

Highway Review Committee

JCC Head Office
Professional Centre
Wrightson Road Extension
Port of Spain

04 March 2013

Mr. Afra Raymond,
President,
Joint Consultative Council for the Construction Industry,
The Professional Centre Building, Unit 202,
Fitzblackman Drive, Wrightson Road Extension,
Port of Spain.

Dear Mr Raymond,

Re: Re-Submission of the Report of the Highway Review Committee – Including Specific References to the Correction of Errors and an Explanation of the Process

On behalf of the members of the Highway Review Committee (HRC), I am pleased to resubmit the Report, including some minor corrections and rephrasing of some statements. These corrections do not in any way change the original findings and recommendations. Also, rather than attaching an Addendum, the various issues brought to our attention via the Joint Consultative Council for the Construction Industry (JCC) will be addressed in a separate supplementary document, so as not to tamper unduly with the original Report.

It will be recalled that the HRC submitted its Report to the JCC on 4 February 2013, as was scheduled. We anticipated a delivery date of 5 February but were advised that this one day extension was not possible. The Report at the time was considered to be final. We were subsequently advised by the JCC that the National Infrastructure Development Company Limited (NIDCO) wished to review the document for any factual errors. Between 21 – 27 February 2013 we received, via the JCC, seven sets of comments from different parties mentioned in the Report, including: Ecoengineering, NIDCO, Trintoplan Consultants (Trintoplan), and the Ministry of Works and Infrastructure. These comments were immediately circulated to the Committee for further review. The consultants submitted responses to the substantive issues which were raised. It was noted that the vast majority of the comments received had nothing to do with factual errors, but rather differences of opinion regarding findings and conclusions of issues within the Report. In many cases one-liners were extracted to attempt to refute findings or bolster the preference of opinion of the writer. To the extent warranted, these have been addressed for the records and will be lodged with the JCC. It was also felt that legal advice was advisable in light of some of the points raised.

The Committee also met on 25 February 2013 to consider the comments and responses collectively and to agree on the way forward. It was reconfirmed that most of the comments had nothing to do with factual errors. It was further agreed that any factual errors should be recorded on an Errata Sheet to be attached to the original document and that the queries should be addressed in an Addendum to the Report, including an explanatory Preface by the Chairman. However, the Committee also felt that if we were to adopt this approach, the HRM should have been advised accordingly and invited to likewise submit any observations of factual errors and queries. This position was communicated to the JCC on 26 February however it was agreed that we should limit our focus to any factual errors and omissions. It was noted that the comments received were not solicited by the JCC. The JCC also arranged for legal advice regarding some of the comments received and counsel advised that two statements in particular should be revised so as not to infer impropriety in any part. This recommendation was taken on board.

It should be noted that some of the persons who submitted comments indicated that they were not approached by the Committee to clarify certain points. This claim should be clarified. In the first place, it should be emphasised that the Review was limited to 60 days, which was already tight, and could not be extended. The exercise was significantly constrained by the limited time. However, the records will show that at a meeting with NIDCO on 9 January 2013, Ecoengineering was represented by two persons, one of whom intervened only to state that a matter raised in the discussions was the subject of a court matter. A separate meeting was held with Trintoplan although they were also represented at the meeting with NIDCO, as was the Ministry of Works and Infrastructure. These records of attendance, along with verbatim transcripts have been lodged with the JCC for any reference. The Committee was therefore quite surprised that queries and points of explanation were subsequently submitted on many of the issues discussed at the meetings cited, after the final Report was handed over to the JCC.

The point was also made in the queries that there were differences of opinions between consultants who participated in the Review, particularly with respect to the findings on the EIA. It should be noted that all of the principal consultants were procured locally. Three resource consultants were engaged to provide technical backstopping/advice directly to the Chairman and were also invited to submit their findings. In respect of the EIA, all the consultants found quite similar deficiencies, although there were differences in qualifying their extent. For transparency, all substantive submissions were included in the final Report without tampering. It should be further noted that one resource consultant advised the Chairman and others to interrogate additional records of the EMA to which he did not have access abroad. This review of additional records was actually already in progress and was discussed extensively within the interdisciplinary group, and findings and conclusions drawn accordingly.

The point about signature of the previous Report was also raised. Recall that the Report was submitted under the signature of the Chairman on 4 February 2013. It was not the intention to have each consultant sign, although it has since been agreed that each consultants will be requested to sign indicating that they were responsible for respective disciplines and submissions. However, the process employed in the Review should be further explained and emphasised. All documentation received from any source was circulated to all consultants on 20 December 2012. All of this information was then made available within a Dropbox to which the group had access. It should be further noted that, from the outset, every single submission by any consultant was reviewed by the Chairman and circulated to the entire Committee for consideration and follow-up intense inter-sectoral discussions, often late into the evenings. At every stage all consultants collaborated and were able to comment on individual as well as the collective findings and conclusions. Consequently, the Report is not simply a collection of individual submissions as has been suggested by one party.

It also is not agreed that the format of the Report should have been different whereby the individual submissions should have been subsumed under one summarised document. It is exactly because of the queries being raised now that the Chairman opted not to go that route. It must be recalled that this Review was occasioned by entrenched opposing entities and positions in respect of some very specific issues as set out in the terms-of-reference (TOR) for the Committee. The Report therefore reflects the sector-specific concerns as set out in the TOR and the substantive findings, conclusions and recommendations, within the context of the unifying issue of 'the Highway'. All records of submissions and transcripts of discussions at meetings, as set out in the Report, have been passed over to the JCC for any reference.

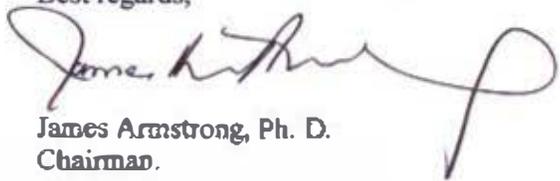
A point was made about the fact that the State has already entered into a contract to build the Highway and that this matter should have been given greater consideration by the Committee. Kindly note that this fact has been cited in the Report but was not a material focus of the technical review as set out in the TOR. This certainly would have required additional time and expertise.

Briefly, I should like to draw your attention to the adjustments which have been made to the original Report:

1. A typographical error was noted in the Table of Contents in which the second Roman III should actually be III and likewise on page 25 the Roman III should be II.
2. On page 2, second para 2 "Southern Trunk Road" was changed to South Trunk Road. The sentence "The study noted that there were...Point Fortin" was replaced by a section starting "The final report of the latter study..." and ending with "...St. Mary's Junction." (at point 3) for clarity.
3. On page 3 it has been corrected that the HRM wrote to the Prime Minister in February 2012, and not 2011, and footnote inserted to cite the reference to the procurement of Construtora OAS Ltda (OAS) taking place in 2011.
4. On page 63 the reference to the Scarlet Macaw has been removed along with other items listed in the Convention on International Trade in Endangered Species (CITES).
5. On page 115, the sentence "It is also the opinion of the consultants that ...the HRM" has been changed to "Among the options considered by Trintoplan was a route which effectively is the option suggested by the HRM." A map that had, inadvertently, been omitted from the first printing of the report, has been inserted as Figure 6.3 to show the route options considered by Trintoplan.
6. On page 146, the sub-heading of 8.3 "The Land Conflict" has been changed to Issues Raised by the HRM. Parts of section 8.4 have been moved to 8.3 for consistency and clarity. The sub-heading of 8.4 "Role of NIDCO" has been changed to Review of the Issues for clarity. The first paragraph of 8.4 has been modified to make specific reference to the date on which the meeting with NIDCO was held and a request made for documentation. The point made at 8.4 (4) has been removed because it was already stated at (g).
7. On page 147, Under 8.5 Findings, the reference that "...NIDCO has failed to follow due process" has been changed to remove the specific reference to NIDCO and state that "...there has been failure to observe due process ...". Under 8.5 2 (a) the statement that "... entry for activities permitted under Section 3 were conducted up to six years previously" has been changed to state "... were said to be conducted up to six years previously." Under 8.5 2 (b) that "Entry for the executing of the project appears to have been made without Section 4 authority." has been excised. Further down at (15) the reference to NIDCO reimbursing costs that are not allowed under the Land Acquisition Act (LAA) or Highways Act has been restated that: "The procedures for reimbursement costs in accordance with the LAA or Highways Act could not be ascertained."

In conclusion, I wish to reiterate that the Committee stands by its earlier findings and recommendations.

Best regards,

A handwritten signature in black ink, appearing to read "James Armstrong". The signature is fluid and cursive, with a large, sweeping loop at the end.

James Armstrong, Ph. D.
Chairman.