



Economic and International Affairs Scrutiny Panel

Quarterly Review Hearing

Witness: Minister for External Relations

Friday, 3rd July 2020

Panel:

Deputy K.F. Morel of St. Lawrence (Chair)

Deputy D. Johnson of St. Mary

Deputy K.G. Pamplin of St. Saviour

Witnesses:

Senator I.J. Gorst - The Minister for External Relations

Mr. D. Walwyn - Director, External Relations

Mr. T. Le Feuvre - Director, Global Markets and International Agreements

Ms. V. Bell - Legal Adviser, Law Officers' Department

Ms. K. Nutt - Group Director, External Relations

[11:02]

Deputy K.F. Morel of St. Lawrence (Chair):

Good morning, Minister, I hope you are well this morning. Thank you for joining us in what is a slightly delayed review because obviously of COVID-19. We did begin this review and our evidence gathering back in January and February but obviously then put everything on hold so we are picking it up again now. Before we get going, I would just like to start by introducing the panel first. Each of us going around in turn to introduce ourselves. We have a new member of the panel, which is very exciting, and then over to you. I am Deputy Kirsten Morel, Chair of the Economic and International Affairs Scrutiny Panel.

Deputy D. Johnson of St. Mary:

I am David Johnson, Vice-Chair of the panel.

Deputy K.G. Pamplin of St. Saviour:

I am Deputy Kevin Pamplin and I am returning to the panel.

Deputy K.F. Morel:

Brilliant, Minister.

The Minister for External Relations:

Thank you, I am Ian Gorst and I am Minister for External Relations and I am joined this morning by several officers who will now introduce themselves.

Director, External Relations:

I am David Walwyn, Director, External Relations.

Director, Global Markets and International Agreements:

Morning, everybody, my name is Tom Le Feuvre, I am the Director of Global Markets and International Agreements.

The Minister for External Relations:

Victoria, would you like to introduce yourself, please?

Legal Adviser, Law Officers' Department:

Good morning, everyone, I am Victoria Bell, I am a legal adviser at the Law Officers' Department.

Deputy K.F. Morel:

Unfortunately, we cannot hear Kate.

The Minister for External Relations:

Okay, we will just deal with that now, just bear with us.

Deputy K.F. Morel:

No problem, this is the right time to sort it out.

Group Director, External Relations:

Sorry, apologies, it is because we are in the same room. Kate Nutt, Group Director, External Relations.

Deputy K.F. Morel:

Good morning, thank you. Brilliant. Thank you, Minister. As I mentioned this is about our review which is trying to understand nothing else other than that, try to understand essentially the way that External Relations works, the way it is held to account and then the processes which govern those. We will start with a very wide-ranging question which quite simply, would you mind outlining what the External Relations Department is for, its purpose and its mission.

The Minister for External Relations:

Thank you, Chair. The word “department” is probably a little bit grand. Under the previous structure we referred to it as a ministry and that worked very well. The Minister sat within what was then referred to as the Chief Minister’s Department. Of course there has been a change and we now have the Office of the Chief Executive. I still personally think of it as a ministry within that office. What does it really do and what is its mission? It is about protecting and promoting Jersey’s interest with international stakeholders, managing Jersey’s response to Brexit and future trade negotiations, building and maintaining Jersey’s relationship with the U.K. (United Kingdom) Government and the E.U. (European Union) stakeholders, and it is about working to increase access to and improve trade links with high growth markets outside of the U.K. and E.U. If you think of it, it sort of mirrors what you would expect elsewhere. If you take a country with a monarch, you would expect the monarch is the head of state, who does some external relations or foreign affairs works, you have the head of the Government - in our case the Chief Minister - and then you have the foreign secretary - in our case the Minister for External Relations. It very much mirrors that. It really is a facilitating and building of relationships department, very little it does on its own, the vast majority of what it does it does because others have asked it to do it.

Deputy K.F. Morel:

Thank you very much. Just a quick note to my colleagues on Scrutiny, I am just adding in a little question here of my own. The External Relations Department is fairly unusual in that the Minister is described in statute, other Ministers obviously are not. Can you explain why that is so and how that ... by being in statute what that imposes upon you as Minister?

The Minister for External Relations:

If I recollect correctly, it was because we were creating a new office and for Jersey it was something new because every other Minister at that point, and still ... there is a bit of a misconception here, despite what was P.1 of 2018, I think it was, P.1 created a more unified civil service. It had the legislative approach to also create a more unified Council of Ministers but the underlying regulations have never been brought forward to give effect to that. Every Minister currently remains a corporation sole and what we were trying to do before P.1 had even been thought of was take what was previously an Assistant Minister’s job in the Chief Minister’s Department and one of the things

that Senator Bailhache and I agreed was that it should be made into a ministry in its own right or a Minister in its own right. We then had to deal this: how do you create a corporation sole and yet have concurrent responsibility for the operation of foreign affairs? That was just the model that we came up with to achieve that unique position within our governmental framework. It seems to have worked well. Probably the only extra responsibility it gives is that it gives a recognition of what I was saying, that the Minister for External Relations largely works on behalf of other Ministers and if it is not on behalf of other Ministers it is concurrently with a duty on the Chief Minister as well.

Deputy K.F. Morel:

Thank you. With regard to the States Assembly, how do you see the Minister and his department's role within the States Assembly?

The Minister for External Relations:

The Minister brings forward legislation and is questioned and scrutinised as any other Minister is in relation to whatever legislation is brought forward or is needed to be brought forward. But then there are some bigger projects where, of course, if you take something like Brexit, the Minister for External Relations, who was Senator Bailhache at that time, he and I together developed what has become known as the Euro Law. We brought forward ... he acted as rapporteur, he brought that forward so that gives effect to the actual leaving bit of Brexit but lots of other bits of government law, which are needed to be changed because of Brexit are brought forward by the individual Minister. Of course, in this case, and it was the case with Senator Bailhache, it is often the case that the Minister for External Relations, or it has been so far, has been perhaps a senior Minister and so it is not unusual for the Chief Minister to ask that senior Minister to also act as rapporteur for pieces of legislation on behalf of the Council of Ministers.

Deputy K.F. Morel:

Is your primary form of accountability to the Council of Ministers and the Chief Minister or the States Assembly? Where do you see yourself being held accountable in the first place?

The Minister for External Relations:

That is a good question because the common external relations policy is decided and approved by the Council of Ministers and so in the delivery of that policy or working to that policy I am responsible to the Council of Ministers but, of course, the functions that I discharge are also functions which are dischargeable by the Chief Minister. There is also that concurrent accountability and responsibility but for any pieces of legislation being brought forward then it is absolutely in the normal way the States Assembly and, in some respects, the Scrutiny function is slightly more important for External Relations because of the nature of some of the work.

Deputy K.F. Morel:

When you talk about this concurrent responsibility, from your perspective does that give you the freedom to operate fairly autonomously, if you know what I mean, just hand in hand with the Chief Minister, irrespective of the Council of Ministers or irrespective of the States Assembly or do you think that ties you down more to how you work? What level of autonomy do you have?

The Minister for External Relations:

When you think about a Minister and an executive function you are able to perform those executive functions as described under law. So if you want to say that gives autonomy on the one hand, of course it does, but it also creates accountability to Scrutiny, to the States and to the Council of Ministers. On the one hand, you could say I am acting in an autonomous way when I have a meeting with a representative of another foreign government but the reality is the issues I will be talking about will be on behalf of other Ministers or the Council of Ministers in order to present their concerns or the issues that might have arisen, or arising from pieces of legislation which have gone through the Assembly or decisions of the Assembly that I would be referring to.

[11:15]

In that regard foreign affairs is of course a function of the Executive in Jersey as it is in every other country around the globe but Ministers for External Relations are really just message Ministers for other Ministers or other decisions made elsewhere.

Deputy K.F. Morel:

A messenger in that respect?

The Minister for External Relations:

That is correct.

Deputy K.F. Morel:

Deputy Pamplin has a question.

Deputy K.G. Pamplin:

In relation to your department you have, of course, an Assistant Minister, could you explain how that works in this department. Like other Ministers their Assistant Ministers have delegated responsibilities so how does that work with your Assistant Minister and how you work together as a twosome? Thank you.

The Minister for External Relations:

It is an interesting question because the Constable of St. Ouen in this instance was made an Assistant Minister to the Minister for External Relations by the Chief Minister in order to support the work around financial services. He has areas that he deals with in that regard. Of course consumer lending, pensions, he has a vast experience on banking. He is taking on the issues around the depositor compensation scheme and the winding up schemes. He is much more involved in that area than necessarily in the direct external relations regime but one thing that he does do, if we are not working directly together, is he does attend on my behalf the C.W.E.I.C., Commonwealth, Enterprise and Investment Council.

Deputy K.F. Morel:

Thank you. The Deputy of St. Mary has a question.

The Deputy of St. Mary:

Just in case I forget it later, you were kind enough to say, Minister, earlier on, if I understood you rightly, that the Scrutiny function is more important in relation to your role than perhaps other departments. Can we take it from that that you regard your role with Scrutiny as being a valuable way of ensuring that the Assembly gets informed in respect of matters which perhaps the Assembly in its entirety would not be entitled to receive?

The Minister for External Relations:

I think so. Of course you will be aware that we sent you a document over which is extremely confidential. I like to think that we forged a positive working relationship and you will hold me to account around those matters in a way which not everybody in the legislature can because it would not be appropriate to. So much the same way as you take other country's select committees review of the work of the foreign department and the diplomacy undertaken, it can be very sensitive and therefore often the scrutiny of it and the review of it needs to be done at this level.

The Deputy of St. Mary:

Thank you for that, Minister. Just to finish off this theme, in a way, in the previous Assembly Senator Bailhache, as Minister for External Relations, used to occasionally not hold court, pun excused, but used to give a brief summary of what he was doing at the time and invite questions from the Assembly. Do I take it that you believe at that stage the scrutiny function was not perhaps quite as pertinent as it is today and that in fact such statements are no longer necessary, given the way we currently act?

The Minister for External Relations:

I know that Senator Bailhache did an annual report to the Assembly right at the start of his tenure of Minister for External Relations and, in a way, that was putting it on a firmer footing and helping in

understanding. Ironically when Senator Le Sueur created the Assistant Minister for External Relations he was criticised for not creating a Minister who could be appropriately held to account by Scrutiny and the Assembly. When Senator Bailhache and I created the ministry and the Minister for External Relations we were criticised and told it was unnecessary and people did not really understand what would be being done. So he tried at that point to do an annual report of what he had been up to so that there was that clarity. I think that is now on a very firm footing. It is fair to say that you as a Scrutiny Panel know more about what I do than any other Scrutiny Panel will know about what their Minister does. Sometimes there might have been a bit of delay in getting that information to you but you tend to know who I see and when I have seen them and, of course, from our conversations you have a good understanding of what we would be talking about.

The Deputy of St. Mary:

Thank you for that. Back to the Chair, if I may.

Deputy K.F. Morel:

Thank you. Minister, the External Relations Department, as you have mentioned, is one that interacts a great deal with other Governments and Parliaments. What restrictions do you feel this places on you when signing agreements or treaties with other jurisdictions? In that sense, we have our democracy, we have our form of scrutiny over here but obviously you have to have respect for those of other jurisdictions. How do you feel that modifies the way you have to work in terms of accountability?

The Minister for External Relations:

I am accountable absolutely, as every States Member is, to the electorate of Jersey. In undertaking my ministerial functions, I am ultimately accountable to the Jersey Parliament and not to any other Parliament or any other Government. But we seek to act in a way which is understood by other democracies around the world, even if there are nuances to how ours work. It is a good question because it is also connected to the question of when we might ... or officials will be negotiating agreements and how they are ratified or approved by various Assemblies. Just like any international agreement, one needs to think about how it will be accepted in one's own Parliament so the other party that you are having the negotiation and the conversation with also has the constraint of how something will be considered and accepted by their own Parliament or governmental colleagues. Both parties to any conversation or negotiation understands the democratic processes in their own domestic situation and has to be mindful of it. One cannot force any international obligation upon one's own people and that is right.

Deputy K.F. Morel:

Thank you. We are going to touch on the vote that we just undertook in the States this week but without looking at the actual policy, it is not what we are interested in at the moment. It was interesting that when you presented the resumption of travel policy, the Safer Travel Policy, it was the Minister for External Relations that did that, whereas ordinarily the protection of Jersey's borders falls under Home Affairs. Would you be able to explain, purely because it is a good example, why it was felt that External Relations was the better ministry to do that? Given that Home Affairs and Health as well will have a great deal of the actual implementation of that policy, where does accountability lie for it?

The Minister for External Relations:

It was a C.O.M. (Council of Ministers) policy and the Chief Minister and the Minister for Economic Development, Tourism, Sport and Culture asked me to act as rapporteur. As I said earlier, that is what I did. I believe and hope that I presented that proposal in a very balanced way. I understand the difficulties of the different side of the argument and it was a difficult decision. But it was because I was asked to do it, not because of my official role as Minister for External Relations but simply because I was a Member of the Council of Ministers and they could, to be frank, have asked any Minister to do it.

Deputy K.F. Morel:

Thank you. Minister, what are the main types of agreements that External Relation signs up to and which of those come before the Assembly, which are taken to the Council of Ministers and which potentially do you just have autonomy to sign on your own?

The Minister for External Relations:

They are all taken to the Council of Ministers. I am just thinking, though, and I am mindful that Victoria is here, yes, they are all taken to the Council of Ministers. There are agreements around mutual legal assistance which would not necessarily be taken to the Council of Ministers because those agreements are entered into by the Attorney General but in my experience they are notified to the relevant Minister and in that case I think it is the Minister for Treasury and Resources and/or the Chief Minister to ensure that there is no problem with them. As we have discussed before, not all agreements currently come before the Assembly and we are going to be proposing a change to Standing Orders so that all such agreements that emanate from the Government would be laid before the Assembly with the ability of the Assembly to ask for them to be debated from the prospect of ratification or not. It would not be appropriate for the States to say: "We do not like clause A and clause B and we want that to be renegotiated" but it would be appropriate for the States to say: "We do not like clause A and clause B therefore we do not agree it should be ratified." I am not sure quite the timeline of that being brought to the Assembly but it is an area that you, Chair, have raised

with us before and we agree that there needs to be a better process in place than is currently and that is what we will be proposing.

Deputy K.F. Morel:

Thank you. You are right, we have raised it before and it is, in fact, probably the entire reason for this review to be honest with you. I did ask as well, and I appreciate ... I do not expect you to remember all of them, but as a general rule what are the types of agreements that you tend to enter into? As an example, just to help my question be clearer, we have bilateral investment treaties, we have double tax agreements, would you mind, to the best of your ability on the spot ...

The Minister for External Relations:

Yes, okay. There is not very many of them. You have got probably 50 per cent of them just there. There are double taxation agreements, there is tax information exchange agreements and they are, by far, the greatest number. You have asset sharing arrangements and agreements, which are similar but different and they are entered into by the law officers but the Minister responsible is the Minister for Treasury and Resources. We have just started entering into bilateral investment treaties, although we have not yet got any complete to be signed. You have M.o.U.s (Memorandum of Understanding), they can take 2 forms. Some of the asset sharing arrangements are in the form of an M.o.U. but you also have the more country to country M.o.U.s, for example, like the one we have signed with Rwanda. Then, of course, on top of all of that, which is really quite separate and is driven very much by any other Minister, is the international agreements or arrangements that we have extended to us.

[11:30]

So things like seed ore and all of those. There is a piece of work ongoing to review those and there is about 110 of those international agreements which affect us or have been extended to us. If you have looked at the website, you will see it is pretty out of date. They are with the law officers for final legal review and we hope once that review has been undertaken they will all be uploaded to the Jersey Legal Information Board so it can be clear to colleague Members and to citizens what they are.

Deputy K.F. Morel:

Brilliant, thank you. I notice Deputy Pamplin and the Deputy of St. Mary have appeared, do you have questions?

The Deputy of St. Mary:

Sorry, not for me, thank you. I will go off screen.

Deputy K.G. Pamplin:

The Minister beat me to it because I was going to refer to the website. He read my virtual mind.

Deputy K.F. Morel:

Thank you. In many ways the entire way the External Relations Department operates is under letters of entrustment from the U.K. Does the department need letters of entrustment for specific agreements that it enters into or does it have a kind of overarching letter of entrustment? How does that work? Can you ask for letters of entrustment?

The Minister for External Relations:

Yes, it is not one size fits all. We have a global letter of entrustment for tax information exchange agreements and they can include what we might refer to as mini D.T.A.s (Double Tax Agreements) on them as well. So that is within the global entrustment. For bilateral investment treaties, we have been asking for entrustments on a case-by-case basis. When it comes to asset sharing arrangements, which are not internationally legally binding then we generally take the view that there is no need for an entrustment. If it becomes an agreement which is internationally binding or binding under international law, then the constitutional view is that there is a need for an entrustment. So there is no one size fits all. We can ask for entrustments if we wish to enter into a different sort of agreement but it is fair to say that it is not straightforward in getting that entrustment. For example, take the current fishing issue and the renegotiation of the Bay of Granville treaty. I have to be careful how I say this, but there is a view, which I think I share, that an entrustment for us to renegotiate that would be extremely useful and in Jersey's interest. That is not straightforward from the U.K. Government side but equally it requires an entrustment by Brussels to the French. As you can imagine, that is not straightforward either and is probably more difficult than persuading our colleagues in Westminster.

Deputy K.F. Morel:

Minister, I have asked about your autonomy, or the Minister's autonomy I should say, do you think, as Minister for External Relations, the role is given the right balance of autonomy and control in decision-making from the Chief Minister and other Council of Ministers colleagues?

The Minister for External Relations:

Yes, I think it is. Any ministerial job, it is interesting, each Minister comes at it differently with their own personality and their own experience of delivering decisions, of working with colleagues, of getting the best advice from colleagues or surrounding themselves with the best of colleagues. I think that Senator Bailhache did that in the Ministry for External Relations, I have endeavoured to continue to do that. That means that I already ... before I am going into meetings my colleagues

have already spoken to their colleagues across departments to have an understanding of where the issues are, the lines that need to be given, the issues that need to be addressed. So in that respect I can act with a high degree of autonomy but that is only an autonomy because I am surrounded by such good officials who constantly keep me briefed on the issues around the departments that need to be addressed. Other Ministers coming into this job newly might find that they are much more constrained because they are not used to understanding what is needed from colleagues and colleague officials about what needs to be said. If that makes sense?

Deputy K.F. Morel:

Yes, it does. It is interesting, from your perspective, in order to maintain that autonomy do you find it is important therefore to maintain strong relations with your ministerial colleagues in the sense that - and I am in no way suggesting that this the case today in any relationship that you may have because I do not know anything about them - if you were to have a poorer personal relationship, let us say, with one particular Minister could that affect the way you are able to do the job with regards to that department? I say "you" but I really do mean the Minister for External Relations.

The Minister for External Relations:

Yes, it is a very good question and I was trying to allude to that in my earlier answer in that I think it is possible to not need to have a good personal relationship with each Minister if you are surrounded by first class officials who understand what is happening with colleague officials. For me, of course, because I have been around for a little bit of a while and long in the tooth, I also know officials right across the departments so I have that relationship as well. They can tell me quite clearly what their Minister's view is of an issue, even if I were to have a difficult personal relationship. I do not think I do personally have a difficult personal relationship, I may very different politics from some of my colleagues, but that again is different from the day job that I am doing because a lot of what I am doing ... for example, if it was to do with children Senator Mézec and I might come from the different wings of politics but the issues that he wants addressed or that might require any intervention with the U.K. would be straightforward technical issues not political ones.

Deputy K.F. Morel:

Yes, thank you. I am genuinely not trying to comment on any relationships or insinuate any conflicts, I do not know anything about that at all. Minister, we have alluded to this and you have partly answered it already, in your previous role as Chief Minister you set up External Relations as a ministerial position. Would you mind expanding upon your thoughts at that time as to what you wanted to see come out of the role then and how do you view the position now? Has it changed, has it delivered in the way that you expected back then when you were Chief Minister?

The Minister for External Relations:

I have to go back to when Senator Le Sueur created the office ... no, did not create the office, created the post of Assistant Minister. I argued you very strongly around the Council of Ministers' table then that it is a really important job and we should ... we needed to be strong in creating a ministry. It was something that I had intended to do. Of course, Senator Bailhache and I fought a senatorial election together, we both stood for the office of Chief Minister and after that election we sat down and had a frank discussion about what each of us wanted during the course of that term of Council of Ministers. I said that I was expecting to create this office, Senator Bailhache said he would like to be the first Minister for External Relations, so he became the Assistant Minister and he did an excellent job in building relationships in London around the embassies and further afield. We did not, of course, know at that point that Brexit was going to come upon us, that we were going to have very narrow majorities in the U.K. Parliament, face the challenges that we faced from the E.U. code of conduct group and so, in hindsight, it was a very good decision. It was the right decision in my view, even if all these things had not happened because back in 2007 when Senator Walker signed the framework agreement about allowing Jersey and the other Crown Dependencies to develop their international personality the reality is that the Chief Minister is not able to give as much time always to international matters as they might want because there is always a domestic issue arising. Therefore, the creation of the office, I think, has served us well.

Deputy K.F. Morel:

Just looking at Brexit briefly. Where does Jersey fit in with the U.K./E.U. negotiations? We are party to them in some respects. Would you be able to describe the way we do fit in there? How do we access them?

The Minister for External Relations:

I know elsewhere in your review you have asked for some organigrams and some of the structures that we have set in place to deal with these issues. We have had to change those in Jersey to deal with it. At a ministerial level we are currently feeding into the Cabinet Office in the U.K. and the Paymaster General, who is a junior Minister to Michael Gove, and we feed in at ministerial level there as well as you would expect across the departments and M.o.J. (Ministry of Justice). Officials have been feeding in directly with officials in the U.K. right up to the ... I am not sure exactly of his title but in effect David Frost's number 2. So the deputy senior negotiator level.

Deputy K.F. Morel:

Do you feel the structures ... the pathways might be a better word, the pathways we have to feed into those negotiations, do you feel they are sufficient for you to be able to protect Jersey's interests and ensure that the U.K. is acting in Jersey's best interests? Regardless of what the U.K. interests are, because, as we know, they may diverge from time to time.

The Minister for External Relations:

Yes, that is right. When it comes what the U.K. calls their structure or the negotiating apparatus, Taskforce Europe ... so when it comes to that conversation I would say that at this point in time that is going reasonably well. Those senior officials have been on ministerial calls with me and my colleague Ministers in Guernsey and the Isle of Man so we have not only been speaking directly to U.K. Ministers but we, as Ministers, have been speaking to those senior negotiating officials. I think we have said before that it looks more and more likely that the U.K. will get a very - what we would think of as - thin deal. The Prime Minister again this week has talked about an Australia type deal. What we have said, and we are mindful of, is that even if we are to maintain our current position we do not want a lot of extra legislation being enforced upon us because of what used to be called the level playing field argument. We will continue to need to keep a very watchful eye on that.

[11:45]

When it comes to the other free trade agreements, we continue to be in conversation with them. Where we think we might not be being listened to as strongly as we would like, we raise that at the very highest level and will continue to do that. We have to remember the U.K. is under time pressure sometimes from its external partner. Contrary to what some in the U.K. might be saying about it is going to be easier for them to get free trade deals now, external or third parties are putting very tight time lines on them, but we are ever watchful and pushing back in the strongest possible terms where that is appropriate.

Deputy K.F. Morel:

You mentioned free trade agreements, and with regard to the U.K., or more to the point with regard to Jersey acceding to some of those free trade agreements as a possibility, would you see that it is right ... sorry, not would you see it as right, would you be bringing those free trade agreements, or the chapters that we sign up to, to the States Assembly for approval? If you chose to. I know you have previously said in the Brexit Review Panel you do not feel obliged to sign up to any that are not in Jersey's interests.

The Minister for External Relations:

No, that is very strongly the case. I do not feel obliged and therefore I would not think that the Council of Ministers would feel obliged either. What I would like to do is be able to put this new process in place prior to signing so that they would be laid before the Assembly and they could be called in for a ratification decision if Members felt it was appropriate to do so. So we could get the new process up and running prior to those being formally signed. Obviously Scrutiny will have an important part in that and seeing those in advance of them being laid before the Assembly. So that

is different from, I think, what you really asking me. I would like to get that new process in place before that.

Deputy K.F. Morel:

I do not know if this refers to this new process but in your Brexit update in December 2019 you mentioned: “A new aspect of Brexit governance is taking shape to determine the role of Government and Jersey Ministers and officials in the negotiations themselves, how we work closely with our U.K. and Crown Dependency counterparts to protect our interests and how we can respond quickly in negotiations that are undoubtedly going to move apace.” That bit may not have proven correct, but how is this structure progressing? We have not been able to find any mention of it since and not in this month’s report.

The Minister for External Relations:

Overall the Brexit Working Group has become the International Trade Unit, as we notified you, but what we did was we looked at the process that the U.K. was changing to deliver the new deal, that is not a good term in the current climate, is it, but the deal with Europe. That was, as I said, Taskforce Europe, and they split up the various bits of the negotiation. What we did was say: “These are the bits that are important to us going forward” so we created 3 working groups or task force groups. Above that we created a clearing house, which is B.C.H. (Brexit Clearing House) so there are lots of initials, and what we have done even more recently than that is created something, and I cannot remember its name, but it is basically to get quick decisions. David is on the line and he is right at the forefront of all of those bodies, so, David, do you want to come in and give a bit more detail, please?

Director, External Relations:

Thank you, Mr. Chair and Minister. On the dissolution of the Department for Exiting the European Union in the United Kingdom Ministers thought it was appropriate that we should also dissolve what was then called the Brexit Unit and as the Minister has said establish the International Trade Unit, which is the structure that we currently have. In terms of handling future partnership negotiations, the internal structure, as the Minister has said, is very much based on cross-Government accountability. Of the 3 clusters that the Minister mentioned, the first is immigration and security. The next one is goods and borders and the third is services, including financial services. The lead or senior reporting officer from each of those work streams sits on what is still called the Brexit Clearing House, and we will have to change that name, but the body that sits above those 3 clusters, which is where cross-cutting issues can be discussed. Of course these all report into not only the respective Ministers who are in charge of the various policy lines, but into the still-named Brexit Ministerial Group, which provides, of course, the overall decision-making and accountability but in the way in which the Minister has just described. The quick decision-making process that has been

referred to is simply a process, a protocol. It does not change the structures that have just been described. Basically it acknowledges that as negotiations progress there may be a need for very quick decision-making, and so it is a question of really getting buy-in into the fact that decisions by Ministers could need to be taken at fairly short notice. That is called the quick decision-making protocol.

Deputy K.F. Morel:

I am happy to go back to the Minister, if you think it is appropriate, but with regard to the quick decision-making process, outside of ministerial accountability, what accountability will there be around the decisions that are made through that process? Will there be sight of that through Scrutiny, will there be sight of that through the States Assembly?

Director, External Relations:

The accountability is through the mechanisms that the Minister has already described at the beginning of this session.

Deputy K.F. Morel:

Okay, so through Scrutiny primarily. In that case, will there be a quick reference to Scrutiny process included in that?

The Minister for External Relations:

David, please do not try to answer a political question.

Deputy K.F. Morel:

I did not view it as political, sorry.

The Minister for External Relations:

Okay. I think it is something, and I am trying to recall when we set this up a few months ago, we did discuss and I see no reason why the Scrutiny Panel cannot have confidential sight of the decision that is being made within that process. It will be very much a live process.

Deputy K.F. Morel:

We are used to live processes these days so that is fine.

The Minister for External Relations:

I know, but none of us like them, because they are not ideal.

Deputy K.F. Morel:

No, I am still getting used to that gun to the head feeling in politics, but I appreciate we do have to live with them. Outside of Brexit, what are the main governance structures in regard to international agreements and engaging in decision-making in the international forums? Aside from the structures that you mentioned about the accelerations in departments overall, are there any other particular decision-making structures that you have?

The Minister for External Relations:

At official level there is a Global Markets Co-ordination Group that seeks to make sure that in that global markets work we are taking account and representing right across the departments but also wider and right across industry as well. Tom can talk about that, because he chairs that group, but from the political level everything there at the Global Markets Co-ordination Group, they will brief me as Minister about the live issues there, all flows up to the decision-making body, which ... it is not really a decision-making body. The political body, which is the I.A.G. (Independent Advisory Group), again I am not sure if David has sent you over the terms of reference for it and the people who sit on it; if he has not yet he is in the process of doing. It is myself, the Chief Minister, the Minister for Treasury and Resources, Senator Farnham.

Deputy K.F. Morel:

As Minister for Economic Development, Tourism, Sport and Culture or as Deputy Chief Minister?

The Minister for External Relations:

No, as Minister for Economic Development, Tourism, Sport and Culture, and the then relevant Minister will ultimately make the decision with the support of that combined ministerial group. Most of the decisions arising there are probably around tax information, treaties, or things coming out of the O.E.C.D. (Organisation for Economic Co-operation and Development). I am just being reminded that my Assistant Minister as well, the Deputy of St. Ouen, attends and sits on that board. Tom, do you want to say anything else about your Global Markets Co-ordination Group?

Director, Global Markets and International Agreements:

Thank you, Minister and Deputy. Very briefly, we established the Global Markets Co-ordination Group really to do what it says on the tin. As a panel you have been briefed on the global markets strategy which is also of course a public document, but to give you an insight into the group we felt that it was important that where Jersey was engaging internationally it was doing so in a co-ordinated and consistent way. The best way to do that was to bring together the various different bodies and stakeholders who have an interest in international, if you like, and have relationships outside the Island. It is a quite broad composition. It includes not just Government departments, Education, law officers of course represented, Revenue Jersey, taxes office, Economic Development, the full suite of those that you would expect to have an international component, but it also involves arm's-

length organisations, so you have J.O.A. (Jersey Overseas Aid), representatives from business, so Jersey Finance is part of the meetings and also Jersey Business, so it is not just a financial services piece, it is also about our community of essentially goods, businesses, that export outside of the E.U. and you also have the regulator, so it really is quite a wide span. It meets on a quarterly basis, which I think is about right when you have got so many different stakeholders. I cannot say that they all come every time but I think as it has grown over time it really has become something of a fixture. What we would do typically is give updates on market engagement, progress against the different country plans and strategies. We will get input from that group because they essentially provide input into the country strategies and then perhaps the difference is that the I.A.G., which you have just heard about, sits above that in much the same way that you would have your Brexit co-ordination group and your Brexit ministerial group, where you have your Global Markets Co-ordination Group and your I.A.G. that sits above that. The I.A.G. for example would be involved in signing off changes to the overall global markets strategy, whereas perhaps more country-level decisions might be taken at the global market group, more tactical matters. Of course I.A.G. would also then get updates on those, it gets all of the country strategies as well, so there is a full flow of information. That is really how we manage that one. Generally speaking I think perhaps the difference would be, as the Minister said with I.A.G. there you have the Minister for Treasury and Resources, you have the Chief Minister, it does deal with some of those matters around international tax and international standards that you alluded to in terms of Jersey's engagement with those bodies, and it is perhaps more long-term, if you like, because it is talking about the cultivation of Jersey's relationships over what will often be a multi-year period. It is not something where there are very short-term objectives; they tend to be quite long-term. That gives you a sense of how G.M.C.G. (Global Markets Co-Ordination Group) fits into I.A.G. and perhaps how it is distinct from the Brexit area that David and the Minister are more involved in.

[12:00]

Deputy K.F. Morel:

As a bit of an aside and it is just picking up on something you mentioned, which was the Regulator's involvement in that co-ordination group, are they there to purely talk about regulatory matters and could involvement in that group inhibit or affect its regulatory function in terms of being an independent regulator if it has helped develop the market itself?

Director, Global Markets and International Agreements:

It is a good question. My initial answer is in some ways it enhances their work. It is the sort of area where you might see the J.F.S.C. (Jersey Financial Services Commission) being involved is if for example we are doing some work to try to improve market access in a particular market then very often what you might also want alongside that is a regulator-to-regulator M.O.U. and we are very

lucky with the J.F.S.C. in that it is very well-established and has a very good reputation internationally. It works through I.O.S.C.O, (International Organization of Securities Commissions) which is the global body, a bit like in the same way that we as Government engage with the O.E.C.D. but you might find that having an M.O.U. between, say, Jersey and Rwanda for example, where they can exchange regulatory practice, is very much accretive to our overall interests in improving the relationship but also improving the market conditions on the ground. It in no way intrudes on the regulator's function and role, but I think it is about seeing whether we can add bilateral co-operation and support. In a number of our markets, Bahrain being a good example, we were able to involve the regulator and there was a regulator-to-regulator exchange of visits because the Bahrainis were particularly interested in learning about supervision in the fiduciary sector and how we manage our trust sector. That is something that as a Government we are able to put into the package of things that we can offer in terms of being a good, responsible international partner and building the relationship. I see the J.F.S.C. as very much engaged in the capacity-building. In some cases, it has channels into a government or into another regulator that can be useful, but it does not intrude in any way on their core function as an independent regulator.

Deputy K.F. Morel:

Thank you. Minister, I would like to look at inter-jurisdictional agreements. Would you mind explaining, and you have to a large extent already, so you may be repeating yourself, but could you explain where your mandate comes from for signing up to inter-jurisdictional agreements?

The Minister for External Relations:

I was not quite sure what this area of questioning was going to relate to, other than the agreements that we have already discussed and hopefully we have covered where the authority comes from to sign those. There might be just one area that is a slightly nuanced area, which is more of the inter-country working M.O.U., so it is not a legally binding agreement, it is just where we have said we are going to work together on dairy or agricultural things and that authority comes from the Council of Ministers. I would take those to the I.A.G. then to the Council of Ministers for agreement.

Deputy K.F. Morel:

That is exactly what I was thinking of. For instance, recently, back last year, we signed an agreement for health care co-operation with Guernsey, so those are the sorts of agreements I am talking about in this case, that is just a Channel Islands example but other agreements too. Once inter-jurisdictional agreements are signed, particularly in terms of those sorts of M.O.U.s, do you play a role in ensuring they are adhered to in any way?

The Minister for External Relations:

The frank answer to that is no, we do not. If you take the Guernsey-Jersey health agreement other than my officials supporting the interaction between the relevant officials in both Health Departments we did not really play a role in that either. That was Minister-to-Minister dealing under the auspices of the Chief Ministers' inter-island partnership group. There is a wider issue arising from your question and that is around compliance with those international instruments that have been extended to us and who ensures we are improving our compliance with them. Broadly speaking with the high level ones the relevant department is required to provide I think a 5-yearly update. I recall doing such when I was Minister for Social Security. For those emanating around children's matters now, because of the extension there, there are people in what we call S.P.P.P. (Strategic Policy, Planning and Performance), and I think Andrew Heaven down there is co-ordinating that, and trying to be more proactive in looking at our compliance and bringing forward areas of change, be that policy or legislation, where compliance is weak but at a high broad level we do not, and that is a bit of a lacuna. It is up to the department that is ultimately signed up to it to ensure that they are compliant. It is an issue that I have raised with the Chief Minister and it has been slightly overcome by COVID but it is an issue that needs to be rectified.

Deputy K.F. Morel:

Looking at it from the Minister for External Relations' perspective, that if a department in Jersey, for instance Health, signs up to an agreement with another Health Department elsewhere, and then for whatever reason does not really adhere to the terms of that M.O.U. or that agreement, from the perspective of the Minister for External Relations I would imagine that could have, potentially, a wider knock-on effect to relationships between Jersey and that jurisdiction. In that situation do you have an overview to ensure that a non-adherence to whatever agreement does not impact on wider relations between Jersey and that jurisdiction?

The Minister for External Relations:

We see our role very much as one trying to help but I think in all of my engagements I cannot recall a situation where an issue that is raised with me, be that by an ambassador or a Member of Parliament or a Government Minister I have not already been expecting that issue to be raised and have been briefed on it by the relevant department. Of course there is the more localised issue in relation to Guernsey and I cannot tell you quite now what progress there has been on that health agreement, but I do know that at the External Relations level the relationship is very positive and we continue to work together strongly. That has probably been the case for a number of years now, that even if inter-departmentally between the 2 Islands there have been difficulties and disagreement we have always managed to ensure that that does not leak through to the really important external work that we might be doing with the U.K. or Europe.

Deputy K.F. Morel:

One example where I imagine it could leak through would be the Bay of Granville Agreement where if the Department for the Environment, because it falls under their auspices, were to suddenly decide to not really adhere to it or to start being strict about only Jersey vessels fishing in Jersey waters it could have a greater effect on Jersey's relationship with France and with the département adjacent to us. I am really trying to ask you this but without suggesting that I know anything about what is happening in the Bay of Granville Agreement negotiations. I do not. It is purely as an example. Is that one area where you could see a greater effect because of the Department for the Environment in this hypothetical example choosing a different path?

The Minister for External Relations:

You touch on a very touchy subject because the ...

Deputy K.F. Morel:

I do so hypothetically only, for anyone listening.

The Minister for External Relations:

It is quite a good example, I will not call it a "case study" because it is people's livelihoods at stake, on both sides of the water. It is an agreement that some would argue has never worked well; others would argue it has kept a certain level of good, neighbourly relationship between fishing communities in Jersey and in France, but as far as the French are concerned it does so much more. This is why we have to act very carefully and I think there is great opportunity in the future that the Bay of Granville Agreement can form the basis of. If we act rashly the disbenefit of getting it wrong, there is no doubt whatsoever, would leak into our wider relationship with not only Normandy but Paris and so it is one of those difficult areas. There is really good potential but getting it wrong, either on my part or on the Department for the Environment's part, could have long-lasting, really critical effects on what I think is a really important relationship.

The Deputy of St. Mary:

I am not sure we have got there yet, but as we have strayed into Guernsey waters, so to speak, and related to Brexit, I am of course aware that we have a joint office in Brussels with Guernsey. What does that joint approach mean? Do we still maintain Jersey's own representative and Guernsey has its, or is there a joint person who puts forward a joint policy, and how do they get to that joint policy?

The Minister for External Relations:

Both the office in Caen and the office in Brussels are directly instructed or governed by Jersey and Guernsey and we as far as possible seek to be aligned on a single policy objective. Where that is not possible they put in place Chinese walls and sometimes that is difficult for them, because they might have one Island wanting to go in one direction and one to go in another and they can end up

in the middle. If you take the office, the (French word 12:13:39) of course we have a different fishing relationship with France than Guernsey does and in some ways that makes it more straightforward, because the officials there just say: "This is the Jersey position and this is the Guernsey position." Ministers from Jersey and Guernsey know there is a different position and sometimes I might, as a Minister, have to represent the Jersey and the Guernsey position in a bilateral meeting with a French Minister or regional politician. Likewise my colleagues in Guernsey, and ironically in the area of External Relations we do that incredibly well. I am not sure quite how it happens elsewhere but there are lots of areas where we are absolutely aligned when it comes to work with Europe, the tax, the blacklisting, all of that work, data protection and data sharing, anti-money laundering and areas of financial services. There are only a couple of smaller areas where we are not aligned but my experience is we manage that really quite well, even though I am of the view and have always been, and my officials are going to wince at this, we would be far better if Jersey and Guernsey could bury the hatchet when it comes to fishing and seek to negotiate a new Bay of Granville Agreement that involved Jersey, Guernsey and the French. I can always dream and I am always ever hopeful.

[12:15]

The Deputy of St. Mary:

Thank you for that clarification. Does your counterpart in Guernsey have the same view as to a joint approach on fishing?

The Minister for External Relations:

I do not think so, no.

Deputy K.F. Morel:

Well, there is a political legacy that you could leave, Minister. You never know. Again, I know that you have gone over this, but I mentioned one of the things that prompted this review was the extension of the W.T.O.'s (World Trade Organisation) U.K. membership to Jersey. Do you think it is appropriate that the Minister for External Relations is able to sign such agreements, which restrict and regulate Islanders and Island-based entities but the Minister can do so without any automatic line of scrutiny, whether via the panel or via the Assembly?

The Minister for External Relations:

We have obviously had this discussion previously. The response I would give to that is that the functioning of External Relations is an executive function in common with everywhere else around the world. That of course is a good thing, but it does also create the difficulties that you are alluding to. We consulted very broadly across all sectors of industry on a number of occasions. In this instance I think there was an existing decision that we should seek to have it extended and it was

not my simple decision as a Minister that agreed to that extension. It was the Executive as a whole, so it was the Council of Ministers that agreed it. I think there was a good understanding of what it meant, a good understanding of the constraints that it might bring, but hopefully a good understanding also of the potential upside.

Deputy K.F. Morel:

I know you have mentioned laying matters before the States in the future, and the panel is grateful for the engagement you had with signing that W.T.O. M.O.U. with the panel, but from the perspective of just being automatic, is that something that you are willing to accept is whenever signing anything, even before it goes to the States Assembly, in the new system you have suggested it should be automatically that you bring these matters to the attention of Scrutiny?

The Minister for External Relations:

I do support the idea that they would come to Scrutiny and that we would have a proper discussion about them. I think that will be a strengthening of process.

Deputy K.F. Morel:

With regard to the wider sense of agreements, obviously you have mentioned the departments will often engage in agreements. When they choose to do so, can you describe the process by which, let us say, the Department for Health decides that it wants to do an agreement with the Isle of Man, for example? How would they go about doing that? Would they go through External Relations, through the Chief Minister? What would be the process there?

The Minister for External Relations:

You are not going to like the answer to this question, Chair. I do not think there is a unified single process. Sometimes a Minister might come to me and say: "Can we make an introduction?" An official in that department might come to my officials and deal with it that way. In some departments they already have existing relationships, either at the ministerial level or the official level and therefore they just go directly.

Deputy K.F. Morel:

You will be pleased to know I am not here today to like or dislike anything. I am just trying to discover information. This touches on what the Deputy of St. Mary was talking about, but can you describe our relationship with Guernsey and the types of agreements we have with them, so outside of the Brexit scenario?

The Minister for External Relations:

We have got the inter-Island partnership. That does not fall under my remit, so you are better off asking the Chief Minister about that, because of late I have not really been directly involved in that. That has led, as you have alluded to, the relationship and the agreement in regard to Health. I do not have an update for you today about how that is going. You of course have, and it has happened for quite a long time, an encouragement for Ministers across both Islands to meet with their counterparts. It used to be on an annual basis. Some who found that they got on well and had a lot in common probably made it every 6 months. I hope that they are ongoing but I cannot confirm that they are. As ever, there are areas where it is working well and at my level and at the Chief Minister's level I would say it was working well. There are other areas where perhaps they are having difficulties. I think with another hat on, you are scrutinising one of those difficulties. Of course we have more formal agreements. We have a D.T.A. with Guernsey, for example.

Deputy K.F. Morel:

From what you have just said, would you agree with the statement that relationships with Guernsey do not in the main, so building our relationships with Guernsey, fall within the remit of the External Relations Department? Is that a statement you would agree with?

The Minister for External Relations:

No, because they do when it comes to all international matters.

Deputy K.F. Morel:

That is what I mean. So excepting Brexit or other international matters, just direct relationships between us and Guernsey?

The Minister for External Relations:

That really falls under the Chief Minister.

Deputy K.F. Morel:

Thank you. I know we have talked about the Bay of Granville Agreement and would you be able to expand a bit more perhaps on External Relations' role in that agreement? I know you have mentioned it and I do know directly it is the Environment Department that negotiates with counterparts in France, but would you be able to more wholly describe the role that External Relations plays in that?

The Minister for External Relations:

It is a fishing agreement about the economic well-being of those in Jersey and the communities bordering the water in France and their economic links to the fishing industry and ensuring that they have a future and that that future is jointly managed. There are challenges in those waters now

about sustainability and this flows right into the agreement. Those sustainability issues are absolutely fishing issues and are absolutely led by the Minister for the Environment and his officials, but they are always mindful that decisions under that agreement could and would have wider diplomatic implications. It is also fair to say that officials in my department have wider relationships with officials in France and I have probably wider relationships with politicians in France. We are absolutely led by the fishing issue and then they call upon us to support them in any way appropriate.

Deputy K.F. Morel:

The next questions are still about the Bay of Granville treaty and to be clear for any journalist or commentators watching these questions in no way suggest anything to do with what is happening in the Bay of Granville treaty, so I am going to ask if Jersey were to decide to exit the Bay of Granville treaty is that a decision that would be made by the States Assembly, or ratified perhaps would be a better word, or by the Minister alone or by the Council of Ministers?

The Minister for External Relations:

It is interesting in that it is even more complex than that, because it would require involvement of the U.K. Government as well. It would be a difficult thing to manage. This is one of the reasons why it has been so challenging, that ultimately fishing matters fall as a matter of law for Jersey waters under the Minister for the Environment. International relationship matters fall to the Chief Minister and myself, so we would all have to be aligned together with the Council of Ministers and it would be something that we would I think only do or we would want to keep Scrutiny, probably both panels, appraised of the situation as well. I am not sure that it would require a formal States decision. I do not think it would.

Deputy K.F. Morel:

That was a question specifically about exiting. If modifications were to be made to the existing agreement would it be a similar situation, or would it be a more truncated process, just to change it?

The Minister for External Relations:

It depends what those modifications are. If it is around the number of licences issued then that does not need to have any formal amendment necessarily to the agreement, but in light of Brexit it is very likely that there will be some formal modification required. I cannot tell you 100 per cent what the answer to that question is but I do not think it would as a matter of law require a States Assembly decision.

Deputy K.F. Morel:

Thank you. Moving away from agreements on to how External Relations engages with the public, so the Island's public specifically, you mentioned earlier on today that Senator Bailhache as Minister

for External Relations published an annual report. That covered the period September 2013 to January 2015. To our knowledge there has not been an annual report since, but obviously the amount of work the External Relations Department undertakes, in my view, has only grown since then. I do not think it has ever decreased, so can you explain why an annual report is not published by your department, specifically as it was a Scrutiny recommendation in 2013?

The Minister for External Relations:

I think we feel and I certainly feel as Minister that we publish our 6-monthly Brexit report and we have been doing that all the time that I have been Minister and previously in the last couple of years that Senator Bailhache was Minister, and those reports really cover all, or the vast majority, of our work. We are included in the formal Government annual business plan publication. Perhaps we feel that the public is fed up of hearing from us, because we are always banging on about something that we are doing. We have had consultations around "Let's talk Brexit", "Let's talk trade", so I would argue that if we are moving just to an annual report we would be engaging and informing the public less.

Deputy K.F. Morel:

Interesting. When you look at the public-facing area of the States of Jersey website which is about External Relations, in our view there is an inconsistency with the things that are published and the things that are not published. For example, we notice that some M.O.U.s are published, others are not. Do you think there is inconsistency about what the department decides to publish and could you give reasons why some M.O.U.s, let us say in this case, would be published and others would not?

[12:30]

The Minister for External Relations:

It is of course part of our overall engagement. If I am being totally honest I do not think that perhaps our bit of the website is quite as fit-for-purpose in the way that Islanders might now want to interact with us and it needs to be refreshed and updated. There are those inconsistencies that you mention. The other thing of course about the engagement of the department with the public is it is not just around agreements and Brexit and websites and things like that. There is also all of the consular engagement work that we do on behalf of Islanders as well and that of course during COVID has been quite an important part of our work. Perhaps it is an area where we have not given the attention that we should. We recognise that does need improving and updating.

Deputy K.F. Morel:

Do you have a dedicated communications officer as part of the department or within the communications team?

The Minister for External Relations:

I did have, but I get the sense that he has been stolen off me to do other things. He was working for us really 24/7 during the height of Brexit and he has been moved off, because he is so good I would say, to the central Communications Department, so we do not see him as much as we would like to. He is, I have got to say, still doing a sterling job on behalf of the wider Government. The day they say I can have him back, because Brexit is going to be important coming towards the end of the year, will be a happy day for the department.

Deputy K.F. Morel:

With things like publishing documents in a consistent manner on a regular basis, do you think that would be easier if you did have a dedicated communications officer?

The Minister for External Relations:

Yes.

Deputy K.F. Morel:

More likely to happen, is what I am thinking if you had a dedicated one?

The Minister for External Relations:

Yes. No, that is absolutely right, yes. I have a horrible feeling that I am still paying for him out of my budget but he is just doing other things.

The Deputy of St. Mary:

Sorry, I was going to say, are you likely to get him back soon, given that, hopefully, COVID is on the decline?

The Minister for External Relations:

Deputy of St. Mary, I can only give my view that I gave to States Members earlier this week, that COVID is not on the decline and we see the stats and the information coming out of the World Health Organisation. What we hope is that it continues to be suppressed and controlled in Jersey and, therefore, I might be able to get that person back on a more firmer footing. I agree with that bit of the sentiment that we should be trying to move to much more of a living with COVID basis so people can start focusing on some of the other priorities that Islanders have.

The Deputy of St. Mary:

Thank you for that. I did not mean to get into any form of COVID debate, I simply expressed the hope that as perhaps the management of COVID or the time required to manage it does not need to take up some of your officers as much as previously and maybe you will get him back but thanks for your reply.

Deputy K.F. Morel:

Thank you. Minister, what importance do you place on publishing information and documents on external relations matters so the public can understand the work you are doing?

The Minister for External Relations:

Yes, I suppose I do understand it is important and that is, of course, why we have consulted and published throughout the course of all of the Brexit negotiations in greater frequency than we have done in the past. But I think I equally recognise that a lot of the work of external relations is diplomacy and can be quite technical and can be quite laborious for Islanders to read and they are more interested in outcomes than they are in reading long reports but we continue to publish those long reports. We published the Global Markets Strategy, for example. For those Islanders that are really interested in this area, there is plenty to read.

Deputy K.F. Morel:

There is plenty to read but is it up to date is the question. For instance, there are a number of progress reports with regard to international conventions and agreements on the Government website but these stop again in 2013. Given that this is the case that it does seem that ... because the website is where many Islanders would go to find out such information, do you think this, what I would call, failure to publish reports into the matters of exonerations matches up to the level of importance that you may place on engaging with the public and helping them understand what Jersey is signed up to, what progress you have made in different areas?

The Minister for External Relations:

We started, did we not, as mentioned earlier during our conversation, that we have been undertaking a piece of work around international instruments and their extension to us and that we are hopeful that, once the law officers have done their final review, we will be able to update those 110 agreements to the website? Anything that has been laid before the States is also updated. Perhaps it is a matter of bringing some of these documents together so that they are more accessible than it is about whether they are in the public domain or not.

Deputy K.F. Morel:

In 2012 the Council of Ministers agreed a framework for the common policy on external relations. We saw that published in 2012, we saw it published again in 2015. If you try to find it now it is very

difficult, we have been unable to find a version of that document which is later than 2015. Do you not think it is important that the common policy on external relations is updated regularly and certainly with the change of Government each time and would then be publicly available?

The Minister for External Relations:

The common policy that you are referring to was re-approved by the current Council of Ministers and remained as is and so that is the common policy that the Chief Minister and I work to currently. Could we make that clearer in the public domain? Perhaps we could but it is still the one that we are working to and it is up to date.

Deputy K.F. Morel:

But that is exactly the point, we are not simply labelling it 2018 making it clear that this is the most current document, 2015 now being 5 years ago and counting. I can imagine, certainly for me as a member of the public, it has caused me confusion to understand is this the latest version? For instance, that document refers to external relations being about providing aid and so that is now part of the Minister for International Development's portfolio. I do not know whether it should be part of the common policy because most people would see that as referring to external relations. But, yes, do you not think it would be a good idea that every time a new Government comes in that they at least re-date that document and put it front and centre on their page on the website?

The Minister for External Relations:

No, I do not disagree with that. The document that is in the public domain, the current one, is still the one that both myself and the Chief Minister work to and you touched on a good point. It is also in relation to the one that the newly formed Minister for International Development and her team work to as well. But updating the date and making it clearer that it is still the current one, I do not disagree with you.

Deputy K.F. Morel:

The common policy is published as a report to the States and not as a proposition for formal approval. I understand it is an Executive matter but do you think that the States itself, as the body which creates the Executive, should give its formal approval for that policy?

The Minister for External Relations:

I do not necessarily agree with that. I think that in common with every other Government around the world external relations or foreign affairs is a function of the Executive, as we said right at the start, and the Head of State. It is appropriate that the Executive is the one that makes the decision. What Senator Bailhache did, however, the first time the Council of Ministers approved a common

policy was to have an in-committee debate and I can see that there would be some value in doing that every time a Council of Ministers had agreed its common policy.

Deputy K.F. Morel:

I suppose one of the problems that Islanders may have in understanding that perspective is that in most other kind of democratic jurisdictions that are driven by party politics, while the Executive will decide upon the foreign policy that would ordinarily be written into the manifestos at the point of election. It is good that so far we have not changed our policy very much but if the next Minister for External Relations decided to change that policy quite a lot, or the next Chief Minister, they may not advise the Assembly that that is what they were going to do and so there would be no approval of intentionally quite a dramatic change in policy. Do you see that as being one of the problems about not having a formal approval by the States?

The Minister for External Relations:

No, because I think there are other parliamentary mechanisms that should a future Council of Ministers - and it is a Council of Ministers' policy and they are obliged to publish it - veer away from what the broad view of the Assembly was, then I have no doubt that the Assembly or a Back-Bencher would lodge a proposition to seek to have it changed.

Deputy K.F. Morel:

Fair enough, thank you. In general, when choosing not to publish something, what are the reasons again for not publishing it, such as the M.o.U. that Jersey signed with the U.K. for the W.T.O.? What is in your mind when you decide not to publish something?

The Minister for External Relations:

Anything that is confidential and that various parties or one party feels particularly strongly about it, then that is how we reach a decision. Were we to perhaps say: "No, no, everything has to be published" then it might mean that the agreement could not be reached or the M.o.U. could not be signed. There is not a straightforward process. We would agree with the third party that we are signing with that in a specific instance it was appropriate. But we certainly do not do it lightly because it creates problems for Ministers, it looks as though there is an issue, rather than just straightforward often protection of a relationship.

Deputy K.F. Morel:

Yes. No, I understand that. It has been mentioned that following the U.K.'s exit from the E.U. or following the transitional period, when it is negotiating its accession to other international agreements, the U.K. may, for instance, be interested in signing up to the Trans-Pacific Partnership and that there are reasons people have concerns about that particular agreement. Again, purely

hypothetically, if Jersey were to agree to go along with the U.K. on that front and not publish or not give notice that it was doing so and help the public understand what was in that partnership, how would the public hold the Government to account or how would the public change the course or direction in that area? In such an area, sorry, not that specific one.

The Minister for External Relations:

That would go through the process that we have just described, i.e. I.A.G., then Council of Ministers would agree and we would follow the laying before the Assembly process that we have described earlier.

[12:45]

Deputy K.F. Morel:

Thank you. Obviously we have requested a kind of organisational chart and we look forward to receiving that and you have mentioned some of the groups that sit within External Relations and help you engage with other Ministers around the Council of Ministers' table. One of those groups is the Brexit Ministerial Group, you mentioned it may have to change its name but are you able to give an overview of the group and its purpose and what kind of matters are discussed? Particularly when it comes to potentially signing up to free trade agreements or signing up to the other agreements, including the agreements with the E.U., how will that group interact with the Council of Ministers and the States Assembly to get kind of agreement to do so?

The Minister for External Relations:

That group considers all legislative matters arising out of the U.K.'s decision and policy matters, arising out of the U.K.'s referendum result decision to leave the E.U. and they all go to that group of politicians. Also, legislative and policy matters go to the Council of Ministers, legislative matters then, of course, come to the Assembly for approval. I think I have said before that the ultimate decision about what we do in regard to the future relationship with Europe is of such magnitude that I cannot imagine a situation where it would not also in that instance come to the Assembly.

Deputy K.F. Morel:

Thank you. Minister, you have mentioned the International Advisory Group and I understand that that replaced F.E.R.A.G. (Financial Services and External Relations Advisory Group), are you able to explain more about what the International Advisory Group does? Is it purely about financial services or does it have it a wider remit?

The Minister for External Relations:

It has a wider remit because international matters in regard to the E.U., for example, cover not just financial services but, as we have already said, matters of security, matters of data protection, to mention just a few. Tom is still on the call, so he might want to give a little bit more detail as well. Could you do that, Tom, please?

Director, Global Markets and International Agreements:

Yes, happy to do that. The International Advisory Group really covers what you might describe as all aspects of Jersey's broader bilateral external relations. There is, of course, a strong focus on financial services and tax because of the nature of Jersey's economy and how international standards in that area have a very direct impact on Jersey. You would expect that, if you like, from that sort of forum. We are obviously not a sovereign jurisdiction, we do not prosecute an independent foreign policy in that sense. You would expect that the range of interests that I.A.G. would cover reflect Jersey's external interests. It is closely aligned to what you see in the common policy that you have mentioned. Generally speaking, the way to think about it is as a mirror image to Brexit. If you think of the Brexit Ministerial Group dealing with all the issues associated with Brexit and, increasingly, dealing with matters relating to international trade and the trade instruments that will flow as a consequence of Brexit, then everything else, all of the other bilateral relationships that Jersey has, matters of international standards, our engagement with the O.E.C.D., international tax, exchange of information, the issues that the Minister has raised, all of the rest of it will be covered by I.A.G. It is a kind of catch-all, if you like but there is that clear distinction between matters pertaining to Brexit and its consequences and then the other sort of strategic and international matters that affect the Island. That is probably the distinction I would draw.

Deputy K.F. Morel:

You mentioned data protection as an example of an area that obviously is being affected by Brexit, I am assuming the Data Protection Commissioner does not sit in the International Advisory Group but would you bring them in? Am I right in that but also would you bring them in for the relevant discussions about data protection and the same with any other kind of regulatory bodies that would be needed?

Director, Global Markets and International Agreements:

Just to say in general terms with I.A.G., you have a standing membership of I.A.G. but it is possible to bring in other officers or individuals to brief the group. A recent example is you will be aware, I know that you are aware because we had a Scrutiny briefing session on it, there are significant developments at the moment around international tax and international tax standards; digital tax is a very big theme. What we need to do is to consider the economic implications of some of those very big changes for the Island. Very recently we brought in the senior economist in Jersey to be part of that I.A.G. discussion on those matters because he is able to provide expert views. In just

the same way, if there was a subject matter that required technical input, then my initial reaction would be I can see no reason why that would not be possible with the existing structure. As regards data protection specifically, I suspect that that has come up, as you say, more in the context of Brexit and so it would be more likely to have been addressed in B.M.G. (Brexit Ministerial Group) and associated groups than it has been in I.A.G.; that is so far.

The Deputy of St. Mary:

Absolutely, my mistake. You are absolutely right, thank you. Thank you, Tom, it is very helpful. Minister, just while we mention Brexit, you mentioned earlier about a concern about having extra legislation or regulation foisted upon us due to level playing field restrictions. Obviously in terms of financial services, certainly Jersey has got equivalence in a lot of areas; we do also in data protection, as far as the E.U. is concerned. Where do you see extra regulation being foisted upon us, from which direction?

The Minister for External Relations:

With the E.U. and we had this probably a couple of years ago with regard to testing for T.B. (Tuberculosis), I think it was, in cattle. We had an appropriate testing regime that met the outcome that the E.U. wanted. I am not sure whether it is suddenly or not, I think it was probably pretty sudden, decided that because we did not have an identical piece of legislation saying that T.B. would be tested in this particular step 1, 2, 3, 4, 5 way, they were not going to recognise our dairy products as being T.B. free. We had to move in that instance so that we maintained that recognition. We do not think that is proportionate and there are any number of areas right across our economy where that case could be made. Because we have always argued that what is important is not continuity of outcome but equivalence of outcome, so we are reaching the same standard. It is a bit of a technical term which David can explain more; it is all the areas that we class as sanitary processes. David, do you want to touch on that little bit because it gets quite technical but it can be very legislatively bureaucratic, when we would argue we already have the same equivalence of outcome?

Director, External Relations:

Thank you, Chair and Minister. Exactly, it is in the area of sanitary and phytosanitary regulation and process where, as the Minister has said, we emphasise equivalence of outcome, rather than equivalence of the whole key or set of processes. You will have seen the emphasis that the European Union's chief negotiator, Michel Barnier, has placed on what they refer to as level playing fields and what the U.K. refers to as open and fair competition and that does cover quite a range of possible areas of regulation. But it really is primarily in that area of S.P.S. (sanitary and phytosanitary) matters and, to a certain extent, some technical barriers to trade - again, that is another sort of technical area - where the pressure would be applied. As the Minister said, the matter that Ministers will want to and are looking at is the question of the proportional relationship

between what we get and what we are required to give and maintaining that balance, proportionality and relevance of any asks made of us to what Jersey gets is one of the key issues.

Deputy K.F. Morel:

A lot of the legislation we have in this area I understood to have been brought in in response to the E.U. regulations in the first place. Do you not believe, from your understanding of the way things are going, that existing legislation would be sufficient? Because I have always understood most of it to be driven by E.U. directives in the first place.

Director, External Relations:

Indeed, for the purposes of our current legislation and the transition period, that of course is the case, Mr. Chair. We just do not know whether the European Union Commission would be starting to apply pressure that goes beyond what we see as protocol 3 and regulation 7 and 6 1973 and it is in that space that we are focusing.

Deputy K.F. Morel:

That will be interesting. No, thank you, thank you, David. Last question, Minister, which, again, incredibly means that we will be finishing on time, which when I am chairing is quite something, you have mentioned the Channel Island Political Oversight Group, it sits under the Chief Minister but could you, from your perspective, explain its purpose because it is quite odd that it is called the Political Oversight Group? I appreciate you are not the Chief Minister; it is not under your remit but do you have an understanding of its purpose?

The Minister for External Relations:

My understanding of its purpose is that political impetus and action delivery is focused upon. Because there are lots of areas of joint working, as I have said, over the years and my understanding of the Chief Minister's desire to create this body was so that action was taken and it was an opportunity for officials to bring to Ministers progress reports and any issues that might need addressing but very much politically led and politically driven.

Deputy K.F. Morel:

Fair enough. Thank you, Minister, that is everything from me. Before you do run away, I will just ask Deputy Pamplin and the Deputy of St. Mary whether there is anything they would like to ask as well, because I appreciate that I have very much taken all the questions here today.

The Deputy of St. Mary:

No, but thank you, Chair, and thank you for guiding us through it all and thank you, Minister for External Relations, for your very full replies. I have nothing further; that was very useful, thank you.

Deputy K.G. Pamplin:

I would just echo the Vice-Chair and the Chair and, I guess, as always I have always got one question left. What would you like to see happen in the future? We are all consciously aware of the times we live in now and the impacts of what is yet to come with Brexit, for example, and the impact on the Island. In 18 months when we have an election, how would you like to either see the legacy of this department that was a ministry handed over to the next Government to continue for the years to come?

The Minister for External Relations:

I do not necessarily see it quite as narrowly as the questioner might. I would like to see, and I think it is something for all of us to focus on, Jersey's autonomy and independence protected and enhanced, us to be more comfortable as an island with our place in the world, be proud of where we sit and what we do.

Deputy K.G. Pamplin:

Thank you. That is it from me.

Deputy K.F. Morel:

Thank you, Minister, and thank you to David and Kate, I see is left as well. Sorry, we did not get to hear from you, Kate, but I know Tom and Victoria have had to leave already but thank you very much, it was really, really helpful and we look forward to publishing our review.

The Minister for External Relations:

Thank you, Chair. Thank you, bye, bye.

Deputy K.F. Morel:

Thank you.

The Deputy of St. Mary:

Thank you all, bye.

[13:00]