



Economic and International Affairs Scrutiny Panel

Quarterly Public Hearing

Witness: The Minister for External Relations and Financial Services

Friday, 10th December 2021

Panel:

Deputy D. Johnson of St. Mary (Chair)

Deputy S.G. Luce of St. Martin (Vice-Chair)

Senator S.W. Pallett

Witnesses:

Senator I.J. Gorst, The Minister for External Relations and Financial Services

Connétable R.A. Buchanan of St. Ouen, Assistant Minister for External Relations and Financial Services

Mr. J. Silverston, Director of Financial Services

Ms. K. Nutt, Group Director, External Relations

Ms. B. Davies, Principal External Relations Officer

Mr. B. Walker

Ms. E. Nicholls

Mr. F. Holmes

[11:08]

Deputy D. Johnson of St. Mary (Chair):

Good morning, everyone, and welcome to this public hearing of the Economic and International Affairs Scrutiny Panel. I will begin by introducing the panel before handing over to the Minister and his team. As regards the panel, I am here as Deputy David Johnson, Chair, and my colleagues are

...

Deputy S.G. Luce of St. Martin (Vice-Chair):

Deputy Steve Luce, the Deputy of St. Martin, Vice-Chair.

Senator S.W. Pallett:

Senator Steve Pallett, member.

The Deputy of St. Mary:

Thank you. Minister, over to you.

The Minister for External Relations and Financial Services:

Thank you, Chair. I am Ian Gorst, Minister.

Assistant Minister for External Relations and Financial Services:

I am Richard Buchanan, Assistant Minister.

The Minister for External Relations and Financial Services:

I am joined, Chair, by ... just having a look down the list. Maybe what we will do is if officials need to speak they can introduce themselves at that point, if that is okay, Chair.

The Deputy of St. Mary:

Yes, okay. Thank you all for attending and I apologise to anyone else listening as to the delay caused by technical issues, but we are all here now. I will start with a general question as to the up-to-date fishing dispute, for which I am pleased to hand over to our Vice-Chair, Deputy Luce, who will lead on this.

The Deputy of St. Martin:

Thank you, Chairman. Good morning, Minister. Fishing is obviously a very pertinent subject at the moment and I have to tell this meeting that at 12.00 p.m. or just after I probably will be leaving for a short period of time to go outside into the square to talk to fishermen who are meeting this morning in the Royal Square. Minister, maybe if we could just start by going backwards a bit and we note that on 27th October apparently the second meeting of the U.K. (United Kingdom) E.U. (European Union) specialist committee took place. I just wondered if you could kick off by giving us an update on what happened at that meeting and which Government Ministers and officers attended from Jersey.

The Minister for External Relations and Financial Services:

Thank you very much, Deputy. Can I just add to the Chair's apology around the late starting of this hearing. It was entirely my fault and technical matters at my end and not the panel's at all, to put that on the record and apologise for that.

The Deputy of St. Mary:

Thank you for that, Minister.

The Minister for External Relations and Financial Services:

Deputy, obviously the fishing issues are ongoing and whereas you will rightly be able to get into the square later, unfortunately I will not. It does not mean to say that we, in my department, will not take the requests of the fishing community very seriously. I believe that they will be met by the Minister for the Environment this morning or this afternoon and I hope to meet with them during the course of next week. The fishing committee to which you refer is not a ministerial meeting. It is an officials meeting and, as you will be aware, we are currently in the position that the Minister for the Environment has issued 125 licences. The Commission and the French side set today as another milestone day in advance of the European Council meeting to seek to resolve the issue of the number of licences to be issued. That fishing committee meeting ... as we have been doing both before and beyond that and are doing even right now, we continue to look at the evidence provided. Over the course of the last 24 to 48 hours we have received substantial amounts of additional logbook data. We have been sifting through that logbook data together with the Valpena data, and although I cannot give any assurance that there will be resolution by the end of today, we certainly on our side would like to seek and find resolution to the overall number of licences to be issued so that we can then move on to the just as, if not more, important extent and nature and conservation measures. I expect to have a further meeting with the E.U. commissioner late this afternoon. I had one on Monday of this week. I have spoken to the U.K. Secretary of State, George Eustice, at least once if not twice this week. Officials have been continually working and that is not just officials in marine resources but also right across my department and Law Officers. So it may be, and I cannot give any more certainty than that, that we can find resolution. That really is the only update I can provide at this time, Deputy, but that meeting you referred to is just one other meeting in a great continuum of meetings.

The Deputy of St. Martin:

Okay, thank you, Minister. Given what you have just said, do you expect any additional licences to be issued over and above the 125? Do you think the information will come forward?

[11:15]

The Minister for External Relations and Financial Services:

As I say, over the last 48 hours a great deal of additional logbook information has been brought forward. Officials are working through that data, so it may indeed be that additional licences are able to be issued but I am couching it carefully because it is “may” and “possible” rather than “absolutely probable” as I sit here in this meeting now. Even throughout the course of this morning there has been a fluctuating view on what may or may not be possible and the number of licences that the additional information may give rise to being issued.

The Deputy of St. Martin:

On the basis that we are co-operating and trying to find a resolution to this, do you see an extension to the E.U. deadline that would be necessary? Do you think they might agree to that?

The Minister for External Relations and Financial Services:

Well, of course it is not our deadline. It is not the U.K.’s deadline. It is a deadline that the French and the E.U. wish to work towards, which in itself is not unhelpful if it can resolve ultimately once and for all the number of licences which are to be issued so we can move on to the more important issue of ultimately creating sustainable fisheries in our waters. As I say, officers are working as much as they can to be able to seek to have resolution during the course of today. Today, of course, does not end until midnight so it is still possible but what might also be required is a short additional period of time. I would think if that is necessary it can only be hours and days rather than anything else to resolve it. We know, of course, that the U.K. is also working on their replacement vessels issues and I do think that if we can package everything together and seek to move on that, that would be helpful. So my preference is to seek resolution during the course of the remaining hours of today. That may not be possible.

The Deputy of St. Martin:

Thank you, Minister. I do not want to be negative and I want to move forward and be positive about everything but do we know what might be the outcome if the E.U. decide we have reached the deadline and we have not got an agreement? What would they be planning?

The Minister for External Relations and Financial Services:

Well, no new confirmation of countermeasures have been given. You will note that the French fishing minister earlier this week talked about using the T.E.C.A. (Trade and Economic Co-operation Agreement) as the way forward, which is positive in itself. We would say that that was necessary as well. I should also say, because I always make the assumption that people will assume this is what I am doing but apparently they do not, that I am pushing for the 8 licences that Jersey fishing vessels are still waiting for as well. If we are to find resolution during the course of today, that resolution has to include the agreement to issue those 8 licences as well.

The Deputy of St. Martin:

Thank you for that, Minister, and that is very good news that you are pushing for that as part of any agreement. Before we move on to free trade agreements, there are other parts of this agreement, there are parts of the current situation which appear to discriminate very much against our local fishing fleet, the designation of waters, for example, the ability to land catches in French ports, all when these products are coming out of literally the same waters from boats fishing alongside each other. Will the designation of the waters around Jersey also be part of the agreement that we would try to thrash out before the end of the evening?

The Minister for External Relations and Financial Services:

So the reality, of course, is that post-Brexit there are different designations of waters. That is not something that we believe is fair or appropriate and the Minister for the Environment is very seized on that particular issue, but what we are trying to solve and move on from today is the number of licences to be issued. If we can reach agreement on that number of licences by the end of today, then hopefully the way will be clear to then start the conversations and make the case about the designation of waters and also unblock the difficulties that the creation of the B.I.P. (border inspection post) at Granville have fallen into whereby we understand that while it is being requested at a regional level, it is not being put forward at a national level and it does require E.U. authorisation. So if we can reach amicable agreement, it has got to be reached appropriately based on appropriate evidence and data. If we can reach that point then I think we are in a better position to move on and resolve those other issues as well. But while we remain in this difficult period where there is disagreement about evidence and data and the number of licences, it is very difficult to make progress on the other issues which we know are just as important.

The Deputy of St. Martin:

I could not agree more, Minister, and obviously nature and extent is vitally important to try to get our territorial waters into some sort of sustainable fashion for fisheries. So I guess the final, final question is if we manage to get an agreement on licences, how quickly do you think we may be in a position to move to discuss extent and nature?

The Minister for External Relations and Financial Services:

These, of course, are ultimately ... and I do not want to pontificate on matters which are within the remit of the Minister for the Environment, but I think if we can nail down firmly the number of licences, I do think there is then a good case for encouraging and pushing for the border inspection post at Granville as the next step and then into the new year dealing with the nature and extent. I know that marine resources and the Minister for the Environment and the Assistant Minister have been giving a lot of thought, together with consultation with the J.F.A. (Jersey Fishermen's Association) as I understand it, around how they might handle those conversations and what a model might look like.

So they are leading on that, as is right because it falls within their remit, and we will do, as we have done with the licences, stand four square behind them and defend their position in the international arena.

The Deputy of St. Martin:

Thank you, Minister. I could go on for the entire 1½ hours on fishing, as I am sure you know, but we do have other items on the agenda so I will hand back to the Chair to discuss some free trade agreement issues.

The Deputy of St. Mary:

Thank you, Vice-Chair, and for all that information. Just for clarification, if I may before we leave fishing, the negotiations taking place at the moment are with the Commission, I take it, as opposed to direct with the French politicians and that would accord with the T.E.C.A. of course. That is the case, I take it?

The Minister for External Relations and Financial Services:

Yes, it is really the 4, the quad. So the conversations are the ring, of course, is being held by the Commission and the U.K. but we are working very closely with the 4. We are one of the 4, of course, so with the other 3.

The Deputy of St. Mary:

Okay, I understand that. From what you said as well, the Commission is looking at the terms of the T.E.C.A. which is perhaps a hopeful sign because if one read the media reports in isolation it would seem that the letter of the law has not necessarily been looked at too closely during this period.

The Minister for External Relations and Financial Services:

We remind ourselves that where a lot of this disagreement has arisen from is what is appropriate and good evidence and what is extrapolation and what is probability calculation. We have sought and made the case that our reading of the T.E.C.A. would indicate that we should seek the very best possible evidence that there is.

The Deputy of St. Mary:

Thank you for that. I just sought clarification on that and we have certainly not challenged that interpretation in any way. Okay, as the Vice-Chair said, perhaps we could move on to another area, which relates to free trade agreements. We are aware that Jersey was previously pursuing 2 main bilateral investment treaties with Ghana and the U.A.E. (United Arab Emirates) and we also know that the one with the U.A.E. was signed in November. Could you update us, please, on the treaty with Ghana?

The Minister for External Relations and Financial Services:

Yes. As you rightly say, Chair, our very first bilateral investment treaty was signed with the U.A.E. at the end of last month or the middle of last month. With regard to Ghana, officials were in Ghana last week, in country doing that negotiation or moving it forward. I understand that good progress was made, so that is in process as well and it is making progress.

The Deputy of St. Mary:

I will not tie you down to any dates if that is where we are. Again reverting to the last quarterly hearing, we then discussed the trade agreements with Australia and New Zealand where you advised that we were in conversations with the U.K. and we can expect probably a heads of terms type agreement to be announced in the coming weeks. Have those coming weeks yet come?

The Minister for External Relations and Financial Services:

Thank you, Chair. With regard to Australia, of course they have come and the heads of terms have been announced but the difficulty has been the detailed agreement. That has not yet been announced. In regard to New Zealand, which is following a similar path, they have not even quite got to the heads of terms agreement, although you will have noticed that yesterday the Singapore digital economic agreement, which is really a bolt-on to the current U.K.-Singapore F.T.A. (free trade agreement) the heads of terms were agreed on that. That does include Jersey as one of the Crown Dependencies and there is an extension mechanism in that agreement to be able to apply to us. For the Australia and New Zealand agreements we are seeking inclusion along the terms of the high-level principles that the States approved at the last States sitting.

The Deputy of St. Mary:

Thank you for that. Are there any other such agreements in the pipeline, as it were?

The Minister for External Relations and Financial Services:

There are a number of other agreements that the U.K. is working on. So you have got the Comprehensive and Progressive Trans-Pacific Partnership Agreement but that is an existing agreement that the U.K. is seeking to have extended to it. We are involved in those conversations but there are potentially some areas around I.P. (intellectual property) that we are needing to give further consideration to and we are doing that. Then the U.K.'s forward look is around Canada and Mexico and India. With regard to the Gulf Cooperation Council, the consultation was launched in October and is due to close in January and so we are extremely interested and we are involved in that area as well. We already have very good bilateral relations in that part of the world, of course.

The Deputy of St. Mary:

Thank you for that. Perhaps we can move on now to international tax matters and again reverting to the last quarterly we did question Jersey's role in this reform of the tax system and obviously were then advised as to our involvement. Can you give us a general update, please, Minister, as to where we are regarding I think it is called pillar 1 and pillar 2?

[11:30]

The Minister for External Relations and Financial Services:

Yes, thank you, Chair. The O.E.C.D. (Organisation for Economic Co-operation and Development) inclusive framework is continuing at pace. I was in the United States last week, together with the Deputy Comptroller of Taxes and the Head of International Tax, in Washington to talk about these very matters. But the expectation is that the model rules governing pillar 2 will be published next week. We then expect later this month, in the week running up to Christmas, that the E.U. will publish their directive. The directive is the document which will ultimately in due course give legal effect to how the E.U. expects their member states to implement pillar 1 and pillar 2. We understand that they will be expecting that to happen with a very short consultation period and to be implemented within 6 months. So we know there is a very, very tight timetable for implementing these proposals. It is expected that during the course of 2022 those who sign up - and we have seen nothing yet that would mean that Jersey did not do anything other than to be a part of the consensus and we are working on that assumption - that they will be implemented during 2022 so that they are enacted and working in 2023. We know that that is extremely tight, particularly for us in Jersey where we have an election, but heard nothing in the United States to give us any indication that they also would not meet that timetable. They were very clear that they felt that they would. Of course, in regard to the United States they are not doing exactly what it says in pillar 1 and pillar 2. They are expecting their existing regime with some amendments. The amendments to the G.I.L.T.I. (global intangible low-taxed income) regime, I think they are expecting to be done and dusted through their legislative process this side of Christmas, which should deal with pillar 2. With regard to pillar 1, that may indeed take longer and you have the difficulty of whether if it is delivered by a multilateral instrument how they will get that through the Senate or whether they will try some other type of legislative process. What we are thinking is that because of all of this moving at pace it is very likely that we will produce some reflective document in the early course of next year, which will reflect on the progress made, will reflect on the Jersey position and will also act as a sort of consultation document.

The Deputy of St. Mary:

Thank you for that summary and you answered the question that I was about to ask, which is in view of the amount going on would you be issuing some sort of document by way of informing the public, and you have just said that. One other point, you also referred to the impending election or election

coming up. Do you anticipate that in the event of any legislation being required to be approved by the Assembly that election will in fact impede upon progress in any way?

The Minister for External Relations and Financial Services:

No, I do not. Dependent on how we give effect to pillar 2, it will probably require some legislative change. I think that can all be done post the election. The often difficult thing would be the systems change but Revenue Jersey are aware of the requirement that they will need to have a systems change and they are aware, I think, of the resource that they will need in order to deliver that system change. I am not being told that the election will mean that we cannot meet timetables that we expect to be delivered upon but equally some of those timetables still remain fluid.

The Deputy of St. Mary:

Thank you. My final word on this is that I think we will look forward to seeing that reflective document. Am I right you are thinking that we are moving in conjunction with our fellow Crown Dependencies on this?

The Minister for External Relations and Financial Services:

Yes, we are. I spoke to the 2 relevant Ministers in Guernsey and the Isle of Man yesterday, the 2 Treasury Ministers. Of course we know that in Guernsey they are doing a tax review, which will be looking at corporate tax. They are also looking at a goods and services tax. We remain aligned in making decisions around our responses - pillar 1 is a minimum standard, so we all agree that we will be signing up to that - to pillar 2 where there are some elements of a minimum standard that we all agree we will sign up to and then there are some elements of what is known as a common approach, which means that individual members of the inclusive framework can make their own decision about if and how they implement it. Even in that regard we have agreed to stay aligned.

The Deputy of St. Mary:

Thank you for that. I think that is as far as we can go on that one, so I will hand over now to Senator Pallett on the next topic, if I may.

The Deputy of St. Martin:

Actually, Chair, it is me again, I think.

The Deputy of St. Mary:

Sorry, I cannot read my own writing. You are absolutely right.

The Deputy of St. Martin:

Maybe I will just finish off on tax with a final question for the Minister. It is great that we are working with and talking to the other C.D.s (Crown Dependencies) and all the other jurisdictions but, Minister, are you consulting with industry at all internally? We are doing a lot of external work but are we talking to people on Island about these major changes coming down the line?

The Minister for External Relations and Financial Services:

Thank you, Deputy. Yes, indeed we are. We have been working very, very closely with tax experts and advisers here in Jersey and that has been extremely useful in helping us navigate what our policy should be and how we will move forward. What we are now doing, of course, is as these matters are firming up and the model rules are due to be published, we are working and consulting with not only on-Island businesses but also where they have got head offices elsewhere and they have got senior tax experts, we are starting to engage with them as well. Although as ever with an international standard that changes, there can be challenge, we believe that we can navigate and manage that challenge well. There are always opportunities when things become more complex and Jersey has, for many years, formed its tax policy on 2 tenets of being as simple and straightforward as possible and being as certain as possible. Those tenets of our tax policy, if we can maintain them through this changing international standard, can serve us well into the future.

The Deputy of St. Martin:

Thank you for that, Minister. We know this is going to be very, very complicated but as I think we all appreciate, the more you can keep it simple the happier everybody will be and I am glad to hear you mention that. You have just returned from a 4-day trip to the United States, Minister, and you were quoted as saying it is an important trip to strengthen relations with groups in the U.S. (United States) Government and you hoped to show them Jersey's stance on these reforms and make sure that they understood our position. Can I just ask how the trip went and who you met with?

The Minister for External Relations and Financial Services:

It was a tough trip. I always find that going States-side is tough. Maybe that is a slight difference in culture in how we engage with each other, but it was extremely worthwhile from our perspective. We got a far better understanding of where the legislative process was in the States side. We got an excellent understanding from the treasury minister where they were in the process and what their thinking was, a particular individual who has been right at the heart of getting progress on this particular matter. So that was extremely useful to help form our thinking. We spoke also to tax think tanks and bodies and that gave us another perspective and, of course, we met with industry and industry bodies to get a better feel for what their response would be and how they were engaging in the governmental process States-side as well. That was Washington. In New York it was entirely focused on promotion and, therefore, I attended 2 Jersey Finance events and gave an address at a Jersey Finance dinner before going to catch the overnight flight back, but during the course of that

day we met with an industry body in New York representing hundreds of businesses in the private sector, which was very useful and we made relationships which we can build on and get first-hand experience. Then we met with I think it was 3 law firms and met senior partners there, promoting Jersey as a centre for funds and got a better understanding of how they might be currently structuring their clients' business and what would help them to use Jersey more.

The Deputy of St. Martin:

We have had an office in New York for a little while now, Minister. Is it proving beneficial? Are we seeing outcomes from the money that we are putting in there?

The Minister for External Relations and Financial Services:

I think it is proving extremely beneficial. The flow is from U.S. using Jersey structures I think last year increased by 17 per cent alone. I do not have the direct figures in front of me but they are, as you would expect, big numbers. I have been extremely impressed with the level of engagement - it is only one individual based States-side - that they are having and I think my visit just goes to show the access that is being opened and the understanding of why States money would want to use Jersey to invest into Europe and further afield. It is working incredibly well and I think that when we bring the L.L.C. (limited liability company) into action early next year that will enhance our offering even more.

The Deputy of St. Martin:

Do you have any trips planned overseas to other places in 2022, Minister?

The Minister for External Relations and Financial Services:

I think I do, Deputy. I think there might be another one planned to the Middle East. I do not have the dates in front of me but certainly I have been asked about that. There may indeed even be a fleeting African trip as well but that is probably less certain. I might get 2 more in before the election.

The Deputy of St. Martin:

Irrespective of the elections, we will have an External Relations Minister after June and you mentioned Africa. Some years ago we had a McKinsey report talking about Brazil and other countries like that. Where are the department's priorities for marketing Jersey internationally in the next 12 months, Minister?

The Minister for External Relations and Financial Services:

From a departmental perspective with our global relations team we will continue to follow up the treaties that we wish to see signed and they are now focusing very much on either the Middle East

or Africa. I envisage really from my perspective as Minister they will remain the States, they will remain the Middle East and they will remain Africa as well.

[11:45]

What we do not know, of course, is quite what effect COVID will have on those engagements but from a J.F.L. (Jersey Finance Limited) perspective we are supporting the funding of new positions, which is to increase their work among introducers in London but also to increase their work in the Far East as well. Of course, while I am Minister for External Relations and Financial Services it is easy to think that we only think about financial services from an external relations perspective. We do not. We think about all sorts of other things as well: education, digital, cultural. The Chief Minister is due to make a trip to the States early in the new year. He will be visiting New Jersey, so his trip will be very much broader than mine and focusing on the cultural and historical links, focusing on the growing digital links and we know that obviously our relationship with China is very much at this stage built on educational links. Our links in Africa are built on not just financial services but also the important work that the Minister for International Development does around aid and far broader than just financial services.

The Deputy of St. Martin:

Thank you, Minister. I take every opportunity to endorse what you have just said about Africa. The Jersey cow scheme in Africa is wonderful and has the potential to be even more wonderful for literally hundreds of thousands of people. It is the most fantastic scheme and we need to promote it as often as we can. Thank you for that. I am going to hand over to Senator Pallett, who is alongside me here in the Le Capelain Room, and he is going to ask a few questions about financial services. Thank you.

The Deputy of St. Mary:

Sorry, could I intervene and ask a couple of small points arising from the Minister's reply to the Vice-Chair? You said, Minister, or referred to your having had meetings in New York or Washington with representatives of major law firms. Are you able to say whether that was the first contact those law firms had had with Jersey or is there evidence that they are already in touch with their counterparts here in Jersey? Leading on from that, are there plans for some form of presentation in the States by the financial services industry?

The Minister for External Relations and Financial Services:

It is a very good question, Chair. What we found was that I think with 2 of the firms there were partners who have used Jersey historically and know Jersey and they are particularly in the funds sector, as you would expect because I think that is where our most attractive offer currently is. I

think that will hopefully change after our meeting. There was great interest in our charitable offering in light of all of the work that we have been doing there, which I think might start to bear greater fruit for U.S. philanthropists as well, so that is good news. Of course, when we bring the L.L.C. online there will be opportunity there as well. So, at least 2 of those firms there were funds partners present who knew Jersey and used Jersey and then there were other partners present who perhaps had not used Jersey very much or used other centres and we were there for promoting Jersey as a centre that they could use in the future.

The Deputy of St. Mary:

Thank you for that. Now it is obviously up to the Jersey professionals to piggyback on your efforts, I suspect. My apologies to Senator Pallett.

The Minister for External Relations and Financial Services:

Just to pick up on that point again, Chair, we know that there is a growing number of Jersey firms with offices in America and the challenge for us, of course, is then those global practices can be jurisdictionally neutral. We want to ensure that they are right across their network writing business in Jersey as the go-to jurisdiction.

The Deputy of St. Mary:

I take the point. Thank you. Sorry, Senator, I did not mean to delay you. Over to you now.

Senator S.W. Pallett:

No need to apologise. Good morning, Minister. Just around new financial services products, the panel noted that consultations are underway with regards to company winding-up provisions and the production of company prospectuses. Could you advise whether you intend to introduce any additional financial services products?

The Minister for External Relations and Financial Services:

Yes, we have got quite a long list of things that we are going to be doing. I wonder if I could ask my Assistant Minister to deal with the questions around financial services directly, if that is okay, Chair. Thank you.

The Deputy of St. Mary:

Yes, certainly.

Assistant Minister for External Relations and Financial Services:

Thank you, Senator. I will start with the first one you mentioned, creditors winding-up. We have lodged regulations for that for debate on the 18th and this is to add an additional leg to the companies

law in that companies can now be put in liquidation on the application of creditors whereas previously it has just been through the *désastre* procedure. So this is effectively an enhancement to our company law. Sorry, do you want me to move on do you want to come back in?

Senator S.W. Pallett:

Obviously you are referencing P.108. I do have a couple of questions on that that I was going to ask later but I will ask them now, now that you have brought it up. It has got a prescribed minimum liquidated sum within it. What will this be?

Assistant Minister for External Relations and Financial Services:

I am sorry, I will have to pass that across to an officer to answer that one. So, James, are you able to answer that?

Director of Financial Services:

Good morning. On that specific issue, can I come back to you? I need to look through it myself, so if I can come back to you later in the hearing I will give the answer to that.

Senator S.W. Pallett:

Okay. Well, if you are going to do that, I am interested to see who and whether you consulted on that in regards to that issue.

Director of Financial Services:

I will come back to you with a proper answer rather than just a high level answer. I will come back to you shortly on that.

Assistant Minister for External Relations and Financial Services:

Yes, high level, we have consulted. Consultation took place late in the summer and included the Viscount and the Law Society and the insolvency and restructuring experts, but I will let James come back with a more detailed answer on that.

The Deputy of St. Mary:

Just to intervene, I think we are due to have briefings on that at some stage but not yet written down.

Senator S.W. Pallett:

Okay. Well, if James is going to have a look at it, could he also maybe give us some idea of within the explanatory note it talks about "recover damages in respect of any loss sustained by the company". I am just interested in the explanatory note it talks about: "Recover damages in respect

of any loss sustained by the company.” I am just interested to know what is meant by “any loss” and could that potentially be reputational loss, just while he is coming back on that?

Director of Financial Services:

I think we have offered you a specific briefing on this issue, so I can again come back on these specific issues. It is probably best if we give you a specific briefing on this so we can really drill down into some of this, if that will be helpful to the panel.

The Deputy of St. Mary:

Yes. As I say, I think our officer is in touch with you or your officers on that, so that is going to happen in the future, so I will take your point. We look forward to receiving that. Is that all right, Senator?

Senator S.W. Pallett:

Fine, if the Constable wants to carry on.

Assistant Minister for External Relations and Financial Services:

Yes. We have also, as you will have seen, lodged 3 sets of regulations to finish off the L.L.C. project, which - if they are approved by the Assembly - will bring L.L.C. fully into play. They again were lodged just recently. We intend to lodge primary law amendments in relation to limited partnerships as well, which is another fund vehicle, and we will be coming to you with a briefing on that, but they intend to lodge those in January. We are also making good progress on the bank resolution issue. As you have seen, we have appointed all the officials for it now and we are working to ensure that the law comes to the debate on 18th January. Essentially it is an Appointed Day Act which will bring it into play and also there is a small amendment, which will suspend part of the original legislation, because banks are not able to comply with that, but that will come to the Assembly in January.

Senator S.W. Pallett:

To save asking, because I did have specific questions, again you have not briefed us, so maybe it is better if we leave that for another day. Moving on, at the last quarterly hearing the panel was advised that: “We are still working hard to bring the first phase of pension legislation to the Assembly.” Please could you provide an update on the work undertaken in relation to the pension legislation?

Assistant Minister for External Relations and Financial Services:

As you might expect, it gives me great pleasure to give you an update on that subject. It is something that is very close to my heart. We have lodged the first tranche of regulation on pension regulations,

which is to bring the advice on pensions into the Investment Business (Jersey) Law, which essentially means if you want to provide advice to your clients on pensions, it will become a regulated activity under the investment business legislation. If you are not registered with the J.F.S.C. (Jersey Financial Services Commission), you will have to register to provide advice on pensions, but that has been lodged and will be debated in January. I am not sure ...

Senator S.W. Pallett:

Thank you. Again, I had questions on that, but again we are waiting for a briefing, so again I think it is probably best to leave that for another day.

Assistant Minister for External Relations and Financial Services:

It is worth saying also, Senator, that that is the first stage in our intention to bring pensions fully into regulation. It does not cover other areas, including pension trustees and the management of pensions themselves, which are quite extensively undertaken in the Island. It is our intention to bring those into regulations a bit later in the year, whether I am here to do it or not or somebody else, but we are working on that. But this is very much the first tranche of that. Essentially it means that the provision of pensions to the general public in the Island will now be regulated properly and the J.F.S.C. will be able to ensure that proper advice is given at all times for people taking out local pension plans.

Director of Financial Services:

Minister, can I just add to that? I am sorry if the panel feel they have not been briefed on some of these issues. I think possibly some of this relates to the fact that in the case, for example, of the bank resolution authority, it is something which the panel was briefed quite some while ago, potentially with different personnel. Now it is simply a matter of bringing it into effect, but it is important that you are briefed, so we will talk to the officials afterwards and make sure that you get briefings across the specific items that you would like. We will arrange to do that leaving here.

Assistant Minister for External Relations and Financial Services:

James, I see we are picking up on the pensions regulations briefing item as well.

Director of Financial Services:

Yes, we will make sure that is all covered.

Senator S.W. Pallett:

I am sure the Chair appreciates the offer of those briefings. Moving on to the recent amendment that has been made to the Government Plan in regards to the Ministry for External Relations, Minister, on 9th December the panel submitted a comments paper and response for the amendment

to the Government Plan 2025 establishing a separate Ministry of External Relations. Can you provide a timeframe for establishing the Ministry for External Relations?

The Minister for External Relations and Financial Services:

That is a very good question, Senator, and it is one that is out of my control. Obviously I have not been involved in the Council of Ministers' consideration of my amendment - that would be inappropriate - but I understand that the Council of Ministers will be proposing the Government Plan as amended by my amendment, so they are accepting it, which I am extremely grateful for. What it will then need is to go into the internal system, as it were, and make sure that a change to employees' job titles and so on are undertaken in line with the employment law. Because there are less than 100 employees in the current Ministry for External Relations, that means that consultation can be undertaken over the course of 30 days rather than the other 45 days for over 100. I would expect that, if the Assembly agrees the Government Plan, to write then to the Chief Executive Officer (C.E.O.) asking him to give effect to the States decision in creating the new department, starting that work at the beginning of January, so I would expect that it could easily be completed by the end of February.

Senator S.W. Pallett:

That is a relatively quick timeframe, so I think in many ways that is reassuring. You point out within the amendment some of the reasons for establishing a Ministry for External Relations, but if you had to pick one particular issue as to why it is important, what would that be?

[12:00]

The Minister for External Relations and Financial Services:

I think it is critically important when we are overseas that we are seen and understood as, in effect, Jersey's foreign office. I know we never talk in those terms but that is what we are, that is how we act, and I think that we act well in that regard. I think that that is critically important, but if you look at what it is that departments are supposed to do if they are individual departments, you expect, importantly, the strategy and the strategic element to come from the director general. The strategy and the strategic element of what we do, together with the Minister, of course, does come from the senior officer in the Ministry of External Relations and her senior leadership team, not from the office of the C.E.O. So in any matrix that you provide for why a department should be a department, then the Ministry of External Relations should be a department. The other point that I made in my amendment, which is perhaps where, because I am close to my officials, I know that this can be undertaken, and because of the current pay structures that we have in order to get good people and keep them, that it can be undertaken in a cost-neutral way. One of the issues when Senator Farnham and I were pushing for the creation of the ministry or the Department for the Economy was

we were told it would cost more. It took, as you know, over 12 months to get that department created, despite that being what the Ministers involved wanted. That is not respectful of democracy and so, in my view, getting it into the Government Plan - if there has to be a debate, that will be the decision of the Assembly - and once the Government Plan is approved, if it is agreed, then the political and government will is clear and officers simply have to go away and give effect to it.

Senator S.W. Pallett:

Just following on from that, I presume you have held this view for some considerable time. Why leave it to the last shakes of the dice on this particular Government, rather than maybe doing it much earlier in the term, where it would give you better opportunities within your department to have greater control? Also I suppose the other question that people have asked is why was this not part of the Government Plan originally and why has the Council of Ministers brought it forward, rather than an amendment?

The Minister for External Relations and Financial Services:

If I take that last item first, if I am being straight with you, Senator, I think if I had have tried to do it in that way, it would just have got bogged down. It would have got bogged down with internal process and there would have been 101 reasons why it could not be done, so I have used the mechanisms available to any States Member in order to fast track it, because I think a previous Scrutiny Panel suggested it should happen, the *Island Identity* report suggested it should happen. I always seek - and I have not always been successful in this and some people would say I have been the reverse - to leave the departments that I have been responsible for in a better place than they were when I started. That is what I am seeking to do with this amendment and the creation of the department for the next Minister.

Senator S.W. Pallett:

Moving on from those comments, in your amendment to P.90/2021 you explain that the establishment of the Ministry for External Relations would provide increased accountability to Scrutiny, States Members and the public. Do you have a strategy in place to communicate and promote those changes to External Relations to your fellow States Members and the public more generally?

The Minister for External Relations and Financial Services:

I hope that States Members are aware of what we do. We have published a large number of reports during the course of the last 3½ years. Lots of that has been led by Brexit, it has been led by the global relations team, but the difference of course of a new department is that a new department would have to publish its separate departmental business plan. I think that itself enhances accountability to Scrutiny and to the public at large, rather than just something that is subsumed

within the office of the C.E.O., where we get very little coverage and people focus on the other elements of that office.

Senator S.W. Pallett:

It is very late in the day, but will you be bringing forward any short-term business plan for the department for the run-up to the end of this term or is that for the next term?

The Minister for External Relations and Financial Services:

It is a good question. I had not thought about that. It might be an opportunity. What we have done previously with governments is for Ministers to produce status reports of where they were in their departments, what legislation was ongoing, what priorities they have got, what policies. I think that could morph into an individual departmental business plan type approach, so thank you for that suggestion. That is something we will take away and seek to deliver.

Senator S.W. Pallett:

My final question before I hand back to the Chair is at the last quarterly hearing you stated that if we look back over the Target Operating Model, of course previously the Chief Minister's office was too flooded with various responsibilities. Can you please advise why the recently proposed changes to External Relations were not brought forward under the ... this is the same sort of question, but why it was not brought forward under the Target Operating Model. Did you have any input into that in regards to what you would have preferred to have happened?

The Minister for External Relations and Financial Services:

Experience is an invaluable thing, is it not?

Senator S.W. Pallett:

So is hindsight, Minister.

The Minister for External Relations and Financial Services:

Yes. I like to think experience is more balanced and you look at the good and the bad. What I think we were trying to do with the Target Operating Model was make government slimmer and make it more cost effective and reduce duplication of employees. You will see from my other amendment to the Government Plan I am committed to trying to deliver a smaller, most cost-effective government, but if we look back now, the Target Operating Model has not delivered that, has it? It has delivered a growth in employees, it has delivered a growth in spend and it has, dependent on how we do the Government Plan, potentially delivered a growth in borrowing. Can we - and I think we can - have individual departments that work closely together in a more cost-effective way than just combining them? It would appear to me that we can, because I think we can have an individual

Department for External Relations at no greater cost than what we have currently got. I think we have lost the rationale behind why we wanted the Targeting Operating Model anyway. I do think that the next government will have a number of priorities, one of which will be to review the success or otherwise of the Targeting Operating Model through a number of lenses. One will be delivery of service. There are some areas where service delivery has not improved. One should be overall cost of government, it should be number of staff employed and it should be cost efficiency or cost-effectiveness of government. I do not think we should ever be afraid of looking back and seeking to ask ourselves whether the policy objectives were met or not. I am in such a position to be able to hold my hands up and say I have got things wrong in the past when it comes to the structuring of government. Maybe I am one of the few people that can do that, but I can. I have got things wrong, but that does not stop me from thinking about change and efficiency, it makes me even more committed to trying to do it better in the future.

Senator S.W. Pallett:

You mentioned change and efficiency and potential opportunities. Can you see potential opportunities for efficiencies and savings by working more closely with your Minister for International Development colleague and Economy, for example? Is that the sort of thinking that you will have in regards to bringing down some of the cost to government?

The Minister for External Relations and Financial Services:

Yes, I think it is. Let us take the Brexit team that has become the international trade team. There I think they can work much more closely. They are doing a really great job, but they need to be working more closely with Economy and we need to find a way of them working together in an effective and efficient way into the future. I mean, the truth of the matter is there is not one size fits all across government. Some models work better for some departments than others, but the key again is driving out the silo mentality. The Targeting Operating Model has not, in my view, driven out the silo mentality, so we need to circle back around to that. It has in some areas and not in others, so we need to revisit that to see how we can continue to drive out that silo mentality, which is not in the interests of Islanders at all. The other thing we have to remember, which I think we have forgotten during the course of this Government, is that we are not a local authority. We are a national government and so there are some things that we have to do, behave as if we are a national government, and external relations is one of those. It is a function of national government, not just some add-on to a local authority.

Senator S.W. Pallett:

Minister, you make it sound as if the Jersey Government has almost morphed into some type of U.K. council. I hope that is not what has happened or the direction that we are going in, but just one last point from my point of view. Do you feel it is important in terms of equality and making sure that you

can work at the same levels with your colleagues in other departments that your director general is on the same level as other director generals and is not part of another department and that she can speak on her own behalf?

The Minister for External Relations and Financial Services:

I absolutely agree with that observation, Senator. I am extremely fortunate to be surrounded by first-class officials. I know I have said it before, but it bears repeating: any successful Minister is only as successful as their officials and I could not do what I do without their support and their advice. There are good people right across government, but I am particularly fortunate to have so many good people in my ministry. They can stand and defend their position, as I say. They are delivering strategy and strategic imperatives across government, which are fundamentally important to Jersey's future and they ought to be recognised in the same way that everyone else is right across all other departments.

Senator S.W. Pallett:

Thank you, Minister. I am going to hand back to the Chair. I do not know if he has got any questions on that area, but I know he has got another section he wants to ask questions on.

The Deputy of St. Mary:

Thank you, Senator. That was an interesting exchange there. Just to make a slight contribution, the office or the ministership of External Relations has obviously evolved over the years. I am just wondering in fact whether ... and I do understand that what we have or what you are proposing puts us more on a par with international expectations. I fully understand that.

[12:15]

I cannot remember who it was who made the observation recently, but it is that Jersey is 99 per cent an independent entity, rather than a local authority with a few bits tagged on. I am sure your status as Minister for External Relations reinforces that. Do you consider that your responsibility for the finance industry in a way militates against that? Does that sort of perhaps taint your independence as Minister for External Relations?

The Minister for External Relations and Financial Services:

No, I do not think it does. I do, however, think though that that is one of the compromises that we have to make across government in the interests of working closely together, trying to remove that silo mentality. It was right to create the ministry or the Department for the Economy, but in creating the Department for the Economy it was equally right that the major part of our economy felt they had a representative in government with that acknowledged in their title. This is why rather than having

financial services as a separate department we created and said that we would put financial services on to the Minister's title so that there was that appropriate recognition. I do not disagree with this idea that we are 99 per cent an independent country; of course we are. We have a high degree of autonomy in all matters domestic and fiscal. We have this connection to the Crown and through that to the U.K. It serves us incredibly well, but we need to make sure that we are not being pushed into something that replicates a U.K. local authority, but that we have a national government that is the Jersey Government. Where we can make efficiencies and where we can work together then we should take them, but that is not picking up a model from a regional or local authority.

The Deputy of St. Mary:

Thank you for that. Going back to your dual role, if I may refer to it as that, an unusual reference in your capacity, you have a foot in 2 camps of course, as will your successor, if there is to be a successor in this. Are you happy to ... does that work well, you having responsibility for external relations in one area and for financial services within the economy group in the other? Does that cause any practical problems, as far as you are concerned?

The Minister for External Relations and Financial Services:

No. As far as I am concerned, it works very well. Am I allowed to say, Chair, that I enjoy it? I think my Assistant Minister enjoys it as well - we will see that he is going to smile - but like any job, it is all about the relationship that you have with the people in the team. A Minister is responsible for ensuring that the teams work well together and are co-ordinated across the various teams. That is part of the answer to ensuring that there is not a silo mentality.

The Deputy of St. Mary:

Thank you. If I may, just going back to a comment you made earlier ... sorry.

The Minister for External Relations and Financial Services:

I think Richard wanted to ...

The Deputy of St. Mary:

My apologies.

Assistant Minister for External Relations and Financial Services:

Yes, sorry. I probably was not quick enough. At St. Ouen, we are a long way away. I just wanted to add that I endorse Senator Gorst's comments. The location of financial services within External Relations, in my view, is entirely correct. I think we must not forget that most of Jersey's businesses come from outside of our shores and most of the work of the financial services industry involves negotiations with other territories either to be represented or to negotiate tax treaties with them. We

are entirely located in the right place, and having it under the umbrella of External Relations can only be good for the financial services element, because all businesses in Jersey rely on business flowing into the Island from elsewhere and having the ability of being in the department that negotiates the treaties and arranges the marketing is entirely correct, in my view. I feel very comfortable with this and I think the move to being a separate department. I do not think we should underestimate the value of perception in the international markets. People look at people coming to see them and they look at their titles, particularly in the Middle East and the Far East. If it is not right, then they start to ask questions why. I think having an External Relations ministry is entirely correct and will be completely understood by the people that we do business with outside the Island. From my point of view, I fully support the move and I think it is a good move for the finance industry and a move in a positive direction.

The Deputy of St. Mary:

Thank you for that. I was not challenging it in any way. What I was coming on to saying was that earlier during this hearing the Minister made reference to the fact that External Relations' role was so much more than ... well, it encompasses various things and to ensure that Jersey's reputation was not solely within finance, for instance. I know the work of the Minister for International Development has prompted that. Going on from that, if I could go slightly off-piste possibly, we are shortly due to receive a presentation on our carbon neutral role. I was wondering if the Minister would like to comment on his view as to whether Jersey's backing of that policy is important to his role as Minister for External Relations as well.

The Minister for External Relations and Financial Services:

The short answer is yes, it is. We cannot go or I do not go anywhere without the issue of carbon neutrality, global warming and the green agenda being discussed. We know that the J.F.S.C. have joined with other regulators. I think they are now one of 100 around the globe seeking to green the financial services network or infrastructure. We know that Jersey Finance have also just been accepted as a member of another green international body. We know that Jersey Finance have just published the *Jersey for Good* report. They are doing a lot of work on sustainability. When I was at COP earlier this quarter, it was apparent to me that we, as Islanders, have our responsibility to think about how we live and how we improve what we do from a green perspective. Of course we do, but the biggest area where we can make a difference is in how we deliver financial services. That, for us, will be the key, but that is not the only answer. We cannot just say: "Oh well, we will ensure that we have got really green and effective financial services" because those clients that want a green structure and want green investments want to see that they are doing that in a jurisdiction which itself is taking the green agenda seriously. It is this idea, you cannot have a green structure in a grey Island. We have to do both together. The question for us is how we do deliver a green Island and do we use carrot, do we use stick, do we use encouragement? I am much more in favour of

using encouragement and using carrot and having good transition through to a greener Island than the forceful stick that some talk about because we can make all of the observations that are made with this agenda: “Well, we have all got to green ourselves and nobody has to be left behind and we make inequality worse.” We can all make those statements. The reality is unless you have got a carefully thought through and timed transition with appropriate support, the least able to transition will suffer the most, so we have to go very carefully. I think that the roadmap that is due to be published - I do not know if it is next week or it is today, it is certainly sometime pretty soon - will balance that really well. I am pleased that we are going to have Paris extended to us because it will align us with more of an international timeline, rather than just one that we have self-imposed.

The Deputy of St. Mary:

Thank you for that. I was aware of your view, I just wanted to give you the opportunity to confirm that carbon neutral was not something for others and that it did play a relevant part in the Island’s prosperity. I think Senator Pallett has a particular question on probably an unrelated matter, but off you go, Senator.

Senator S.W. Pallett:

Yes, it is slightly unrelated. Obviously we started off with fishing today and behind me there is a big meeting/gathering in the Royal Square, but the question really is about the conduits and connections into the E.U. and into Westminster. I just want the Minister’s view about whether those connections and conduits are working well and the working groups that we obviously can participate in, whether they are working well. Obviously fishing is probably not a great example, but there are a lot of other areas where we do business with the U.K. and want to do business with Europe. Is that working well?

The Minister for External Relations and Financial Services:

Yes. I mean, ironically, on the surface it does not look like fishing is a great example, but as I have been sat here, as you would expect, my phone - or computer, as we call it - has been pinging away with updates from all sorts of meetings going on with the U.K. and with the E.U. and senior officials today on the fishing issue, but on any given day it can be any other given issue. Interestingly, all that we have gone through through Brexit has strengthened our relationship with the U.K. in giving a better understanding of Jersey and what Jersey is all about, our autonomy, which matters are rightly matters for us to decide but we can do with their support in when it is in Brussels. We have just recruited a new team into the European directorate and they are up and running and working really well. The Brussels office is working well. The French office is working well, but it is just extremely challenging because all of the time when they are asking questions and they are seeking to build relationships, they are butting up against some difficulties. So I think they are working well, but when I was asked earlier about my international priorities - this just goes to show the way I think

about things - I did not mention all of the work that we will be doing next year with Europe. That will continue to be a very critical relationship that we will put a lot of time and effort into.

Senator S.W. Pallett:

Can I just ask one question about a longer-term relationship that we have had, and that is with China and Hong Kong? Are we still getting good business from that area and how is that office operating and is it operating as you would expect?

The Minister for External Relations and Financial Services:

Really that is a question for Jersey Finance with the individuals that they have got out there, but they have made a new recruitment. I am just trying to think back, but my understanding is that that recruitee is in Shanghai and that there is - which might come as a surprise - an increasing flow of financial services business from China.

Senator S.W. Pallett:

Okay, very positive. Chair, back to you.

The Deputy of St. Mary:

Thank you. There was one general question I have here regarding upcoming legislation, but to a certain extent we have already covered that. I think there are 12 pieces of legislation which we will need to look at as well and we are going to have briefings on those. I take it that given the legislative programme and the need to prioritise matters, these will have been given priority, for good reason, and that there will be presumably adverse effects if they were not passed in good time. I am just simply wanting confirmation of that within the 60 seconds available. Thank you.

The Minister for External Relations and Financial Services:

Yes. The majority of the legislation is preparing us for the MONEYVAL inspection and so that really is time critical. I would also argue in the recovery phase of COVID, which I hope we are entering, although that is far from certain, the new products and services pieces of legislation are just as time critical as well.

The Deputy of St. Mary:

Yes. Obviously this panel is fully aware of the MONEYVAL inspection and the importance of it and will do its utmost to support you in getting you ready for that. As I say, we are at the end of our allotted time. Can I thank you, Minister, Assistant Minister and officers, some of whom have not been given the opportunity to speak, I am afraid. Thank you for your time. I close the meeting and wish you all a good weekend and happy meetings with the fishermen and others maybe.

The Minister for External Relations and Financial Services:

Thank you very much indeed, Chair. We look forward to seeing you all next week. Thank you.

[12:30]