

DfT's Partnership With The Overseas Territories: An update

May, 2012

Contents

Forewords:

Forewords by the Transport Minister of State and
the Parliamentary Under Secretary of State P2

Background and introduction

The vision and why the Territories matters to us? P3

Chapter 1 – AVIATION

Aviation Safety Regulation P4-6

Air Accident Investigation P6-7

Air Services P7

Chapter 2

Aviation Security P8-9

Chapter 3 – MARITIME

Maritime Safety and Security P10-18

Conclusion P19

Forewords by the Transport Minister of State and the Parliamentary Under Secretary of State

Theresa Villiers MP, Minister of State, Department for Transport.



We remain committed to assisting the Territories to establish and maintain safety regulatory regimes which implement international standards and ensure the safety of their aviation industries. A safe aviation industry is vital to growth and economic development in most of the Territories. We will also continue to promote the interests of our Overseas Territories in negotiating international air service agreements, to support growth and economic development in the Territories.

Mike Penning MP, Parliamentary Under Secretary of State



We recognise and remain immensely proud of the growth of the British Shipping Registers operated by the Overseas Territories which has ensured that the combined British fleet at more than 50.1 million Gross Tonnage stands seventh in the world's shipping fleet. The Department for Transport and Maritime & Coastguard Agency will continue to work collaboratively with colleagues within the Territories to ensure that all ships flying the Red Ensign are maintained to the highest maritime safety standards, and that the Territories meet their obligations as flag, port and coastal states under the International

Maritime Conventions.

BACKGROUND

The vision:

The United Kingdom's 14 Overseas Territories are an integral part of Britain's life and history. Today they include one of the world's richest communities (Bermuda) and the most remote community (Tristan da Cunha). They include thousands of small islands, vast areas of ocean, but also, in Antarctica - land six times the size of the United Kingdom.

The Coalition Government has a vision for the Territories: of flourishing communities, proudly retaining aspects of their British identity and creating new opportunities for young and future generations, of natural environments protected and managed to the highest international standards. We want to see strong and sustainable economies where opportunities exist to set world standards in our stewardship of the extraordinary natural environments we have inherited.

In conjunction with the Government's upcoming publication of the Overseas Territories White Paper, the Department of Transport is reaffirming its partnership with the Territories. (<http://www.fco.gov.uk/en/about-us/what-we-do/overseas-territories/>)

DfT's paper is broad ranging, but does not pretend to be comprehensive as the purpose is to provide a snap shot of where we are in the relationship. It focuses on aviation and maritime - safety and security. We have taken into account the views of OT representatives to reflect DfT's progressive relationship with the OTs.

INTRODUCTION

Why the Territories matters to us?

The Department for Transport is the designated Appropriate Authority with responsibility for aviation and maritime security in the Overseas Territories. Whilst the DfT has overall legal obligations, the responsibility for delivering security rests with the Governor of each Overseas Territory, with the DfT providing oversight to ensure appropriate standards are maintained. This also ensures that the Department minimises the risk of contingent liability to the Department (i.e. following a security incident) materialising.

The Secretary of State takes lead responsibility for ensuring that the Overseas Territories comply with various international obligations with respect to aviation and maritime safety and security, i.e. on aviation - the Chicago Convention. The Department for Transport continues to maintain a good relationship with the Overseas Territories which aligns with the UK's 'special relationship'.

CHAPTER 1 – AVIATION

Objectives

The UK, together with its Overseas Territories and Crown Dependencies, has one of the best aviation safety records in the world. This brings with it a number of significant benefits, not only in ensuring the safety of UK citizens, but also in supporting the economic performance of the UK - and in particular the UK's reputation as a safe and secure place to visit and as an attractive base for a competitive and well-regulated aviation industry.

Maintaining and improving on that record, while ensuring that regulation is proportionate and cost-effective, remains a key objective. The UK Overseas Territories, which are covered by the UK's ratification of the Chicago Convention, form an important part of that wider picture, both in terms of the benefits they bring to the UK and also the risks relating to air safety. The UK's objective in this area is to support its Overseas Territories in developing and maintaining effective aviation safety regulation within their own Territories, through the provision of oversight, regulatory support and advice.

Governance in Relation to the Overseas Territories (OTs)

The Secretary of State has overall responsibility for policy on aviation safety in the UK. However, the UK Civil Aviation Authority (CAA) has statutory responsibility for the regulation of civil aviation activities. International civil aviation is governed by the Convention on International Civil Aviation (the Chicago Convention). The OTs are covered by the UK's ratification of the Chicago Convention. As a result of the international nature of civil aviation and the UK's obligations under the Chicago Convention, most aviation issues are reserved matters under the OT constitutions. Therefore, each OT Governor has the same statutory responsibilities for safety regulation as the CAA has in the UK. Within the UK government, the Secretary of State takes lead responsibility for ensuring that the OTs comply with the obligations of the Chicago Convention.

Aviation Safety Regulation

Historically the Department tried to ensure the safety of civil aviation in the OTs by funding the CAA to undertake a programme of audits and inspections in the OTs and to provide advice to Governors.

As a result of the ICAO audit findings and to ensure obligations under the Chicago Convention were being met in the OTs, the Department funded a study into the arrangement for safety regulation in the OTs. In line with the study's recommendations, in January 2003 the Secretary of State directed the CAA to establish a subsidiary company, Air Safety Support International (ASSI), to promote aviation safety in the OTs (except for Gibraltar which is

subject to EU legislation and British Antarctic Territory which is subject to the Antarctic Treaty¹).

The purpose of establishing ASSI was two fold. It would ensure that the UK would be able to meet its obligations under the Chicago Convention and that the OTs had safe aviation industries to support their economies.

Since it was established in 2003 ASSI has completely revised the Air Navigation (Overseas Territories) Order, the principal legislation dealing with aviation safety regulation. It has also, with assistance from the OTs, drafted a complete set of requirements (the Overseas Territories Aviation Requirements (OTARs)) which contain detailed provisions to support the high level provisions of the Order. As a result the OTs have been provided with a full suite of aviation legislation and requirements which is both tailored to the needs of small island administrations and compliant with the safety standards established under the Chicago Convention. This is a good example of effective collaborative working leading to collective objectives being met on the two sides.

ASSI also took responsibility for exercising all of the Governors' regulatory functions in Anguilla, Montserrat and the British Virgin Islands (BVI) when the existing arrangements ran into difficulty. This has ensured that these territories have been able to maintain the air services vital to their economies. ASSI also undertakes a quality assurance role by regularly assessing the capability of the regulatory organisations in the other OTs. If ASSI determines that the local regulator does not have sufficient capability in some areas of safety (e.g. aerodrome licensing or airworthiness) ASSI will undertake regulation in those areas on behalf of the Governor. However, the long term aim will be to provide support and assistance to the local regulator so that they can build up their capability and take over responsibility in these areas. ASSI has been particularly successful at assisting the improvement of regulatory capability in the Turks and Caicos Islands.

The Department has also entered into a Memorandum of Understanding with the US Federal Aviation Administration on aviation safety in OTs. As a result the FAA accepts annual reports from ASSI as the basis for the categorisation of the OTs under its International Aviation Safety Assessment (IASA) Programme. In the light of ASSI's efforts all of the Caribbean OTs have been placed in category 1 under the IASA Programme thereby enabling their airlines to maintain and develop services into the US.

Gibraltar has been excluded from the ASSI system as it is covered by EU legislation. The Government of Gibraltar (GoG) established its own aviation safety regulatory regime in 2009 with full cooperation and considerable assistance from the Department. In addition, the Department has worked closely with the GoG on the preparation of legislation to implement EU requirements which will become applicable once the Airport Annex of the Cordoba Agreement has been implemented. The Department continues to

¹ All references to OTs in the remainder of this section exclude Gibraltar and BAT.

liaise with the Director of Civil Aviation (DCA) in Gibraltar over the implementation of EU aviation safety legislation which already applies in Gibraltar. In addition, the CAA provides technical advice to the DCA under an advisory contract.

Future Assistance to Territories

The Government is currently closely engaged with OTs, through ASSI, on civil aviation safety, and intends to continue to provide an appropriate level of support to the OTs. However, there are a number of specific issues that will need to be addressed in the coming years.

Direct Provision of Safety Regulation

ASSI currently exercises the Governors' regulatory functions in Anguilla, Montserrat and the British Virgin Islands (BVI). However, it remains the Government's policy that OTs should be directly responsible for their own safety regulation wherever possible and practical to do so. Our intention is that, over time, these OTs should be encouraged and supported to take on responsibility for aviation safety regulation in their territories.

ASSI will be responsible for the certification of the new international airport being built on St Helena. It will be working with DfID and its consultants to ensure that the airport meets international standards. ASSI will also be working with the BVI Government to help re-establish a local regulator.

Funding for Safety Regulation

The Department has fully funded ASSI since its inception but it has always been the intention that the OTs should be responsible for contributing to its funding, in line with wider Government policy. The Department has agreed Memorandums of Understanding with each of the relevant OTs on funding safety regulation. Each OT with aviation activity will make a contribution to the cost of maintaining the Order and OTARs. The contribution is in proportion to the wealth of the OT and the benefit they gain from civil aviation. In addition, OTs will now be expected to pay for any regulatory activities that ASSI undertakes on their behalf. Nevertheless the Department remains committed to providing the major share of funding for ASSI, as part of its wider support for OTs.

Aircraft Accident Investigation

OT Governors are legally responsible for aircraft accident investigation in their territories. All have Memorandums of Understanding with the Department's Air Accidents Investigation Branch (AAIB). In addition, the Governors have appointed the AAIB's Chief Inspector as the Chief Inspector under their accident investigation Regulations. The AAIB has also developed procedures for handling aircraft accidents in the OTs and trained local personnel to manage the scene of a major accident until AAIB inspectors arrive. Most recently the AAIB has investigated an accident which occurred at Montserrat

Airport and made appropriate safety recommendations. AAIB also provides accredited representatives to participate in the investigation of accidents to OT registered aircraft which occur in other States. In particular, it provided an accredited representative to the investigation of the accident involving a Bermudan registered aircraft operated by Aeroflot which crashed at Perm Airport on 14 September 2008 killing all 82 passengers and 6 crew members. The current legal framework for accident investigation in the OTs is outdated. ASSI and AAIB are working with FCO and the OTs to review and update. They also looking for a way to ensure a sustainable basis for the assistance provided by AAIB in the event of an accident.

Territories Engagement with International Organisations

The Department ensures that the OTs are consulted in a timely manner prior to international discussions and negotiations in relevant international aviation organisations, such as ICAO. The Department also facilitates the participation of OT representatives in such discussions. For example, representatives from the Cayman Islands and Bermuda have formed part of the UK delegations to the triennial ICAO Assemblies. The Department also ensures that GoG is kept informed of changes to relevant EU legislation.

Air Services

Air services to the OTs from foreign countries are governed by bilateral air services agreements which are negotiated by the Department. The Department consults OTs Governments as appropriate when entering into negotiations on air services agreements and takes account of their needs. For example, the Department obtained additional rights for OT airlines to conduct services to Cuba when a new bilateral air services agreement was negotiated in 2011.

The Department also provides day-to-day support to the OTs on air services issues. This includes managing the issue of seasonal operating permits for foreign airlines serving four OTs (Anguilla, British Virgin Islands, the Falkland Islands and Montserrat) and providing ad hoc advice on the implementation of air services agreements in the Territories generally.

The Department will continue to provide on-going support to the Overseas Territories. In particular, the Department stands ready to help Bermuda and the Caribbean OTs in respect of the liberalisation of air service agreements with the US and other states wishing to develop their air services. The Department will also be providing assistance to the Government of St Helena in respect of developing air services to the new airport.

CHAPTER 2

Aviation Security

International terrorism is a threat to aviation in the Territories as it is in small independent states. The UK provides assistance to improve aviation security. In order to assist Governors of the Overseas Territories in the discharge of their responsibilities the Department for Transport employs a consultant who acts as an aviation and maritime security advisor (RAMSA) to provide oversight and advice at a local level.

The RAMSA is also a DfT approved aviation and maritime security trainer. He is located in Miami on the US southern seaboard to facilitate easy and ready access to the OTs providing Governors with the additional benefit of a single focal point for consistency of information, advice, and guidance. This in turn has allowed for the development of an excellent working relationship with Governors, DCAs and all other appropriate stakeholders through up-to-date advice, guidance and practical operational knowledge ensuring that aviation and maritime security measures are consistently maintained and that the legal obligations and requirements on the Department and Governors are fulfilled.

In order to ensure and maintain a consistent approach to security the consultant also undertakes compliance inspection activities on behalf of the Department. This is supplemented by undertaking and delivering training for both aviation and maritime security in the OTs as directed by the Department. The DfT has also included in a recently awarded contract the training necessary to meet the OTs expectations. This includes training for Senior Managers coming to post, physical security measures, the training of security supervisors, and Train the Trainer. The provision of such training will enhance confidence in the application of security measures being implemented whilst improving individual and team performance. It also provides the OTs with their own dedicated trainer on site to undertake future training whilst enhancing effective quality control measures.

The training of Senior Managers and Supervisors to better manage and supervise the workforce provides the benefits of a more robust security regime. This is crucial for the Caribbean OTs as many have US registered air carriers and vessels undertaking aviation and maritime operations into the United States and are therefore subject to security scrutiny and commercial oversight by the US Department of Homeland Security, Transport Security Administration (TSA) who need to be satisfied that international standards are being implemented in order for the routes to be maintained.

Total resources employed by the Department on assisting with OT aviation and maritime security are: £183, 500 per year for the RAMSA programme plus one full time aviation security adviser and a full time maritime security adviser within the Department.

Gibraltar is unique in its position as an Overseas Territory because Gibraltar is also part of the European Union as a "territory for whose external relations a Member State (the UK) is responsible" (Article 355(3) of the Treaty on the Functioning of the European Union refers).

Unlike the other Overseas Territories Gibraltar is bound by EU aviation security legislation. While the UK is ultimately answerable for the implementation of European legislation in Gibraltar, the DfT has agreed that responsibility for most aviation security matters should rest with the Gibraltar Director of Civil Aviation. The UK provides advice and support to the DCA, as set out in a Memorandum of Understanding between the Department and the Government of Gibraltar. The Department enjoys an excellent working relationship with the Government of Gibraltar and continues to work closely with the DCA to provide advice and guidance on aviation security matters.

CHAPTER 3: MARITIME CHAPTER

The Secretary of State has ultimate responsibility for the safety of British Shipping and has a duty to ensure that all the standards maintained by the Shipping Registers in the Overseas Territory and Crown Dependencies are, where appropriate, equivalent to those of the UK Register. The UK monitors the operational functions of the REG administrations through the MCA who ensure the REG Registers comply with UK standards.

The Department for Transport Minister responsible for Overseas Territories issues on maritime is Mr Mike Penning MP, Parliamentary Under-Secretary of State for Transport.

Support to the UK Overseas Territories/Crown Dependencies

1. Background on the Red Ensign Group (REG) Shipping Registries

1.1 The Red Ensign Group (REG) is comprised of the international shipping registries operated by the United Kingdom, three UK Crown Dependencies (Isle of Man, Guernsey and Jersey) and nine UK Overseas Territories (Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, St Helena and the Turks & Caicos Islands). Any vessel registered in the UK, a Crown Dependency (CD) or an Overseas Territory (OT), is a "**British ship**" and is entitled to fly the British Merchant Shipping flag the 'Red Ensign' (or a version of it defaced with the appropriate national colour).

1.2 The 1995 Merchant Shipping Act (section 8, Part 11) provides for the central register of British ships or the UK Ships Register, as it is currently known. Section 18 of Part 11 of the 1995 Act, allows by Order in Council, British possessions (both CDs and OTs) to establish different categories of register with restrictions on vessels according to the tonnage, size and type. Presently under the Merchant Shipping (Categorisation of Registries of Relevant British Possessions) Order 2008 (S.1. 2008 No. 1243).

- a) Category 1 administrations (including UK OTs of Bermuda, British Virgin Islands, Cayman Islands, Gibraltar) operate large international registers and may register ships of unlimited tonnage, type and length².
- b) Category 2 administrations (including UK OTs of Anguilla, Falkland Islands, Montserrat, St Helena and Turks & Caicos Islands) cater mainly for local vessels and can register ships of up to 150 gross tons (GRT) and pleasure vessels, that is, those not operated commercially of up to 400 GRT (pleasure vessels, by definition, refer to ships used for sport or pleasure, which are not operated commercially).

² This is with the exception of the British Virgin Islands which following their upgrading to Category I status in 2008 are restricted at present to pleasure craft of up to 3,000gt and general cargo ships of any tonnage.

1.3 The total combined size of the 'British' commercially trading fleet stands at approximately 50.1 million gross tonnage placing the British Fleet 7th in size of the World's largest registers.

Vessel Type	Number of Vessels	Total GT
Category 1 Registers		
UK ^[1]	8,557	18,206,901
Isle of Man	534	13,806,467
Bermuda	184	12,419,552
Cayman Is.	464	3,597,868
Gibraltar	303	1,993,419
BVI	75	11,709
Category 2 Registers		
Falkland Islands	28	45,428
Jersey	210	3,076
Guernsey	213	2,788
Anguilla	171	2,728
St Helena	2	2,249
TCI	17	N/A
Montserrat	3	N/A
Total:	10,761	50,092,185

1.4 In addition, there are five further UK Overseas Territories, The British Indian Ocean Territories (Diego Garcia), the Sovereign Base Areas in Cyprus; Pitcairn, South Georgia and the South Sandwich Islands; and the British Antarctic Territory which do not have shipping registers at present.

2. Strengthening good governance arrangements and the Department's area of competence in relation with the OTs

2.1 The Secretary of State for Transport has ultimate responsibility for the safety of all British shipping and has a duty to ensure that the standards maintained by the shipping registers in the OTs and CDs are, where appropriate, equivalent to those of the UK register. This relationship is set out in individual Memorandum of Understandings (MoUs) between the UK and the Government of the OT/CD in respect of the register of shipping. The REG registers are required to comply with the UK's international obligations and the general intention is that these should not exceed the requirements of International Conventions.

2.2 A uniform approach to regulation is an underlying principle in maintaining the integrity of British registries but an equivalent approach to

regulation by the REG Shipping Registers may be adopted, conditional on such an approach achieving the same objective. However, when an equivalent approach is considered necessary or appropriate, the REG Shipping Registers should seek approval from the Maritime & Coastguard Agency (MCA) before implementation.

2.3 The UK is the signatory to International Conventions on behalf of the REG Shipping Registers. The UK has extended international conventions, which aim to increase the safety standards for shipping, environment and pollution prevention, to the REG Registries and these are implemented either by existing local legislation or by the creation of new local legislation. Despite the devolution and delegation of some Flag State functions, the UK remains the Flag State for all ships flying the Red Ensign and is ultimately responsible under international law for these ships. The MCA has developed in partnership with the OTs effective arrangements to ensure the highest level of international maritime and safety standards.

3. Strengthening the interaction with OTs

3.1 The Department for Transport has responsibility for the REG at a political level with particular focus on the UK law and constitutional arrangements when developing government policy on REG matters across Whitehall and the appropriate extension of international conventions and EU drive for change. The MCA, as well as operating the UK Shipping Register, has delegated authority from the UK Secretary of State for Transport to promulgate the technical and quality standards. This role is fulfilled through:

3.2 **Visit Programme:** The MCA helps to maintain the integrity of both the Category 1 and 2 Registries through a four yearly cycle of visits. The scope of these visits covers all delegated functions under the agreement of the MoUs (including the quality standards, systems and procedures for registration, seafarer standards, accident investigation, survey and certification). In 2010/2011, visits to OTs were undertaken to Cayman Islands, TCI, Montserrat and Falkland Islands incurring T&E costs of £16,796.

3.3 **REG Conference:** A REG conference is held annually offering the geographically widespread membership of the REG the opportunity for detailed discussion with DfT/MCA senior management on a wide variety of matters of shared interest. The conferences offer the opportunity to share best practice and to discuss ways to optimise REG performance and identity in the international arena, both in terms of commercial success and in setting exemplary standards in meeting our international maritime obligations. The Conference is hosted by a different REG member at their cost each year, and in 2011 was hosted by the Jersey administration. MCA/DfT incurred only associated T&E costs of approximately £7,965.

3.4 **REG Technical Forum:** This bi-annual meeting hosted by MCA has been introduced to provide a forum to assist with ensuring consistent application and development of technical policy and quality standards across the British fleet by working closely with REG colleagues through exchange of

knowledge and experiences. This forum has recently developed a comprehensive set of quality indicators and a management reporting format which will enable the MCA to evaluate on a more regular basis the standards and performance of the OT/CD Category 1 international shipping registers. The group also produced a 13-36 Passenger Yacht Code and MCA notified this code as equivalence to the International Maritime Organisation on behalf of the REG. This Code ensures that REG members maintain their position in the expanding large yacht market where their expertise and high safety standards are acknowledged as being the best in the world.

3.5 International representation: As the Flag State and signatory to the International Conventions, the UK is responsible for representing the interests of the REG in international forum such as the International Maritime Organization (IMO) and the International Labour Organization (ILO).

3.6 Co-ordination of implementation and application of international standards

MCA liaises closely with REG (OTs and CDs) administrations to seek to ensure a consistent approach to the application of standards. For example, the REG has a representative on the Tripartite Working Group (comprising Government, seafarer representative bodies and ship-owner representative bodies) advising the MCA on implementation of the Maritime Labour Convention, 2006. The working group is also providing tripartite consultation on any substantial equivalence proposed by the REG administrations, where they do not have their own tripartite arrangements. REG administrations took part in the working groups looking at substantial equivalence for crew accommodation for large yachts.

3.7 Day to day support and advice: Where possible, the MCA/DfT provides support and advice to the REG registries on the operation of their registers including the sharing of maritime knowledge, technical information and experience of new technology as well as consultation on all new UK maritime legislation. In addition to providing support and technical advice to OTs shipping registries, this is a considerable commitment which amounts to approximately 2 full time equivalent staff pa (including support to the CDs). MCA also provide assistance to OTs coastal and port state responsibilities, including:

a) Counter Pollution: UK SOSREP can provide advice in dealing with actual or potential salvage and/or counter pollution incidents (a recent example would be the support provided to Gibraltar during the M/V FEORA incident in 2008 and the loss of the Maltese registered bulk carrier OLIVIA off Nightingale Island, Tristan Da Cunha earlier this year.

b) Emergency Response: MCA can provide a mechanism for cooperation and advice between the emergency response organisations of the OTs and Her Majesty's Coastguard in respect of search and rescue and maritime surveillance operations. The OTs have been offered a search and rescue forum to discuss matters of mutual interest and most of responded positively to this offer. MCA, through the UK Secretary of

States Representative for Salvage (SOS REP), has offered technical assistance and advice in dealing with major shipping casualties and resulting salvage and counter pollution in the OT's. These arrangements have recently been enhanced to a 24/7 capacity to provide urgent advice.

c) Accident Investigation: MAIB continue to provide the option to undertake investigations on behalf of the OT Category 2 registers of accidents involving ships on its Register and/or in their territorial waters. These investigations are conducted on a cost recovery basis. For those OTs which operate Category 1 registers, the option of appointing MAIB was withdrawn in 2007, and they are now required to conduct their own independent investigations as per the requirements of IMO Code (Resolution A.884 (21)).

d) Ad hoc advice on sanctions, diplomatic and or PSC intervention where REG vessels may be unnecessarily detained.

e) *Maritime Security:*

i. DfT hosts an annual maritime security meeting with the Red Ensign Group which covers aspects of policy and implementation of international maritime security codes in the UK and the overseas territories (and Crown Dependencies). Regular correspondence on key issues takes place to ensure a consistent policy line is maintained where appropriate. Current key areas include counter piracy and the use of recognised security organisations to implement some security measures.

ii. DfT also maintains a programme of regular maritime security compliance visits and inspections to the UK's Overseas Territories in the Caribbean and Bermuda through the Miami based Regional Aviation and Maritime Security Adviser (RAMSA).

iii. Acceptable standards of compliance are maintained through the RAMSA's good work although it is important that the current visit/inspection frequency continues to ensure that standards remain intact. The Department will continue to provide guidance and support to the OTs to ensure maritime security compliance is maintained. This also includes considering cost effective measures such as the option of using DfT staff where appropriate.

iv. The MCA's Maritime Rescue Co-ordination Centre (MRCC) at Falmouth is the designated authority for the receipt of SSAs from UK flagged ships plus ships flagged to Red Ensign Group (REG) members the Isle of Man, Bermuda, Cayman Islands, British Virgin Islands and Gibraltar.

v. DfT is seeking to put in place with the Government of Gibraltar arrangements to formalise its maritime security compliance work. This is intended to formalise maritime security compliance activity in Gibraltar and provide a useful framework to enable DfT to provide maritime security advice and guidance to the Government of Gibraltar.

vi. DfT provides maritime threats advice and specific intelligence at appropriate classification to the REG members. We also deal with individual enquiries from the REG administrations regarding maritime security both in the regulatory and broader sense utilising DfT's Transport Security Strategy team as required.

f) Hydrography: OTs already belong to their respective Regional Hydrographic Commissions. However, the MCA can offer practical advice and guidance on how OTs fulfil their obligations for hydrographic survey, nautical charts and publications. We can provide technical support and offer examples of good practice.

g) Serious Crimes: DfT is currently involved in the development on the 'Crimes at Sea' policy for "Safer Ships", and co-ordinating Cross- Whitehall discussions on the jurisdictional powers to investigate serious crimes at sea on UK/OT registered ships or within UK/OT Territorial waters. This brings its own complications where each of the OTs and CDs is a separate legal jurisdiction, with its own statutory and other law, its own legislature, government, enforcement agencies and judicial system.

3.8 The OTs shipping registers continue to expand and potentially increase monitoring and supervisory commitments, mainly met by the MCA.

A recent example being a proposal to increase the tonnage limits for the Category 2 registers which would require MCA/DfT approval and changes to legislation. Shipping is linked to the operation of offshore financial services which are very important in many OT's (Cayman, BVI, etc.)

4. Key conventions/treaties on which DfT is working in partnership with the OTs on.

4.1 The UK is the signatory to International Conventions (including SOLAS, MARPOL, STCW, Load Line, COLREGS, Tonnage and ILO) on behalf of the REG Shipping Registers. The UK has extended international conventions, which aim to increase the safety standards for shipping and pollution prevention, and DfT/MCA work with the OT REG Registries to ensure that these are implemented either by existing local legislation or by the creation of new local legislation.

4.2 The MCA has been working closely with the FCO Polar Regions Unit on the development of mandatory provisions for the IMO Polar Code. The Code will apply appropriate standards to ship operations that include the sea areas surrounding the British Antarctic Territory and address both safety and environmental concerns.

5. What more?

5.1 The FCO retains leadership and oversight of the Government's policies towards and relationships with the Territories and continues to provide advice, where needed, to other Government Departments on engagement with the Territories. The FCO intends to publish a new White Paper on the Overseas Territories in mid 2012.

5.2 Hamilton Project: In order to assess the standards of safety and shipping in the Caribbean OTs, FCO and the MCA (then referred to as the Maritime Safety Agency) undertook visits to each OT in 1993. The conditions found caused great concern due to the lack of control being exercised by OT governments and the negligible levels of safety being observed. The subsequent report raised a number of resulting recommendations to improve the control of OT domestic shipping. FCO subsequently financed the Hamilton project which ran from 1997 to 2005, to ensure a system of individual island control to international standards being exercised over shipping in their waters including training locally based surveyors to fully survey and certificate all vessels operating commercially.

6. Improving the quality and range of support

6.1 It was subsequently agreed on conclusion of the 7 year Hamilton project, that MCA will introduce a programme of monitoring visits to ensure that the achieved standards are maintained, developed and improved by the local surveyors based in these OTs. This programme has been successfully introduced and in the past six months, MCA have undertaken monitoring visits of the Category 2 registries of Montserrat and Turks & Caicos Islands and during 2012 will visit Bermuda, Isle of Man, Guernsey and Anguilla. These visits provide an opportunity to engage directly with OT ministers to ensure resources are maintained at an appropriate level to deliver high quality shipping services to agreed UK/REG standards.

6.2 MCA is working with the Jersey Administration to increase the tonnage limits of Category 2 registers which may benefit several OTs, however, this requires changes to legislation and should therefore be regarded as a long term aim.

6.3 MCA has introduced revised Recognition Organisation monitoring arrangements which now involves participation by the Category 1 OD/OTs ensuring they are able to demonstrate compliance with international standards (and in the case of Gibraltar EU Directives) on the control of delegated statutory survey work. The BVI has recently declared an interest in achieving a full compliment for CAT 1 status. MCA/DfT will support this aspiration.

6.4 MCA is increasing the periodicity of the REG Technical Forum from an annual meeting to a six monthly meeting at the request of the OTs, because the OTs find the meeting covers a wide range of important safety and

technical issues which they consider should be discussed with greater frequency.

6.5 Work is underway to implement a major new ILO Convention on seafarer working and living conditions, the Maritime Labour Convention, 2006. MCA ran a workshop on the MLC at the 2011 REG Conference to provide an opportunity to discuss common issues, and has also provided MLC training, at the request of the Gibraltar and Isle of Man administrations, for REG surveyors. We have also provided policy advice to those preparing implementing legislation.

7. What relevant third-party organisations do to help OTs?

7.1 USCG - Search & Rescue support and assistance for Caribbean region OTs

7.2 New Zealand Government - Provides maritime support to Pitcairn

8. Departmental funding streams open to OTs

8.1 It can be considered that these OTs which operate shipping registries benefit substantially from both direct and indirect revenue generated, including the attraction of associated financial sector business.

8.2 In 2008, the Secretary of State for Transport agreed to the upgrading of the BVI Shipping Register to Category 1 status. The decision was taken following an extensive consultation and recognition process to ensure that the register had the necessary resources, technical staff and legislation in place to meet the requirements of operating a quality international shipping register. Growth of the BVI register since 2008 has been slow, partly due to the current economic downturn. The option is available for other OT Category 2 registers to also upgrade to Category 1 status; however the required level of investment in resources and technical personnel may exceed the potential financial benefits.

8.3 While DfT/MCA do not provide direct financial support to REG registers, the UK subscription to the IMO, which can be considered generally to be based on the size of the British Fleet including all those vessels registered under the REG Registers, is currently the responsibility of the DfT. The necessary provision to ensure that this is recognised in DfT future resource planning is in place.

9. How DfT handles legislative work relating to the OTs?

9.1 Bearing in mind that the UK is the member state of the IMO and the ILO and is the state which has ratified the maritime conventions that it subsequently extends to the OTs, DfT will:

- a) assume the role of appropriate authority responsible for the coordination and monitoring of the implementation of the common strategies and policies;
- b) consult with OTs in a timely manner prior to international negotiations and discussions in relevant international forums, and taking account of its interests, represent OTs in those negotiations and discussions;
- c) as far as practicable, facilitate participation by OTs in any relevant international forum or negotiations;
- d) provide OTs with timely advice of any changes to relevant technical requirements agreed within the framework of a maritime convention;
- e) ensure that OTs are advised in a timely manner of any proposals to amend, in its application to the UK, maritime legislation which has been extended to OTs;
- f) provide an indicative timetable for the UK's ratification of any new convention or technical requirement, which give the OTs sufficient time to enact local legislation before they enter into force of the new convention;
- g) In accordance with any agreed timetables and on request provide advice to OTs on any proposed maritime legislation that they have drafted;
- h) at the request of OTs and in accordance with constitutional arrangements, extend to OTs international conventions relating to merchant shipping in a timely manner;
- i) act on behalf of OTs to file or report equivalence if there may be practical points of distinction between the common strategies and policies [i.e. international standards] and the special circumstances, except where, there may be a fundamental risk to safety from amendment or filing or reporting.

10. EU issues – especially application of EU legislation and agreements to Gibraltar

10.1 Although, the UK as a European Union (EU) Member State is bound by the requirements of EU Directives, the OTs bar Gibraltar are not part of the EU and this can create complications particularly when UK maritime policy is governed by EU Directives. DfT/MCA confirms that they will inform OTs of any EU legislation dealing with the implementation of common strategies and policies that has effect for, or which may affect OTs.

10.2 Gibraltar is the only UK Overseas Territory located within the EU, and as such the Government of Gibraltar is subject to most EU law, including transport legislation. Other areas, such as the Common Agricultural Policy and the Common Fisheries Policy, do not apply to Gibraltar.

10.3 Although Gibraltar it is not constitutionally part of the UK, the UK is responsible for ensuring that the Government of Gibraltar complies with its obligations under EU (including transport) law. This includes taking account of implications for Gibraltar in negotiations on EU legislation, advising Gibraltar on transposition and implementation, and notifying the Commission.

Conclusion

The UK's fundamental responsibility and objective is to ensure the security and good governance of the Territories and their peoples. In doing so, 'we and Territory Governments share significant challenges: building more diverse and resilient economies, cutting public sector deficits, regulating finance businesses effectively and protecting biodiversity and natural resources' - *William Hague, Foreign Secretary (2012)*.

The Department for Transport recognises that each Territory is unique and all are remarkably diverse, and therefore seeks to strengthen its partnership to further mutual goals and benefits. DfT will continue to promote the interests of Territories and at the same time strike a careful balance to ensure Territories become more resilient.

As a result, we are encouraging an evolving and progressive relationship with the OTs where our commitment to assist fulfil international obligations can translate into building greater self-sufficiency. This will ensure a stronger, longer lasting partnership for the mutual good of Territories and the UK as a whole.

DfT - May, 2012