

2.14 The Deputy of St. Mary of the Chief Minister regarding the enforcement of debt repayments by the Democratic Republic of Congo:

Would the Chief Minister confirm whether FG Hemisphere is using the courts in Jersey to enforce debt repayments by the Democratic Republic of Congo in a way which has just been outlawed by the U.K. Parliament and, if so, does the Chief Minister think it is appropriate for the Jersey courts to be used in this way and what actions, if any, has he taken and does he propose to take on this matter?

Senator T.A. Le Sueur (The Chief Minister):

The judgment in the case of *FG Hemisphere and Associates LLC v the Democratic Republic of Congo and Others* of October 2010 is a matter of public record. I am advised that the plaintiff in that case is the assignee of 2 arbitration awards against the Democratic Republic of Congo and the case concerned whether or not the plaintiff, which is not a Jersey company, could recover Jersey-based assets of a Congolese mining company, in satisfaction or part satisfaction of those arbitration awards. As I understand, this judgment is subject to appeal.

[11:00]

It would not be appropriate of me to make any comment about it. I would not want this Assembly to be seen in any way as influencing any such appeal. As I understand it, the U.K. legislation the Deputy refers to is the Debt Relief (Developing Countries) Act 2010 and it deals with limitation on the extent of possible recovery of debt of countries qualifying for relief under the Heavily Indebted Poor Countries Initiative. It prevents creditors recovering an amount in excess of that, consistent with what the I.M.F. (International Monetary Fund) and the World Bank calculate to be a sustainable level under the initiative. I am advised that the U.K. legalisation, which is not widely merited in other jurisdictions, was recently given permanent effect. Although we have been aware of it for some time, we wanted to see what conclusions would be drawn from the review of the U.K.'s temporary legislation of last year before considering our position. Accordingly, we have now established a high-level working party to actively consider our own position on vulture funds in the knowledge that the U.K. has also undertaken to share its expertise in this matter. We hope to soon be able to submit our proposals for consultation.

The Deputy of St. Mary:

I am glad to hear that there is a high level working party. I am concerned, however, that the Chief Minister is trying to say that there is an appeal going on and, therefore, we should not really be discussing this. The fact is the question concerns a matter of principle and I would like the Chief Minister to confirm that he thinks that to transfer \$80 million, as in this case, from the poorest people in the world to investors in the rich world is morally abhorrent and that he is personally committed to making sure that Jersey acts appropriately in this matter.

Senator T.A. Le Sueur:

I confirm I am personally very committed to ensuring that Jersey acts appropriate in this matter. I was careful to point out to the fact that there was an appeal in train and I, therefore, did not want to make specific comments in relation to the facts pertaining to that particular case and that particular appeal.

2.14.1 Deputy G.P. Southern:

Can the Minister tell Members who constitutes this high level-review board and is he content that the reputation of the Island is protected when it becomes obvious that we are a safe haven for these so called vulture funds?

Senator T.A. Le Sueur:

At this stage this has been a very hastily produced answer and I do not have details of the composition of that working party, other than to know it is in existence and it is working. In due course I hope to be able to present those details to the Members.

Deputy G.P. Southern:

The reputation question for the Island?

Senator T.A. Le Sueur:

The reputation of the Island is clearly of paramount importance to me and it should be to all Members. We also have to do what is right, irrespective of what our reputation might be. I believe that we can do what is right and maintain and enhance our reputation.

2.14.2 Deputy K.C. Lewis:

The Chief Minister will immediately recall that I asked him this very question on Tuesday, 19th of June 2007, whereby a company operating out of the British Virgin Islands purchased a debt owed to Romania, I believe it was for agricultural equipment, owed by Zambia for a few million dollars and then went on to charge Zambia \$48 million; thereby negating much of the good work done by our own Overseas Aid Committee. Is the Minister satisfied that companies of this nature no longer operate in or through Jersey?

Senator T.A. Le Sueur:

Yes, I am satisfied that companies of that nature do not operate in Jersey. As far as through Jersey is concerned, as this case does indicate, there are instances where assets will be located in Jersey and, therefore, come within the jurisdiction of the courts.

2.14.3 The Deputy of St. Mary:

I want to ask the Chief Minister whether the goal of this working party which has been set up, which does not have any members yet, is to talk or whether it is to act. Can he confirm that the goal of this working party is to establish how to outlaw vulture funds from being able to use the Jersey Courts and once they are found out that they will act on that? Also, will he include on the working party representatives of civil society who have a track record of concern with developing of poor countries?

Senator T.A. Le Sueur:

I will be happy to ensure that there is a balanced representation on that working party, including people with civil interests, as I am sure we all do. It is not fair to say that there are no members in the working group. I just do not have at the moment details of their names. Whether the discussions will lead to legislation or not is a matter which would be premature to say at this stage. I hope it does lead to legislation in some form or some other measure which will ensure that such activities are not permitted to take place in Jersey.