



Corporate Services Scrutiny Panel

Quarterly Hearing with Minister for External Relations

THURSDAY, 13th July 2017

Panel:

Deputy John Le Fondre

Deputy Simon Brée

Connétable Chris Taylor

Deputy Kevin Lewis

Senator Sarah Ferguson

Senator Philip Bailhache – Minister for External Relations

Kate Nutt – Head of Service

David Walwyn - Director

Index

1. [Brexit: p3](#)
2. [Other matters: p16](#)

[14:00]

Deputy J.A.N. Le Fondré of St. Lawrence (Chairman):

Thank you very much for coming today, and welcome to the quarterly public hearing with the Minister for External Relations. So, for the benefit of the tapes, Deputy John le Fondre, Chairman of the panel.

Deputy S.M. Brée of St. Clement:

Deputy Simon Brée, Vice-Chairman of the panel.

Deputy K.C. Lewis of St. Saviour:

Deputy Kevin Lewis, panel member.

Senator S.C. Ferguson:

Senator Sarah Ferguson, panel member.

Connétable C.H. Taylor of St. John:

Constable Chris Taylor, panel member.

Senator Philip Bailhache, Minister for External Relations:

Senator Philip Bailhache, Minister for External Relations

Kate Nutt, Head of Service, External Relations.

Kate Nutt, Head of Service, External Relations.

David Walwyn, Director, External Relations.

David Walwyn, Director, External Relations.

The Deputy of St. Lawrence:

Thank you very much. Minister, as I am sure you are aware, I draw your attention to the notice to your left and we have only an hour of your time, unfortunately, as I am sure we could spend far more time with you but we shall try to keep the questions short and if we feel we have sufficient from you we will move on. If it gets really bad I shall be sticking up my hand and then we will definitely want to move on. So, relatively concise answers if we can. And to members sitting in

L:\Scrutiny\Corporate Services\Quarterly Hearings\External Relations\2017.07.13\2017.07.17
Quarterly Hearing Transcript v2.docx

the public seating, no interruptions with the panel and can you make sure that all electronic devices are off, please? Right, Minister, what progress has been made with Brexit negotiations in each of the five key areas that were identified since our last hearing?

Minister for External Relations:

We have been continuing to engage with the United Kingdom government in relation to each of the areas in question and the Brexit working group, which is supervised or organised by the Ministry of External Relations, has continued to have more detailed discussions with officials throughout those departments of the government that are concerned with Brexit affairs. Recently we have talking quite a lot to the customs and immigration department in the context of migration issues and to the environment department in the context of agriculture and fisheries. Much more broadly, we have been engaging across the whole government.

The Deputy of St. Lawrence:

Thank you. What departmental changes have taken place since our last meeting in response to Brexit?

Minister for External Relations:

We have probably acquired a few more officials because, as we discussed on the last occasion, the Council of Ministers made available to the Ministry of External Relations some extra funding in order to enable us to do some of the things that are required as a result of Brexit, so we have slightly expanded the Ministry, which now consists of 14 people, I think, working in Jersey and a number of others working in London, Brussels and Caen, making a total complement now of 24 officials. That has enabled us to do a number of things that we were not able to do before. One of the really important changes is that we have developed a market development strategy under our head of international agreements and that involves four officials who are working to develop markets in emerging economies in Africa and the Gulf and, to a certain extent, in China, and quite a lot of significant progress has been made in that respect.

The Deputy of St. Lawrence:

So, does that overlap with economic development, or is this more from a political and diplomatic end, or legislation changes or memoranda of understanding or agreements, can you say?

Minister for External Relations:

L:\Scrutiny\Corporate Services\Quarterly Hearings\External Relations\2017.07.13\2017.07.17
Quarterly Hearing Transcript v2.docx

This is really in the context of international trade, which is an area of activity that the government has not been concerned with before. The Department of Economic Development was much more concerned with development of the economy internally, whereas international trade is a discrete area of activity and Mr Walwyn has now taken responsibility for that. I do not know if he has any sherpas working for him. Perhaps he does but he certainly has taken over that responsibility for the time being.

Senator Sarah Ferguson:

May I?

The Deputy of St. Lawrence:

Quickly, yes.

Senator Sarah Ferguson:

I gather that the removal of countries that are, allegedly, lining up with the UK to set up trading agreements, post-Brexit trade agreements – are we approaching any of them? The ones I have heard about are the USA, China, Japan, India and Brazil.

Minister for External Relations:

Yes. I would add Australia and New Zealand. We have made it clear to officials in the UK government that we would like, in future, when they are at liberty to negotiate international trade agreements, to have the facility for those agreements to be extended to Jersey. We do not have the resources, Senator, to go out to Australia and Canada and the USA and negotiate separate agreements but what we can do is to say to the UK, "Please make sure that these agreements are capable of being extended to Jersey," and then we can see whether we want to take advantage of them.

The Deputy of St. Lawrence:

And the feedback on that has been positive, or supportive?

Minister for External Relations:

Yes, I think that there has not been any push back, has there, from the UK.

David Walwyn:

L:\Scrutiny\Corporate Services\Quarterly Hearings\External Relations\2017.07.13\2017.07.17
Quarterly Hearing Transcript v2.docx

No, Minister, there has not been push back. The UK is mainly focused on withdrawal arrangements and the UK/EU future trade agreements, so it has not been pressing future free trade agreements, FTAs, as yet, as they are so far down the line, because they are more concerned with the withdrawal from the EU.

The Deputy of St. Lawrence:

Okay, very quickly, and I hope succinctly, how would you define international trade? What is it?

Minister for External Relations:

International trade is trade between different countries and the object of free trade agreements or, to a lesser extent, monetary investment treaties, is to make the framework within which business can operate more easily and trade more readily with foreign countries. So, for example, you would have provisions that make it clear that you cannot have the assets of a foreign investor confiscated without paying proper compensation, provisions that would allow a foreign investor to be treated in exactly the same way as somebody from the domestic market.

The Deputy of St. Lawrence:

Mm-hmm?

Minister for External Relations:

And all the kinds of provisions that give comfort to investors and, so far as the other country is concerned, encourage inward investment, which is what they seek to achieve too.

The Deputy of St. Lawrence:

Good. What progress has been made in seeking membership for Jersey of the World Trade Organisation?

Minister for External Relations:

It has been a much longer process than we would have wished. We originally took the view that the extension of the agreement by the UK to Jersey was a relatively straightforward matter and we certainly hoped that it would have taken place by now. I hope it is not too far distant. There have been technical difficulties and differences of legal opinion that have got in the way of earlier ratification but I hope that we will overcome them quickly.

The Deputy of St. Lawrence:

In the hoped-for area, are we talking this year or the middle of next year, or -?

Minister for External Relations:

I would be very disappointed if it did not happen before the end of the year.

The Deputy of St. Lawrence:

Okay, good. Have we had discussions, for example, with the Isle of Man, because they have been there since 1997 just in terms of experience and –

Minister for External Relations:

I do not think that we have been very closely involved in talking to the Isle of Man because they are already there. We have certainly been talking to Guernsey because their aspirations are the same as ours, so I think we are advancing in tandem with Guernsey in trying to make this happen.

The Deputy of St. Lawrence:

Do you happen to know when the UK government response to the House of Lords EU Select Committee review is expected?

Minister for External Relations:

I do not.

The Deputy of St. Lawrence:

There is usually a time frame.

Kate Nutt:

Yes.

The Deputy of St. Lawrence:

Okay, can we possibly have some feedback?

Kate Nutt:

Yes.

The Deputy of St. Lawrence:

Good. And also the same for the House of Commons Justice Committee's report. Right, I think that puts you firmly to hand, Deputy Bree.

Deputy S.M. Brée:

Thank you. Back on 20th December 2016 at the House of Lords EU Select Committee Brexit Inquiry, the Chief Minister, Senator Gorst was talking about the Jersey Repeal Bill, and I shall read from the transcript, if I may. He said: "I think there is an acceptance, certainly in Jersey that it might be that some things fall through the net and we have to come back and deal with them." What things was the Chief Minister referring to?

Minister for External Relations:

You might have to ask the Chief Minister that question. However, what I expect he was trying to deal with was the possibility that there will turn out to be aspects of our relationship with Europe that we do not anticipate at the time when Brexit takes place, things that we need to do that have not been done and I think he was laying the foundations for the view that we might have to include in our own version of the UK's Great Repeal Bill - the legislation that repeals the European Union (Jersey) law of 1973 - some provisions that allow the States to make regulations or possibly (but I think unlikely) the Minister by Order to make provisions to cover any gaps that might have appeared in the time between leaving the European Union and the time in question. A lot of work is being done by the law officers and in the law drafting office, and by officials in a number of departments, to try to identify all the areas of our relationship with the European Union where some change in the law is going to be necessary by March 2019. I am pretty confident that we will identify all those areas that will require legislation. I think the Chief Minister was just trying to protect the Island from the possibility that there might be things that we have not thought of.

Deputy S.M. Brée:

Okay. He also stated at the same committee that Jersey will continue to be successful in negotiations relating to financial services, particularly if done in conjunction with the City of London. Do you agree with him?

Minister for External Relations:

L:\Scrutiny\Corporate Services\Quarterly Hearings\External Relations\2017.07.13\2017.07.17
Quarterly Hearing Transcript v2.docx

We are reading slightly out of context. I do not know whether you can give me a -?

Deputy S.M. Brée:

Yes. Certainly, if you wish, I will quote: "We have been living as third countries on this particular field of our economy for many years. We think we have navigated it successfully and we see no reason why we should not continue to do so. We feel strongly that, navigating together with the City, because of our symbiotic, mutually beneficial relationship with the UK economy, both economies can be successful into the future." The point being, do you agree with the statement that we should navigate our way through things with the City, bearing in mind that, potentially, the City of London will become a direct competitor in financial services areas post-Brexit?

[14:15]

Minister for External Relations:

I am not sure that I would agree, necessarily, with the last statement. I think that the things that the United Kingdom will do in the context of financial services are going to be rather different from the business that we have conducted over the last 40 years. To the extent that the Chief Minister was saying that we would hope that the provisions for equivalence and the ability to market our products into Europe will continue in the way in which they have in the past, I certainly go along with that, and I agree that our relationship with the City of London in financial services terms could well be characterised as symbiotic. It is not possible to say, at this stage, whether the relationship will continue always to be symbiotic. What we are interested in, and what we should be interested in, are Jersey's interests. While they coincide with the interests of the City of London, then we will continue to liaise closely with the City of London. I am sure that the Chief Minister was being tactful, bearing in mind where he was, in not saying that our interests were capable of not being coincidental with those of the City of London.

Deputy S.M. Brée:

Okay. Alastair Sutton, who was previously the European adviser to Crown Dependencies, in evidence given to the House of Lords European Union Select Committee, stated that the advantages seen by Crown Dependencies in the last 30 years to attract investment will diminish and that we are at a – to use his words – very difficult juncture for small, fragile, vulnerable jurisdictions. This seems to conflict with the evidence given by the Chief Minister and your view

on the matter as well, so who is correct in their assumptions of the likelihood of success of Jersey's financial services into the future?

Minister for External Relations:

Mr Sutton was Jersey's legal adviser on European affairs for about 20 years and continues to teach European Law at the Institute of Law over here, so he is very familiar with the Island and what it does. I am not at all sure that he was talking about Jersey when he was talking about the challenges being faced by small jurisdictions.

Deputy S.M. Brée:

If I may quote from his full evidence, he said: "The historic advantages over the last 30 years of jurisdictions such as Jersey, Guernsey and the Isle of Man to attract investment by virtue of advantageous taxes or different types of regulation are probably going to diminish anyway. We are at a very difficult juncture for small, fragile, vulnerable jurisdictions." So I think there can be no doubt that he was referring to Jersey and not anywhere else. So I ask my question to you again, who is correct in their assumptions as to the future of the financial services industry in Jersey, in your opinion?

Minister for External Relations:

I think you are being a little bit stark, if I may say so, in your comparison between the view of Mr Sutton and the Chief Minister and myself. Both the Chief Minister and I would agree with Mr Sutton that there are challenges on the horizon, maybe even serious challenges with which the Channel Islands will have to deal, but that does not mean that we would agree that the Channel Islands are in a vulnerable position. That was a statement – if Mr Sutton was applying it to the Channel Islands – with which I would not agree.

Deputy S.M. Brée:

Okay, so you essentially are disagreeing with Alastair Sutton's interpretation of events and future events, possibly. If we look at further evidence that Alastair Sutton gave to the same Select Committee – I am paraphrasing but I can read the whole quote out if you wish – that whilst Chief Ministers of the Crown Dependencies prefer to maintain the status quo, which has certainly been stated by our Chief Minister and Council of Ministers, Alastair Sutton expressed surprise at, apparently, Jersey not wanting to obtain greater legal certainty for the industry

through a bilateral agreement. So, have you been doing any work towards such bilateral agreements and if not why not?

Minister for External Relations:

I think you had better give me the context. I am not sure what the bilateral agreements would be.

Deputy S.M. Brée:

Certainly sir. Again, he is talking to the same Select Committee. I quote the oral evidence given by Alastair Sutton: "If you take the evidence given by their Chief Ministers here, they prefer the status quo. Now, one could express some surprise about that because they are financial services jurisdictions. Why would you not want to obtain greater legal certainty for your financial services industry through some kind of bilateral agreement? They prefer to stand aside, so to speak, and, if I may say, to take their chances with that status rather than a bilateral status." That is his full quote.

Minister for External Relations:

Well, thank you. I am still not entirely certain what Mr Sutton is talking about there. I do not know whether he is suggesting that the Islands would have a better future if they became sovereign states, or is he suggesting that we should paddle our own canoe? I do not know. If he is, it is not a –

Deputy S.M. Brée:

So, you are not aware of this statement by Alastair Sutton, there?

Minister for External Relations:

I am sure I have read to contribution at some stage, but I do not recall, Deputy. We have considered whether we should have, in the context of financial services, a bilateral agreement with the European Union. This was before Brexit and we did consider whether an agreement that dealt with such things as co-operation and transparency, such as the agreements that have been entered between the European Commission and the micro-states of Europe, provisions and law and so on, would be suitable for us. I believe that the European Commission suggested such an agreement but the United Kingdom was not in favour of that because it would have cut across the UK's view that tax was not a matter for the European Union; it was a

matter for sovereign states. Therefore, the UK would not have wanted to delegate to the Channel Islands and trust the Channel Islands to have an agreement with the European Union on a tax matter because that would be conceding to the European Union competence in tax, which the United Kingdom stands firmly against.

Deputy S.M. Brée:

So, bilateral agreements is not something that you are actively looking at at the moment?

Minister for External Relations:

Not at the moment. We do not know what is going to turn up in the context of Brexit. It is not beyond the realms of possibly that in terms of trade, much further down the line, either if the United Kingdom fails to secure any trade agreement with the European Union or if it secures an agreement that is not suitable for us for one reason or another, that we might seek an entrustment to negotiate a trade agreement to compensate Protocol 3 of the European Union, but it is not on the cards at the moment; it is at the back of our minds.

Deputy S.M. Brée:

That is an interesting point because what impact has the UK's recent snap election had on Brexit negotiations for Jersey? That is, it seems to have changed the political scenery somewhat and in the event of a problem with the UK's Brexit negotiations with Europe, do we have a plan B, other than just sticking by we want to maintain the status quo?

Minister for External Relations:

We have a number of plans B, but I do not think it would be constructive for me to identify them at the present time for reasons that I am sure you will understand. All kinds of contingency planning is going on in the context of the overall Brexit debate. I do not think that it would be right for me to rise to your bait about the new minority government in the United Kingdom. That is a matter for the electors in the UK. What I can say is that the officials with whom we have been dealing remain the same and, indeed, the principal minister at DExEu, Mr Robin Walker, is still in post, and is the minister with whom the Chief Minister meets regularly - in fact, we met him on Monday in London - so there has been no change in that respect.

Deputy S.M. Brée:

Thank you.

The Deputy of St. Lawrence:

You are on – so, Sarah.

Senator Sarah Ferguson:

Jersey is not autonomous in respect of defence and international relations but do you have any direct input into the UK's negotiations with the EU in these areas?

Minister for External Relations:

Certainly not in terms of defence and, in terms of international relations, I am not aware of any particular negotiation going on. If there is, we are not party to it.

Senator Sarah Ferguson:

Yes. Do you think we ought to be, since some aspects of these affect us directly?

Minister for External Relations:

We do not have the capacity to engage internationally unless we are entrusted by the United Kingdom to do so, so we can and do make our views known on issues that concern us, but I do not think we can legitimately ask to be involved in such negotiations between sovereign states.

Senator Sarah Ferguson:

And the UK's Repeal Bill –

The Deputy of St. Lawrence:

It is being lodged today.

Senator Sarah Ferguson:

Sorry?

The Deputy of St. Lawrence:

It is being lodged today, is it not?

Senator Sarah Ferguson:

Oh, right, the UK's Repeal Bill has apparently been lodged today, so when can we expect to see Jersey's?

Minister for External Relations:

I am not sure I can give you a specific answer, because the United Kingdom Repeal Bill, although I have not seen it, is likely to be very different from Jersey's repeal bill, which is going to be a great deal simpler. It will certainly repeal the 1973 law but it is unlikely to do very much more than to confer power on the States to deal by regulations with relationships that we already have with the European Union or, possibly, to empower a minister to make orders to deal with those things. That is my current view, but it may be that, when we have had a chance to see exactly what is in the UK's bill, we may take the view that there are other things that we ought to be doing in our repeal bill and get on with including those as well. Working backwards, we obviously have to ensure that our repeal bill becomes a repeal law before March 2019. We have to allow for the processes for sanction, for scrutiny, for lodging, for public debate, so you can probably work out that we will be lodging the bill before March 2018.

Senator Sarah Ferguson:

Yes. It is just that they talk about a lot of Henry VIII clauses in the UK bill. Are we going to have something similar in ours?

Minister for External Relations:

I would not like to be absolutely categoric about it but the present view of both the Chief Minister and myself is that powers allowing ministers to deal with matters that ought to be dealt with by primary legislation should not find their way into the Jersey law. We think that we are small enough and the issues are discrete enough for us to be able to identify them in time and to be able to go through a proper legislative process, rather than by cutting corners in order to give ministers powers to do things that ought to be dealt with in the UK by Parliament, or in Jersey by the States.

[14:30]

Senator Sarah Ferguson:

You and the Chief Minister are both involved with the Brexit negotiations. Which of you is the lead member?

Minister for External Relations:

The Chief Minister is the Chief Minister.

Senator Sarah Ferguson:

Right.

Minister for External Relations:

He is *primus inter pares* if I can use a Latin phrase. The Ministry of External Relations is the lead department, so we are obviously dealing with the process of co-ordination of the activities of different government departments and I am the minister of that ministry so, generally speaking, I will lead on Brexit matters. However, as I say, the Chief Minister is the Chief Minister. If he decides to take things in a different direction that is the way they go.

The Deputy of St. Lawrence:

As a collective decision, obviously.

Minister for External Relations:

As a collective decision, I am sure.

Senator Sarah Ferguson:

And when is a result expected from the EU Code of Conduct Group on Business Taxation (Non-Co-operative Jurisdictions) screening process?

Minister for External Relations:

The screening process is under way and we have been asked for comments and we have very recently given a response to the Code of Conduct Group on the criteria that have been set up for determining whether a country is co-operative and providing that the process is objective and based on fact, I have no doubt that Jersey will be found to be a co-operative jurisdiction. The European Union wants to establish its list before the end of the year. Whether they will achieve that is open to question but they have said that they are going to complete the process by the end of the year, so we should know by 31st December.

Senator Sarah Ferguson:

L:\Scrutiny\Corporate Services\Quarterly Hearings\External Relations\2017.07.13\2017.07.17
Quarterly Hearing Transcript v2.docx

And have you any reason to think they might not be objective?

Minister for External Relations:

In all matters in which different European institutions and the European Parliament are involved there is a risk that they can become politicised and that decisions are taken on the basis of political mandates rather than a process of objective fact. Frankly, that is the risk that we face and we hope that the European Union will conduct its business properly and in accordance with principles of law and fairness and if it does that then we are not at any risk.

The Deputy of St. Lawrence:

Thank you. Right, Kevin, you are on. 15

Deputy K.C. Lewis:

Minister, we understand that David Liddington, Secretary of State for Justice, has personally taken on responsibility for the Crown Dependencies. Does this reflect the importance placed on the Crown Dependencies?

Minister for External Relations:

I would like to think so, Deputy. Whether it is that or because Mr Liddington knows the Crown Dependencies and feels well disposed towards them, I am not sure. However, it is certainly a good thing so far as we are concerned that the Secretary of State himself has taken the responsibility for the CDs under his wing.

Deputy K.C. Lewis:

Will a more senior person having responsibility impact on his availability?

Minister for External Relations:

I hope to go to see him before too long, so I should be able to answer that question the next time I come and see you.

The Deputy of St. Lawrence:

Excellent.

Deputy K.C. Lewis:

L:\Scrutiny\Corporate Services\Quarterly Hearings\External Relations\2017.07.13\2017.07.17
Quarterly Hearing Transcript v2.docx

How will you make sure the UK honours her commitments in the 2007 Framework Agreement to seek to represent any different interests when acting in an international capacity?

Minister for External Relations:

The Minister, so far, has made it very clear that they will honour those commitments and that they will defend the Island's interests, and we certainly expect them to do so.

Deputy K.C. Lewis:

You do not think that the UK will be, in reality, too busy with her negotiations to give Jersey much attention?

Minister for External Relations:

That has not been the evidence so far. We have had some very good co-ordination with the United Kingdom government. Mr Walwyn has been regularly in touch with the officials at the DExEU government office and other departments of state in the UK and the responses that we have had have been extremely positive.

The Deputy of St. Lawrence:

All right?

Deputy K.C. Lewis:

Thank you. As the UK government has ultimate responsibility for international relations and defence, what mechanism do you have in place to ensure adequate oversight?

Minister for External Relations:

Adequate oversight of the UK's exercise of those responsibilities?

Deputy K.C. Lewis:

Yes.

Minister for External Relations:

In the 21st century we do not have to think too much about defence, in the sense that we make our modest contribution to the defence of the realm through the – the name of it escapes me.

The Deputy of St. Lawrence:

Field Squadron.

Minister for External Relations:

The Field Squadron. Mental blank. So –

Senator Sarah Ferguson:

Are we so frightening?

Minister for External Relations:

It must be age, Senator. So far as oversight of the UK's international representation function is concerned, in a sense that is a constant discussion. We are asking the United Kingdom at the moment to entrust us to execution and negotiate bilateral investment treaties and, in a sense, it is a function of the United Kingdom to decide whether to give us that entrustment. We are monitoring that, if that is the right expression, at this very moment. So far as WTO is concerned, we have asked for the WTO agreement to be extended to us and, again, that is a matter where the UK is acting for us internationally. We are monitoring very carefully the UK's performance in that respect.

Deputy K.C. Lewis:

With regard to responsibilities, what checking procedures are in place to make sure nothing slips through the net?

Minister for External Relations:

Can you be more specific?

Deputy K.C. Lewis:

Well, in the overlap of responsibilities.

Minister for External Relations:

We certainly have ongoing and very live discussions with the UK on a range of international issues. The two that I have mentioned are the obvious examples of the moment of Jersey's interests where we expect the UK to act positively on our behalf and to give us an entrustment and to ratify the WTO agreement on our behalf. However, in other respects the Attorney

General has had a number of discussions recently regarding the repatriation of confiscated money to Kenya. That is something with which the Chief Minister has been concerned. The Chief Minister had a very useful and good meeting with the president of Kenya in London not very long ago, at which I think I can say that our relations with Kenya were strengthened. As a result of that we will probably have a final agreement on the sharing of confiscated assets, not just in relation to the current case but also in relation to future confiscations, so I do not envisage anything falling through the gap at the moment.

Deputy K.C. Lewis:

Thank you. On a slightly different tack, earlier this year Jersey unveiled its cyber-security strategy. Has any discussion taken place to agree at what points such considerations become UK matters of defence?

Minister for External Relations:

I do not think that we have given any consideration to that possibility so far. We have had, through our officials, many discussions with officials in the UK as well as in other countries in order to develop our own cyber-security strategy, but I do not think that that could really be said to involve defence. We were more concerned with the security of commercial organisations such as Jersey Telecoms, Jersey Electricity and so on although they, obviously, fall within the remit of the directors of those companies.

Deputy K.C. Lewis:

On a similar tack, has the divide between Jersey and the UK's ultimate responsibility for international relations become more difficult to define in a more highly technical part of the world?

Minister for External Relations:

I do not think it is more difficult to define but it is fair to say that there are areas in which we would find it useful to have greater competence in conduct of foreign affairs than we have at the moment, and we have been trying to get an entrustment to negotiate BITS for some time.¹ We may very well want to have entrustments to negotiate other kinds of agreement, for example social security agreements, because in the past we have had social security agreements with

¹ BITS (Bilateral Investment Treaties)

other countries applied to us by way of extension of the agreement between the UK and the foreign country, with the possible exception of France. However, in the Brexit context, we need to make sure that all those workers from countries in the European Union who are working here at the moment are properly protected. In some respects I think they are not at the moment and that is something that we need to look at.

Deputy K.C. Lewis:

Minister, you are party to more agreements but would you consider that the renegotiation of Jersey's responsibilities for international relations is required?

Minister for External Relations:

We are on a trajectory, Deputy, and maybe at the end of that trajectory we will have a much better competence to conduct foreign affairs but at the moment it is a process of incremental advancement, getting entrustments. We have an entrustment to deal with tax matters, we hope to get an entrustment to deal with international trade matters. As I say, social security might be another example. This is, inevitably, a long process.

Deputy K.C. Lewis:

Thank you. Finally from me, a little closer to home, can you outline the main points of the co-operation agreement that you signed last month on security and the department of Ille et Vilaine in Brittany?

Minister for External Relations:

Yes. The agreement with Ille et Vilaine in Brittany was not quite as broad as I would have wished because, as a result of changes that have taken place in France, the economic competence of the department has been shifted to the regions. So, whereas we would have liked to have had economic co-operation as part of the agreement with Ille et Vilaine, we have had to express that in rather more fuzzy language because the responsibility for economic affairs now rests with the region and we have not been able, as yet, to persuade the Brittany region to join with us in some form of co-operation equivalent. So, the agreement deals with matters over which the department had competence: cultural matters, sporting matters, anything else to –

The Deputy of St. Lawrence:

L:\Scrutiny\Corporate Services\Quarterly Hearings\External Relations\2017.07.13\2017.07.17
Quarterly Hearing Transcript v2.docx

Thank you. Moving fairly swiftly on to Chris.

Connétable C.H. Taylor of St. John:

Yes. Can I just go back to one issue, defence? In the contribution to the field squadron, are you satisfied that we are kept informed about terrorism, as that, nowadays, is the biggest threat to our security?

[14:45]

Minister for External Relations:

I am not really sure that that is a matter for me in my ministerial capacity. I would certainly hope so and I am fairly confident, from discussions that I have had, that we are kept informed, but it is not my ministerial responsibility.

Connétable C.H. Taylor of St. John:

Oh, okay. Can you explain the different roles that the Chief Minister and you each have in external matters and how these are co-ordinated?

Minister for External Relations:

Before 2013 the Chief Minister had responsibility for the conduct of external relations – unusually, that is to be found in the States of Jersey law 2005 – the reason for that possibly being that external relations was at that time a newly emerging responsibility of the Jersey government and it was felt important to say who was responsible, so the Chief Minister was given responsibility in the 2005 law. When the Ministry of External Relations was created in 2013, that provision remained. I think that was probably an oversight because the Chief Minister does not need to have a concurrent responsibility with the Minister of External Relations. The Chief Minister has the authority to go into any department of government and to express his point of view and to persuade the minister that this is the way things ought to be done. However, at the moment, there is a kind of concurrent responsibility, as you have identified, between the two ministers. We have regular discussions and, certainly in terms of the work involved in developing overseas markets, we divide up the world between ourselves and decide who is going to have primary responsibility in what areas.

Connétable C.H. Taylor of St. John:

L:\Scrutiny\Corporate Services\Quarterly Hearings\External Relations\2017.07.13\2017.07.17
Quarterly Hearing Transcript v2.docx

Who is covering for Senator Ozouf, and his previous responsibilities?

Minister for External Relations:

The Chief Minister is doing that.

Connétable C.H. Taylor of St. John:

In your department update email –

Minister for External Relations:

Forgive me, just to correct that last statement, I must not forget Deputy Scott Wickenden who now has responsibility for digital and – otherwise, the Chief Minister has taken it over.

Connétable C.H. Taylor of St. John:

Taken over. So, Deputy Wickenden will, in effect, be answering the questions on e-gov?

Minister for External Relations:

I will have to ask the Chief Minister.

Connétable C.H. Taylor of St. John:

Sorry, yes, that is outside your – yes. Okay, in your department update email, your visit to Brussels on 6th and 7th June was mentioned. What did you discuss with the permanent representatives of Bulgaria to the EU?

Minister for External Relations:

Almost every diplomatic discussion in the last 12 months has been dominated by Brexit because all European Union countries have a view on Brexit and we want to know what their view is, so Brexit issues were probably the primary matters of discussion with the Bulgarian Ambassador. He obviously had interest in the issues about which I have been questioned before, the non-co-operation initiative with the European Union and with each European country we like to try to make sure that they understand that we are transparent and co-operative and we comply with all the international standards. So that is the kind of thing that would have been covered in the discussions there.

Connétable C.H. Taylor of St. John:

L:\Scrutiny\Corporate Services\Quarterly Hearings\External Relations\2017.07.13\2017.07.17
Quarterly Hearing Transcript v2.docx

Because you also met the German MEP David McAllister, an interesting name for a German, and Syed Kamall, the MEP who is Chair of the European Conservatives and Reformist Group. Similar discussions with them?

Minister for External Relations:

Similar discussions, yes. David McAllister was a particularly interesting interlocutor, because, although he is German, he speaks English, or should I say Scottish, fluently. His father was Scottish and his mother was German, he was brought up in Germany, and so he has a particular point of view upon Brexit, which was very interesting to hear, and he was very interested to learn about the Channel Islands. That was a visit that I did with the Chief Minister of Guernsey and getting across the position of the Channel Islands to people like that was extremely useful because he was the premier minister of one of the German states; I cannot remember which – Saxony, I think – but he is a leading light in German political life and still quite a young man.

Connétable C.H. Taylor of St. John:

What also interests us is why these particular individuals?

Minister for External Relations:

Mr Syed, a British MEP, is someone with whom we have had dealings for a number of years and he has always been very sympathetic to the Channel Islands. We have tried to keep up the relationship with him because the European Parliament is not, taken as a whole, a very sympathetic organ, so far as the Channel Islands are concerned, and there are a number of individuals in the parliament who are hostile to the Channel Islands and to the financial services industries and to a lot of the things that they perceive, sometimes wrongly, that we stand for. So, to try to engage with other MEPs and to try to get a more balanced view of the committees and discussions that take place in the European Parliament is important for us. We probably have not done enough in terms of engagement with MEPs but there is limited time, and we have limited resources, to engage with them.

Connétable C.H. Taylor of St. John:

Your email of 16th June also stated that the UK Embassy in Paris asked Jersey to use its regional links to engage on a national scale. Why? I am just confused as to why the UK Embassy in Paris was asking that.

David Walwyn:

Yes, it does refer to a meeting that I held with a member of the British Embassy in Paris and so the Minister may not be fully cited. The Embassy felt that we had a comparative advantage in our regional relationships and therefore was interested in how we developed our regional contacts in Normandy and Brittany. That was the basis for it. Also, there are some figures who are quite prominent in the new French Government who have their constituencies in both Normandy and Brittany, hence the mutual interest. For example, the Finance Minister and the Prime Minister both come from these regions.

Connétable C.H. Taylor of St. John:

Okay. Do you feel the findings of the Jersey Independent Care Inquiry report will have an adverse impact on our international standing?

Minister for External Relations:

I would hope not. Talking about the content of the report, there are, obviously, a number of very disturbing findings in there with which we will have to deal in due course, but so far as the generality is concerned I think that, internationally, Jersey will be seen to have grasped the particularly unpleasant nettle and to have dealt with it, to have brought a difficult inquiry to a close and to have published a report that is not entirely flattering. In international terms, that will reflect credit on the way in which we face up to difficult subjects and deal with them.

Connétable C.H. Taylor of St. John:

You stated at the State Assembly last week that: "The Island has made considerable progress in developing relations with Rwanda and I hope, myself, to visit the region in the not too distant future." What is the purpose of such a proposed visit?

Minister for External Relations:

We have a memorandum of understanding between Jersey and Rwanda, which was signed by the Assistant Chief Minister, I think, 12 months or so ago. The Chief Minister has visited Rwanda and we regard our relationship with that country as important in the sense of providing a springboard for closer relationships with other countries with which we are interested in developing commercially, such as Kenya, Nigeria. Rwanda has membership of a number of regional organisations. It gets access to organisations and meetings to which we would not,

generally, be able to get access and we are hoping, expecting, that the Rwandans will help us to get such access as part of the friendly arrangements that we are building up with them. They want some help from us, as they want to develop a financial services centre; they want to be a finance centre of eastern Africa, so we are very happy to give them such help as we can and advice in that respect. So, these relationships are mutually beneficial and in order to nurture them we have to go to these countries and talk to the people face to face from time to time.

Connétable C.H. Taylor of St. John:

Okay, thank you. A somewhat general question but I think an interesting one, if I may, Minister, what is Jersey's foreign policy and who determines what it will be?

Minister for External Relations:

It is an easy question to answer. We have a foreign policy that is approved by the Council of Ministers. What is it called? The Common Policy on External Relations, and it is debated every two or three years by the Council of Ministers; it is approved by the Council of Ministers; it is lodged in the States; it is a public document, which is available for all to see, and it sets out, in very broad terms, what our policy objectives are: how we want to develop our international identity, how we want to protect our interests, things that are important to us, the rule of law and human rights, behaving properly and with integrity and so on, and it is all down in the Common Policy.

Deputy S.M. Brée of St. Clement:

When was that last reviewed and amended?

Minister for External Relations:

I think it was reviewed in 2015, was it, or – it was certainly after the last elections.

Kate Nutt:

2013. I think it was 2013.

David Walwyn:

We can check.

Deputy S.M. Brée of St. Clement:

L:\Scrutiny\Corporate Services\Quarterly Hearings\External Relations\2017.07.13\2017.07.17
Quarterly Hearing Transcript v2.docx

Could you check?

David Walwyn:

Yes.

The Deputy of St. Lawrence:

Okay. I have two questions left. Anybody got anything to add at this stage?

Deputy K.C. Lewis:

Very briefly, with regard to human rights et cetera, Minister, do we have an actual policy on that or do we merely mirror the United Kingdom?

Minister for External Relations:

We are party to the European Convention on Human Rights, passed a human rights law, which puts that convention into our domestic law, so that is the fundamental –

Deputy K.C. Lewis:

What about more internationally?

Minister for External Relations:

You mean in dealings with other countries whose human rights records might be dubious?

Deputy K.C. Lewis:

Questionable, yes.

Minister for External Relations:

We do follow the United Kingdom, broadly speaking, in that respect, in the general view we take. There will, obviously, be countries at the extreme. I do not think we would want to engage with North Korea but with most countries where there are question marks, perhaps, over human rights issues – there are probably a great many such countries – the view that we take is that engagement and showing how we deal with things is a better way of bringing about change than not dealing with them at all.

[15:00]

The Deputy of St. Lawrence:

We are looking to build relationships with countries such as China and the United Arab Emirates who have – there is evidence of their lack of any kind of human rights in the way they treat their citizens so I do not think it can be said that it is questionable. You still, Minister, stand by the fact that we should be engaging with these countries because we follow, in general terms, the approach of the United Kingdom. Is that correct?

Minister for External Relations:

It is not just the approach of the United Kingdom. It is the approach of the United States, it is the approach of countries of the European Union, it is the approach of almost any country of substance. I have been questioned about the UAE before and I have paid many visits to the UAE and there are regional differences, obviously, and cultural differences but I do not think that it is fair to categorise the United Arab Emirates as a place that has an extremely bad human rights record.

The Deputy of St. Lawrence:

It is not that good. My final wrap-up question concerns Jersey's Overseas Aid Commission. Do you have any strategic impact on the work that they do?

Minister for External Relations:

I hope to meet the Chairman of the Overseas Aid Commission in the not too distant future, following the question that she put to me in the States last week and I certainly hope that we can – we already have quite close liaison between officials of the commission and the Ministry of External Relations, so we know what they are doing and they know what our objectives are. However, I think at a political level they could be made a bit stronger so I certainly hope to engage with the Chairman of the commission and see how we can bring things closer together.

The Deputy of St. Lawrence:

Okay. Well, we are out of time and we are done, so unless there is anything particular pressing, of which I do not think there have been expressions stated, thank you very much for your time. That concludes the hearing almost to the minute. So, thank you very much.

[15:02]