will Jersey's responsibilities be in regards to controlling our own borders?

The Minister for External Relations:

Our ability to control our own borders and it depends, to a certain extent, upon the United Kingdom because we are part of the Common Travel Area, the Immigration Act has been extended to Jersey and the rules under the Immigration Act will continue to apply to us. But, as I said in answer to your earlier question, the reserve control, if you like, is through our own domestic legislation so that through the Control of Housing and Work Law we do have control, to a certain extent, of our borders.

The Connétable of St. John:

Will this be affected or how will this be affected between Jersey and France with whom we have quite close ties?

The Minister for External Relations:

That is a different proposition and France is in the European Union, and what the arrangements between the U.K. and the European Union are going to be is as yet an unwritten story.

The Connétable of St. John:

All right. Okay, thank you.

Senator S.C. Ferguson:

The U.K. is planning on creating a U.K. replacement to the European Convention on Human Rights. We understand this has been delayed until after Brexit. Will Jersey follow the U.K. in creating our own Bill of Rights?

The Minister for External Relations:

If I may respectfully say so, I am not sure that it is correct to state that the United Kingdom has said that it is going to withdraw from the European Convention on Human Rights. What is under consideration at the moment is a Bill of Rights or a British Bill of Rights which may replicate the rights under the convention. I am sorry perhaps I am confusing myself. I do not think there is any intention to withdraw from the convention itself so the convention will continue to apply to Jersey and continue to have the effect on Jersey under our Human Rights Law.

Senator S.C. Ferguson:

Except that the talk in the U.K. is having their own Bill of Rights and withdrawing from the European Court of Human Rights and the Supreme Court in London, being the main judicial court in the land. This is what we understood was going on or being talked about certainly.

The Minister for External Relations:

I certainly have read suggestions that one of the desires is to make the Supreme Court supreme over the European Court of Human Rights and therefore to make the judgments of the Court of Human Rights advisory rather than binding upon the Supreme Court in the United Kingdom but that, I think, is not quite the same thing as withdrawing from the European Convention itself.

Senator S.C. Ferguson:

But if the U.K. come up with their own Bill of Rights will we borrow theirs or do our own?

The Minister for External Relations:

We have got no plans at the moment to have our own Bill of Rights so we would continue, or at least that is the policy at the moment, with the European Convention on Human Rights and the Human Rights Law which applies that convention in Jersey.

Senator S.C. Ferguson:

So we would not follow the U.K. in making the European Court of Human Rights just an advisory to our main court system?

The Minister for External Relations:

I think that is a matter which has not been given any consideration at the moment and the reason why it has not been given any consideration is that, so far as I know, the United Kingdom Government has not yet formulated any clear policy so far as the Convention on Human Rights is concerned. There has been some talk but I do not think the Government itself has articulated any policies. At the moment we are assuming that the status quo is going to remain but the convention will remain in force and it will be applicable in Jersey through the 2000 law.

Senator S.C. Ferguson:

Thank you.

Deputy K.C. Lewis:

I think it was a Minister, hinted at quite loudly, answering questions in the House of Commons on Thursday. The Attorney General, Jeremy Wright Q.C. (Queen's Counsel), confirmed that the Government would not attempt to repeal the 1998 Human Rights Act until it had finalised the Brexit negotiations so that seemed to imply that something would be following.

The Minister for External Relations:

I had not read that or heard that speech but I think that underlines what I was saying earlier on that the Government has not yet formulated any policies so far as withdrawing from the convention is concerned. I think we would certainly wish to remain with the Convention on Human Rights because the difficulties that have been experienced in the United Kingdom, or the perceived difficulties, are not difficulties which we have experienced over here.

Deputy S.M. Brée:

In the event that the U.K. did decide to go down this route and make the Supreme Court, if you like, the higher court and have their own Bill of Rights in the U.K. and we decided not to follow their lead, would this create a constitutional crisis between us and the U.K.?

The Minister for External Relations:

No, I do not think so. The British Bill of Rights, so far as I understand that at the moment, would be incorporating a great number of the rights which are contained in the European Convention on Human Rights. I think the principal concern in the United Kingdom is that the Supreme Court should be the ultimate authority and that it should not be subservient in terms of human rights to the court in Strasbourg. That, I think, is an interesting question which is going to, no doubt, lead to some discussions between the United Kingdom Government and the Council of Europe, or the Commission on Human Rights, and we just do not know what the outcome of that is going to be at the moment.

Deputy S.M. Brée:

Okay, thank you. I understand, Minister, that you have requested that this public quarterly hearing only go on for one hour because you have a, I believe, prior engagement; is that correct or are you prepared to continue for a short while for a few more questions?

The Minister for External Relations:

No, I am certainly prepared to continue, Deputy, for a short time.

Deputy S.M. Brée:

Thank you.

Deputy K.C. Lewis:

Minister, could you provide an update to the work your department, besides Brexit, since our last hearing?

The Minister for External Relations:

Brexit is a fairly all-consuming topic at the moment but we are very much concerned with the issue which you questioned me about, Deputy, I think, not very long ago about the initiative of the European Union on the tax front because that clearly does present Jersey with challenges.

[16:30]

So that is an area of work that is consuming an amount of time. In addition I think the department, the ministry, is very much concerned with its continuing round of engagements with embassies in London mainly, sometimes elsewhere. We were successful in persuading the Portuguese Government to remove us from the blacklist which was extremely good news among all the gloomy news that is around us at the moment and will allow a business to operate in Portugal in a way that it was not able to do before. What other things are we doing now?

Head of Service, External Relations:

Apart from Brexit, which is taking up a lot of time as the Minister said, there is a lot going on in Europe separate from the Brexit piece, a lot of development with regard financial services and tax. We've already touched on the blacklist and I think David mentioned earlier the issue with equivalence. That is another potential issue for us if the Commission do a general review of that, it might impact on some other areas. There are potential issues as well with one directive that is currently going through the rounds, looking at beneficial ownership, public registers of trust. That could also be an issue. So you have got a package of things separate from Brexit that are going on

in Europe at the moment and we are heavily engaged in that through our Brussels office, through our French office, through what the London office are doing as well. We are leading on the Island's ... some of the work the Island is working on in international standards, so our membership of B.E.P.S. (Base Erosion and Profit Shifting), we are part of the inclusive framework on that. We have been nominated as a member for the working group and the steering group on country-by-country reporting and that is part B.E.P.S. work and that is partly the O.E.C.D. (Organisation for Economic Co-operation and Development) piece on what the Island is doing on international standards, where we have got a leading role on that. So the department is heavily engaged in that area. We obviously lead on making sure that in conjunction with the Financial Services Commission that the Island is doing what it needs to do when sanctions are applied. Again it is individuals, companies or countries around the world, both U.N. (United Nations) and E.U. sanctions. There is another big piece of work as well going on, I think picking up on one of the questions earlier, looking at our relationship with non-E.U. markets. So we are seeking to do more trade. We have a small team in place that are looking at those relationships as regards Africa, China and some of the Gulf states as well, working very closely with other teams within government and some of the external bodies. So we are quite busy on those areas at the moment.

Senator S.C. Ferguson:

What about the Commonwealth? You have mentioned just about everywhere except the Commonwealth countries.

Head of Services, External Relations:

We also are engaged at various points. The Commonwealth is quite a big beast in terms of the areas that you can be involved in. There is a meeting of the Commonwealth Trade Ministers in March. We will be attending that. We meet regularly with the Commonwealth countries and we are engaged in different aspects of it.

Senator S.C. Ferguson:

It was just with all the sort of pockets of Jersey immigrants in Australia, Canada and New Zealand and so on, I thought those would be useful countries to tie up with.

Head of Services, External Relations:

And you are absolutely right, they are. It is one of the 4 that we are working with in different ways, mainly through the U.K., through the London office.

Deputy S.M. Brée:

Minister, the External Relations Department has offices effectively in London, Brussels and Normandy at the moment. Obviously, as you have said, a vast amount of their time is taken up with Brexit. Will your department be maintaining an office in Brussels post-Brexit?

The Minister for External Relations:

For the present, yes. It is a very interesting question because one has diplomatic offices where one's interests are and I think it is probably difficult to anticipate that we will have no future interest in the European Union. Even if the U.K. is outside the E.U. we sit on the boundaries of the European Union, we trade with the E.U., we have businesses going backwards and forwards from France to Germany to Scandinavia and I would have thought it is likely that we would want to retain an office in Brussels. But it is an interesting question which ...

Deputy S.M. Brée:

But our relationship surely post-Brexit will be with the individual countries, not with the European Union as a body. Therefore surely it would be better to look at having representative offices in those countries which we deem to be important allies rather than the heart of the European Union, which we are no longer affiliated to or associated to whatsoever.

The Minister for External Relations:

It would be nice to think that we could have a trading agreement with France so that we could export our oysters and lobsters and so forth directly to France and overcome the problems in that way but of course France is not competent to reach that sort of agreement. France is a member of the European Union and you have to deal with the European Union if you want to have a trading agreement with one of the member states. Much as one would like to think we can deal with nation states rather than the European Union, unless the Union crumbles completely and falls away it is going to continue to be a force to be reckoned with.

Senator S.C. Ferguson:

Now the Chief Minister went to Brussels in November last year. What was the feedback from that?

The Minister for External Relations:

The Chief Minister went with the Chief Minister of Guernsey to Brussels, one of his regular visits and he had a number of meetings in Brussels with diplomatic representatives.

Head of Services, External Relations:

I was there.

The Minister for External Relations:

Would you like to ...?

Head of Services, External Relations:

Of course. So the Chief Ministers met with the Commission, so representatives of the Vice-President Cabinet with the Economic Cabinet as well. The Chief Minister, Senator Gorst, met with the Estonian Permanent Representative and the Irish Permanent Representative and also with the U.K.'s permanent representation there as well. The issues discussed, as you would imagine, were Brexit. Making sure that our interests, our concerns, the issues that we think we might face are communicated and understood. We have already mentioned previously that Ireland and Estonia particularly are important for us in terms of allies going forward. Hearing from others what is happening on the ground really in Brussels. What the intel is from those that are there and making sure that we have a good ongoing positive dialogue with those particular representatives. With the Commission, again, as you might expect, it was to hear from them what the position is on some of the areas of interest for us, particularly on financial services and tax, on the blacklisting side of things, on the Fourth Anti-Money Laundering Directive. There are a number of areas at the moment that are of particular interest/concern and it was an opportunity to put our case as well as hear from them, the latest developments.

Deputy S.M. Brée:

Could I just ask a question there, and this is more a question of, if you like, clarification? You mentioned the Fourth Money Laundering Directive; that is a European law directive. Post-Brexit, those will not apply to us directly.

Head of Services, External Relations:

No.

Deputy S.M. Brée:

Are you saying that it is the Government's desire to maintain, if you like, alignment of our laws with European directives?

The Minister for External Relations:

I would think it very surprising if we did not want to do that. I think that the Anti-Money Laundering Directive is not one which is binding upon us. We choose to comply with its obligations because we want to show ourselves to be a co-operative and transparent country which does not encourage money laundering or criminal activity. So it would be surprising, I think, in the future if we did not want to comply with these directives in practice even though they were not binding upon us. I mean clearly there are issues in the future, which might arise, about public registers of beneficial ownership and things of that kind but at the moment the European directive is not going as far as that. I suppose

it is conceivable we might want to pull back from something of that kind because of our own domestic interest. But in general terms I think we would want to continue to comply.

Senator S.C. Ferguson:

Is that one of the supranational agreements emanating from places like Basel, which the E.U. picks up and spreads around its member countries? Quite a lot of the directives are based on broadly international agreements which are then filtered down through Brussels to members of the E.U.

The Minister for External Relations:

That is true, I wonder if Mr. Walwyn would like to ...

Director, External Relations:

In the case of anti-money laundering, Senator, the Financial Action Task Force is the broader international standard setting body on anti-money laundering and countering the financing of terrorism. The E.U. also has its own Anti-Money Laundering Directives as well so there is this sort of symbiotic relationship between the international standard setting bodies and then the E.U. bodies that are dealing with topics such as A.M.L. (Anti-Money Laundering) and countering the financing of terrorism.

Senator S.C. Ferguson:

It seems to be a sort of hierarchy of these things. We sort of start with the international one, which I think F.A.T.F. (Financial Action Task Force) is connected with Basel, is it not?

Director, External Relations:

No, F.A.T.F. is ... its secretariat is run through the O.E.C.D. even though it is a separate body but it does tend to meet in the west of Paris for its main meeting.

Deputy S.M. Brée:

If we do not follow all European directives on anti-money laundering, and you raised the issue of the register of beneficial ownership, whether it should be public or effectively only open to law enforcement agencies or tax agencies. If we do not follow them will Jersey be blacklisted by Europe?

The Minister for External Relations:

I think it is not possible to answer that question at the moment. I think we share interests with the United Kingdom to a very large extent in this domain and the United Kingdom is a powerful force in the European Union in the setting of these particular standards. What will happen when the European Union is bereft of the presence of the United Kingdom is difficult to say. There is a

blacklisting or a non-co-operative jurisdiction process, which is going on at the moment, but that is in connection with tax. There is no, I think, prospect at the moment of any such process being undergone in relation to money laundering processes.

Deputy S.M. Brée:

It has been said that the maintenance of Jersey's co-operative status within Europe has been facilitated and protected by the fact that the U.K. was a member state. When the U.K. ceases to become a member state do you believe there will be greater risks and attempts to designate Jersey as non-co-operative because of our zero tax situation on corporations?

The Minister for External Relations:

That is a challenge at the moment. It is a process which is being undergone at the moment and we are putting forward the best case that we can to persuade the European Union that we are not unco-operative and that the zero tax rate that we have is not threatening to the European Union in any respect and should not be used as a basis for putting us on the unco-operative list. That is a battle yet to be fought and won.

[16:45]

Head of Services, External Relations:

If I may, Minister, it is also important to note that we have already been assessed by the Code Group as being compliant. And the criteria that are currently there, it looks like the criteria that will currently be used to assess jurisdictions are based on an objective set of issues there. Also that we are not the only jurisdiction involved, there are 91 jurisdictions we understand in total that are going to go through this process. It is also important to note that as a jurisdiction we are in a leading position as regard international standards on tax and transparency; not European standards but international global standards. We helped to develop them and we are implementing them. We helped to assess other jurisdictions on the implementation of them. So that is an important part of our role as well. As a third country we do not have to implement E.U. directives, as indeed other third countries do not have to either, we choose to. That is the position we have always been in and that is not going to change once the U.K. leaves the E.U. Although there are risks attached to the U.K.'s reducing influence in Europe it is important to remember that in terms of our position it is not really changing very much.

The Connétable of St. John:

What was the outcome of the recent Rwandan delegation visit to the Island?

The Minister for External Relations:

The recent Rwandan visit to the Island I think was a very successful visit. We have a memorandum of understanding with Rwanda and there are a number of objectives that are set out in that memorandum. The visit of Minister Gatete was an opportunity to review all those different objectives to decide which ones of them were working well, capable of working well, which ones of them were perhaps not so important and where there might be readjustments. The Rwandan Government is interested in financial services. It is looking for help and guidance from the Government of Jersey and how it can improve its performance as far as the offering of financial services are concerned. From our perspective, we regard Rwanda as a gateway to Africa. Rwanda is a sovereign state whereas we are not a sovereign state and Rwanda has access to a number of international associations in Africa, which we do not have access to. So we are hoping that Rwanda will be able to help us to have a presence at some of these associations or conferences which could be valuable to Jersey. So that was the general tenor of the discussions that took place with the Minister. There are a number of other relationships which we have with Rwanda which I think generally go to feed and warm the overall political relationship. The visitors paid a visit to Durrell Zoo and there is a possibility of co-operation there and some representative of the Rwandan conservation group attending a course at Durrell Zoo and building up relationships generally in that way. They have some splendid gorillas in the west of the country and I think one or 2 of those gorillas might have taken up residence at Trinity at some stage in the past.

Deputy S.M. Brée:

May I ask a question, if you do not mind, on this point? Minister, not referring specifically obviously to Rwanda in this instance, but do you or your department ever take into consideration the human rights records or level of corruption that are found in many African countries? Do you ever take that into consideration when deciding to form bilateral investment agreements with them or treaties of any kind? Or do you believe that that is not something that should be taken into consideration?

The Minister for External Relations:

No, it is a difficult area. I mean certainly we do take it into consideration. As a matter of fact, Rwanda scores very highly on the anti-corruption index.

Deputy S.M. Brée:

That is why I said not referring to Rwanda.

The Minister for External Relations:

One of the least corrupt countries in Africa. Some other countries do not score so highly but some of our industries have interests in those countries and we think that we have a duty to support them to the extent that we can.

Deputy S.M. Brée:

Sorry, "some of our industries", which industries are you referring to there?

The Minister for External Relations:

Financial services industries. Financial businesses have interests in countries which score less well on the anti-corruption index.

Deputy S.M. Brée:

Nevertheless you feel it important for the Government of Jersey to be seen to supporting their activities in countries that score less well on the corruption index? Is that correct?

The Minister for External Relations:

We have had questions on this subject in the States from time to time in relation to a number of countries which are alleged to have poor human rights records. Our general view on this is that we follow the example of the United Kingdom. If the United Kingdom takes the view that a particular country is sufficiently advanced to have dealings with then we tend to follow the example of the United Kingdom. I think it is quite difficult for Jersey to take the view that it can set its own standards of morality and ethics and then not to deal with any country which falls below those standards. It is a difficult area, Deputy, as you rightly understand. Somehow a balance has to be struck and the balance that we generally strike is to see what view is taken by the United Kingdom Government and unless we have a strong inclination that the United Kingdom is wrong we tend to follow the same stance.

Deputy S.M. Brée:

Are there any countries that we are currently dealing with that the United Kingdom does not deal with?

The Minister for External Relations:

Not to my knowledge.

Deputy S.M. Brée:

If a Jersey business had an interest in a country that the United Kingdom was not dealing with would the Government of Jersey still feel it appropriate to visit that country or form relations with that country so as to support a business in Jersey?

The Minister for External Relations:

No, I think our general guideline is whether or not the United Kingdom, which has resources far beyond the resources available to us, takes the view that this is a country with which it can trade and then we would, generally speaking, follow that example.

Deputy S.M. Brée:

Do we have any questions at the moment? No. Well, at that point I think we will draw the public hearing to a close. First of all, thank you, Minister, very much for your time and both your officers. Thank you. No doubt we shall have additional questions for you at the next quarterly hearing.

The Minister for External Relations:

I am sure you will.

Deputy S.M. Brée:

Thank you very much indeed. Goodbye.

[16:54]