

2021.11.02

5.1 The Connétable of St. Brelade of the Minister for the Environment regarding ...

With your leave, I will just alter a couple of the words of the question in the light of activities late last night. Given that border inspection posts have been threatened to be closed by the French Government in St. Malo and Granville, will the Minister advise what further action, if any, the Government intends to take to prevent E.U. fishing vessels from working in Jersey waters while Jersey vessels may be prevented from landing catches in their usual markets? I will leave the last part of the question as it, I think, has already been covered by the question.

Deputy J.H. Young (The Minister for the Environment):

I am probably going to need to amend my answer in view of the overnight news. I would like to start by saying that the border inspection post cited in the question, there is no border inspection post in Granville. We have been seeking a border inspection post in Granville for almost a year now and that, despite promises, has never manifested. There is, however, a border inspection post in St. Malo which we have had to use, and I have not had reports yet about whether it is open today or not but certainly it was threatened; we were told on Friday afternoon it was going to be closed. Following discussions between representatives of the French Government, the E.U. Commission and the U.K. Government with our officer input throughout yesterday and political input we know of course now the French Government announced it is not going to implement the proposed retaliatory measures. I have not yet heard what the intention is other than what I heard on the radio this morning. that there are to be meetings on Thursday.

[12:15]

We will of course continue to work closely with parties during those discussions and I think we have to be hopeful - I do not think one can put it stronger than that - that the current situation can be resolved through these diplomatic channels. So to specifically answer what action are we taking to prevent E.U. fishing vessels from working in Jersey waters, at the moment none. I have asked though for advice about the suggestion that was put forward by the Jersey Fishermen's Association. I formally asked for that advice to go through our lawyers because my stance on it is, whatever is done - if that is necessary, and we hope it is not - it needs to be done in accordance with law and in accordance with compliance of the agreement that Jersey signed. Now on the matter of economic support, obviously Members know that this sits outside my Ministerial remit and sits within the remit of the Minister for Economic Development, Tourism, Sport and Culture ...

The Deputy Bailiff:

I think that part of the question was withdrawn, was it not?

Deputy J.H. Young:

I do beg your pardon, thank you.

The Deputy Bailiff:

Is that right?

The Connétable of St. Brelade:

Yes, in the light of the developments last night, we have not arrived at that yet but we may well have cause to do so and I would like to address that in a supplementary later on, if I may.

The Deputy Bailiff:

Well there will be one supplementary, will there not, I would have thought? Do you want to ask that question now?

5.1.1 The Connétable of St. Brelade:

Well, yes, I can put it in such a way that if the situation prevailed whereby border inspection posts remained closed and our fishermen were prevented from landing their catches in France, would the Economic Development Department, would the Minister, would the Government be in a position to support our fishermen swiftly, as they will be unable to learn a living?

Deputy J.H. Young:

Yes, I have been provided in a note details of both the support that has been in place so far to the industry, because the industry has had disruption all along, and also what is in the pipeline. I will leave it to later on for the Minister concerned to elaborate on that. But phase one support for the fishery support scheme, fixed cost and salaries for May to August 2021 ran successfully. Eighteen fisheries claimed support and 7 businesses claimed fixed cost support. Phase 2 of the fishery support scheme has been approved and is pending Treasury approval and we hope that will be open for applications very shortly. Phase one of the freight support, this is for exporters who export produce to Europe, forms are going out and applications are invited this week. Phase 2 of freight support is ready to be allocated depending on conditions. This will be for the remainder of this year. So I think from those details, I have summarised them, I feel confident that all Ministers, myself, the Chief Minister, the Minister for External Relations and Financial Services, we are all clear, our industry has already been disrupted, if we get more disruption we have to support the industry while we get through this difficult period of the agreement.

5.1.2 Deputy M. Tadier:

I have to say this whole episode pains me as a Francophile and francophone but I am wondering whether we are getting to the position where the French are going to tell us to stop fishing in our own waters and our own Ministers roll over and say: "Okay, we will not fish in our waters but you can come and fish here if you want to." Has the Minister seen a suggestion put forward by a member of the public where it was suggested that he should ban all fishing for a period, let us say, of 6 months or a year and that we should - and this was not the suggestion - but presumably that we should pay our fishermen and fisherwomen to be furloughed for that period as well as providing a breathing space for negotiations to happen? It would mean that nobody, French or Jersey, would be able to fish in our waters but it would also mean that our fishers would not be at a loss because they could be compensated. Is that something that the Minister has considered as a potential positive although it would be a radical step?

Deputy J.H. Young:

No, I have not seen that proposal. I have seen the request of the Jersey Fishermen's Association who met in-committee last, I think, Saturday. They proposed a period - both Jersey boats and E.U. boats - where fishing was suspended in certain parts of their fishery which I think were the most sensitive parts. We were asked to consider that. At the present time, our officers are certainly taking advice on that because, as I mentioned, whatever is done needs to be in accordance with the legal rules. We have not had a chance to discuss that politically. Efforts have gone into resolving the issue of the number of licences because it is the number of licences that has brought us to this point. I am sure Members know we have issued 162 licences and

there are a number of licences which I believe the French accept are not justified and should be withdrawn, and there are a small number at issue. So I think that is where we have got to, that is where our priority has been. But nonetheless, none of us can predict the next few days, and so I think taking advice on whatever options are put forward, we will need to do. The agreement does have, I am advised, clauses within it for dispute mechanisms and so on. What I do not know yet are the details of how, when and who that would go by, how that would be done if it was necessary. But all efforts are working to avoid that situation but never sticking outside the rules of the Trade and Co-operation Agreement because I think that would put Jersey in a very bad position, an indefensible one.

5.1.3 Deputy M. Tadier:

Could the Minister state that if Jersey wanted to say: “These are our waters and the only people who can fish in our waters are Jersey-registered fishing vessels. If you are not from Jersey, if you are from the E.U., you must stick to your own waters”, is that a position that is now possible. If it is not currently possible, what steps would need to be taken in order to make that happen? This goes to the very heart of what level of autonomy we have.

Deputy J.H. Young:

All the advice I have had that under international law, under our obligations in statute and under contracts and agreements internationally, that would not be possible. That is all the advice I have had. If you want chapter and verse on that, I think it would need - and I would perhaps invite the Deputy - questions to the Attorney General at the appropriate time because my understanding is, no, that would not be possible and, frankly, nor do I think it would be sensible, it would absolutely enflame the situation.

5.1.4 The Deputy of St. Martin:

It is absolutely right that we continue to abide by the terms of the T.E.C.A. (Trade and Economic Co-operation Agreement) and act within the law. It is also absolutely right that we continue to try to find ways to allow those French fishermen who have legitimately got a living from fishing in our waters to continue to do so in the future. But does the Minister recognise the frustration of the local fleet where they find themselves fishing literally sometimes a stone’s throw away from French boats and yet those French boats can return lobsters to the French continent without going through a border inspection post? Yet, the Jersey lobsters landed literally a few metres away from them come back to Jersey and either have to go through a border inspection post or, worse still, potentially in the future, not be able to be landed in a French port at all.

Deputy J.H. Young:

Not only do I understand it, it pains me, and I ask: “How did we get to this place?” Of course, over the years, absolutely right, as the Deputy says, historically Jersey and French fishermen have shared these waters around these islands for decades, if not centuries. Informal agreements have gone on, friendships are there, personal knowledge, all those family connections, and none of the distortions that have now arisen have occurred. But of course why did it happen? We had a Bay of Granville Agreement that was indeed far from perfect but I am told it took 9 years for politicians who were responsible at the time, decades ago, to get that agreement. It basically worked to a degree but of course in recent years it worked much less well and of course when Brexit came along, it soured it, soured the relationships. We did not design the T.E.C.A., it was put together in a few days at the end of negotiations where other parties were at the table, and we had one choice: take it or not. We chose to take it and I think we need to honour that and see it through. I hope I have picked up in that answer all the points of the Deputy. If I have not, I apologise, I will pick them up.

5.1.5 Deputy M.R. Higgins:

No one would accept that the old French fishing boats that want a licence should have one because they cannot prove that they are in our waters. We know the French politicians have an election coming up early next year and are going to fight for this and posture and all the rest of it. Can the Minister tell me, though, with 160 licences having been issued, and more possible, has there been a watering-down of our position and the evidence that the French have got to do? Because, if I am not mistaken, I think our own fishermen believe there are far more licences being issued than they expected.

Deputy J.H. Young:

I will try and give as best guidance I can but of course out of the 162, we have given a number of temporary licences, 49, and those licences will be temporary because they will expire at the end of January 2022. The purpose of that is to allow those fishermen to complete the production of evidence. They are on that list because there was some evidence but not enough to fulfil the qualifying criteria. They were put on that list; therefore, the task now is for the E.U. and the French to produce that information. If that information does not come, then those licences will end and we will then be back to the 113 licences where we are fully satisfied they are in the category that Deputy Luce spoke of, those people that have fished traditionally in our waters, relied on Jersey waters for their means and are permanent ongoing licences that we issue, and that is 113. As I say, there are still 55 out there, as it were, where there is no evidence whatsoever.

The Deputy Bailiff:

The 10 minutes that I allowed for responding to this urgent question have expired but in view of the fact that there are 2 Members who still wish to ask questions, I think I am entitled under Standing Order 15 to extend the time for them to ask their questions; I believe the Connétable of St. Ouen and Deputy Ward.

5.1.6 The Connétable of St. Ouen:

I think I heard in the Minister's response that all licences that have been issued so far have been in conformity with the T.E.C.A. or are working their way towards conformity but one of the earlier questions suggested that we have watered-down our position. Could the Minister just clarify, so that we are absolutely clear about this, in the medium term there will be no watering-down of the provisions of the T.E.C.A. and if a French fishing vessel wants to fish in Jersey waters, they have to provide the appropriate evidence as set out in the T.E.C.A. and that there will be no variation on those terms?

Deputy J.H. Young:

I cannot give the undertaking as Minister, and Deputy Guida and I have worked very closely on this. Deputy Guida, in everything he has said has said the same, in order to gain licences E.U. vessels need to meet the qualifying criteria, and the agreement is quite specific about that, and they need to produce the evidence. Where we have got that evidence we have given them licences, as I said, 113. We have got enough evidence, there is no need to go over that issue again. But I think the data flows have been confusing; I think Members know that from the various comments. We have had to use lots of different determinative sources. The data flow from the E.U. through the U.K. to Jersey has been, I will be frank, shambolic. Shambolic. We have had to unpick this and our officers have worked flat out. Even late this weekend, we have not got enough time, but I could go into all the data sources we have had to do. We have not put those temporary licences on that list with no foundation and that is why we have resisted the others and said no, they cannot go on that orange list because there is no evidence. Give

us the evidence. Having said that, if one of these boats comes out of the woodwork later in time and says: “Here is the evidence” they will get a licence.

[12:30]

5.1.7 The Connétable of St. Brelade:

Am I able to ask a final supplementary? Would the Minister agree that this situation needs to be resolved for the long term and that short-term fudges, if I may refer to the continued extensions as that, are just not acceptable to our fishing fleet who had to make decisions as to whether they should continue to invest in the industry or not and that he will consider as paramount the need to preserve our fish stocks in our waters for future generations?

Deputy J.H. Young:

Absolutely, but I would highlight one matter. I am sorry to have to highlight it, I think I need to put it on record, at the moment the issue to be resolved definitively is the number of licences. There is an issue where we have to jump that hurdle, which is negotiations in some form over what is called the “nature and extent clause” which is the details of these licences that allows what type of fishing métier and the limits of that, catch limits and all those sorts of things. At the moment the E.U. has required us to suspend that and we have got no choice in that, so I am afraid there is a journey to be done. I am sure the Connétable’s supplementary is absolutely right, that is why we are going to have to keep at this for some time.