



Foreign Affairs Committee

Oral evidence: Overseas Territories update, HC 921

Tuesday 17 December 2013

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Members present: Richard Ottaway (Chair); Mr John Baron; Sir Menzies Campbell; Mike Gapes; Mark Hendrick; Sandra Osborne; Andrew Rosindell; Mr Frank Roy; Sir John Stanley; Rory Stewart

Questions [1-86]

Witnesses: **Mark Simmonds**, Parliamentary Under-Secretary of State, Foreign and Commonwealth Office, **Jill Morris**, Additional Director Europe, Foreign and Commonwealth Office and **Dr Peter Hayes, Director**, Overseas Territories, Foreign & Commonwealth Office.

Q1 Chair: I welcome members of the public to this sitting of the Foreign Affairs Committee. This is a one-off evidence session on the Overseas Territories, with Mark Simmonds, the Parliamentary Under-Secretary of State at the Foreign Office. The session will draw upon an earlier evidence session on the Overseas Territories in December 2012, which followed the 2012 White Paper. Welcome Minister and your colleagues. Mr Simmonds is accompanied by Dr Hayes, who is the Director of Overseas Territories, and Ms Jill Morris, from which department?

Jill Morris: I am Additional Director, Europe.

Q2 Chair: Welcome. Minister, is there anything you would like to say as an opening statement or remarks?

Mark Simmonds: With your permission, Mr Ottaway, I would like to make two or three opening comments, particularly bearing in mind the discussion that the Committee had with me this time last year.

We have followed up the communiqué that was issued out of the JMC in 2012, and have delivered progress reports on that communiqué, both in relation to individual Overseas Territories reports as well as from the FCO. We have set out how we have measured progress that has been made, and also on the outcomes achieved. I will give one example that the Committee might like to follow up during this session. A point was raised the previous time about the code of conduct for officials and Ministers in Overseas Territories.

I would first like to say two brief things about the JMC that has just happened. We had another successful joint ministerial council on 26 November. This year, at the request of the

Territories themselves, we had a focus on jobs and growth. For the first time we put in place a UK Overseas Territories investment forum, at which we invited UK businesses to come and meet representatives of some of the Territories and understand some of the investment and business opportunities that exist.

Some of the key highlights of what has happened in the past year in relation to the Territories include the very positive way in which the Territories with financial services responded to the Prime Minister's priorities in the G8 tax, trade and transparency agenda. We were also very pleased with the success of our negotiations on the new EU Overseas Association decision, creating better access to the European Union market for Overseas Territories. We are also pleased with the continued focus on the importance of environmental protection through the continuation of the Darwin Plus Fund and the announcements that were made during the JMC conference of another approximately 14 successful bids for accessing that funding.

Q3 Chair: Thank you, that is a very helpful overview—indeed, we have more detailed questions for you on most of those subjects. Since you published the White Paper last year, have you had any push-back from the Overseas Territories—are you experiencing any resistance to any of the proposals?

Mark Simmonds: I think the straight answer to that is no, we are not meeting any resistance. We consulted very widely in the run-up to the publication of the White Paper back in June 2012. We have entered very detailed dialogue with the Territories to understand in some detail what their priorities are for the development of their individual Territories. As the Committee will be aware, they are all different and all have different constitutional arrangements with the United Kingdom.

The challenges arise, if I am being honest, in ensuring that all of the Government Departments in the United Kingdom that can and should be providing help to the Overseas Territories—aligned with their own priorities as well as some of ours—are fully engaged. There was evidence both at the joint ministerial council at the end of November and the previous one, in 2012, that most Government Departments are meeting the commitments that were set out in the White Paper to engage positively, and also to provide advice and help build capacity for the Territories. Rather than there being a negative resistance there is a positive engagement from the Territories, and a feeling that the United Kingdom has reprioritised the relationship with the Territories.

Q4 Chair: That is welcome news. A number of other Departments deal with the Overseas Territories—it is not just the Foreign Office—so how do you monitor what those other Departments are doing?

Mark Simmonds: We do that primarily through the communiqués that come out of the joint ministerial councils, where there are detailed areas for the UK Government and the Territories to focus on in the forthcoming year. I will give a couple of examples. The Treasury has been very heavily engaged with those Overseas Territories that have financial services sectors, both to ensure that they have the capacity and that we are working together to reflect the Prime Minister's priorities as set out in his G8 agenda, and also to assist with other multilateral conventions. That is not just the FATCA—the automatic exchange of tax information—as it relates to the UK, but also the OECD arrangements that we hope will help the developing world over time as well. That is obviously ongoing, and one of the key meetings we had at the JMC this year was with the Exchequer Secretary to the Treasury.

I will give you another example, if I may, which is the Department of Health. There are ongoing discussions about access to the national health service and about possible assistance for procurement—for example, the purchase of pharmaceutical products that we can buy in bulk through our system far more cheaply than perhaps individual Territories can. We are also assisting in building capacity and providing expertise in the health service that they do not necessarily have because of the nature and size of their economies.

Q5 Chair: Thank you. Have you provided any extra resources to the OT department to help them in the high level of engagement that you have asked them to embark on?

Mark Simmonds: Not in terms of the personnel. I think we have about 39 staff in the FCO, 24 staff in the Overseas Territories themselves. Across the whole of the network, we are looking where possible to employ locally-engaged staff with their particular areas of expertise to boost the requisite skills in post. In terms of the amount of resourcing, the overall package is significant, whether it be from the Foreign and Commonwealth Office through, for example, the Jubilee programme, which is being maintained to train those in the public service; the Darwin Plus Fund, which is FCO and DEFRA funded, maintained at approximately £2 million; or whether it be through other mechanisms of other Government Departments helping to build capacity, whether it be the Treasury, Department of Health or the Home Office through the National Crime Agency, particularly as it relates to the Caribbean; and of course DFID, where those Territories can access ODA assistance.

Q6 Chair: The 2013 communiqué did not show an awful lot of difference from the 2012 communiqué. Is that a disappointment to you? You have not quite made the progress that you hoped.

Mark Simmonds: Inevitably, there are similarities because many of the issues that the Territories face and many of the areas where we can be of assistance are ongoing. They are progressive by nature and some of the areas are complex. They will not be resolved in a 12-month time period, so there are differences and some achievements since the 2012 communiqué, which we can get into if it would be appropriate. It is quite important to reiterate and re-emphasise some of those key areas to ensure that both the Territories and ourselves continue to focus on them. Where developments may have been made since 2012, but still not concluded, I accept that many of these are progressing and while some progress has been made, they are not finished by any means.

Q7 Sir Menzies Campbell: In the recent past the Foreign Office has had—I am choosing my words with some care—some reservations about the notion of constitutional change. Indeed, I think you said something similar to us when you last appeared to give evidence. Has there been any change in the Foreign Office position? In particular, I think I am right that Bermuda, for example, still needs work and maybe some others. Can you bring us up to date?

Mark Simmonds: There are particular exceptions, which I will come back to in a moment, but since 1999 most of the Territories have had their constitutions amended, updated. As far as possible, the thrust of those constitutional changes has been to devolve power down to local democratically-elected representatives and Governments in Territory. There are clearly

areas—for example, foreign affairs and defence—that we retain, I think completely uniformly across the Territories. My view is that where Territories demonstrate responsible governance, transparency, efficient procurement and financially responsible management, we should look at ways of continually allowing democratically-elected Territories to have more and more control over their jurisdictions.

The one exception to that, where I am a little bit frustrated, is Anguilla, where there has not been an updated constitution since 1982. We in the Foreign Office are very keen to update it and it was one of the issues that I raised with the Chief Minister in a bilateral I had with him the day before the JMC. He informed me that Anguilla is about ready to commence the discussions about updating and modernising the constitution, which is something that I am very keen to do, but there are always tensions and frustrations in the system. One of the key issues that the Territory leaders wanted to raise with me at what—in relation to the rest of the JMC—was our relatively informal lunch was the future constitutional arrangements. Perhaps you will not be surprised to hear that there was no unanimity of view. Certainly, what may be appropriate or an aspiration or ambition for one Territory is the polar opposite of what another wants, so they all have to be looked at independently.

Q8 Sir Menzies Campbell: An issue that arises almost directly out of that is the question of the universality of human rights protection. As you know, the issue of gay rights has in the past been a source of very considerable controversy. Are you satisfied that, so far as is possible, these constitutions—present or prospective—provide adequate protection for human rights?

Mark Simmonds: Certainly, ensuring that human rights is a key part of the constitutional priorities applies to all of the constitutions that have been updated since 1999. Do I think that we have achieved everything that we need to as it relates to human rights? No, I don't. You will probably recall that an ambition was set out in the White Paper to have key human rights conventions that are applicable in the UK applied to all the Territories by the end of 2013. I hold my hands up and say that that has not been delivered in the time scale that we initially set out, although I do think significant progress has been made.

The strategy we adopt is that we want to see the human rights conventions that are applicable in the UK applied to all of our inhabited Overseas Territories, but there has to be a capacity in the Territories to deliver those conventions. So part of the role that we foresee is building the capacity in Territory Governments to implement those conventions. One of the issues that I was cognisant of, if I may link back to one of Mr Ottaway's previous points, is that there was no mention of the prioritisation of the human rights agenda in the 2012 communiqué and it is actually in the 2013 communiqué to try to create some further focus and push to deliver particularly CEDAW, which is the convention that relates to women and the importance of women not being treated unfairly. As you will be well aware, there are also in some Caribbean Territories differences relating to the age of consent, to go specifically to your point, between heterosexual and homosexual people. Again, we would like to see that more in line with UK law.

Q9 Sir Menzies Campbell: Are you experiencing some push-back on that from some of the Overseas Territories?

Mark Simmonds: I wouldn't say there was push-back.

Q10 Sir Menzies Campbell: All right, inertia.

Mark Simmonds: There is a difference of prioritisation. Of course, the Territory Governments with limited capacity have focused on trying to ensure that they have economic development and economic growth, particularly in the Caribbean, where they have suffered in the last four or five years with the drop-off in tourism, which is a major driver of their economic development and economic sustainability. Those Governments have been focused on that, perhaps rather than on the human rights issues. Personally, I don't see them as being mutually exclusive; they should be delivered in parallel.

Q11 Sir Menzies Campbell: When you come to give evidence to us next year, perhaps you will be able to give us a progress report.

Mark Simmonds: Yes, what I am happy to do—I am not sure we have time this afternoon—is to provide the Committee with details of where we have got to in a tabular form. It would be on the progress that has been made on these six key human rights conventions and where we think the additional progress is required.

Q12 Rory Stewart: To follow up on that, can you clarify why some of the Territories have found it difficult to implement CEDAW—the convention to eliminate discrimination against women?

Mark Simmonds: It goes back to two key points I made before. One is a matter of prioritisation of limited Government capacity. The second is part of that, which is a detailed understanding of the implications of CEDAW. There are several Territories where CEDAW is still not implemented. What we have to do is that the governor has to formally request CEDAW's extension to the Territory in response to a request from the Territory. It is the one area in terms of human rights conventions where I feel that, within the next year, we need to make more progress than we have in the past.

Q13 Rory Stewart: Are there particular clauses in CEDAW that they find difficult? Can you give us examples? Is it simply process, or are there particular things involved in signing up to CEDAW that are difficult for Overseas Territories to accept culturally?

Dr Peter Hayes: I think it is a very broad-ranging convention that feeds into almost every aspect of the legal code and of public life and public services. It is the breadth and the reach of CEDAW. We have not detected any particular resistance from the philosophical point of view to CEDAW, compared with some of the other conventions. I think it is the practicality of a very broad-ranging and complex convention to implement in these Territories.

Q14 Rory Stewart: Finally, on convention 182 on the worst forms of child labour, the Department for Work and Pensions has complained that there have been some problems implementing it. Could you clarify what we are doing about that?

Dr Peter Hayes: I do not know about that, I am afraid.

Mark Simmonds: We will write to Mr Stewart and to the Committee.

Q15 Andrew Rosindell: I welcome the Minister to the Committee. The progress made has been tremendous in terms of giving the Overseas Territories a feeling of greater status, but there are still lots of things that need to be done, as I know he will agree. What progress has he made following what he said at our meeting last year, when he said he would discuss with politicians in the Territories possible forms of how they could be better represented in the UK Parliament, whether by elected representation, a Committee of the House or some other means? Could he tell us whether he has made any progress in his consultations on that issue?

Mark Simmonds: I think there are two things to say. The first is that in my discussions with politicians, Premiers, Chief Ministers and others in both Government and Opposition parties in the Overseas Territories, as well as with representatives of broader civil society, prior to the meeting that we had this time last year and during the course of this year, I have detected no appetite at all for direct representation in the UK Parliament from the Territories. I do not think there is any desire in the UK Overseas Territories to move to the French Overseas Territories model, in which they have representation in the Assembly in Paris.

That is for a number of reasons. I reiterate the main reason that I gave this Committee last year: I think that they feel that they would therefore have representation with UK taxation, which would certainly not be akin to their traditional financial model. Again, we can come to that in more detail later if the Committee would like. That is the first thing to say.

In terms of relationships with the UK Parliament, I think you are absolutely right that there is a desire for greater engagement. I think there is a desire for greater understanding in the UK Parliament over and above those such as yourself, Mr Rosindell, who have a very detailed knowledge of and a passion for the importance of the Overseas Territories—rightly, in my view.

For example, during the JMC this year, we facilitated a meeting of Territory leaders and/or Territory Environment Ministers with the Environmental Audit Committee, which had an informal session discussing the importance of environmental matters in the Territories and tried to understand the sometimes very complex challenges with which Overseas Territories Governments are dealing, involving implementation of national environmental protection legislation. That is certainly something that I am quite keen to encourage as well.

On your specific question about whether it would be appropriate for the House to set up a specific Overseas Territories Committee, I think that is a matter for the House rather than the Foreign and Commonwealth Office.

Q16 Andrew Rosindell: Do you feel that any of the Overseas Territories as they stand at the moment would consider, or are considering, the possibility of independence at some point?

Mark Simmonds: In my tenure in this job, the only Territory where I have been involved in an informal discussion about whether it will happen was Anguilla, but I do not get the sense from recent talks with senior politicians representing Anguilla or other Anguillans that that is a priority. Our position is absolutely clear: we very much support the policy of self-determination. If a Territory wanted to ask its people, we would suggest that that was best

done through a referendum, as happened 10 years ago in Gibraltar, or in the Falklands earlier this year. We would abide by the result of a referendum. Self-determination is the cornerstone of our policy for the relationship between the UK and Overseas Territories.

Of course, I would not like to see any Overseas Territories make that decision, but that is a matter for those who live in those Territories. I also detect that there is a growing confidence in the Overseas Territories that the United Kingdom is serious about supporting through partnerships and about building the relationship we have to the benefit of the Overseas Territories. I hope that that will go some way to assuaging any concerns that people in the Overseas Territories have about the importance we attach to the relationships.

Q17 Andrew Rosindell: Does the Minister agree that the Overseas Territories are British—not foreign—and should be treated as British? Secondly, will he shed some light on the recent events surrounding Remembrance Sunday, where the flags of the Overseas Territories were removed from Parliament square 36 hours before the ceremony, leaving empty flagpoles on display? There is a continuing refusal to allow the Territories to lay their own wreath at the Cenotaph in remembrance of their own servicemen and women who died in conflicts in the past century and in recent years.

Mark Simmonds: I will certainly agree that the British Overseas Territories are British Overseas Territories. The reason why I cannot be more specific than that is because they all have different constitutional arrangements. I am certainly very keen, emanating from the focus provided by the White Paper and the subsequent JMCs and communiqués attached to that, that we continue to develop and build on the partnership and relationship. As I said in response to Sir Menzies Campbell's questions, the constitutions are not set in stone, and we will continue to look at those, as they evolve and develop over time.

On your subsequent question on flags, Mr Rosindell, my understanding—I think that you wrote to the Prime Minister and he responded—is that the protocol on Remembrance Sunday is that no flags are flown, irrespective of whether they are Overseas Territories. I think that a commitment was given to you that that will be looked at, particularly as it relates to the Overseas Territories and bearing in mind the sacrifice that many people from the Overseas Territories made, particularly in the two world wars. The protocol that delivers whether the flags are flying on Remembrance Sunday is run by the Department for Culture, Media and Sport, rather than the Foreign and Commonwealth Office, although we liaise with the DCMS.

Where it became very noticeable was that the Territory flags were flying in Parliament square a couple of days before Remembrance Sunday because there was a state visit, I think, by the South Korean President. They are flown in Parliament square when there is a state visit and they were taken down for Remembrance Sunday, because that is what always happens.

On the wreath laying, the Foreign Secretary traditionally lays a wreath on behalf of the Overseas Territories. That has always been the case, and I know that you have passionately made the case that that should change in the future. My understanding is that DCMS, the Foreign and Commonwealth Office and the palace are happy and content with the current arrangements.

Q18 Mr Roy: Minister, can I take you back to the question from my friend, Mr Rosindell, on the representation of the Overseas Territories in Parliament? What evidence or

representations have you received from ordinary UK voters on their opinion as to whether the Overseas Territories should have representation in Parliament?

Mark Simmonds: Very little.

Mr Roy: Okay. Thanks.

Q19 Mike Gapes: You will recall a meeting of the Statutory Instrument Committee a few weeks ago on the European Union's Overseas Territories, on which you and I had an exchange. I want to ask a question on that here, because I think it is relevant. Some of the French Overseas Territories are moving to a position in which they are becoming integrally a part of France. They are in a different position to the Overseas Territories of the United Kingdom. As such, the European Union defines them differently from the way it defines the British Overseas Territories.

What are the long-term implications for places such as Mayotte, or the other French Overseas Territories? How do they differ from British Overseas Territories in similar regions of the world with regard to the European Union's attitude for support if, perhaps, an Overseas Territory gets into a fisheries dispute, a dispute on hydrocarbons or some other issue? Would the European Union be more likely to support a part of the European Union defined as an external region of the European Union than simply an Overseas Territory of a member state?

Mark Simmonds: I understand the point you are making, and I would suggest several things. First, it is incumbent on us to respect the views of both the democratically elected Governments in our Overseas Territories and the people who live there. Certainly as far as I can establish, the Overseas Territories have no appetite whatever to change their constitutional relationship completely, such as by being represented in the UK Parliament rather than governing themselves.

Secondly, although I understand the distinctions that you are making, there is the evidence from what the Foreign and Commonwealth Office achieved through negotiating the changes to the International Development Association agreement in the EU, particularly as it relates to EDF 11. The amount of development assistance going to UK, Dutch and French Overseas Territories, and other Territories associated with EU member states, is very significant and very positive for our Overseas Territories. The rules of origin are being loosened, which will help them to export to the EU market. There is greater access not just for goods but for services, which is one of the main drivers of the economies of Overseas Territories. They will now have complete access to a market of 500 million people.

On the funding that has been granted through EDF 11—the development assistance—when a comparison is made between what the UK Overseas Territories are getting compared with French and Dutch Overseas Territories, the UK Overseas Territories, on a per capita basis, have fared significantly better than others. Indeed, they have had significant increases, over and above what others have received, thanks to our negotiations on their behalf. The relationship between the EU and the UK Overseas Territories is in a very good place and is extremely positive. The relationship is welcomed by the UK Overseas Territories, too.

Q20 Mike Gapes: But if we get into a dispute that involves one of our Overseas Territories, will the European Union regard that differently from a dispute involving a part of France that happens to be a long way from Europe?

Mark Simmonds: I am not sure what the technical answer to that is. I will have to reflect on that.

Q21 Mike Gapes: Perhaps you can send us a note.

Mark Simmonds: Yes. This is not exactly the point that you are making, Mr Gapes, but the most up-to-date example is probably Gibraltar.

Q22 Mike Gapes: I am talking about outside Europe. I am not talking about Gibraltar, but about places in the Pacific or the Caribbean.

Mark Simmonds: There are, of course, different constitutional arrangements. I am not an expert on the exact constitutional arrangements between the French and the Dutch Overseas Territories and their centralised Parliaments. I will have to reflect on that and I will be happy to write to the Committee with further details.

Q23 Mr Roy: On governance, have you any evidence that the creation of codes of conduct result in better behaviour by public servants?

Mark Simmonds: It is still early days. I think that the code of conduct, for example, that was put in place in the Turks and Caicos Islands during the interim Administration, when Mr Gapes chaired this Committee—quite rightly, if I may say so—has put in place structures, checks and balances to ensure that there could be no repeat of the allegations of what happened before. There has been, since this meeting held last year, progress as well, particularly in the Caribbean Territories. There is still more to do. It is not finished yet in terms of putting it in place. There are some Territories where there are not as yet ministerial codes of conduct. In Gibraltar, it will be in the manifesto of the governing party.

In addition to the code of conduct, there is a very important part of what the Foreign and Commonwealth Office has been doing to try to ensure that in the Territories there is the most professional and transparent governance, including ministerial as well as official behaviour. The financial monitoring mechanisms ensure that there are financial mechanisms in place to limit the amount of debt.

Q24 Mr Roy: I understand that, but my question is: do you have evidence?

Mark Simmonds: It is too early days, but progress has been made in implementing the code of conduct in some Territories. It is not finished; there are still codes that need to be put in place. Perhaps we could return to that at this time next year.

Q25 Mr Roy: That is absolutely fine. May I ask you about the secondment scheme? How many Overseas Territories officials have benefited from the secondment scheme in the last 12 months?

Mark Simmonds: I am not sure of the exact numbers. Perhaps inspiration will come to me.

Q26 Mr Roy: You could write to us.

Mark Simmonds: It is an important part of the support that the UK provides to the Territories. There are some very good examples of the vice-governors or the heads of the civil service in the Territories coming to the UK to meet each other. It is not only the Overseas Territories; we are also involved in the Crown Dependencies as well, where there is particular expertise.

We are encouraging a much greater exchange of information and experience throughout the Territories—it is surprising that it has not happened before—and getting some of the requisite civil servants into UK Government Departments, and not just the obvious Government Departments. We help build capacity, police forces, prison services and all those important things.

Q27 Mr Roy: I get all that, but I presume you do not have the numbers.

Mark Simmonds: I do not have the numbers.

Q28 Mr Roy: Could you write to the Committee?

Mark Simmonds: Yes.

Q29 Mike Gapes: Can I take you to the fundamental economic issues? First, what is your assessment of what is happening with regard to the frameworks of fiscal responsibilities, which have been developed over the last year or so, setting out the ways in which the Overseas Territories should operate? Who will be responsible for monitoring the Overseas Territories' adherence to these?

Mark Simmonds: There are two key elements to the FFRs. One is to ensure that the debt of individual Territories is sustainable, and there are limits on the amount of debt as a proportion of revenue and GDP in some instances. In addition to that, there are also procurement procedures to make sure that all Government procurement is done in a transparent, appropriate way that we would understand in the UK.

In terms of monitoring, the Foreign and Commonwealth Office has structures in place that mean that we still have to approve budgets that come from the Overseas Territories.

Q30 Mike Gapes: Is that done by the governor or by the FCO in London?

Mark Simmonds: It is done by the FCO in London. The approval is made by financial experts, who look very closely at all the important financial ratios and the projections of expenditure and revenue.

For example, the Anguillans recently asked us for a slight increase in their level of debt because they wanted to put some additional investment into their vocational training college, which I have visited—an excellent establishment, very worthy of support. Subject to certain conditions, such as not incurring debt in other areas, I sanctioned that slight increase in their debt so that they will be able to invest in vocational education.

Q31 Mike Gapes: How often will we receive these reports?

Mark Simmonds: They come in annually. They are monitored quarterly, but formally, we have to approve annually.

Dr Peter Hayes: The governors in the respective Territory will, of course, be very closely plugged into economic plans. Indeed, when proposals for major expenditure come up, one of the first questions in cabinet will always be, “Where’s the money going to come from?” The governor and his or her team will be very closely involved.

Q32 Mike Gapes: Minister, you mentioned Anguilla. I understand that it was one of the places where it took a long time to negotiate this arrangement and that the words “blackmail” and “extreme” were used by the then Chief Minister. I also understand that the then Premier of the Cayman Islands—I shall discuss the Caymans later—tried to alter the provisions to increase UK liability. Clearly, there has been some resistance, and some difficulties.

Mark Simmonds: You are absolutely right that each Territory has its own view of the implications of the FFR, and of course the devil is in the detail. There were some negotiations between the respective Territories and the FCO to make sure that the FFRs were relevant and appropriate to each individual Overseas Territory, because each one not only has different constitutional arrangements, but a different financial and economic situation.

For example, one has to bear it in mind that in BVI, a significant proportion of the revenue going to their exchequer is from the financial services sector; in Anguilla, that revenue is from tourism. That difference must be built into the FFR structures. If I am honest, the frustration in Anguilla was that they did not feel that the FFR, as initially proposed, gave them sufficient leeway to be able to invest in some important areas that they wanted investment in. That is one of the reasons why, towards the back-end of the last financial year, we facilitated a £3 million grant for them to invest in infrastructure—for example, a new fire engine for the airport, which is absolutely essential to keeping that airport open. This year, we have allowed a tick up of the debt to reconfigure their vocational college investment as well.

We strongly believed that having the FFRs in place to create the financial structures and strictures to make sure that these Territories were being run responsibly would mean that we would not have a repeat of the situation that occurred in the Turks and Caicos.

Q33 Mike Gapes: I will come to the Turks and Caicos, but is there not a serious problem with the banking sector in Anguilla? Will the UK be expected to come in and underwrite that, and provide a guarantee?

Mark Simmonds: The two banks in Anguilla that have found themselves in some difficulty are regulated by Eastern Caribbean Central Bank. They are in the eastern Caribbean currency bloc and it is the central bank that is responsible for finding a resolution to the problems that the banks find themselves in.

Of course, we are monitoring the situation carefully. The conservators, who are the people that the ECCB sent in to the run the banks in August this year, are in the process of trying to establish the exact problems, find out where the bad debts are and come up with a solution that the ECCB will then implement.

Q34 Mike Gapes: Does that have implications for the UK?

Mark Simmonds: I do not want to go into the detail of what might or might not happen, because it is dangerous to answer hypothetical questions. But certainly, our focus has been on ensuring that the ECCB understands that it is its responsibility to find a solution.

Q35 Mike Gapes: That doesn't actually answer my question. I appreciate that you do not wish to comment publicly on these matters, but my question is: who is the ultimate guarantor? Will it come back to the UK taxpayer, or will it be somewhere else?

Mark Simmonds: No, it is the Eastern Caribbean Central Bank.

Q36 Mike Gapes: Okay, that is clear.

On the question of our experience—you touched on how our Committee in the previous Parliament was instrumental in leading to the intervention in the Turks and Caicos islands, whereby we had to have a form of direct rule again—are you confident that we will not get into that position again with one or other of our Overseas Territories? Given the experience we had with Turks and Caicos, clearly it has taken a long time to get to the position we are in now. Are there any lessons from that?

Mark Simmonds: I think that the lessons are strongly felt. Structures need to be put in place, hence the FFRs. Also, there needs to be transparent and competitive procurement taking place, particularly in relation to large Overseas Territory Government infrastructure projects, whether those be cruise port terminals or extensions of airports.

We all understand that those have to go through procurement processes, but you will be aware from previous conversations that that has not always been the case in the Territories. That is to ensure that both taxpayers and others with an interest get the best value for money possible when the procurement projects take place.

Certainly, in terms of the lessons of what happened in TCI, the allegations against both the ex-Premier and 13 others are very serious. But we have seen some progress and some success on the land that has to be reclaimed back for the people of the islands, as we have with the money that was inappropriately gained through those processes. We have acted quite quickly.

Am I 100% confident? I do not think you can ever be 100% confident, but I am absolutely certain that we have done, and are doing, everything that we can to ensure that the legislation is in place to limit any prospect of reoccurrence. In relation to your previous question, because we are checking the budget in terms of both cost and revenue on a regular basis, we will be able to spot pretty quickly whether a problem is arising.

Q37 Mike Gapes: Can I move on to the international context? A number of international agreements about tax information sharing and transparency clearly have implications for the Overseas Territories. What help are we providing to Overseas Territories as they pursue the implementation of these agreements? Is there a time scale that they are expected to comply with for these agreements?

Mark Simmonds: Very quickly, let me break these down into three categories. One factor is the bilateral exchange of tax information. When the US insisted that the Overseas Territories had one between the Overseas Territories and the US, the Treasury felt that it was important to have one with the UK as well. So that was put in place simultaneously. There is an automatic exchange of tax information. It is absolutely right that the appropriate tax is paid in the appropriate jurisdiction.

The second element is the OECD multilateral conventions, which those with big financial services sectors have signed up to. Hopefully, over time, that will provide automatic tax information exchanges with many of those in the developing countries. With my other hat on, as the Minister with responsibility for our relationship with Africa, I am very keen that that happens so that Africans benefit, particularly from extractive industries that are taking place. That has not always been the case and this is a potential key plank in that. That overrides a significant number of bilateral agreements between a whole series of different countries on automatic tax information exchanges. The other thing that BVI and I think Bermuda signed up to—I may be misplaced on Bermuda—was to participate in pilot automatic tax agreements with five European countries: the big five of Germany, Italy, France, Spain and the UK.

In addition to those two key planks—and to be fair to the UK Overseas Territories, they responded very rapidly and positively to the Prime Minister's G8 agenda of tax, trade and transparency—the third key area is beneficial ownership. I do not know whether members of the Committee know what beneficial ownership is, but it is basically the understanding of who actually owns the company. Overseas Territories such as Bermuda have had a central register since the 1940s, so they are 40 years or 50 years ahead of the United Kingdom in that regard. Others haven't in that way, but one of the key planks of the Prime Minister's focus is to make sure that everybody in the world, not just the Overseas Territories, including the members of the G8 and the G20, have central registers of beneficial ownership so that the tax authorities can check who owns what, and therefore who is paying the appropriate amount of tax in whichever particular jurisdiction.

All of the Overseas Territories that have financial services sectors have agreed to put forward an action plan on how they move to a central registry of beneficial ownership. They also have agreed to consult with both the private sector and the public sector with regard to that. The other element of beneficial ownership—the Prime Minister announced in the UK that we would move in this direction—is to give public access to that register of beneficial ownership. Again, all of the Overseas Territories, with financial services sectors, have agreed

to make that part of their consultation process, which was part of the communiqué at the end of the JMC.

Q38 Mike Gapes: So the timetable?

Mark Simmonds: The timetable will vary from Territory to Territory.

Q39 Mike Gapes: Is there a deadline by which they have to do it?

Mark Simmonds: There is not an official deadline but I would certainly anticipate, if I have a similar meeting with the Committee next year, that those consultations will have finished by then.

Q40 Mike Gapes: Right. Finally, is there any evidence so far that adoption of these agreements has in any way damaged the Overseas Territories financial sectors?

Mark Simmonds: No, there is not. I do not believe that it will. I very strongly believe that well regulated, transparent financial services sectors is a way of increasing the level of business that is done, not hindering it. I think there is some evidence for that. If I can just give you an anecdote, when I was in Bermuda, I met some of those in the reinsurance industry. As you will know, Bermuda is a key focus of the reinsurance industry. I asked them why they were focused in Bermuda and not the UK or anywhere else, and clearly corporation tax is a factor. The other aspect, I was told, was that Bermuda has been for many years a more consistent, better regulated reinsurance centre than the UK. So this is not just about tax, it is also about consistency of regulation. There is a lesson we can learn from that.

Q41 Chair: On the specific question of the Turks and Caicos Islands, I see from my notes that you have sent a few firm letters to them in your time and they have expressed quite a lot of hostility in their comments. Is there any success in persuading them to mitigate their hostility towards the UK at the moment?

Mark Simmonds: I think the letters you refer to probably date back to March/April of this year, when there was a by-election. Premier Ewing's Government had a majority of one, the by-election came out of the annulment in the general election, because of people who should not have voted participating, and, of course, whoever won that by-election would have formed the Government. So I think that the rhetoric at that point, both in the TCI and elsewhere—Premier Ewing gave a very strident speech at CARICOM—was part of the electoral process. My analysis and assessment since then, since Premier Ewing's party won that by-election and he was therefore continuing as Premier, is that, with the exception of VAT, where again, you will remember, Mr Ottaway, there was some tension about whether that was an appropriate tax or not—we can talk about that if you wish—the relationship has become much more positive. The rhetoric has died down and Premier Ewing and his Government are getting on with the important aspects of governing. I hope that that will remain the case.

Q42 Chair: Do you primarily put it down to electioneering?

Mark Simmonds: I do.

Q43 Chair: We have a new governor there, Peter Beckingham. What steps is he taking to improve the relationship?

Mark Simmonds: He has had a very significant and positive impact. While the previous governor did an extremely good job, in my view, he was seen by Premier Ewing and his Administration as being very much the architect of the interim Administration, when we ran the TCI directly from the Foreign and Commonwealth Office. That is evidenced by the fact that, when the new governor and the Premier went back to the Turks and Caicos Islands after the joint ministerial council, they had a joint press conference that was extremely positive about the relationship between the UK and the TCI. Premier Ewing was extremely complimentary about the joint ministerial council and, indeed, the amount of time and access he had had to Government Ministers; not just me, but the Minister of State in the Department for International Development, which clearly has a key, underlying interest in ensuring that the guarantee that they have on TCI debt comes off in 2016.

Q44 Chair: Are you confident that they can meet their financial commitments in 2015-16?

Mark Simmonds: If we looked at the figures as they are today, the answer would be yes. They are making significant progress in paying down the debt, in creating surpluses and in generating economic growth and activity. Our view at the time was that they would be more certain to do that if they implemented VAT, but they chose not to do that. They chose instead, initially, to reduce expenditure and Premier Ewing has set up a commission to look at initial potential taxes to increase the revenue coming into the Exchequer. We will have to wait and see what that actually reports in detail and whether they implement the recommendations. They are on target, as at today, to allow DFID to come off that guarantee in 2016, but we are monitoring the situation very carefully.

Q45 Chair: Looking at the former Administration, as you know, former Premier Misick did a runner to Brazil and we were trying to extradite him. Can you bring us up to date on where we got to on that?

Mark Simmonds: I can indeed. He did try to remain in Brazil, the extradition process has now finished and we have had confirmation very recently that everything is in order for him to be extradited. I do not want to be specific with dates, if I may, but all the potential hurdles have now been overcome, so he will be extradited back to the TCI.

Q46 Chair: When he gets back, he will be put on trial. Are you confident that there will not be any political interference in his trial?

Mark Simmonds: Both I and my senior officials have made it absolutely crystal clear that there must be no interference or sabre rattling in relation to the judicial process, and that the

judicial process must be allowed to take its course. The initial hearings will be in January 2014, and the trial of Mr Misick and the 13 co-defendants will begin in July.

Q47 Chair: Talking of trials, we set up a special investigation and prosecution team to look at past events. To date, no one has been brought to trial. Could you explain what is going on there and why that has taken so long?

Mark Simmonds: Dr Hayes may want to add something to what I am about to say. My understanding is that they have been preparing for the trials that will begin in July, when all 14 named defendants will be tried at the same time.

Chair: Ah.

Dr Peter Hayes: Right at the start, the SIPT was clear that this was going to be a long and complex investigation and prosecution, given the Auld report's characterisation of alleged and suspected endemic corruption in the system. I think the SIPT, from early on, was signalling that this was not going to be a quick process to complete the investigation and the prosecution. But we are pleased that we have a date for the trials to start and, as the Minister says, just recently, confirmation that we can extradite ex-Premier Misick.

Q48 Chair: That is helpful. Minister, are you satisfied that the delays are not causing any resentment among the local population at the moment?

Mark Simmonds: I think it remains to be seen. I think there may be some challenges ahead.

Q49 Sir Menzies Campbell: Who will conduct the prosecutions? Will it be the Attorney-General, or will counsel be brought in from outside?

Dr Peter Hayes: The SIPT includes QCs who will do the prosecution.

Chair: Indeed, about 18 months ago, they came in and briefed us on this.

Q50 Mike Gapes: Can I apologise for my coughing fit earlier? Hopefully, I will not do it again.

I would like to refer to a place where another former Premier has been arrested on charges of corruption and is on trial at the moment: the Cayman Islands. Now that Mr McKeeva Bush is no longer Premier, are you more confident that the Cayman Islands Government will be more willing to abide by the framework for fiscal responsibility, including with regard to procurement?

Mark Simmonds: The previous Premier's trial begins next September. You would not expect me to comment on that.

Mike Gapes: No, I would not.

Mark Simmonds: In terms of the relationship with both new Premier Alden McLaughlin and the Cayman Islands in general, the relationship is extremely positive. Premier McLaughlin and his senior ministerial team are extremely engaged with us, in terms of wanting to implement the FFR, to diversify the economy, and to reform the public services, in addition to supporting the G8 agenda, which I referred to earlier. They have also issued a strategic policy statement, which was similar to the UK's own autumn statement, which provides detailed Government's objectives and plans.

Certainly, in my dealings with Premier McLaughlin and his team, there is a political professionalism about the Government of the Cayman Islands now.

Mike Gapes: I am glad to hear it.

Q51 Mr Baron: Minister, can we turn to the Falklands? I know that you do not have responsibility for the Falklands, and this may give you an opportunity to have a bit of a rest; I don't know. There is a bit of concern, perhaps, that there seems to be a lack of clarity with regard to the FCO's response, approach or policy—whatever you want to call it—on winning the argument on the international stage. There is obviously no doubt in our minds that we are right, quite rightly so.

What exactly is the policy for putting over the arguments to the international community, if you think we need to? Are we relying on the March 2013 referendum, and that as far as we are concerned, that proves the case and nothing more has to be said? In which case, do we have any evidence of a vote changing minds? Or is it that we think a lot of this bellicosity and noise has emanated from President Kirchner? In which case, perhaps when presidential elections come round in 2015, that may result in an easing of tensions.

Mark Simmonds: Those are all good questions, if I may say so, Mr Baron. I do not think there is any confusion or lack of clarity about the Government's policy towards the Falkland Islands. It is clear that we strongly believe in self-determination.

Making the obvious point, we supported the referendum. The referendum was crystal clear in its statement of the relationship that the Falkland islanders want to have with the United Kingdom. I do not think that was the sole policy plank but it is an important part of convincing others, both in the region and elsewhere, of the importance the Falkland islanders attach to their relationship with the United Kingdom.

There is clearly a very large void between the policy of Her Majesty's Government and that of the Argentine Government. That has been the case for many years and will continue to be so, almost irrespective of what happens in the Argentine election in 2015. We have to do our best to manage the situation, to ensure that we support the Falkland islanders in every way we possibly can.

I believe that part of the idea behind the Kirchner Government's rhetoric is to try to create a distraction from the considerable—huge—economic problems they have in Argentina, which do not seem to be getting any better. As for the active policy that we are engaged in, the Minister responsible for Latin America, Mr Swire, as well as the Foreign Secretary lobby vociferously countries in the region to support the right of self-determination.

I also make that case when I talk bilaterally to other Governments that we think we need to influence, as indeed do the Falkland islanders themselves, who have taken on a series of engagements, particularly in the Caribbean, where they have had some significant impact when they make the point to those countries, “You had the right of self-determination 40 or so years ago, to decide the relationship that you wanted. That is the right that we want to have as well.” We continually lobby to try to persuade people of the significance, importance and necessity to recognise the right of self-determination.

Q52 Mr Baron: When it comes to the international community, do you have any evidence that we are winning the argument? For example, has the March 2013 referendum, with its unequivocal result, changed any minds?

Mark Simmonds: I think it has influenced people. I think it has influenced some countries that perhaps did not quite recognise the almost unanimous strength of feeling in the Falkland Islands. I think it has also changed the perception in some of the smaller island states, that actually the right of self-determination is quite an important fundamental tenet. If you were to ask me to be specific, I am not sure I would be prepared to be specific on where there has been a complete change in policy.

Q53 Mr Baron: Okay. Can I just move on to the oil exploration around the Falkland Islands? We have this bizarre situation where the Argentine National Congress passed a law at the end of November. It is quite bellicose in its terminology, suggesting a maximum of 15-year prison sentences for any oil executives setting foot in Argentina—British oil executives exploring in what Argentines perceive to be their territorial waters—and various fines and so forth. Quite bellicose. Three weeks later, we issue a press release to say that we are condemning this and that we have had a meeting or something. Is there not anything more that we can do to push back on the Argentines on this? Again, is it quiet diplomacy, or should we be making louder noises in your view? Perhaps a follow-on from that is whether there is any evidence that these noises are having any effect on the investment by British oil exploration companies looking for hydrocarbons in the area.

Mark Simmonds: First, our position is that we regard the legislation passed by the Argentine Congress as unlawful. The second point to make is that we have offered reassurance and support to companies and individuals operating in Falkland Islands water that we do not regard the legislation that was passed as lawful. Indeed, only yesterday, we called in the Argentine chargé d'affaires to express our displeasure—we would have called in the ambassador had she still been in the country. We have talked to the companies and there is no evidence to suggest that the legislation is having a detrimental impact. I suspect that as long as the companies and individuals avoid travelling through Argentina, which they tend to do anyway, there will be minimal implications for those operating in Falkland Islands waters.

Q54 Mr Baron: My final question is a difficult one to answer, I know. You have obviously been talking to the oil exploration companies involved in the existing work, but what attempts are you making to get that message out to the wider oil exploration community? Could this be having an effect on potential explorers and, in which case, what are you doing about it, if anything?

Mark Simmonds: It is still very early days—it has only just happened—so we have concentrated initially on those companies that are already operating there and on associated individuals. Certainly the point you make is a good one, however, and we will be following that up in conjunction with the Falkland islanders themselves, to make sure that it is done in a joined-up, cohesive and comprehensive way. The other thing that I would like to say is that of course the potential impact of the legislation passed in Argentina is its internationalisation, which is one of the reasons why we have already spoken to Interpol, to ensure that the legislation does not have any tentacles that extend outside Argentina.

Q55 Sir Menzies Campbell: Are you able to make any assessment of the impact on public opinion in the United States as a result of the referendum?

Mark Simmonds: The position of the United States is as it was. They do not support Argentina's sovereignty claims and they recognise our administration over the Falkland Islands, but they take no position on sovereignty, as you are aware. We have detected no change in that position, either at Government level or in public opinion.

Q56 Andrew Rosindell: As the United States of America is supposedly our closest ally, does the Minister not agree that more indignation should be expressed to the United States and to the President himself about their failure to support the Falkland islanders in their democratic wish to stay British, as demonstrated in the referendum earlier this year?

Mark Simmonds: What I can give you an assurance of, Mr Rosindell, is that these matters are raised in that way at extremely high levels between the UK and US Governments.

Q57 Andrew Rosindell: To move on now to the issue of Gibraltar, on many occasions in the past year the British Government have expressed their wish to calm tensions over Gibraltar—to calm things down. We have, however, seen an escalation of difficulties over the past year. Reviewing what has happened, has not the policy of calming tensions failed and is it not time we toughened things up a little?

Mark Simmonds: The first I thing I would say is that time-consuming delays at the border or incursions into British Gibraltar territorial waters are unacceptable. We have, as you will probably be aware, continually made representations to the Spanish Government at extremely senior level on both those fronts. The Prime Minister, the Deputy Prime Minister, the Foreign Secretary and the Minister for Europe have all spoken to their counterparts, particularly throughout the summer, about those important issues. There was, as you will well recall, a very serious incursion not that long ago. The response in terms of calling the Spanish ambassador in, the insistence of the UK Prime Minister that the EU Commission get involved, particularly as it relates to the border dispute, and the apology that we received about the incorrect opening of the diplomatic bags, you will again remember.

Although I accept that there may well continue to be challenges ahead, I think the firm stance that we took, particularly in relation to those three recent incidents, and the lobbying that occurred at a very high political level over the summer have gone some way to expressing our very serious displeasure at the Spanish behaviour. Indeed, there has been no repetition of the serious incursion into waters, although I accept that there are still some delays at the border. We want to see the implementation of the Commission suggestions on

the Spanish side to make sure that there can be speedy crossing of the border, problems with which impact negatively on the Spanish as well as the British and Gibraltarians.

Q58 Andrew Rosindell: What is the Government's strategy for getting the trilateral talks back on track? They were successful before. If the Spanish Government are not prepared to continue with that sensible way forward, what will the British Government do to give a clear and unambiguous demonstration to Madrid that we are not prepared to continue down the route of allowing them effectively to bully Gibraltar while they are not even willing to sit down with the people of Gibraltar—with elected officials from Gibraltar—to discuss the issues that concern them?

Mark Simmonds: The tripartite talks were in place prior to the current Spanish Government being elected, and they unilaterally withdrew from those talks. The UK Government have agreed with the Government of Gibraltar and the Spanish Government that we will put in place—the Spanish have agreed to this—ad hoc talks. That was agreed, I think, in April 2012.

Jill Morris: The Foreign Secretary first wrote in April 2012.

Mark Simmonds: We are still awaiting specific dates from the Spanish as to when these ad hoc talks might take place, but we continue to lobby and push for them to take place as a key part of our diplomatic strategy. The other thing that I need to say—you will have heard the Minister for Europe and me say this in the main Chamber—is that we do not think that an escalation of the dispute is a constructive way forward, whether that be sending additional Navy ships or whatever it may be. As this is a political dispute and the actions—delays at the border or incursions into territorial waters—are clearly political, there has to be a political solution. There is absolutely no question but that we believe this is a threat to the sovereignty of Gibraltar. As you will know, Her Majesty's Government stand shoulder to shoulder, four-square with the people of Gibraltar in their desire to remain British, and we will do everything in our power to make sure that that remains the case. That includes a diplomatic and political strategy to resolve the current problems.

Q59 Andrew Rosindell: But Minister, the Minister of State said in the Chamber in answer to a question from me two weeks ago that the time was not right to send the Spanish ambassador back to Madrid. He said, quite bluntly, "No." At what stage do you feel that it would be appropriate? How bad do things need to get before we make a categorical diplomatic statement about the treatment of the people of Gibraltar by Spain?

Mark Simmonds: My recollection of the question and answer was that the Minister just said, "No." It was not appropriate then and was not likely to be appropriate at any time in the future. Gibraltar aside—I acknowledge the challenges and problems that we just talked about—we have strong relationships with Spain. They are an EU ally and a significant trading partner. Approximately 1 million UK citizens live in Spain and 14 million visit or holiday in Spain every year. There are all sorts of other strong links, such as counter-terrorism co-operation and so on. This is important, but it is just a part of our bilateral relationship. We must therefore ensure that we keep the bilateral relationship on track, both diplomatically and politically, which is the mechanism and route to find a lasting satisfactory solution to the problems of Gibraltar.

Q60 Andrew Rosindell: The Minister will be aware that it is 60 years since Her Majesty the Queen visited Gibraltar. Will the FCO be advising Her Majesty that the time is right to pay another visit to demonstrate her support and that of the British people for the people of the rock of Gibraltar?

Mark Simmonds: You will not be surprised to hear that I cannot comment on the specifics, but there was a successful visit by the Earl and Countess of Wessex to Gibraltar in 2012. I know that the UK Government and the royal family are keen to support Gibraltar.

Q61 Andrew Rosindell: Could it be possible that the Queen could go at some point?

Mark Simmonds: That is a matter for Her Majesty, but I will certainly ensure that she is aware of your comments.

Chair: Before we move on to the Chagos islands, I have supplementary question on Gibraltar.

Q62 Mr Baron: Minister, one takes fully on board your point about there having to be a political and diplomatic solution, but, given that we have a very unusual situation here—one EU member basically making a territorial claim on another—are you satisfied that we have explored all options available to us within the EU structures to make our case known and for an appropriate decision to be pursued? I know that we have had the EU Commission down, but we got a pretty wishy-washy answer from them. They saw both sides of the argument, etc. Are you satisfied that we have explored all avenues, both within the EU and internationally?

Mark Simmonds: You make a very good point. The initial involvement of the Commission came at the UK's request. The Commission visited the border. They gave notice to the Spanish authorities and, needless to say, there were minimal delays on the day that they visited. They have said that they would return at some point in six months' time, which I would encourage. I would like to see them go back without giving notice to the Spanish authorities. I can assure you, Mr Baron, that we continue to inform the Commission as to what is going on. We continue to provide information about the delays. We also continue to make sure that the Gibraltarian Government have the moral high ground. They are implementing the Commission's requests for what needs to happen on their side of the border, such as having a serious impact and focus on negating tobacco smuggling, which is the Spanish authorities' excuse for these politically motivated delays.

On the other side, as in the South Atlantic, this pressure on Gibraltar is perhaps a domestic distraction while the Spanish economy has significant problems. If the media are to be believed, the economy in Spain is starting to get better, to mend and to grow again. Hopefully, that will assuage some of the pressures that have been put on Gibraltar.

Jill Morris: Through our permanent representation in Brussels, we are continually explaining to the Commission the sovereignty situation in Gibraltar, and some of the implications of what they might choose to do; for example, their erroneous designation, in our view, of a special area of conservation, at Spanish request, which we do not recognise. So we are continually lobbying the Commission and explaining the situation. Also, our embassies around the world have standing instructions to ensure that they are promoting the interests of Gibraltar and protecting the interests of Gibraltar, including intervening in the media where necessary.

Q63 Mr Baron: I appreciate all that and I have no doubt that it is ongoing, but my specific question was whether we have explored all the legal and quasi-legal routes within the EU to make our case?

Jill Morris: On the border particularly, the Government have not ruled out the possibility of pursuing legal action under article 259. Certainly when it comes to the question of aviation legislation, there is a link to the EU treaties and Gibraltar's status under them. So we are looking at the legal framework, if you like, that underpins the EU, to make sure that the position of Gibraltar is protected.

Q64 Rory Stewart: To follow up on that very point, are there analogies elsewhere in the EU that we can use to help people to understand more clearly, and to help the Commission to protect, the situation in Gibraltar? Presumably in Cyprus, Macedonia and elsewhere in the Balkans, Romania and Bulgaria, there are disputes about sovereignty, borders or names, which the EU must understand very well. There should be a huge body of case law in EU experience that should help us to resolve this issue. Which analogies are you drawing?

Jill Morris: All of the cases that you have mentioned have something in common, of course, which is a bilateral dispute, particularly a sovereignty dispute, that has been imported, if you like, into the EU. So it creates a friction and a problem. But the solutions to those cases are very different, because of their very different natures.

The allergy within the EU, particularly for the Commission, to getting involved in so-called bilateral disputes has only grown. So, one of our challenges is to explain to the Commission how they might helpfully—from our perspective—get involved, and what they might do that would be very dangerous, in terms of entering into or becoming actors in a sovereignty dispute. So, yes, there are those analogies, but I find it difficult to see what we could learn from, for example, the Macedonia name dispute; except that it is intractable and very difficult.

Q65 Rory Stewart: Presumably, simply for the Commission to take a very strong series of messages, both in terms of regulation and precedent, in terms of its sensitivity in handling this. The Commission is dealing with this with half a dozen countries at any one time and, as you say, they are all different and the Commission is dealing with them in a dozen different ways, but there must be an enormous amount of precedent in case law, which should help to guide and steer. It would be nice to get a sense that we were being as creative as possible in thinking about all the analogies we could use to put ourselves in the best possible position.

Jill Morris: We will have a think about that, but the sensitivity of handling is absolutely vital.

Q66 Andrew Rosindell: I know that the Minister is a staunch defender of self-determination of the citizens of Overseas Territories, as demonstrated over the Falkland Islands and Gibraltar so can we turn to the issue of the Chagos Islands, where we also have British people who are proud of their homeland but are no longer allowed to live there? Could he update the Committee on discussions that have been held with the United States about how we can resolve the problem?

Mark Simmonds: You will probably be aware that we have put in place a review and a study of the challenges of allowing the Chagos islanders to return to the islands. A review was carried out in 2002, and we have consulted widely with the Chagos islanders, not just in the UK but in Mauritius and the Seychelles, about the terms of reference of this particular inquiry. That includes not just the outer islands but Diego Garcia as well. We have talked to the US about the review, and they are aware that it is taking place. Of course, we will keep them informed. The relationship with the US using Diego Garcia is not a formal lease; it is an agreement set up that will automatically roll over in 2016. We have not yet got into the detailed discussions; that will happen in the next period before 2016.

Q67 Andrew Rosindell: Do the Americans still object to the idea of Chagossians living in the outer islands? Is that what they have told you, Minister?

Mark Simmonds: There are Chagossians living on Diego Garcia—those who work on Diego Garcia. Only those who work there are allowed to live there, and they are not allowed to have families there. Part of the review is to look at all that, but in the last correspondence that I saw from the US, they were explicitly clear that they were anxious for security reasons about people living on the outer islands.

Q68 Andrew Rosindell: Could you perhaps explain, Minister, why it is that on both the occasions I have been to the United States representing this Committee, all the officials that I raised this with said that they did not understand what the issue is, and that they have no issue with Chagossians living on the outer islands? In the State Department, the Pentagon and everywhere I have been on both visits, they have said that it is not a problem from their perspective; the problem is coming from London.

Mark Simmonds: That directly contradicts the information that I have seen in writing from the US Government.

Q69 Andrew Rosindell: Could you publish the writing? Is it private, or—

Mark Simmonds: I will have to look at that.

Dr Peter Hayes: For clarification, as part of the new resettlement study, the US has not expressed any views at this stage. There has been nothing recently. Since we talked to them

about the new resettlement feasibility study and the terms of reference, they have not expressed any views. We do not have any views as part of the current process. We obviously hope that we will get that once the process starts, but they have not expressed any views.

Q70 Andrew Rosindell: But we have to negotiate the lease again; it has to be renewed by 2016. Does the Minister agree that this is an excellent historic opportunity to resolve this problem and agree with the United States, if they wish to continue using Diego Garcia, that they should allow British citizens the right, if they choose—they may not choose, but if they do—to go back to their islands, where they have historically lived? Is it not the time to insist that a condition of the renewal of the lease is that British people are allowed to go back there?

Mark Simmonds: That is one of the purposes of the review: to try to establish, with all the different facets, whether it is viable, both defence-wise and financially and economically, for resettlement to take place. It is one of the reasons why I was determined to make sure that the broader Chagossian community were involved not just in the review itself but in framing the brief for the review to take place. So they had a genuine stake in the review.

But, of course, it is not just about defence matters. There are also, I think, serious economic questions that need to be looked at. The outer islands are very low-lying. They have not been inhabited for 40-odd years. There is very little, if any, infrastructure left. If anybody on the Committee has ever read the history of the Chagossian islands, as I have, they will know that apart from a bit of coconut farming no economically viable activity has ever taken place. All those different aspects have to be looked at. I want to make sure that, whatever the review concludes we consider carefully what the implications are and would be in the future for the UK taxpayer.

Q71 Chair: Will the review address the question of rendition flights through Diego Garcia? To refresh your memory, Minister, the Americans confessed that a couple of flights went through that did not comply with UK policy on rendition.

Mark Simmonds: No, it won't look at that. However, my understanding—Dr Hayes will correct me if I have not recalled correctly—is that we have had an assurance from the US as recently as this month that there have been no further rendition flights through Diego Garcia since 2002.

Q72 Chair: I am tempted to say that that is what they said last time. Might it not be a sensible idea to include that in a review?

Mark Simmonds: The review, though, is not about the operations of the military base. It will look at all the different aspects of the Chagossians returning to live on the islands.

Q73 Chair: Maybe I misunderstand the nature of the review. As I understand it, the present arrangements will come to an end in 2016, and they are being renewed. As Mr Rosindell rightly pointed out, this is an opportunity to look at aspects of it. I do not raise the issue of rendition flippantly; it is very serious. Indeed, the Foreign Secretary came to the

Dispatch Box to explain the situation in the last Parliament. Surely it is something that can be constructively sorted out during the review?

Dr Peter Hayes: There will be a separate process for discussing with the US the possibility of a roll-over of the use of Diego Garcia, which will be broad-ranging and will cover the detail of what exactly the US is doing on Diego. That is a separate but related process to the review that we have been discussing of the feasibility of the resettlement of the Chagossians.

Q74 Chair: When will that take place?

Dr Peter Hayes: That will not start until the end of 2014. The original agreement made provision for a roll-over of the use of Diego Garcia. The window opens for discussing the roll-over in December 2014 and it runs to December 2016. That two-year window has not opened yet, and it will include another look with the US at the terms of its use of Diego.

Q75 Chair: So it will be covered in that period?

Dr Peter Hayes: That will look at what it does on Diego and what the terms of its use of Diego are.

Q76 Sir Menzies Campbell: I have more than a passing interest in this issue, because it was my written question to the former Secretary of State in the previous Government which was answered by a denial. Then, of course, as we have heard, the Secretary of State in the previous Government had to come to the House of Commons to explain that it was based on incorrect information. From what you just said, am I right that there will be a point at which the two inquiries will be running in parallel?

Dr Peter Hayes: Yes. We hope that the feasibility study will be complete at around the time that the discussion with the US about the roll-over will start. The idea is that the resettlement study will inform our discussions with the US about its use of Diego going forward. We are not sure, because we are at an early stage of commissioning the work, how long it will take. Our intention is that at around the end of 2014 we should have some conclusions from the feasibility study at around the time that we want to start the discussions with the US.

Q77 Sir Menzies Campbell: In the course of the discussions with the United States about the use of Diego Garcia, may we take it from what has been said that Her Majesty's Government will impress upon it the position that the facilities should not be used for illegal rendition?

Dr Peter Hayes: Absolutely.

Mark Simmonds: Absolutely.

Dr Peter Hayes: We have done so consistently. There is an annual process of reaffirmation of our position and reaffirmation of the US position that it has not been using it in that way—indeed, it has not been using any British Overseas Territories, Crown Dependencies or the UK for that purpose.

Q78 Chair: It would be helpful if you were able to set out in a note or letter to the Committee exactly how the issue is being addressed.

Mark Simmonds: Fine, of course.

Chair: Thank you.

Q79 Andrew Rosindell: Could the Minister tell us what consultations took place in advance of the communiqué on the Overseas Association decision? What benefits will there be under that communiqué for our own British Territories?

Mark Simmonds: There were extensive consultations. We lobbied very hard in the EU to provide additional access for services as well as goods from the Overseas Territories, alongside the loosening of the rules of origin, which could be a significant benefit to the Overseas Territories.

In addition to that, we did very significant lobbying relating to EDF 11, which is the funding that comes from the European Union to the Overseas Territories. In addition to the traditional mechanisms—the allocation of funds to those Territories that require developmental assistance—you will be well aware that some territories, such as the British Virgin Islands, have a per capita GDP that excludes them from benefiting from development assistance. To benefit them, we have negotiated that they will be able to access European Union funds regionally and through thematic fund mechanisms to enable them to benefit from EDF 11. So it is not just the traditional Overseas Territories that require developmental assistance, such as Montserrat and Pitcairn, for example.

Q80 Andrew Rosindell: Will the Minister also tell the Committee what progress has been made on giving Overseas Territories and Crown Dependencies a status in the Commonwealth? They currently have no status at all—they are not even associate members of the Commonwealth. I know that the issue has been raised before, but what progress has been made on trying to find a solution to an issue that affects not only Overseas Territories and Crown Dependencies, but the external territories of Australia and the realm states of New Zealand, which are also excluded from the Commonwealth?

Mark Simmonds: I strongly agree with you that there should be increased engagement with the Commonwealth. Of course, a decision about who is and is not a member of the Commonwealth is not a matter for the UK; it is a matter for the Commonwealth family and all Commonwealth states have a say. It was decided at a Commonwealth meeting back in 2007, quite categorically, that only sovereign states could be members of the Commonwealth. Despite our lobbying since then, that position has not changed.

At the 2012 JMC, I invited the Commonwealth secretary-general to address the Overseas Territories, which he did, and they made clear to him their desire for more engagement. If I am being honest with you, I think that it is unlikely that we will be able to persuade the Commonwealth at this moment in time to allow the Territories to have formal observer or associate status for the reasons I outlined a moment ago. However, what we are keen to do, on which there has been some progress, is to enable the Territories to benefit from some of the expertise and meetings that take place, especially those relating to Commonwealth members that are small island states with a lot of experience and expertise to share with our Overseas Territories.

Q81 Andrew Rosindell: At Commonwealth meetings—CHOGM, for example—who is speaking up for the interests of the Overseas Territories?

Mark Simmonds: Of course, the Overseas Territories are not members of the Commonwealth in that way.

Andrew Rosindell: They are part of the extended family.

Mark Simmonds: They are part of the extended family of the UK and the United Kingdom Government would therefore do it.

Q82 Andrew Rosindell: To turn to another subject relating to a particular Overseas Territory, when we met you last year, you said that you would look into the issue of the status of Ascension Island and Tristan da Cunha, and the possibility of them being granted the status of an Overseas Territory in their own right. They would not necessarily have separate governors, to avoid additional costs and administration. You said that you would look into the possibility of allowing them to have equal status with the other 14 Overseas Territories. Has there been any progress on that issue?

Mark Simmonds: From the discussions I have had with the Ascension Island representatives since last year's Committee meeting, I do not detect an immediate short-term ambition to move in that direction. I think that, at the moment, they feel that they are better off working together with St Helena. There are areas of co-operation. In relation to my earlier point on accessing EDF 11 funding, they are both working together and they probably would not be able to access that funding if they were independent.

Q83 Andrew Rosindell: No one is suggesting any form of independence from each other—they can work together—but simply giving them equal status and the same title as an Overseas Territory, rather than being a dependency of an Overseas Territory. The Minister will be aware that the people of both those Territories have their own history, traditions and identity, so to be a dependency of an Overseas Territory is not really a fair status to give them.

Mark Simmonds: You will also be aware that there is a further complication in that the people on Ascension Island do not have any permanent right to reside there. I know that you disagree with that, Mr Rosindell, but that is the position of the UK Government. We looked at that very carefully, and there has to be balance on the risks of it not being possible to

establish a self-sustaining community on the island. In basic terms, we have a very positive relationship with the Ascension islanders. From the discussions that I have had, they have no immediate aspiration to go down the route that you are suggesting.

Dr Peter Hayes: If I may just clarify, they are not a dependency; they are one Territory. St Helena, Tristan da Cunha and Ascension are constitutionally a single Overseas Territory, so it is not that Ascension is a dependency of St Helena per se; it is a single constitutional body.

Q84 Andrew Rosindell: But three separate identities, though.

Dr Peter Hayes: Yes.

Q85 Andrew Rosindell: I will now turn to a specific question on another Overseas Territory: Montserrat. I know that the intention is for that Territory to become economically sustainable and self-sufficient by 2020, but the Minister will be aware that large numbers of Montserratians are living in the UK. For Montserrat to become a successful Territory, we need to support the diaspora living here and give them encouragement and support to prepare them—or at least some of them—to go back to help rebuild their Territory. What is being done? What are the Government doing to encourage and support the Montserratian diaspora here in the UK?

Mark Simmonds: The starting point with Montserrat, Mr Rosindell, is to plug into the very strong determination in Montserrat—and by Premier Meade—and of the UK Government to do everything we can together to ensure that Montserrat is a self-sustaining economic territory and not reliant in perpetuity on support from the Department for International Development. To that end, several strategies have been put in place to try to ensure that that happens.

The first is making sure that the volcano, which is monitored very carefully and regularly, actually has the potential to produce geothermal power—a lot of research and some investment has gone into that—not only for domestic use in Montserrat, but ultimately, perhaps, for export. The second is the reinstallation of the fibre optic link that was destroyed back in '97 and the provision of investment for the short-term ferry and for light aircraft to bring people from Antigua on day trips to stimulate the tourism trade, as well as some bigger investment, such as perhaps the construction of a port—again, there was a port there before, which was destroyed in '97—to stimulate other investment as well, whether that is hotels or retail driven by the private sector. The latter of those is the biggest financial commitment, and it is something that my colleague, the Minister of State at the Department for International Development, is looking at very closely to establish exactly which of several potential options would give the maximum value for UK taxpayers' money while also giving the maximum increase in economic activity for the people of Montserrat. So there is a lot going on.

Q86 Andrew Rosindell: To turn to another one of our least populated territories, which is Pitcairn Island, the Minister will be aware that the waters around it are largely unexplored and unspoilt. Will the Government consider—or have they considered—introducing a marine protected area for the Pitcairn Islands?

Mark Simmonds: There has been a proposal made—

Chair: Minister, may I interrupt? We have a Division in the Commons. I suspect that this is the last question of the sitting, so if you are able to give a brief answer, please do so.

Mark Simmonds: It is something that we are prepared to consider. You are right that the waters around Pitcairn are pristine. We need to find mechanisms to stimulate—or to get off the ground—the Pitcairn economy, and eco-tourism is a possibility. That might revolve around a marine protected area, but there are challenges that relate to enforcement, particularly bearing in mind the isolated location of Pitcairn and the size of the marine protected area that we would be talking about.

Chair: Minister, that has been very helpful. May I thank you, Ms Morris and Dr Hayes very much indeed for your answers? It has been a particularly productive session.