

Legal Directorate Annual Report 2013-14



Foreign &
Commonwealth
Office



This is the FCO Legal Directorate's Annual Report for 2014. It reviews our achievements for the year from June 2013 to June 2014 and sets out our priorities for the coming year.

The Directorate advises the FCO on legal, treaty and maritime policy and provides litigation services in UK and international courts, including the European Court of Human Rights.

The Report sets out the structure, organization and strategic objectives of the Directorate. It then describes each of our six strategic objectives, highlighting the main areas of work from last year and the challenges for the year ahead.

Legal Directorate
Foreign and Commonwealth Office
July 2014

Table of Contents

Introduction	5
Objective 1: Legal Services and Advice	6
1.1 Teams	6
Counter Terrorism and Human Rights (CT&HR) Team	6
EU Team	7
General Law Team	8
International Institutions and Security Policy (IISP) Team	9
Overseas Lawyers	10
1.2 Policy Work	12
Treaty Section	12
Maritime Policy Unit (MPU)	14
1.3 Litigation	16
Domestic	16
International	16
Litigation in the European Court of Human Rights	17
Objective 2: Management	19
2.1 Office Management Section (OMS)	19
2.2 Staff Survey	20
2.3 Training	20
2.4 Client Satisfaction	21
2.5 Diversity	21
Objective 3: Legal Awareness	22
Objective 4: Outreach	23
4.1 “Conversations on law and war”	23
4.2 The Second Annual International Law Lecture	23
4.3 Seminar on “Judging and Prosecuting International Crime”	25
4.4 Investor-State Arbitration in EU Investment Treaties	25
4.5 Jessup Moot competition	25
Objective 5: Shared Service to Government	26
5.1 Public International Law Counsel Panel	26
5.2 Government Legal Service International Law Group	27

5.3 European Convention on Information on Foreign Law (ECIFL) and Mutual Legal Assistance (MLA).....	27
Objective 6: Knowledge and Information Management	28
Contact Us.....	30

Introduction

FCO Legal Directorate is headed by the Legal Adviser, Iain Macleod and three Legal Directors (Cathy Adams, John Evans and Doug Wilson). Former Deputy Legal Advisers Chris Whomersley and John Grainger retired during 2014.

Most FCO lawyers are based in London. They are organized into four teams:

- Counter Terrorism and Human Rights
- EU and Wider Europe
- General Law
- International Institutions and Security Policy

The Directorate also includes:

- ECHR Agents Support Unit
- Knowledge and Information Section
- Office Management Section
- Maritime Policy Unit
- Treaty Section



Several lawyers serve as members of FCO posts overseas and at the Attorney General's Office.

Legal Directorate has six over-arching objectives:

1. **LEGAL SERVICES AND ADVICE:** To provide accurate, prompt and policy friendly legal and treaty services on all aspects of the work of the FCO and to lead on maritime policy
2. **MANAGEMENT:** To be a well run, happy and effective team
3. **LEGAL AWARENESS** To improve the level of understanding of legal and related issues across the FCO
4. **OUTREACH:** To maintain and enhance the reputation and impact of the FCO in the wider international law world, especially among academics and practitioners in the UK
5. **SHARED SERVICE:** To develop a shared legal resource for HMG as a whole on international, ECHR and EU law, whilst developing stronger links with other GLS legal teams.
6. **KNOWLEDGE & INFORMATION MANAGEMENT:** To enhance our expertise by effectively managing, accessing and sharing our knowledge and information resources.

Objective 1: Legal Services and Advice

To provide accurate, prompt and policy friendly legal and treaty services on all aspects of the work of the FCO and to lead on maritime policy

This objective is the Directorate's core business.

1.1 Teams

Counter Terrorism and Human Rights (CT&HR) Team



*This team's work directly contributes to the first of the FCO's Foreign Policy Priorities: **Safeguarding Britain's national security***

The CTHR Team's work includes the Middle East and North Africa, Eastern Europe and Central Asia, Counter-Terrorism, Human Rights and Democracy, and European Court of Human Rights litigation. The focus in 2013-14 was on **the Syria crisis, the Ukraine Crisis and Reform of the European Court of Human**

Rights.

The team act as Agents in all cases against the UK in the European Court of Human Rights. Until December 2013 Derek Walton was Chair of the Council of Europe Steering Committee for Human Rights. The team is supported by the ECHR Agents Support Unit (EASU) who process ECHR cases and deal with Rule 39 communications provisional measures from the ECHR.

Main achievements from the last year...

- **Syria** - legal advice in support of HMG's policy to achieve a political solution to the conflict.
- **Ukraine** – legal advice on issues arising from Russia's annexation of Crimea.
- **North America** – an amicus brief supporting BP's judicial review of the US Environmental Protection Agency's decision barring them from government contracts following the Deepwater Horizon event.
- **Counter-Terrorism** – Including Deportation With Assurances (e.g. Abu Qatada's deportation to Jordan); assisting the CPS with a number of issues including disclosure in criminal prosecutions; supporting the Home Office on deprivation of nationality legislation.
- **Inquests** – FCO/HMG engagement in the Litvinenko, Khalil Dale, In Amenas (Algeria hostages) and Abbas Khan inquests.
- **Cyber**- legal advice on the application of international law to cyberspace, and participation in the Seoul International Conference on Cyberspace in October 2013, in support of a delegation that included the Foreign Secretary
- **Reform of the European Court of Human Rights** – Taking forward follow-up to the Brighton Declaration on the future of the Court



[Derek Walton in Strasbourg](#)

Priorities for 2014-2015

- ❖ **Syria, Ukraine, Counter-Terrorism, Inquests and Cyber** are likely to remain high priorities in the coming year.
- ❖ In addition, we foresee further work on **Human Rights** especially **Reform of the European Court of Human Rights**

EU Team

*This team's work contributes primarily to the second of the FCO's Foreign Policy Priorities: **building the UK's prosperity***

*Work on EU issues helps advance the British national interest through an **effective EU policy in priority areas**, engaging constructively while protecting our national sovereignty.*



The work of the team includes legal advice to Europe Directorate and other FCO Directorates which cover geographic and cross cutting issues relating to Europe. It also advises certain geographic desks beyond the EU and provides legal support to the Department for Business, Innovation and Skills on international investment law and the Department for International Development on EU and international law.

The focus of the team's work and key achievements in 2013-14 has been:

- **Balance of Competences Review** – in collaboration with the EU Directorate, publishing the Foreign Policy Report; issuing the Calls for Evidence for the Enlargement and Subsidiarity and Proportionality Reports; and participating in Challenge Panels for reports from other Government Departments.
- **Gibraltar** – assisting EU Directorate's Western Mediterranean team in responding to the summer 2013 border crisis and continuing to protect UK sovereignty in British Gibraltar Territorial Waters.
- **Justice and Home Affairs** – preparation for the UK's decision to exercise the block opt-out of EU policing and criminal justice measures adopted before the Treaty of Lisbon.
- **EU Institutions and the Eurozone** – advising on EU legal and institutional issues and working closely with HM Treasury, Cabinet Office and other Government colleagues on issues arising from the financial crisis and banking union.
- **Parliament** – attending Parliamentary debates on EU issues, and advising on Parliamentary Scrutiny.
- **External competence/representation** – co-ordinating legal advice on EU external relations to ensure that UK interests are not adversely affected.
- **EU litigation** – advising on UK interventions in the Court of Justice especially as regards EU institutional issues including EU accession to the ECHR.

Priorities for 2014-2015

- ❖ **EU Institutions**— continuing to advise on how to make EU institutions more efficient and on promoting UK interests, during a year in which a new European Parliament and Commission are elected, and the Court of Justice proposes reforms of its rules of procedure, as well as advice on the **Eurozone** and on **EU Reform**.
- ❖ **Balance of Competences** – completing the reports on Enlargement and on Subsidiarity, Proportionality and Article 352 TFEU.
- ❖ **Justice and Home Affairs** – advising on operation of the UK opt-in, especially in the field of external relations, and finalising arrangements resulting from the 2014 block opt-out.
- ❖ **Bilateral Relations**—protecting UK interests in Gibraltar; UN talks on Cyprus reunification; and legal issues in the Western Balkans.

General Law Team

This team contributes to all three of the FCO's priorities:

- Our work on overseas territories, as well as litigation and Inquiries (which focuses primarily on counter terrorism), helps to **safeguard Britain's national security**.
- Work on consular issues, the law of the sea and air services contributes to **building Britain's prosperity**.
- Consular work is vital in the **support of British nationals around the world**.
- Our work has a strong corporate element, including proactive identification and management of legal risk, human resources, estates and security, procurement and information management.

Highlights during 2013 were:

- Implementation of the **Justice and Security Act 2013**, including the first contested application for a 'closed material procedure'.
- Participating in multilateral meetings of Foreign Ministry legal advisers including at the UN, EU and Council of Europe.
- Amending existing legislation to allow same sex marriages to be conducted by consular officials abroad.
- Developing guidance and training for consular staff dealing with cases involving safeguarding and child protection and advising on improved guidance for vulnerable British nationals who may be experiencing mental health issues, to help consular staff to provide appropriate support and advice.
- Organising the Annual Conference of Attorneys General of the British Overseas Territories which was held in the Falkland Islands (November 2013).
- Extending tax treaties to the Overseas Territories (OTs) and working with the OTs to ensure greater transparency in taxation matters in line with G8 2013 commitments.
- Successfully defending a judicial review challenge to the FCO's decision to create a



Penguins, Falkland Islands

- Marine Protected Area in the British Indian Ocean Territory (BIOT).
- Attending the 36th Antarctic Treaty Consultative Meeting and advising on issues concerning the security and environmental protection of Antarctica.
- Advising Corporate Procurement Group on commercial and general legal risks issues relating to the G8 Summit 2013 held in Northern Ireland. Advising Protocol Directorate on legal issues surrounding the G8 Summit.

Priorities for 2014-2015

- ❖ Implementation of the Consular Strategy 2013-16 for the development of consular excellence.
- ❖ Organising the next Annual Conference of Attorneys General of the OTs in the Turks and Caicos Islands (TCI).
- ❖ Implementing a coherent extradition regime in the OTs.
- ❖ Advising on the ongoing study into the feasibility of resettlement of the BIOT.
- ❖ Attending the 37th Antarctic Treaty Consultative Meeting to ensure the security and environmental protection of British Antarctic Territory and to affirm the Antarctic Treaty Regime which provides for the peaceful international governance of Antarctica.
- ❖ Contributing a UK perspective to the strategic development of international law through the work of the International Law Commission and the UN General Assembly Sixth Committee.
- ❖ State immunity issues surrounding cases brought by domestic workers against diplomatic embassies in London.
- ❖ Continuing provision of strategic and operational advice in support of FCO operations and priorities and the delivery of further training to support such operations.
- ❖ Completion of new Air Services agreements with several key overseas partners.

International Institutions and Security Policy (IISP) Team

*This team's work contributes primarily to the first of the FCO's Foreign Policy Priorities: **Safeguarding Britain's national security***

The team works on multilateral policy (including sanctions and war crimes), Defence and International Security, South Asia and Afghanistan, Africa and Asia Pacific.

During 2013/14 the team has:

- Advised on the EU sanctions regime and applying Ukraine related sanctions in the OTs.
- Advised on the development and implementation of UN and EU sanctions regimes; managed an increased volume of litigation on sanctions at EU and domestic level; chaired the Cross-Whitehall Sanctions Legal Group and engaged in academic outreach to ensure awareness of our approach to sanctions listings and litigation. Analysing how to respond to the European Court of Justice's Kadi II judgement has been a significant area of work.
- Continued to implement new "smarter sanctions" procedures for analysing the impact of sanctions and the robustness of sanctions designations across all sanctions regimes and worked with policy colleagues to ensure that new listings proposals, including those involving non-disclosable information, gain full support at UN and EU level.

- Drafted 14 Orders in Council implementing sanctions in the OTs.
- Contributed to the policy and legal considerations for the PSVI initiative which led, in September 2013, to 137 countries signing a Declaration of Commitment to End Sexual Violence in Conflict at the United Nations General Assembly in New York.
- Helped achieve signature of the Protocol to the Treaty on a Nuclear-Weapon-Free Zone in Central Asia



Priorities for 2014-2015

- ❖ Defending UN and EU sanctions regimes in the domestic and EU courts.
- ❖ Afghanistan related issues including detentions policy, local staff issues, and other aspects of the draw down of UK military presence there.
- ❖ Supporting work concerning an oversight mechanism for Private Security Companies and adoption of national standards.
- ❖ Contributing to the UK's application of robust and appropriate arms controls including policy revision in line with UK ratification of the Arms Trade Treaty.
- ❖ Continuing to advise on issues with regard to the work of the International Criminal Court.
- ❖ Continuing to advise Iran Department on the negotiations in Geneva between Iran and the E3+3 with the goal of establishing a comprehensive agreement and the lifting of sanctions on Iran.

Overseas Lawyers

New York

Paul McKell and Jesse Clarke, Legal Advisers at the UK Mission to the United Nations, New York

The UKMis Legal Section has lead responsibility within the Mission for International Justice, the Sixth



United Nations, New York

Committee (Legal) of the General Assembly, the Rule of Law and the Law of the Sea. The International Justice work covers the International Criminal Court, the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Tribunal for Lebanon (as Chair of the Management Committee), the Extraordinary Chambers of the Courts in Cambodia and the Residual Special Court for Sierra Leone.

In addition, Paul and Jesse provide legal advice across the full range of the work of the Mission. There is a particular focus on the work of the Security Council which often requires legal input on international humanitarian law, accountability, sanctions, peace-keeping mandates or on the procedures and practices in the Council, the General

Assembly and other meetings at the UN e.g. negotiating conferences and meetings of states parties.

The Legal Section also plays a key role in ensuring respect for arrangements for EU representation at the UN.

Geneva

Theo Rycroft, Legal Adviser at the UK Mission to the United Nations, Geneva, has responsibility for legal-policy issues arising in UKMis's work across the Geneva institutions, as well as giving legal advice to UKMis colleagues. In particular:

- At the UN Human Rights Council (HRC), leading negotiations for the UK on resolutions with high legal content and advising colleagues on legal issues arising in the HRC;
- Representing the UK on the Governing Council of the UN Compensation Commission;
- Implementation, in all Geneva based International Organisations, of agreed and effective post-Lisbon EU working arrangements;
- Engaging with ICRC legal advisers on International Humanitarian Law issues which are of concern to the UK;
- Engaging with the extensive international law community in Geneva and arguing for UK positions on key international law issues.



UN Building, Geneva

Brussels

Ivan Smyth, Nick Minogue, Alistair Robinson and Vina Shukla, Legal Advisers at the UK Representation to the EU, Brussels

The UKREP legal team provide legal advice to the UK Permanent Representative and Deputy Permanent Representative and their policy teams. In particular the teams work covers:

- Legal issues arising in the COREPER I and II (the Ambassadors' Committees) and in the Political and Security Committee;
- EU legislative procedures, voting rules and the Rules of Procedure of the EU Institutions;
- Legal advice relating to the competences of the EU and its Member States; and
- Liaising with the EU Institutions Legal Advisers.



Justus Lipsius Building, Brussels

The legal team also advise on cross-cutting issues such as Treaty change, the EU's continuing response to the Eurozone crisis and external relations.

The Hague



ICC

Shehzad Charania, Legal Adviser to the Embassy in The Hague, provides strategic direction, leadership and analysis with respect to the UK's engagement with Hague-based international organisations, in particular, the International Criminal Court (ICC), but also the International Court of Justice, the International Criminal Tribunal for the Former Yugoslavia, and the Special Tribunal for Lebanon. He also provides legal advice to the team working on the Prevention of Sexual Violence, in particular, in relation to the International Protocol on Documentation and Investigation of

Sexual Violence.

You can follow Shehzad on Twitter@UKintlaw for the latest news and developments on international law issues.



Strasbourg

Kate Jones is the Deputy Permanent Representative, UK Delegation to the Council of Europe, Strasbourg. Laura Dauban will replace Kate in late 2014.

The Deputy Permanent Representative leads on:

- Liaison with the Committee of Ministers on European Court of Human Rights judgments against the UK;
- Representing the UK in the Committee of Ministers when it oversees the Court's judgments against other European States;
- Promoting reform of the European Court of Human Rights and the Convention system;
- Negotiating for the UK on human rights and justice issues.



Committee of Ministers, Strasbourg

She is closely involved in the UK's broader policy and activities at the Council of Europe, including on its response to the Ukraine/Russia crisis, and in the management of the Delegation.

1.2 Policy Work

Treaty Section

Treaty Section's role is

- To supervise the conclusion of bilateral and multilateral treaties by the UK
- To advise and assist with the form and content of draft treaties and MOUs
- To maintain an information and enquiry service
- To act as a depositary for more than thirty multilateral treaties

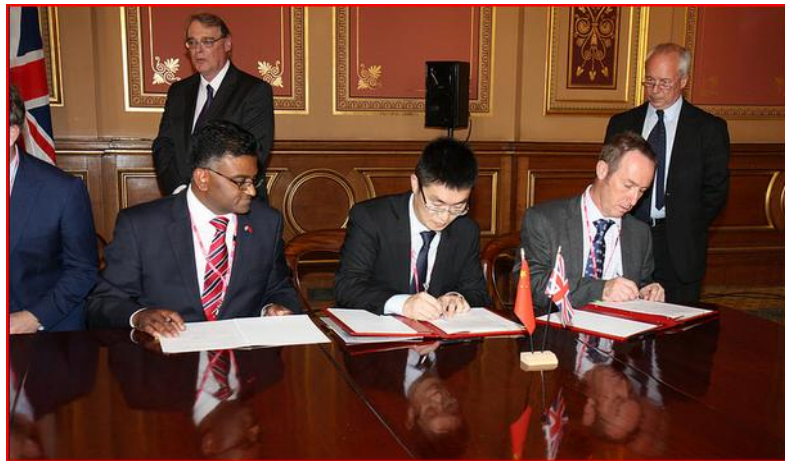
- To oversee the application of statutory provision of the Constitutional Reform and Governance Act 2010 (CRaG) for parliamentary scrutiny of treaties
- To arrange for treaties which are in force for the UK to be transferred to the National Archives at Kew

*The Section is organised into two teams covering **treaty procedures and publishing** and **treaty information and depositary work**.*

Treaty procedures and publishing

This includes the key treaty stages of drawing up Full Powers and instruments of ratification and equivalent documents; publishing treaty texts before Parliament as Command Papers; and registering treaty texts with the United Nations Secretariat and the International Civil Aviation Organization (ICAO) for Air Services Agreements.

In 2013 members officiated at fifteen treaty signature ceremonies in London and supported signature and ratification events at UK Posts abroad. These events included The International Maritime Labour Convention and the Arms Trade Treaty.



Signing ceremony during the visit of Chinese Premier, Li Keqiang in London, 17 June 2014, under the watchful eyes of Dale Harrison and Alan Beckwith, Treaty Section

Important bilateral treaties included:

- The Mutual Legal Assistance Treaty with Jordan
- The Mutual Legal Assistance Treaty with China
- Immigration Controls on Rail Traffic between Belgium and the UK using the Channel Fixed Link with Belgium
- The Transfer of Arms and Military Technologies necessary to Implement Joint Research and Production of Defence Equipment and other related items with Japan
- The Extradition and Mutual Legal Assistance Treaties with Morocco

Treaty Information and depositary work

Treaty Section provides assistance to Whitehall departments, foreign governments and the public with enquiries about the UK's treaty commitments. The Section makes its database and texts of treaties published in the UK Treaty Series since 1892 available through the UK Treaties Online service (<https://www.gov.uk/uk-treaties>).

The Section manages the UK's role as depositary to more than thirty multilateral treaties. This includes recording and disseminating information about actions on treaties for which the UK Government is depositary, including UNESCO and the Biological Weapons Convention.

Priorities for 2014-2015

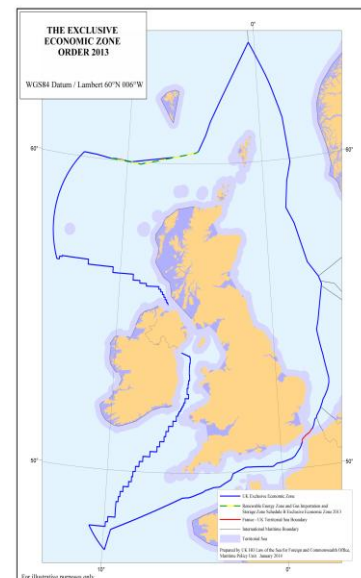
- ❖ To improve the effectiveness of the Section's delivery of information, particularly by restoring content that was not initially accepted for migration to Gov.uk.
- ❖ To identify opportunities to promote treaty awareness through individual and Directorate-wide legal awareness and outreach activities.
- ❖ To continue its program of modernizing the recording and dissemination of the depositary information.

Maritime Policy Unit (MPU)

The FCO is the lead government department on the UN Convention on the Law of the Sea (UNCLOS).

MPU works closely with other Government Departments with an interest in the oceans and maritime issues, on matters such as:

- Maritime delimitation
- Shipping
- The marine environment
- Scientific research
- Whaling
- Underwater cultural heritage (submerged wrecks)
- Deep seabed mining



EEZ: established in March 2014

Deep Sea Mining Act: This Bill was promoted as a Private Member's bill but Maritime Policy Unit were heavily involved in the drafting of the Bill and in briefing the Private Member and Ministers. The Bill amends the 1981 Deep Sea Mining (Temporary Provisions) Act, bringing UK legislation fully into line with the UN Convention on the Law of the Sea, and broadening the scope of minerals in the deep sea for which the Government can issue exploration and exploitation licences, thereby ensuring that British companies can potentially benefit from all the opportunities available. The Bill was introduced in Parliament in June 2013 and completed its passage through both Houses in March 2014, receiving Royal Assent on 14th May 2014.

In 2013/14, MPU has:

- Concluded agreements on the delimitation of an Exclusive Economic Zone around the UK, and brought the declaration of an Exclusive Economic Zone (EEZ) into force on 31 March 2014.
- Sponsored a second application by a UK company to explore for polymetallic nodules in the Pacific Ocean.
- Participated in the discussions in the United Nations on biodiversity beyond national jurisdiction, ocean acidification and on the General Assembly resolution on, and in the meetings of State Parties to, the Law of the Sea Convention.
- Concluded negotiations on, and signed, the Hamilton Declaration for Collaboration for the Conservation of the Sargasso Sea.
- Restarted negotiations, after a gap of over 20 years, on the maritime delimitation between the Cayman Islands and Cuba.
- Consulted with Overseas Territories on issues concerning their ship registries



Mina Patel, MPU, at the UN at the meeting on Ocean Acidification, June 2013



Louise Savill, MPU, signs the Hamilton Declaration for the UK

Priorities for 2014-2015

- ❖ Continue to press for international agreement for an improved mechanism for the scrutiny of the budget of the International Tribunal for the Law of the Sea.
- ❖ To work for an implementing agreement on biodiversity beyond national jurisdiction.
- ❖ Progress maritime delimitation negotiations on behalf of Overseas Territories in the Caribbean.
- ❖ Participate in work on the UNESCO Convention on Underwater Cultural Heritage.
- ❖ Update guidance on applications for Marine Scientific Research to take into account new EU and domestic legislation and new designations of various marine protected areas.

1.3 Litigation

Legal Directorate is closely engaged in a range of litigation involving the FCO and HMG.

- We defend cases brought against the FCO in our domestic courts and tribunals and assist other Government departments to defend civil claims against them which involve international law issues.
- We act as Agent for the Government before the European Court of Human Rights, the International Court of Justice and international tribunals.
- We contribute to the presentation of the Government's position before the ECJ and lead policy in relation to the Court.

Domestic

Key Points in 2013/14:

- Civil damages cases alleging UK complicity in detention, torture and/or mistreatment overseas. Important judgments were handed down in Belhaj v FCO and Others and Amin v FCO and Others. Both cases are being appealed.
- The Justice and Security Act 2013 came into force in June providing for the use of closed material proceedings (CMP) in civil proceedings, enabling national security material to be taken into account by the Court without damaging national security by open disclosure. The Foreign Secretary applied for the first CMP, which was successfully granted by the Court in Mohammed & CF v Foreign Office & Others.
- Key judgments were delivered by the Court of Appeal in the Noor Khan case (challenging an alleged HMG policy of passing intelligence to the US for use in drone strikes) and the Sandiford case (upholding the decision that there was no legal obligation on the FCO to provide a lawyer for the purposes of an appeal against a death penalty sentence imposed in Indonesia).
- A judicial review challenge to the decision to create the world's largest "no-take" Marine Protected Area in the British Indian Ocean Territory (BIOT).
- The settlement of a number of claims alleging the involvement of the UK Government in mistreatment of detainees during the Mau Mau Emergency in Kenya in the 1950s. Advising on further litigation in respect of the Kenyan Emergency, which is now being dealt with by the High Court of England and Wales as a group action.



International

Key Points in 2013/14:

- Preparing for the arbitration brought by Mauritius against the United Kingdom under UNCLOS, challenging the establishment of the Marine Protection Area around British Indian Ocean Territory (BIOT). The hearing took place in May 2014.



UK team at Mauritius v UK, Istanbul 2014

- In May 2014, Marshall Islands began proceedings against the UK in the International Court of Justice in relation nuclear disarmament. This was the first contentious case brought against the UK since 1999.

Litigation in the European Court of Human Rights

35 applications were communicated to the UK for observations in 2013.

The Court decided 1,652 applications against the UK in 2013, of these it found a violation of the Convention in 10 applications (i.e. 0.6% of the total).

Significant decisions in favour of the UK in 2013-2104 included:

- *Jones and Mitchell* - state immunity rules do not breach Article 6;
- *RMT* - prohibition on secondary industrial action - not unlawful;
- *Allen* - refusal of compensation for miscarriage of justice not a breach of the presumption of innocence;
- *Shindler* - limits on the right to vote by nationals resident overseas – consistent with ECHR;
- *Animal Defenders International* – ban on political advertising – proportionate and legitimate.



European Court of Human Rights

There were 905 applications for interim measures (preliminary protective orders) against the UK in 2013, of which 3 (0.3%) were granted.

Priorities for 2014-2015

At the start of 2014 there were 2,519 applications (2.5% of the total) pending against the UK; 2,006 of these (79.6%) were prisoner voting cases.

Judgments anticipated in 2014-2015 include:

- ❖ *Armani da Silva* – Shooting of Jean Charles de Menezes at Stockwell underground station;
- ❖ *Hassan* – application of the ECHR during the active combat phase of UK military operations in Iraq

Significant cases on which work is ongoing include:

- ❖ *Big Brother Watch* - alleged absence of legal protections in UK law relating to the use, storage, dissemination and disposal of personal data by the UK intelligence services;
- ❖ *British Gurkha Welfare Society* - Complaint that the significantly lower pension entitlement of Gurkha soldiers who retired or served before 1977 amounted to differential treatment on the basis of nationality, race and age;
- ❖ *Amin and Ahmed* - Extent of UK's responsibility in respect of alleged complicity by British agents in ill treatment of applicants whilst in detention in another state;
- ❖ *McKevitt and Campbell* - Whether the hearing of the civil claims against the applicants for their alleged role in the Omagh bombing was fair in light of the admission of hearsay evidence and the application of the civil rather than criminal standard of proof.
- ❖ *Ali* - Whether the applicant's retrial for conspiracy to murder for his involvement in the "airline liquid bomb plot" was fair in light of the media coverage of the jury's failure to reach a verdict on this charge after his first trial.

Objective 2: Management

To be a well run, happy and effective team

2.1 Office Management Section (OMS)

During 2014, OMS was restructured to enable legal administrative staff to work more closely together, pooling talent and resources, and allowing the team to take on a wider range of issues. In summary, these are:

Information Services

- Lead on requests made under the Freedom of Information (FOI) Act, The European Convention on Information on Foreign Law (ECIFL) as well as for Mutual Legal Assistance (MLA).
- Co-ordinate the processing of Statutory Instruments and liaison with Parliament and the Privy Council.
- Processing Parliamentary questions, MP's letters and letters from members of the public.

Budget/Finance Services

- Manage financial resources, in accordance with Directorate objectives and FCO Foreign Policy Priorities.
- Procure goods and services.
- Process and pay invoices.

Administrative Services

- Manage and maintain departmental security.
- Provide an induction for new staff who join the Directorate.
- Oversee the management of the office premises and facilities.

Priorities for 2014-2015

- ❖ Facilitate effective performance management.
- ❖ Maintain an excellent record on security.
- ❖ Train administrative staff to effectively manage finance and parliamentary processes.
- ❖ Develop and continue to test the Business Continuity Plan.
- ❖ To strive to the principles of diplomatic excellence in our everyday work.

2.2 Staff Survey

The response rate for the 2014 Staff Survey was very high. Overall the Directorate's engagement rating increased by 4%.

There were clear improvements on the 2013 survey scores in several areas, in particular on "Learning and Development", the "management of the FCO" and "confidence that the Survey results will be acted upon". The Directorate's scores continued to be very strong in relation to "satisfaction with the work that we do" and "organisational objectives and purpose". In other areas, the Survey pointed to strong dissatisfaction with "pay and benefits", and scores on "My manager" continued to be well below the FCO average. Most disappointingly the scores in relation to "Discrimination, harassment and bullying" did not substantially change from the previous year's scores. A gender breakdown of the scores also revealed that positive scores for men were, generally, much more prevalent than those for women across a wide range of questions. As a result the focus for the coming year will be on "BHD", gender and management.



Nicola Smith, Directorate's Diversity champion, held all-women challenge sessions to better understand the reasons for the gender disparity in the staff-survey scores. Improving line-management is a priority for 2014/15, in line with the FCO's "Good Line Management" campaign.

2.3 Training



The Legal Training Group (LTG) coordinated monthly lunchtime presentations throughout 2013 and 2014. These were mostly given by in-house speakers, all of whom demonstrated the great range of knowledge within Legal Directorate. Subjects of talks included use of force in international law, maritime law, the Justice and Security Act, immunities and jurisdiction, EU competences, litigation, Commonwealth legal issues and legal issues surrounding the forthcoming Scottish referendum.

In March and November in-house Presentation Skills Training Workshops were run by an external provider for Legal Directorate Staff. The workshops enabled delegates to evaluate their current skill level, practice giving a presentation and receive practical guidance for improvement. In partnership with the ICRC, we ran an in-depth training course on International Humanitarian Law from July 2013 to February 2014.

Lawyers working in posts overseas are encouraged to share their experiences to their London colleagues, and a "Working in The Hague" talk was held in summer 2013, followed by a talk about working in UKREP Strasbourg in January 2014.

Members of the LTG have designed and continue to develop a system of recording external training courses attended by individual colleagues and for recording feedback on courses attended. Detailed guidance for individuals arranging lunchtime presentations is available, building on the previous years' work in developing a model induction package.

The Directorate's EU Team contributed to the GLS EU law training programme as part of the Steering Group and as providers of training.

2.4 Client Satisfaction

The Directorate ran a Client Satisfaction survey in February 2013 and again in 2014. The 2014 scores are as follows with the scores for 2013 in brackets:

- How do you rate our performance overall? 87% (81%)
- How well do you think we understand what you are trying to achieve? 85% (81%)
- How would you rate our speed of response? 71% (68%)
- How easy was it to contact a legal adviser when you needed advice? 75% (72%)
- How clear and readable is our written advice? 82% (85%)
- How well did we keep you informed of progress of work? 67% (66%)
- How do you rate our arrangements for covering absences? 45% (54%)
- How would you rate the quality of our relationship with you? 87% (80%)

(The percentages represent the combined “Excellent” and “Good” scores, which is the practice in other Whitehall legal teams.)

In general, and in most areas, the results show that Legal Directorate is seen as providing a good service and in some areas, the service is excellent. But there is room for improvement in the following risk areas:

- The arrangements for contacting legal advisers;
- Keeping clients informed of progress in their work;
- Absence cover;
- Response times.



In response to the survey we developed a “Client Care Guide” for legal teams which made practical recommendations on how to improve service delivery.

2.5 Diversity

Legal Directorate appointed Nicola Smith as its Diversity Champion in 2014 and a team is working with her to look at improving the way we address diversity within the Directorate. This has included sessions targeted on the subject of women into leadership.

We have also formed an alliance with the Access Project, a London charity that seeks to combat inequalities in educational achievement by using volunteer tutors to help students from disadvantaged backgrounds to fulfil their potential and access universities. Around 10 of our lawyers have recently undergone training and are looking forward to being matched with local school pupils and starting to tutor in the autumn.



Kim Hollis, the UK's first female Asian QC

Iain Macleod hosted two of the talks in the FCO's Celebrating Diversity “What Do I Bring” Lecture Series in 2014. Both were well attended by staff from within the FCO and across Whitehall. Kim Hollis spoke on 5th February and Yinka Shonibare on 5th March.

Objective 3: Legal Awareness

To improve the level of understanding of legal and related issues across the FCO

The aim of our legal awareness programme is to improve the understanding across the FCO of:

- the legal context of the FCO's work
- the legal powers which underpin the FCO's activities and the legal constraints that may affect its ability to act
- the core legal topics which are central to the work of the FCO

The programme was launched in autumn 2013 with the successful roll-out a series of eight training modules across a range of subjects:

- Law and Foreign Policy
- The Judge over your Shoulder: taking good decisions – and what to do if things go wrong
- Making Sanctions Smart
- Military Intervention: is it legal?
- The Laws of War – an introduction to international humanitarian law (IHL)
- A bluffer's guide to EU law (FCO Edition)
- Managing Creeping Competence: a desk officer's guide to EU external relations
- Ruling the Waves: an introduction to law of the sea

These sessions will be repeated in 2014 and two new sessions will be added:

- An Introduction to Treaties
- Understanding the Overseas Territories

We have supplemented this modular training through:

- Enhanced online legal materials including publishing articles for the new FCOWiki.
- Legal e-learning: this is aimed at expanding the reach of the programme in particular for staff overseas. The first two e-learning modules to be launched in 2014 will deal with treaties and courts and tribunals.
- Knowledge networks: these are aimed at staff with a more in-depth interest in a legal topic and consist of periodic bulletins on current developments in the law. Our first network on international humanitarian law, was launched in January 2014 and now has over 40 members mainly from within the FCO, but also from across Whitehall. We are aiming to launch further networks later this year.

The Diplomatic Academy's Law Faculty

During 2014-15, we will develop the legal awareness programme further through the establishment of the Law Faculty of the FCO Diplomatic Academy. Cathy Adams will lead the Directorate team engaged in this work.

Objective 4: Outreach

To maintain and enhance the reputation and impact of the FCO in the wider international law world, especially among academics and practitioners in the UK

Our Outreach programme has many facets. Within our individual teams, we take pride in delivering and promoting our legal services and do so on a daily basis. This year we have visited 30 universities across the UK to deliver seminars/lectures. We have also taken part in several careers events to showcase life as a lawyer, in particular working for Government.

Treaty Section has over the last year briefed an Overseas Territories Directorate hosted Heads of OT's Public Services Meeting, specifically on the treaty extension process. Lawyers and members of Treaty Section presented a course on treaties and legal drafting for the William Dale Centre. Maritime Policy Unit has held a cross Whitehall seminar to discuss topical Law of the Sea issues.



[“Judgments of the European Court of Human Rights – Effects and Implementation” conference, September 2013: Derek Walton spoke on Subsidiarity and the Brighton Declaration at the Georg-August University in Goettingen, Germany.](#)

4.1 “Conversations on law and war”



“Conversations on law and war” is a joint collaboration between The Dickson Poon School of Law of King's College London and the Foreign and Commonwealth Office. The seminar brings together thinkers and policy formulators from government, academia and private practice to discuss and debate modern trends and issues in international law and armed conflict. The format for each seminar is a short intervention by each

speaker, followed by a moderated discussion with a knowledgeable audience. There will be six seminars in the series over the course of 2014. The first was held in late April 2014. The proceedings will be published as a book.

4.2 The Second Annual International Law Lecture

The Second Annual International Law Lecture took place in the FCO's Locarno rooms on 19th May 2014, chaired by the Solicitor General, Oliver Heald MP. The lecture was delivered by the President of the ICRC, Ambassador Peter Maurer. President Maurer spoke to an audience of almost 150 from within and outside Government, on “War, Protection and the Law”: The ICRC's approach to International Humanitarian Law”. A lively Q & A session followed. The lecture was recorded and is available to watch on the FCO YouTube.

- Link for the lecture: <http://youtu.be/pqcoAqCvrMk>
- Link for the Q&A session: : <http://youtu.be/EZXQJoR8y8s>

The video links have been publicised on FCO twitter channels, the ICRC's website, and in a short blogpost on "EJIL Talk!"

Ambassador Maurer delivers the
FCO's Second Annual International
Law Lecture, 19th May 2014



4.3 Seminar on “Judging and Prosecuting International Crime”.



On 2 April 2014, FCO Legal Directorate and the GLS International Law Group held a seminar entitled “Judging and Prosecuting International Crime” with speakers Judge Theodor Meron, President of the International Criminal Tribunal for the former Yugoslavia, and Mrs. Fatou Bensouda, Prosecutor of the International Criminal Court. Both speakers shared their experiences and answered questions from the audience on the challenges of successfully prosecuting individuals for international crimes.

Judge Theodor Meron

4.4 Investor-State Arbitration in EU Investment Treaties

On the evening of 24 April, Legal Directorate hosted a seminar with the Department for Business, Innovation and Skills and the International Law Association (British Branch) on the future of Investor-State arbitration in EU Investment treaties. Speakers included Johnny Veeder QC and Sir Daniel Bethlehem, QC. The purpose of the seminar was to discuss the efficacy and fairness of current arrangements for Investor-State disputes and suggest possible alternatives for the future.

4.5 Jessup Moot competition

The Jessup International Law moot competition is the world's largest moot court competition, with participants from over 550 law schools from more than 80 countries. This year's international rounds took place in Washington DC from 6 to 12 April 2014. The UK was represented by teams from the University of Oxford (who won the UK national rounds) and King's College London (who were runners up). Legal Directorate hosted a seminar and reception for the UK winners on 2nd April 2014.



The White & Case Jessup Cup

Objective 5: Shared Service to Government

To develop a shared legal resource for HMG as a whole on international, ECHR and EU law, whilst developing stronger links with other GLS legal teams.

FCO Legal Directorate works closely with lawyers across Government in all of its work and aims to provide a “shared service” in several distinct areas:

- **International Law:** The Directorate works closely with other Government departments on many aspects of public international law and acts as a centre for excellence for international legal issues generally.
- **International Litigation:** The Directorate acts as agent for the Government as a whole in International Courts, including the International Court of Justice and the European Court of Human Rights.
- **Treaty Services:** Treaty Section provides treaty services to Government generally, including in respect of information, procedures and publication by acting as a depository for numerous treaties (see pages 12 and 13).



International Court of Justice

5.1 Public International Law Counsel Panel



2014 saw the establishment of the Attorney General's Panels of Public International Law Counsel. This development reflects the growing prominence of international law in Government legal work. The establishment of these new panels is intended to ensure that the Government has available to it high-quality, specialist advice in international law, for both litigation and advisory work.

The recruitment for these Panels followed a broadly similar process to that followed by Treasury Solicitor's Department for the Attorney General's Panels of Counsel for civil matters. There was open, publicly-advertised competition, which attracted some 80 candidates. A total of 15 members were chosen to fill the A, B and C Panels (reflecting their years of experience). The available expertise on the Panels includes the traditional areas of public international law such as State responsibility, immunities, and the law of treaties, as well as more recent topics of international law, including human rights, international criminal law, international economic law and international environmental law.

The panel members are:

A Panel: Shaheed Fatima (Blackstone Chambers), Ben Jaffey (Blackstone Chambers), Maya Lester (Brick Court Chambers), Douglas Ross (Parliament House, Edinburgh), Dan Sarooshi (Essex Court Chambers)

B Panel: Kate Cook (Matrix Chambers), Graham Maciver (Ampersand Stable, Edinburgh), Penelope Nevill (20 Essex Street), Christopher Staker (39 Essex Street), Guglielmo Verdirame (20 Essex Street), Jessica Wells (Essex Court Chambers)

C Panel: Amal Alamuddin (Doughty Street), Michelle Butler (Matrix Chambers), Nikolaus Grubeck (Doughty Street), Amy Sander (Essex Court Chambers)

5.2 Government Legal Service International Law Group

The GLS International Law Group was founded early in 2013 with the aim of sharing and consolidating knowledge of and experience in international law across Whitehall and fostering links



between Government departments engaged with international law issues. The GLS International Law Group is charged with sharing knowledge across the GLS, through: organising training events; one –off talks; and an annual conference. A smaller GLS International Law Steering Group

has been planning the inaugural GLS International Law Conference, which will take place on Monday 14 July 2014 at the Treasury Solicitor’s offices.

The title of the 2014 inaugural Conference is, “International Law: Real Law or the Lore of International Relations?” The conference speakers will comprise leading academics; practitioners and government experts in the field of international law. The conference is for GLS lawyers whose current work involves international law issues as well as those with an interest in this area of practice. The Conference is designed to provide an accessible introduction to the sources of international law and to put the subject into context by introducing GLS attendees to practitioners across the GLS via a series of “day in the life” presentations. Afternoon workshops will then explore topics of particular interest to government lawyers taking a more in depth look into Treaty practice, the language of international agreements, litigating international law in domestic courts and the interface between International Humanitarian Law and Human Rights.

5.3 European Convention on Information on Foreign Law (ECIFL) and Mutual Legal Assistance (MLA)

The Office Management Section acts as receiving agent for all requests made through the European Convention on Information on Foreign Law. Last year it received 28 requests under the Convention. The Section also acts as the Single Point of Contact for the FCO dealing with incoming requests for legal assistance from foreign courts.

Objective 6: Knowledge and Information Management

To enhance our expertise by effectively managing, accessing and sharing our knowledge and information resources.

Legal Directorate's new Knowledge and Information Management Strategy, which takes effect from 1 April 2014, sets out how we will improve the way we use, share and keep knowledge and information; and how we will ensure that all staff have access to relevant, up-to-date information resources to help them do their jobs.

The Strategy is set out in full below in recognition of its importance to the work of the Directorate as a whole.

1. Valuing and encouraging good knowledge and information management

Goal: *Legal Directorate is a working environment where the effective management and use of knowledge and information is valued and encouraged.*

- Each person in Legal Directorate has an individual Knowledge and Information Management (KIM) objective, tailored to their own work and contributing to the overall Directorate objective. All staff are expected to take responsibility for managing their own knowledge and information effectively and for developing the relevant skills to do so.

2. Being able to find and use the right information

Goal: *In order to stay informed and up-to-date on issues relevant to their work, all Directorate staff are able to quickly and effectively find, evaluate and make good use of information resources.*



- All staff participate in relevant training, for example on searching legal databases or using ebooks. Legal research quizzes are used to evaluate their skills and plan further training.
- The Knowledge and Information Section manages access to published legal information resources by:
 - Evaluating and selecting legal information resources in electronic and print format (in consultation with Directorate colleagues)
 - Organising easy and efficient access to resources: managing the Legal Information Toolkit on Sharepoint; maintaining the book collection through cataloguing and weeding; identifying new ways of accessing information
 - Providing training in research skills and promoting awareness of new and existing resources
 - Offering a research and enquiries service for complex or urgent searches
 - Providing targeted information in the form of alerts or bulletins to help staff identify what they need and reduce information overload

- Building on relationships with FCO and OGD colleagues to ensure access to relevant resources outside Legal Directorate

3. Managing our own information well

Goal: *Internal Legal Directorate files and documents are managed effectively: stored in the correct place, weeded regularly, and organised in an efficient, logical way. Appropriate information is saved for long-term knowledge management purposes.*

- In order to recommend and help implement better processes and working practices, we will investigate how we currently organise and manage information, how we can make best use of developments in FCO IT, and lessons to be learned from good practice in other organisations.
- Training on information management will be part of all staff inductions. The effectiveness of how teams and individuals manage their information is assessed and evaluated as part of the appraisal process.



4. Sharing our knowledge

Goal: *Legal Directorate shares and makes use of its collective knowledge effectively, both within and outside the Directorate.*

- We will review use of the Legal Advice Database and how it benefits the Directorate's work, and where necessary make changes to the way we store, access and make use of documents that need to be kept for the corporate memory.
- We will put in place more efficient handover processes to ensure that important knowledge and information are not lost when staff move on.
- We will make information about our work and areas of specialist knowledge available online (e.g. on the intranet and LION website), with staff from all teams involved in developing and writing content.
- We will continue to develop programmes of work that enable wider knowledge-sharing, e.g. legal awareness and e-learning modules; virtual networks; outreach activities such as academic seminars, external talks and publication of articles.



A section of Legal Directorate's library

Contact Us

Legal Directorate can be contacted via an email to LegalDirectorateEnquiries@fco.gsi.gov.uk



Albert the Anaconda, still watching over Legal Directorate