

FIRST REPORT OF THE

JOINT SELECT COMMITTEE ON

# **ENERGY AFFAIRS**

SECOND SESSION OF THE ELEVENTH PARLIAMENT

Inquiry into the Strategies and Incentives to promote new production in the Energy Industry with specific focus on the Ministry of Energy and Energy Industries



#### Committee Mandate

The Joint Select Committee on Energy Affairs was established under House of Representatives Standing Order 104 and Senate Standing Order 94 and shall have the duty of considering, from time to time, and reporting whenever necessary, on all matters related to the expenditure, administration and policy in relation to Energy Affairs.

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# **ABBREVIATIONS**

### **EXECUTIVE SUMMARY**

- 1.1. The Committee resolved at its Second Meeting held on Wednesday January 20, 2016 to inquire into the strategies and incentives to promote new production in the Energy Industry with specific focus on the Ministry of Energy and Energy Industries and agreed that the following five (5) objectives would guide the inquiry:
  - to determine the Ministry of Energy and Energy Industries' current and upcoming strategies and incentives to promote new production in the energy industry;
  - to examine the current efforts being taken to improve the inadequate supply of natural gas;
  - to investigate the areas of prospective oil exploration in Trinidad and Tobago;
  - to gain an appreciation of the status of drilling activity in Trinidad and Tobago;
     and
  - to assess the current and forthcoming incentives to tackle the development of small and marginal gas fields.
- 1.2. The Committee agreed that Ministry of Energy and Energy Industries would be invited to public hearings held on Wednesday March 2, 2016, Tuesday May 17, 2016 and Wednesday June 1, 2016.
- 1.3. The Committee obtained both oral and written evidence based on the objectives set out above. Some of the significant issues concerning the Ministry of Energy and Energy Industries strategies and incentives to promote new production in the Energy Industry were:
  - Petroleum Profit Tax (PPT) provides for the early write-off of Exploration and Development expenditure and all losses were allowed to be carried forward indefinitely;

- Supplemental Petroleum Taxes (SPTs) were interconnected to the price of oil and there is a need for an escape section from early write-off of taxes when oil prices were low;
- Liquefied Natural Gas (LNG) Contracts were being manipulated and dishonored by companies;
- The decline in the number of rig days for onshore and offshore development wells;
- The absence of a gas policy;
- Inadequate staffing at the Ministry of Energy and Energy Industries;
- Reduced tax revenues as a result of companies that had written-off more than exploration expenditure and effective swapping of LNG cargoes;
- The need for scientific and data driven analysis to determine the impact of incentives under the Petroleum Sharing Contract Model, the Petroleum Act, Chap. 62:01 and the Petroleum Taxes Act, Chap. 75:04;
- Research was ongoing on the use of tar sand products in Trinidad and Tobago;
- The need for targeted drilling programmes to increase oil production and a structured plan for exploration and drilling;
- According to the Fraser Institute Global Petroleum Annual Survey, the fiscal attractiveness ranking for Trinidad and Tobago is 39 out of 126 in 2015; and
- The Ministry of Energy and Energy Industries had a backlog of 385 audits of production sharing contracts up to December 31, 2015.
- 1.4. The Committee submits its evidence, findings and recommendations in Chapter3.

## INTRODUCTION

## **Background**

- 2.1. The Ministry of Energy and Energy Industries (MEEI) is responsible for the overall management of the oil, gas and minerals sectors in Trinidad and Tobago. The functions of the MEEI include:
  - leasing and/or licensing of areas for petroleum exploration and production;
  - regulation and management of all oil and gas development activities;
  - regulation and management of upstream operations in oil refining activities;
  - administration of domestic marketing of petroleum products, natural gas transmission/sales, petrochemical manufacture and other natural gas based industries;
  - formulation and implementation of legal instruments for the petroleum industry;
  - acquisition, analysis and dissemination of both local and international petroleum information;
  - sharing responsibility with the Ministry of Finance for the collection of petroleum revenues accruing to the state;
  - representation of the interests of Trinidad and Tobago at international petroleum fora and institutions;
  - long-term planning, development and implementation of policy initiatives in the petroleum sector;
  - sharing of the management of the State's interests and assets in the oil and gas industry; and
  - sharing responsibility for the administration and management of the minerals sector.
- 2.2. The Committee took note that "new oil decline rates were high" according to the Ryder Scott Hydrocarbon Reserves Report, 2014 (Khan 2016) and that media reports in October 2015, stated that:
  - the shortfall in supply of natural gas was estimated between ten (10) to fifteen (15) percent (Burnett 2015);
  - the Minister of Energy and Energy Industries indicated that "a number of them (oil companies) have deferred drilling activity to 2017" (Harrinanan 2016);
  - according to the Budget Statement 2016, during the period 2010 to 2015 although fiscal incentives were provided for the energy sector "there were no specific

incentives that targeted the development of small and marginal gas fields" and "capital allowances are needed to spur exploration activity. (GORTT 2015)"

- 2.3. Further, stated in the Budget Statement 2016 was that, "Revenue collections from the oil companies in fiscal year 2015 amounted to \$13.0 billion, \$8.0 billion less than the budgeted estimate... this is the lowest level of revenue collected from the energy sector since fiscal year 2011."
- 2.4. Taking into consideration that the major source of Trinidad and Tobago's revenue was obtained from its energy sector, an inquiry into the strategies and incentives to promote new production in the energy industry was considered imperative.

## Objective of the Inquiry

- 2.5. At a meeting held on Friday February 05, 2016, the Committee agreed to the following inquiry objectives:
  - i. To determine the MEEI's current and upcoming strategies and incentives to promote new production in the energy industry;
- ii. To examine the current efforts being taken to improve the inadequate supply of natural gas;
- iii. To investigate the areas of prospective oil exploration in Trinidad and Tobago;
- iv. To gain an appreciation of the status of drilling activity in Trinidad and Tobago; and
- v. To assess the current and forthcoming incentives to tackle the development of small and marginal gas fields.

## Conduct of the Inquiry

- 2.6. The Committee held three (3) public hearings with representatives of the Ministry of Energy and Energy Industries on Wednesday March 02, 2016, Tuesday, May 17, 2016 and Wednesday June 01, 2016 respectively at which time the Committee questioned the officials on the various matters based on the inquiry objectives.
- 2.7. The Ministry of Energy and Energy Industries was represented by officials listed in Table 1.

<u>Table 1</u> <u>Officials from the Ministry of Energy and Energy Industries</u>

Name	Position Position			June 1, 2016
Mr. Selwyn Lashley	Permanent Secretary	✓	<b>√</b>	✓
Ms. Heidi Wong	Deputy Permanent Secretary	<b>√</b>	<b>√</b>	<b>√</b>
Mr. Richard Jeremy	Chief Technical Officer (Ag.)	✓	✓	✓
Ms. Louise Poy Wing	Senior State Counsel	✓	✓	✓
Mr. Ivor Superville	Senior Energy Analyst (Ag.)	✓	✓	✓
Mr. Monty Beharry	Director, Minerals (Ag.)	<b>√</b>	<b>√</b>	-
Mr. Frank Look Kin	Advisor	✓	✓	✓
Mr. Leroy Mayers	Advisor	✓	✓	-
Mr. Dave Mungal	Senior Energy Analyst (Ag.)	-	-	✓
Ms. Susan Singh	Senior Human Resources Officer (Ag.)	-	-	<b>√</b>

- 2.8. Prior to the public hearing, notice was given of the general objectives of the inquiry and written submissions were received from the Ministry. These responses provided a frame of reference for the supplementary questions pursued at the hearing.
- 2.9. Subsequent to the public hearings held on Wednesday March 02, 2016 and Tuesday, May 17, 2016 the Committee proffered questions to the MEEI. These responses were received on March 29, 2016 and May 31, 2016 respectively.
- 2.10. The **Minutes** and **Verbatim Notes** are attached as **Appendix I** and **Appendix II** respectively.
- 2.11. This Report was approved at the Seventh Meeting of the Committee held on November 09, 2016.

## **EVIDENCE, FINDINGS AND RECOMMENDATIONS**

## **Inquiry Objective Topic 1**

To determine the MEEI's upcoming strategies and incentives to promote new production in the energy industry

## **Petroleum Profit Tax (PPT) Incentives**

- 3.1. MEEI's strategy to promote new production in the energy industry involves a series of incentives. The decision to develop incentives were the result of a collaboration between MEEI and other stakeholders such as the Ministry of Finance, the Board of Inland Revenue and other state players. In addition, these incentives were introduced following consultation and collaboration with the industry.
- 3.2. The early write-off of exploration and development expenditure was one such incentive that includes capital allowances, exploration expenditure and development expenditure.
- 3.3. Firstly, in the area of capital allowance, the qualifying exploration and development expenditure can be written-off in the amounts of 50%, 30% and 20% respectively over the course of three (3) years.
- 3.4. It was noted that 100% write-off of the exploration expenditure was allowed in the first year that expenditure was incurred during the period January 1, 2014 to December 31, 2017. Previously the early write-off of exploration expenditure involved 10% in the first year and the remaining 90% written-off over the course of five (5) years which was a similar practice in the United Kingdom (UK) and other countries as listed in Appendix III. Further, 140% exploration expenditure incurred in the drilling of exploration wells in deep-water blocks, deep horizon on land and in shallow marine areas can be claimed as capital allowances.

- 3.5. In terms of development expenditure, all work overs and qualifying side-tracks were allowed 100% write-off in the year of expenditure. Heavy oil projects were allowed 60% in year one (1) and 18% over the course of five (5) years while dry holes can be expensed in the year the dry hole was plugged and abandoned.
- 3.6. The petroleum profits tax rate for deep-water operations was reduced from 50% to 35% from 2011.

- 3.7. During 2011 to 2014, a number of incentives introduced to promote production in the energy industry resulted in an increased number of rig days from 1,628 in 2011 to 2,010 in 2012 and 2,092 in 2013 primarily from Petrotrin and Farmout operators. The Committee noted that many of these initiatives were introduced at a time of high oil prices and that the increased level of drilling activity corresponded to a decrease in the decline rate of oil production.
- 3.8. The Committee was informed that the rationale for the early write-off of exploration expenditure decreasing from five (5) years to one (1) year was to improve the competitiveness level for a mature energy sector of Trinidad and Tobago. However, the MEEI officials admitted that its analysis did not anticipate the absence of tax revenues, due to low profits in a low price environment and ongoing analysis was being conducted on the impact of energy incentives.
- 3.9. During the public hearing, officials clarified that there was a dual incentive regime for the early write-off of exploration and development expenditure in order to stimulate investment in Trinidad and Tobago's mature energy sector. Firstly, there was an option for the write-off of capital allowances within three (3) years instead of five (5) years, 50% in year 1; 30% in year 2 and 20% in year 3 effective January 01, 2014. Secondly, there was

a 100% write-off of the exploration expenditure in the year the expenditure incurred from January 1, 2014 to December 31, 2017. The Committee suggested the need for the subdivision of exploration wells that qualify for the 100% write-off provision.

- 3.10. The Committee noted there were several incentive provisions with sunset clauses until 2017 to stimulate production. For instance, the early write-off of exploration expenditure introduced in January 2014, would terminate in December 2017. The Juniper project accessed these incentives provided from 2014 to 2017.
- 3.11. The MEEI acknowledged that there was a need to revisit the current tax regime and to take into consideration the implementation of an escape clause to cater to the extreme volatilities of the sector such as the low price of oil. Therefore, the Committee was of the view that the oil price environment must be taken into account.
- 3.12. Officials submitted that Trinidad and Tobago's fiscal incentives was ranked 39 out of 126 by the Fraser Institute Global Petroleum Annual Survey in 2015, which was deemed as favorable in comparison to those offered by new and emerging hydrocarbon producers. The Committee expressed the need for incentive decisions to be made by utilising a scientific approach although the Ministry submitted that continuous review of the fiscal regime included:
  - review of Government's current energy sector policy and objectives;
  - examination of the local and international energy environment;
  - review of production and investment profiles in Trinidad and Tobago;
  - review of incentives being offered by other mature petroleum provinces to attract investment;
  - review of international reports on the country's competitiveness e.g. WoodMac & Global Fraser Report on Competitiveness;
  - consideration of stakeholder recommendations;
  - engagement of reputable consultant, if necessary;
  - identification of strengths and weaknesses of the fiscal regime;
  - selection of potential incentives; and

- development of economic models to assess the impact of potential incentives on revenue.
- 3.13. The Committee conceded that there was need to improve the fiscal competitiveness of the sector. Notwithstanding, the Committee was concerned with the drastic change in the early write-off of exploration and development expenditure incentive from five years to one year as it had negatively impacted on the timing of the cash-flow of the country's revenue. Moreover, the option of an early write-off of a year in comparison to three years was deemed unnecessary by the Committee. The Committee stressed that the impact of incentives on revenues should be largely considered when being implemented. Given the foregoing, the Committee recommends:
- A. A committee be re-established three (3) months subsequent to the laying of this Report, to re-examine the PPT incentives particularly the write-off of exploration and development expenditure. The committee in its discussions will determine the subdivision to distinguish wells that qualify for the 100% write-off. The composition of this committee should include the Permanent Secretary, MEEI, the Minister of Energy and Energy Industries, the Minister of Finance, a representative from the Board of Inland Revenue, and a representative from the downstream and upstream sector. The Committee will be mandated to report to the Parliament within three (3) months of its establishment, on recommendations to both improve the incentives for exploration and production and to steady revenues from taxes from companies.
- B. The introduction of an escape clause within contractual arrangements with energy companies for energy incentives, in order to protect the economy from international price volatility.
- C. The implementation of scientific and ongoing analysis of the impact of energy incentives so that the state can be provided with real-time information upon which necessary protective actions can be undertaken.

- D. In establishing the revised incentives, the early write-off on exploration and development expenditure incentive should be limited to a sole option within a reasonable timeframe that would take into consideration environmental changes such as the price of oil and the timing of revenues to be collected by the state.
- E. A mechanism must be developed that protects the state's revenue stream via tracking the impact of incentives by comparing the capital expenditure on the particular development with the "gain" or "saving" made by the exploration company in such a way as to automatically terminate the incentive once a deemed "fair" return on top of the cost recovery had been achieved. This mechanism hinges on the veracity of the stated costs of the project and the MEEI's ability to effectively assess and certify the same. (it may be useful to co-opt external capability to assess this mechanism for large (US\$250 million-plus) projects.

### Losses carried forward

- 3.14. Another type of petroleum profits tax incentive was that losses were carried forward according to provisions within the Corporation Tax Act, Chap. 75:02 and the Petroleum Tax Act, Chap. 75:04 and formed part of the tax incentive that was granted to companies under the exploration and production tax regime. Specifically, Section 16 of the Income Tax Act, Chap. 75:01 provides for losses to be fully offset against chargeable profits and carried out indefinitely for all companies in Trinidad and Tobago.
- 3.15. The Committee was informed that the two (2) types of losses that can be carried forward indefinitely were:
  - Trading losses
     Trading losses arise in the normal course of the business operations and were normally offset against taxable income of the company. In Trinidad and Tobago trading losses can be carried forward indefinitely.
  - Capital losses

Capital losses were generated from capital transactions such as the sale/purchase of a non-inventory asset. In Trinidad and Tobago, there was no capital gains tax on long term capital gains/losses and were not applicable for Trinidad and Tobago.

- 3.16. The Committee also noted that out of a review of seventy-four (74) countries:
  - twenty-seven (27) countries inclusive of Trinidad and Tobago, Australia, Brazil, Columbia, Ghana, Nigeria, Malaysia, South Africa and the United Kingdom had a similar trading loss regime;
  - eight (8) countries inclusive of Chile, Germany and Saudi Arabia allow for indefinite carry forward of losses. However, they include certain stipulations such as limiting the percentage of losses that could be used in one (1) year or limiting the percentage of trading losses that could be offset against profits;
  - twenty-nine (29) countries allowed losses to be carried forward between three (3) to five (5) years;
  - eight (8) countries allowed losses to be carried forward between eight (8) to ten (10) years; and
  - two (2) countries allowed losses to be carried forward for twenty (20) years.

- 3.17. The Committee noted that the current arrangement for losses carried forward dated back to the Finance Act, 1988 and was a decision by the Board of Inland Revenue. Previously, losses were limited to 50% of chargeable profits. The MEEI acknowledged the need to revisit this incentive in collaboration with agencies.
- 3.18. Concerns were expressed that large companies were writing off more than exploration and development expenditures which resulted in the absence of tax revenues. From the review, the Committee also determined that new stipulations for losses to be carried forward between three (3) to five (5) years may be a more appropriate method to implement in Trinidad and Tobago.

- 3.19. The Committee noted that given that losses carried forward were stipulated by Acts of Parliament, a review of the respective legislations to distinguish and to specify the types of losses that should be carried forward was required. Given these issues, the Committee recommends that:
- F. The committee established in recommendation (A), review the provisions for losses carried forward. In particular, the feasibility of losses to be carried forward within a three (3) to five (5) years' period and to establish stipulations for the types of losses that should be allowed to be carried forward and whether it should be linked to price. The committee should report its findings to the MEEI and the Ministry of Finance for further action to amend the Corporation Tax Act, Chap. 75:02 and the Petroleum Tax Act, Chap. 75:04, as needed, to establish specific guidelines regarding losses carried forward and to establish distinctions on losses that can be carried forward from those that should not.

## **Exploration of Tar Sands**

3.19. MEEI submitted that there were no specific incentives for tar sands products.

- 3.20. The exploration of tar sands requires the application of specific technologies which would impact the environment and land use. The Committee was pleased that MEEI was engaged in ongoing research in terms of identification, characterisation, spatial location, quality and technologies that can be used to exploit tar sands.
- G. The Committee recommends that the MEEI submits a report to the Committee on the research findings to date on the future use of tar sands in Trinidad and Tobago. The report should clearly delineate actions needed and timelines in the event that pursuing this activity is deemed appropriate taking into consideration economic and environmental factors.

## **Supplemental Petroleum Tax Incentives**

- 3.21. It was submitted that with respect to the Supplemental Petroleum Tax (SPT) regime the following obtains:
  - a. No SPT was payable when crude oil prices were under US\$50/bbl;
  - b. Base SPT rates were used when crude oil prices ranges from US\$50 to US\$90; and
  - c. A formula was introduced to determine SPT rates for crude prices greater than US\$90/bbl. up to US\$200/bbl.
- 3.22. In addition, SPT rates were harmonised for land acreages and deep water projects from 33% to 18%, for marine acreages from 42% to 33% and for new field development in shallow marine areas with recoverable reserves not exceeding 50 million barrel of oil equivalent (BOE) produced subsequent to January 1, 2013 from 33% to 25%.
- 3.23. Further, a tax credit of 20% of expenditure incurred in respect of approved field development for both marine and land oil field as well as for enhanced oil recovery projects was introduced to encourage new development. The discount was applicable to the limit of the SPT payable for that year only and any excess tax credit was allowed to be carried forward to one additional financial year.
- 3.24. The effect of SPT incentives for the period 2011-2015 were:
  - investment in development activity for mature oil fields (both land and marine) totalled approximately TT\$2.2B;
  - investments in EOR projects totalled approximately TT\$186M;
  - net taxes forgone due to all SPT incentives averaged TT\$250M per year;
  - SPT incentives were introduced to stimulate development activities on land and marine areas to reverse the declining oil and gas production and to maintain the aging infrastructure of mature oil fields;

• companies paid less SPT based on gross revenues but an increase in PPT based on profits. It was noted that this was preferred by companies.

- 3.28. The MEEI indicated that over the past five (5) years it sought to simplify the SPT regime and anticipated that there would be substantially reduced revenues to the Ministry of Finance. The Committee was also informed that past revisions to the SPT were performed by several Tax Review Committees. However, there was an annual review of fiscal incentives and a need for constant review due to environmental changes.
- 3.29. The MEEI acknowledged that the SPT regime needed to be re-examined in terms of its structure and thresholds. It was evident that the current arrangements with respect to the SPT rates was unprofitable for small operators to engage in oil production when its price crosses the US\$50 threshold. In this regard, the Committee indicated that consideration should be given to SPTs benchmarked according to profit increases rather than price increases above US\$50 only. As such, the Committee recommends that:
- H. A Permanent Energy Taxation Review Committee be established three (3) months subsequent to the laying of this report in Parliament to review and recommend SPT rates that respond to profits rather than price and are conscious of the changing environment with regards to the price of oil. This will improve the tax revenues and all operators including small operators can be incentivized, irrespective of the price of oil. Further, the Permanent Energy Taxation Review Committee in its deliberations take into consideration the views of small, medium and large operators by way of consultation.
- I. As a new practice, apart from annually, a Permanent Energy Taxation Review Committee be established and to meet and report as often as was necessary to adequately respond to changes in the environment and the volatility of the price of oil.

## **Stakeholder Consultations**

3.25. MEEI submitted that there were plans for an industry consultation with the energy sector to discuss strategies and incentives to increase production.

- 3.26. The Committee noted that the timeline for the commencement of stakeholder consultations was delayed from March/April to July 2016 due to differing views on the approach for the consultation and approval of the meeting schedule from the Minister of Energy and Energy Industries. It was expressed that the consultation would engage small groups of stakeholders with common interests.
- 3.27. Despite the multiple promises of the MEEI, as of the date of the submission of this Report, the Committee is not aware of any consultations being held or even scheduled. The Committee recommends that:
- J. Stakeholder consultations should commence as soon as possible, but no later than three (3) months from the laying of this Report in order to ascertain stakeholder feedback on a number of issues such as revisions to the fiscal incentives.
- K. The key stakeholder consultation findings be submitted for laying in Parliament and also for the attention of the Joint Select Committee on Energy Affairs.

# **Inquiry Objective Topic 2**

To examine the current efforts to improve the inadequate supply of natural gas

## **Availability of Natural Gas**

- 3.28. MEEI submitted that four (4) major initiatives were expected to improve natural gas supply:
  - installation of the Juniper platform and drilling of bpTT production wells by second half 2017 with a potential of 590 MMcfd at peak production;
  - installation of Sercan platform and pipeline by EOG by end of 2016 with an expected production increase of 30 MMcfd;
  - phase 3 Angostura development by BHP Billiton as operator by the end of the second quarter 2016 with an estimated production increase 30 MMcfd; and
  - Trinidad Region Onshore Compression project by bpTT expected by early 2017 with an incremental increase of production of 250 MMcfd.
- 3.29. The Committee was informed that the shortage or non-alignment of supply and demand of natural gas began in 2010 and was the result of a mis-match of activity for upstream and downstream activities. Consequently, the MEEI managed the supply and demand of natural gas in collaboration with upstream and downstream suppliers and scheduling maintenance activities.
- 3.21. Towards the latter part of 2016 to 2017, the Juniper Project along with other existing contractual commitments were expected to contribute to the increase supply of natural gas. The MEEI was hopeful that by the mid-2017 the balance between the demand and supply for natural gas would be improved.

## **Small Gas Pools**

3.22. Officials of the MEEI indicated that they were cognizant that several small gas pools under license and production-sharing contracts were not being produced. The

MEEI indicated that this matter was currently being examined to ensure that there was alignment of commercially-attractive opportunities.

- 3.30. The Committee noted there was no official natural gas allocation policy and an informal arrangement was being utilised. This has resulted in natural gas allocations going primarily to LNG trains and downstream industries. MEEI submitted that a natural gas allocation policy was necessary and that it would be developed subsequent to stakeholder consultations, monitored and reviewed periodically. This situation was untenable given the ongoing shortfall in natural gas supply to the downstream industry.
- 3.31. There needs to be an alignment between the needs of the Trinidad and Tobago industry with the development plans of the upsteam acreage holders. To the extent that it is possible, acreage holding reserves that were not being produced should revert to the state for necessary action to be taken. One of the possible actions to consider would be the sanctioning by the state of field to project arrangements where individual projects were allowed to directly negotiate terms with field operators.
- 3.32. Perhaps, to energize the sector MEEI could consider making it available for projects using smaller volumes of gas, with less than 75MMcfd, to be able to avoid the NGC and negotiate directly with suppliers with the NGC being a transport provider.
- 3.33. Given the recent decline in natural gas the Committee was concerned about the viability of this industry and whether supply would be able to meet demands. Notwithstanding, the Committee was of the view that the supply of this commodity should not be taken for granted and therefore further measures to boost supply were required.

- 3.34. A key point here is that once a find is discovered and the company had not declared "commerciality" and had ceased work for a defined period, the state can take back that portion of the acreage. Depending on location and infrastructure, these pools could potentially service individual downstream projects for defined periods on the basis of direct negotiations.
- 3.35. Therefore, the Committee recommends that:
- L. Production Sharing Contracts (PSCs) with identified gas pools not under production should be reviewed and the MEEI as the authority for governing the commodity in Trinidad and Tobago should meet with these contractors within three (3) months of the laying of this Report to discuss plans that would lead to the commencement of utilization of small gas pools in the shortest possible time period.
- M. MEEI meets with the relevant stakeholders to establish a policy framework that identifies accompanying specific state, fiscal and market competitiveness objectives that should drive specific decisions on natural gas allocation. This policy framework should be completed within nine (9) months of the laying of this report and should be a publicly available document that is reviewed as and when market or fiscal conditions require.

## **LNG Contracts**

- 3.27. The Committee was informed that LNG contractual arrangements were subject to contract and confidentiality. While MEEI would have sight of the contracts, it was not party to LNG sales agreements entered into between companies that are producing under the production sharing contracts (PSCs) and the ultimate buyers (marketer).
- 3.28. LNG contracts allow cargo destination flexibility. In terms of excess cargoes, contracts allow some flexibility to sell these cargoes to other destinations for a higher price which is called a "destination premium". In such an instance, the base price was

deducted from the destination premium price and was divided between the Government and the seller equally.

- 3.29. The Committee was concerned that the spirit of some LNG contracts were being manipulated and not being honoured. In particular, the MEEI's submissions stated:
  - "....another marketing entity has opted to optimize their LNG portfolio in Trains 2/3 and 4, and disregard the intent of the LNG contracts. With respect to Trains 2/3, pricing is linked to the cost of producing electricity in Spain, since LNG cargoes were intended to supply this market. Over the period January 2014 to February 2016, this company has chosen to divert 95% of its Trains 2/3 cargoes to premium markets such as Kuwait and Brazil. Underscoring this issue is the fact that this contract has no restriction of destinations and no sharing of any upside. Thus, the marketer benefits solely from diverting these cargoes to premium markets, resulting in no benefit to Trinidad and Tobago. In addition, 86% of this company's Train 4 cargoes over the same period have been sent to Spain and received extremely low prices that are not a reflection of European benchmark prices such as NBP. The net result of this effective swapping of cargoes is that a significant amount of value is captured by the marketer outside of our tax net and GORTT loses out on this revenue."
- 3.30. It was also noted that LNG upstream companies and not the Government, sources LNG buyers. As a consequence, some cargoes were being sold to associate companies and at a lower price to the detriment of government revenues. It was also clarified that MEEI's initial inexperience in the LNG business led to contract deficiencies and the premium was not negotiated within some contracts at that time. The MEEI had since sought to improve contracts through negotiations.
- 3.31. The Committee noted that cargoes were not tracked by the MEEI subsequent to being sold. The evidence also revealed that although the MEEI engaged in the monitoring or tracking of the physical delivery of cargoes, the control and management of the portfolio of cargoes was external to the MEEIs jurisdiction. The MEEI established that there was need to continue to track cargoes.

- 3.32. The Committee recognised that although the dispute resolution clause of contracts allowed for arbitration, the MEEI had never taken a company to arbitration and had not sought any external legal advice on the issues.
- 3.33. Given the evidence, we conclude that a prime revenue earning industry was being concealed on the basis of confidentiality and therefore information must be made available in order to ensure that the country maximised tax revenues in terms of the export of the commodity, selling at the best price, and prevent wastage of the commodity. Additionally, we recognised that the MEEI had not been exercising proper controls to ensure that the country maximises on its cargoes.
- 3.34. The Committee is of the view that the MEEI and the Ministry of Finance should have formally written to these companies advising of their observations and the negative effects of their actions on the state.
- 3.35. As a consequence, we recommend that:
- N. All contracts be scrutinised by the MEEI and that the MEEI seek external legal advice on the feasibility of proceeding to take companies who have been dishonouring and manipulating contracts to arbitration.
- O. MEEI takes the necessary action to continue to track cargoes after they have been sold. The MEEI is to report to the Committee on the establishment and first outputs of this tracking system within three (3) months of the laying of this Report.
- P. MEEI engages in negotiations with companies to establish that all LNG export contracts be designed with an upside premium sharing of 50% to the Government, which should be a standard term and thus non-negotiable. Further, that the MEEI consider invoking the "changed circumstance" legal concept to renegotiate these contractual issues.

- Q. MEEI urgently engages external assistance through the supporting partnerships from such institutions as the Oxford Institute of Energy Studies and the Jackson School of Geosciences, University of Texas, Austin Bureau of Economic Geology, University of Texas to seek their assistance in reviewing some of these contracts and to provide recommendations to ensure the protection of the State's interests in these matters.
- R. The MEEI and the NGC and any other required party should firstly enforce all existing audit rights in these contracts immediately, going back as far as possible to establish a figure for the revenues forgone by the state. Further, all LNG export contracts must provide the MEEI and the MoF with unhindered and complete audit rights to all LNG sales to their final market or destinations.
- S. All LNG export contracts must spell out, in the most definitive language, that all cargoes must be sold to the market that provides the best possible pricing and that deviations from this will attract a special levy or charge by the state, at its own discretion, to recover any "lost" revenues with such charges not being liable for deductions on their tax bill or future other payments due to the state.

# **Inquiry Objective Topic 3**

To investigate the areas of prospective oil exploration in Trinidad and Tobago;

### **Bid Rounds**

3.27. The Committee was informed that the MEEI was in the process of evaluating blocks for future bid-rounds. In addition, the MEEI continues to meet with upstream producers to determine their interest and appetite for new acreage so that the appropriate timing for new bid rounds can be determined by the Government and considering the state of the global energy market.

3.28. We noted the recommendation of the MEEI that the use of sublicensing or farmouts arrangements could facilitate increased activity.

## **Onshore Drilling**

3.28. In 2014, three (3) land blocks (Ortoire, St Mary's and Rio Claro) were granted Exploration and Production Licences and there were twelve (12) committed exploration wells. These companies were in the first exploration phase which involves performing the geological and geophysical work. Drilling was expected to commence by late 2016/2017.

## **Factors affecting Oil Exploration**

3.29. The MEEI indicated there were three (3) main factors which inhibit oil exploration. Firstly, low oil prices, led to deferral of exploration drilling in 2015 and a focus on development activities with available funds. Secondly, complex geology, did not facilitate quality seismic imaging and as a consequence, made it difficult to interpret data to determine potential oil reservoirs. Thirdly, security issues during exploration and

development activities, due to environment concerns, employment concerns, securing of services and personal gain.

## **Exploration Commitments by International Companies**

- 3.30. The Committee was informed that international companies had demonstrated their continued interest in participating in the development of the country's hydrocarbon resources. For instance, BHP Billiton in collaboration with its partners, bpTT, Repsol, and Shell (formerly BGTT) have a firm commitment to oil exploration in Deepwater Blocks. Plans were being finalised for the drilling of two (2) exploration wells in TTDAA 5 and TTDAA 29. Drilling was due to commence in June 2016. Additionally, an outstanding six (6) commitment wells namely TTDAA 5, 6, 14, 29 and Block 23(a) were projected to be drilled during the period September 2016 to June 2019.
- 3.31. Similarly, Enron Oil and Gas (EOG) Resources had indicated interest to drill exploration wells in Block U (a) in the near future, while bpTT had indicated their intention to drill the Savannah-1 exploration well. The Range Resources was scheduled to drill Canari-North-1 exploration well in early 2016. Shell (formerly BGTT) attempted to drill the Lobster-1 in late 2015 but encountered mechanical issues down hole. Notwithstanding, the company indicated its intention to re-spud the well within the PSC stipulated timeframe (May 2018) and also indicated that exploration work was ongoing in Block 5c.
- 3.32. Further, the MEEI indicated that a number of international companies currently operating in Trinidad and Tobago had entered into partnerships to explore oil and gas onshore and offshore as follows:
  - a. BHP Billiton (Australia) and bpTT (UK) are partners in Deepwater Blocks 23(a) and TTDAA 14;
  - b. BHP Billiton (Australia) and Repsol (Spain) are partners in Deepwater Block 23(b);

- c. BHP Billiton (Australia) and Shell (Netherlands) (formerly BGTT) are partners in Deepwater Blocks TTDAA3, TTDAA 5, TTDAA 6 and TTDAA 7.
- d. Range Resources (Australia) with Petrotrin in the Guayaguayare and St Mary's Blocks.
- e. Touchstone (Canada) with Petrotrin in the Ortoire Block.
- f. BHP Billiton (Australia) with Petrotrin in Block 3a.

- 3.33. Given the foregoing, although the Committee notes the commitment of companies to produce, we conclude there was a need to establish a schedule to manage oil exploration activities. Accordingly, we recommend that:
- T. MEEI holds discussions with relevant companies regarding the scheduling of exploration activity and the feasibility of publicising the information. This will particularly be beneficial to smaller scaled companies interested in engaging in exploration activities so that they can maximise on rig sharing and other exploration activities. The schedule will also assist in ensuring that companies honour their commitments. Any changes to the schedule will be published.
- U. MEEI discusses with companies the possibility of the use of sub-licenses and/or farm-outs to boost exploration activity.

# **Inquiry Objective Topic 4**

To gain an appreciation of the status of drilling activity

## **Exploration Footage Drilling**

- 3.29. Exploration is composed of a number of elements such as seismic, drilling, evaluation of information, further drilling and discovery of new resources where there is success. Therefore, the average exploration phase had an estimated timeframe of six (6) years in the case of onshore and shallow water and approximately nine (9) years for deep water exploration.
- 3.30. Exploration drilling was a reflection of the terms and conditions companies outlined in PSCs and licences. Table 2 provides the rig days for Exploration Wells Offshore during the period 2005 to 2015.

Table 2

Total Rig Days for Exploration Wells Offshore

Year	Total Rig Days Exploration Wells Offshore
2005	365
2006	5622
2007	710
2008	837
2009	113
2010	87
2011	142
2012	268
2013	270
2014	227
2015	327

- 3.31. The Committee expressed concern that the rig days for Exploration Wells Offshore declined significantly from 2006 to 2007 and had not shown any signs of recovery in any substantial way from 2007 onwards, as provided in Table 2. Officials indicated that in 2006 there was rig sharing amongst companies which resulted in intense drilling activity and the execution of a cluster of drilling programmes. In addition, it was emphasised that rig day statistics was only one indicator and could not be used as the sole measurement for exploration activity.
- 3.32. The Committee noted that there were a number of companies that had not been engaged in exploration for many years, particularly those beyond the licence stage with prime acreage, whilst companies at the licence stage were bound by minimum exploration obligations. Officials indicated that there was ongoing dialogue with these companies (without minimum obligations) regarding license changes, sub-licensing and farm-outs which would increase the level of drilling activity.
- 3.33. The Committee was concerned that there was an absence of a structured plan for exploration. Officials indicated that the Ministry's objective was continuous oil exploration and data collection to encourage stakeholder interest as well as success through new reserve discoveries. Members agreed that there was a need to engage companies to address the issue of exploration and drilling, to institute targeted drilling programmes annually and a consistent number of rig days annually based on agreement.
- 3.34. In recognition that rig days were an important factor in other countries in determining the oil price, the Committee recommends that:
  - V. The MEEI should engage upstream companies to develop a structured national exploration plan and negotiate with them with a high level of

fervour considering the state of the energy industry and the interest of our stakeholders.

W. The Committee recommends that the MEEI develop a comprehensive plan that firstly identifies an oil production target over a defined period. Secondly, based on the exploration and production history of the areas, MEEI establish a specified number of wells that should be drilled in each year to provide the needed production. Flowing from that, the rig days needed to pursue the established well drilling programme will result.

## **Inquiry Objective Topic 5**

To assess the current and forthcoming incentives for the development of small and marginal gas fields

3.35. MEEI's submissions stated that there was an absence of incentives for small and marginal gas fields. The Committee requested additional information on the size and location of all proven pools of natural gas that were not under production (exclusive of cross-border fields) provided at Appendix IV. This evidence indicated that ten (10) out of the nineteen (19) fields not under production were marginal gas fields.

3.36. The factors impeding on the development of smaller pools included unattractiveness of capital investment, technology requirements and operators with lower overheads. However, MEEI indicated that it had engaged stakeholders and held discussions with the University of Trinidad and Tobago (UTT) and the University of the West Indies (UWI) on the requirements to facilitate and develop small pools.

## **Findings and Recommendations**

3.37. The Committee noted that six (6) fields identified at Appendix IV were labelled "Need Gas Contract" because the contracts for these fields hinged on the agreed terms for volume and price. The next step for natural gas pools "not under production" and "need gas contract" had resulted in NGC engaging with existing suppliers as it pertains to the cycle of contracts coming to an end and possible renewal or extension of gas contracts.

3.38. Given the evidence, we noted that the lack of incentives in the area of small marginal fields was the major deterrent to their development. We therefore recommend that:

- X. The committee established at recommendation (A) also deliberate on avenues to incentivise the development of small marginal fields, inclusive of options that provide more gas sales flexibility, that is, outside of the NGC.
- Y. The committee should seek the views of the existing small/medium downstream operators on accessing gas directly from upstream providers who operate small/marginal gas fields.
- Z. The MEEI hold discussions with the NGC regarding the establishment of contracts for fields labelled "Need Gas Contract" and report to the Parliament on the status of obtaining the contracts.

## **Other Evidence Findings and Recommendations**

## **Structure Challenges**

3.28. The Committee noted that the Ministry was in the process of restructuring in order to increase its capacity and capability. Officials were of the view that the process took too long and had employed interim measures to treat with its needs.

## **Staffing Challenges**

- 3.29. The MEEI indicated that its plans to address its human resources constraints involved:
  - a proposal for the restructuring of the organisation which entailed a two-prong approach. Phase one (1) included a broad framework outlined for the Ministry and detailed identification of the core functions, work processes, job descriptions and proposed structures for fourteen (14) divisions/units both technical and administrative out of eighteen (18) divisions/units is completed;
  - utilisation of short-term contracts as a short term measure; and
  - on-going requests for filling vacant positions.
- 3.30. Further, the information submitted by the MEEI regarding the staff complement and disciplines required is listed in Table 3.

Table 3
Current Breakdown

Approved Staffing	Filled Positions	Vacant Positions
408	264	144

3.31. We were informed that the one hundred and forty-four (144) vacant positions comprised both established positions and contract positions and consisted of a mix from inspector, engineers, geoscientists as well as administrative positions.

- 3.32. The Committee noted that the MEEI was experiencing vacancies due to the lack of implementation of an effective organisational structure, delays to the restructuring process, long time-frame to fill established positions by Service Commission Department and unattractive compensation relative to the energy sector.
- 3.33. Committee Members argued that energy type jobs have become more transient and employees require flexible jobs between five (5) to ten (10) years. We therefore recommend that:
  - AA. Immediate steps should be taken to drive through the system the fact that energy is the single largest contributor to gross domestic product and the positions unique to the Ministry must attract compensation that reflects parity with base levels in the sector. This can be achieved by governmental decision and actioned quickly within the current administrative arrangements pending consideration of the potential new organizational permutations for the Ministry.
  - BB. Due consideration must be given to returning to the MEEI the scholarships that exist under the Production Sharing Contracts that were removed and placed under the ambit of the Ministry of Public Administration. These scholarships should be for the sole use of creating and sustaining a "pipeline" of young, recently graduated energy professionals who are required to serve the MEEI for specified periods. The evidence is clear that many, now senior, professionals who benefited from these scholarships and returned, have made significant contributions.

### **Audit Challenges**

- 3.34. Different types of audits are required to be conducted by the MEEI in each fiscal year as follows:
  - Expenditure audits 30 blocks at four quarters per block = 120 audits
  - Revenue audits
     7 blocks at four quarters per block = 28 audits
  - Market development5 blocks requiring annual audits
  - Phase audits
  - Annual Inventory Counts for each block
     Adhoc audits/investigations for both internal and external stakeholders are
     conducted as necessary.
- 3.35. The MEEI had a backlog of 385 audits to be completed up to the quarter ending December 31, 2015 and the PSC Audit Unit staff was staffed with eleven (11) employees. The audit backlog was comprised of revenue (99), expenditure (282) and market phase development phase (4) audits.

## **Findings and Recommendations**

- 3.36. The Committee noted that there were challenges with the Ministry's structure and staffing. This symptomatic problem was evidenced through the three hundred and eighty-five (385) outstanding audits due to the Audit Unit size and capacity. The MEEI had included a proposal for two (2) additional employees for ongoing audits within phase one of the Ministry's restructuring plan. The Public Management Consulting Division (PMCD) had recommended that the audit backlog be addressed as a project.
- 3.37. Given the evidence, we conclude that the MEEI should be adequately staffed and be given the appropriate support, considering that the Ministry was responsible for the

overseeing the country's main source of revenue. However, we were disappointed to learn that the MEEI has had longstanding issues to fill vacancies despite having the option to secure positions by way of contract. We therefore recommend that:

- CC. The MEEI immediately seeks to fill the established positions by way of contract which is more feasible and flexible given the type of positions.
- DD. In terms of the backlog, the MEEI should immediately seek to create a sub-team to bring this matter to closure within six (6) months through the use of short-term (3-6 month) contracts.

Your Committee respectfully submits this Report for the consideration of Parliament.

Sgd.

Mr. Colm Imbert, MP

Chairman

Sgd.

Mr. David Lee

Member

Sgd.

Maj. Gen. (Ret.) Edmund Dillon, MP

Member

Sgd.

Mrs. Ayanna Webster-Roy, MP

Member

Sgd.

Mr. Franklin Khan Vice-Chairman

Sgd.

Ms. Paula Gopee-Scoon

Member

Sgd.

Mr. Daniel Solomon

Member

Sgd.

Mr. David Small

Member

### November 16, 2016

### References

- 1. Government of Trinidad and Tobago Budget Statement 2016. October 5, 2015. http://finance.gov.tt/wp-content/uploads/2015/10/Budget-Speech-2016.pdf
- 2. Harrinanan, Sasha. Brooks: 'Good move' to reclaim idle resources. Newsday. January 21, 2016. <a href="http://www.newsday.co.tt/businessday/0,222942.html">http://www.newsday.co.tt/businessday/0,222942.html</a>
- 3. Khan, Aleem. Minister: Reserves depleting, new oil needed. Trinidad Express. January 26, 2016. <a href="http://www.trinidadexpress.com/20160126/features/minister-reserves-depleting-new-oil-needed">http://www.trinidadexpress.com/20160126/features/minister-reserves-depleting-new-oil-needed</a>
- 4. Ministry of Energy and Energy Industries. http://www.energy.gov.tt/about-us/who-we-are/

# Appendix I Minutes

PUBLIC HEARING MINUTES OF THE <u>FOURTH MEETING</u> OF THE JOINT SELECT COMMITTEE ON ENERGY AFFAIRS, HELD IN THE J. HAMILTON MAURICE ROOM, MEZZANINE FLOOR, OF THE PARLIAMENT, TOWER D, PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN ON WEDNESDAY MARCH 02, 2016 AT 10:05 A.M.

### **Present**

Mr. Colm Imbert, MP

Mr. Franklin Khan

Mrs. Paula Gopee-Scoon

Member

Maj. Gen. (Ret.) Edmund Dillon, MP

Mrs. Ayanna Webster-Roy, MP

Mr. David Small

Mr. Daniel Solomon

Mr. Daniel Solomon

Chairman

Vice-Chairman

Member

Member

Member

Member

### Secretariat

Ms. Candice Skerrette Secretary

Ms. Sheranne Samuel Assistant Secretary

Ms. Katharina Gokool Graduate Research Assistant

### **Absent**

Mr. David Lee, MP Member (Excused)

### Officials of the Ministry of Energy and Energy Industries

Mr. Selwyn Lashley Permanent Secretary

Ms. Heidi Wong

Mr. Richard Jeremy

Deputy Permanent Secretary

Chief Technical Officer (Ag.)

Ms. Louise Poy Wing Senior State Counsel

Mr. Ivor Superville Senior Energy Analyst (Ag.)
Mr. Monty Beharry Director, Minerals (Ag.)

Mr. Frank Look Kin
Mr. Leroy Mayers
Advisor

### Public hearing with Officials of the Ministry of Energy and Energy Industries

- 6.1 The meeting resumed at 11:00 a.m. in public, in the J. Hamilton Maurice Room.
- 6.2 The Chairman welcomed officials of the MEEI and introductions were exchanged.
- 6.3 The Chairman outlined the objectives of the inquiry and informed officials of the MEEI that they will be asked to appear before the Committee again.
- 6.4 Detailed below are the issues/concerns raised and the responses which were proffered during the hearing with the officials of the MEEI.

### i. Supply of natural gas

a) Officials of the Ministry indicated that since 2010 there has been a natural gas shortage due to the mismatch of upstream and downstream activities. The Ministry is currently managing natural gas shortages by scheduling maintenance activities in collaboration with upstream and downstream stakeholders.

- b) It is expected that by the end of 2016 and early 2017 the natural gas supply will improve due to increased production by upstream suppliers. The Juniper gas project is expected to provide a significant, additional amount of natural gas.
- c) The Ministry acknowledged the critical role of the National Gas Company (NGC) as a gas aggregator, transporter, purchaser and seller of natural gas. The Ministry also receives daily reports from all upstream suppliers such as NGC.

### ii. Strategies and incentives to promote new production in the energy sector

- a) Officials indicated that a number of incentives introduced from 2011 to 2014 resulted in increased rig days by major operators involved in drilling from 1,628 to 2,092. Members raised concerns that although there was increased rig activity, it did not result in increased oil and gas production.
- b) The Committee was informed that incentives were introduced following consultation and collaboration with the Ministry of Finance, the Board of Inland Revenue and other industry stakeholders as well as an analysis of the external environment to ensure the country remained competitive.
- c) MEEI officials indicated that several incentives contain sunset provisions for several measures. The measures were meant to incentivize and stimulate activity in the industry, to simplify the tax regime and to provide greater benefit to the country. Several of the incentives will remain in effect until 2017. The officials assured the Committee that they are mindful of the impact on the revenues to the country.
- d) Officials committed to conducting research to determine the relationship between the introduction of the incentives and production levels.

### iii. Petroleum Profits Tax (PPT) Incentives

- a) The Committee was informed that there is a dual incentive regime for the early write-off of exploration and development expenditure in order to stimulate investment in Trinidad and Tobago's mature sector. Firstly, there is an option for the write-off capital allowances within three years instead of five years, 50% in year 1; 30% in year 2 and 20% in year 3 effective January 01, 2014. Secondly, there is a 100% write-off of the exploration expenditure in the year the expenditure incurred from 1/1/2014 to 31/12/2017. The Juniper field is one the projects that benefitted from incentives implemented in 2014.
- b) The Committee learnt that prior to the introduction of the incentive for the 100% write-off of the exploration and development expenditure (Petroleum Profits Tax) in the year the expenditure was incurred, there was a provision for an initial allowance of 10% in the first year and a first year allowance of 30%, the remaining expenditure was written off over a five-year period. This provision was revised to a one-year period to stimulate earlier and quicker work in the upstream industry given the competitive nature of the sector. Similar provisions exist in mature provinces and the United Kingdom has a similar arrangement with respect to capital allowances.
- c) Concerns were raised that large companies write-off more than exploration and development expenditures which has resulted in the absence of tax revenues. MEEI officials advised that when the incentives were reviewed, the pricing environment was different and reduced revenues were expected. However, it was admitted that the current pricing environment and non-payment of taxes by some companies was not anticipated in the Ministry's analysis. Officials agreed that there is need to revisit the current incentive structure and escape clauses should be included to compensate for the volatility of oil prices. In addition, officials indicated that the convening of a tax review committee should be given high priority.

### iv. Other Incentives - Losses being carried forward

The MEEI officials explained that losses can be carried forward under the exploration and production tax regime under the Corporation Tax Act, Chap. 75:02 and the Petroleum Tax Act, Chap. 75:04. Officials indicated that all costs can be carried forward.

### v. Tar Sands

Tar sands is a resource being considered for exploitation in Trinidad and Tobago. However, the particular methods and technologies applied impact on the environment, stakeholders and land use. The Ministry has ongoing research on the identification and characterisation of the tar sands as a resource base.

### vi. Supplementary Petroleum Tax (SPT) Rates

The MEEI officials indicated that the SPT regime has undergone substantial changes over the past five (5) years and is reviewed annually. Officials agreed that given the current environment, the tax should be reviewed more regularly as well as the price and structure of the SPT.

### vii. Gas Pools (not under production)

In reference to gas pools not under production, the officials informed the Committee that the MEEI is actively looking at measures to optimise resources and to ensure the alignment of commercial opportunities.

### viii. Consultation with Energy Industry

MEEI indicated that stakeholder consultations that was originally due last year are now scheduled for the end of March/April 2016.

### ix. Requested information

Further to the discussions during the hearing, the MEEI was asked to provide a written submission regarding the following:

- 1. a list of the countries that provide a 100% write-off of exploration expenditure (Petroleum Profits Tax) within one year;
- 2. the financial effect of incentives on the bottom line of companies, (Pages 1 to 5 of written submission), the Board of Inland Revenue and other revenues;
- 3. the rationale for the incentive "losses can be carried forward indefinitely";
- 4. the types of losses that can be carried forward indefinitely;
- 5. the forecast for jobs in the energy sector;
- the supporting analysis and data to substantiate the statement, "The current strategies and incentive compare favourably with those offered by new and emerging hydrocarbon producers." (Pages 5 and 6 of written submission); and
- 7. the commencement date for stakeholder consultations within the energy industry.
- 8. a breakdown of the "Footage Drilled–Development wells–Onshore and Offshore" and a breakdown of the "Footage Drilled–Exploratory wells–Onshore Offshore" for the period 2005 to 2015 as follows:

Year	Company	Expl.	Expl	Dev.	Dev.	Oil	Gas
		Wells	Wells	Wells	Wells	Production	Production
		Onshore	Offshore	Onshore	Offshore	Bpd	Mcfd

6.5 The Chairman thanked officials of the MEEI for attending.

Adjournment 7.1 The meeting was adjourned at 11:59 a.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

March 21, 2016

PUBLIC HEARING MINUTES OF THE <u>FIFTH MEETING</u> OF THE JOINT SELECT COMMITTEE ON ENERGY AFFAIRS, HELD IN THE THE J. HAMILTON MAURICE ROOM, MEZZANINE FLOOR, OF THE PARLIAMENT, TOWER D, PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN ON TUESDAY MAY 17, 2016 AT 11:05 A.M.

### **Present**

Mr. Colm Imbert, MP

Mr. Franklin Khan

Chairman

Vice-Chairman

Mrs. Paula Gopee-Scoon Member
Maj. Gen. (Ret.) Edmund Dillon, MP Member
Mr. David Small Member
Mr. Daniel Solomon Member
Mr. David Lee, MP Member

### Secretariat

Ms. Candice Skerrette Secretary

Ms. Sheranne Samuel Assistant Secretary

Ms. Katharina Gokool Graduate Research Assistant

### **Absent**

Mrs. Ayanna Webster-Roy, MP Member (Excused)

### Officials of the Ministry of Energy and Energy Industries

Mr. Selwyn Lashley Permanent Secretary

Ms. Heidi Wong

Mr. Richard Jeremie

Deputy Permanent Secretary

Chief Technical Officer (Ag.)

Ms. Louise Poy Wing Senior State Counsel

Mr. Ivor Superville

Senior Energy Analyst (Ag.)

Mr. Monty Beharry

Director, Minerals (Ag.)

Mr. Frank Look Kin
Mr. Leroy Mayers
Advisor
Advisor

### Public hearing with Officials of the Ministry of Energy and Energy Industries

- 7.1 The meeting resumed at 11:05 a.m. in public, in the J. Hamilton Maurice Room.
- 7.2 The Chairman welcomed officials of the MEEI and introductions were exchanged.
- 7.3 The Chairman informed officials of the MEEI that they would be asked to appear before the Committee again on June 01, 2016 to discuss LNG production and revenue. The meeting following this would focus on minerals.
- 7.4 Detailed below are the issues/concerns raised and the responses which were proffered during the hearing with the officials of the MEEI.

### i. Exploration drilling

- d) Officials of the Ministry indicated that the footage or the amount of exploration drilling undertaken by the various companies was a reflection of the terms and conditions contained in the respective licenses.
- e) Officials also explained that typically the exploration phase would be six (6) years for onshore and shallow water and nine (9) years for deep water exploration and that this would explain the fluctuation in the numbers over the past ten (10) years.

- f) The Committee raised concern about the inconsistent number of rig days over the past ten (10) years. Officials indicated that using the metric of rig days to judge exploration was deceptive as drilling was only one aspect of exploration.
- g) The Committee sought to determine whether the Ministry had a targeted drilling programme which outlined the number of wells to be drilled over a particular period of time. It was indicated that the Ministry's philosophy was to support and encourage continuous exploration of the country's acreage and resources. Officials also stated that some existing suppliers such as BP had acreage but there was no exploration programme in the licence. In such cases the Ministry would engage the company, taking into consideration that the company may be competing for capital internationally and offer incentives or the option of sub-licensing and farm-outs.

### ii. Stakeholder consultation

Officials acknowledged that the stakeholder consultation which was due to commence in April was late, explaining that there were differing views on how to proceed with the consultations. The Ministry has since decided to divide the stakeholder consultations into discrete areas, engaging a group of stakeholders at a time.

### iii. Restructuring of the MEEI

d) The Committee was informed that the Ministry was in the process of restructuring, aiming to increase the capacity and capability of the Ministry. Officials were of the view that the process was taking too long and the Ministry has employed interim measures to treat with its needs. The Committee pledged its support to any increase in staffing at the MEEI.

### PSC Audit Unit

- e) Officials indicated that the Ministry was challenged by the structure, size and capacity of the Audit Unit which has resulted in a backlog of reports. The Ministry has attempted to address the issues through interim, short-term measures but officials admitted that the ultimate solution was expanded capacity in a restructured PSC Audit Unit.
- f) The Committee learnt that phase one of the restructuring plan was before the Minister and two (2) additional personnel were being proposed for the unit to deal with ongoing work. The Public Management Consulting Division (PMCD) has advised the Ministry to treat with the backlog of reports as a project with additional persons being employed as service providers.
- g) Officials revealed that due to current constraints, particular audits were being prioritised.

### iv. Gas contracts for Marginal gas fields

The MEEI officials revealed that in the case of marginal gas contracts several contracts have come to an end and NGC was engaged in discussions with the companies in terms of renewing and extending gas contracts.

### v. Trinidad and Tobago's ranking re attractiveness for oil and gas investments

In comparison to other countries, Trinidad and Tobago was ranked 39 out of 126 in 2015. The Committee was informed that if a country was not fiscally attractive enough, it would not have the required incoming investments.

### vi. Rationale for incentives

The MEEI officials indicated that the 100 % write-off and incentive for losses to be carried forward indefinitely were decisions taken by the Board of Inland Revenue and were included under Finance Act, 1988. Ministry officials were of the view that it was time to revisit these incentives.

### vii. Impact of capital allowance

MEEI officials explained that an increase in capital allowance was not a loss to the Government rather it represented a deferral of revenue. The Committee suggested that this needed to be revisited.

### viii. Onshore exploration bidding

MEEI indicated that in 2014, three (3) land blocks were given out with a total of twelve (12) exploration wells committed. Drilling of the exploration wells were expected to be commence later in 2016 or 2017, on land.

### ix. Sale of LNG

MEEI officials explained that in the case of the sale of LNG to North America, in 2013 and 2014 sales were down to almost contracted volumes. In 2015, there were increased cargoes going to Mexico. In the case of Asia, in 2015 prices fell and companies moved their cargoes to South America, which had lower shipping costs.

### x. Gas allocation policy

The Committee learnt that there was an absence of a gas allocation policy, however, informal arrangements were utilized. The MEEI was of the view that a gas allocation policy was needed.

### xi. Requested information

Further to the discussions during the hearing, the MEEI was asked to provide a written submission regarding the following:

- 1. commencement date for stakeholder consultations on the energy industry;
- whether there is a scientific approach to improve the range of ranking for Trinidad and Tobago in terms of fiscal attractiveness and to the decisions related to the fiscal incentives given to oil and gas companies;
- recommendations on whether the 100% write-off for losses carried forward indefinitely should be revisited;
- 4. current human resource constraints and disciplines;
- 5. plans to address human resource constraints;
- 6. staff complement and disciplines required to address the issues raised by the Committee;
- 7. system/workings of revenue received from Atlantic LNG, differentiate between Trains 1, 2, 3, and 4:
- 8. market shifts for LNG and the implications for revenue;
- 9. rationale for the markets for LNG exports from 2005 to 2015;
- 10. gas allocations over the past 10 years (provide figures);
- 11. current gas allocation to Atlantic LNG as well as urea producing, methanol producing and ammonia producing companies;
- 12. recommendations on whether there should be a gas allocation policy.
- 7.5 The Chairman thanked officials of the MEEI for attending.

Adjournment 8.1 The meeting was adjourned at 12:25 p.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

May 31, 2016

# PUBLIC HEARING MINUTES OF THE <u>SIXTH MEETING</u> OF THE JOINT SELECT COMMITTEE ON ENERGY AFFAIRS, HELD IN THE ANR EAST ROOM, LEVEL 9, OF THE PARLIAMENT, TOWER D, PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN ON WEDNESDAY JUNE 01, 2016 AT 11:08 A.M.

### **Present**

Mr. Colm Imbert, MP Chairman
Mr. Franklin Khan Vice-Chairman

Maj. Gen. (Ret.) Edmund Dillon, MP
Mr. David Small
Mr. Daniel Solomon
Member
Mr. David Lee, MP
Member

Secretariat

Ms. Candice Skerrette Secretary

Ms. Kimberly Mitchell Procedural Clerk Assistant

### **Absent**

Mrs. Ayanna Webster-Roy, MP Member (Excused)
Mrs. Paula Gopee-Scoon Member (Excused)

### Officials of the Ministry of Energy and Energy Industries

Mr. Selwyn Lashley Permanent Secretary

Ms. Heidi Wong

Mr. Richard Jeremie

Deputy Permanent Secretary

Chief Technical Officer (Ag.)

Ms. Louise Poy Wing Senior State Counsel

Mr. Ivor Superville Senior Energy Analyst (Ag.) Mr. Dave Mungal Senior Energy Analyst (Ag.)

Mr. Frank Look Kin Advisor

Ms. Suzanne Singh Senior Human Resource Officer (Ag.)

### Public hearing with Officials of the Ministry of Energy and Energy Industries

- 8.1 The meeting resumed at 11:08 a.m. in public, in the ANR East Room.
- 8.2 The Chairman welcomed officials of the MEEI.
- 8.3 Detailed below are the issues/concerns raised and the responses which were proffered during the hearing with the officials of the MEEI.

### i. LNG Contractual Arrangements

- a) Officials provided clarification on the written submission that, "Most contracts provide 50% sharing of the diversion upside with the gas supplier, however in one contract, there is no sharing of the upside." It was clarified that one (1) contract (buyer) did not have a "destination premium" clause and was later included in later contracts negotiated by the Government. The output of this contract is approximately 30 to 40 per cent of Trains 2 and 3.
- b) In some of these contracts, there is an agreed destination for cargoes between buyer and seller in the base contract. However, when there are excess cargoes and contracted cargoes commonly called a

"destination premium" there is flexibility with the contract to sell these cargoes to other destinations with a higher price. Therefore, the changed destination for the LNG cargo would be a "premium destination" and the revenue (destination premium price minus base price) is equally divided between the seller and the Government.

- c) These LNG upstream companies (under production sharing contracts) that discovers gas is responsible for finding a buyer for the LNG. LNG sales contracts (MEEI is not a party) are between upstream companies and the marketer contain confidentiality clauses.
- d) Officials provided clarification on the written submission that, "in recent years some companies have opted to manipulate the spirit of the contracts, and so the original intent of these contracts are not being honored." The Committee was informed that at the time some of these contracts were negotiated, Trinidad and Tobago was inexperienced in LNG which led to contract deficiencies. The Ministry has had extensive negotiations with this company to improve the benefits and revenues and these negotiations have not borne fruit to date. In this regard, the company is honouring the letter and not the spirit of the contract.
- e) The Committee also proposed that the Ministry's legal team consider invoking the "changed circumstance" legal concept to renegotiate these contractual issues and seeking supporting partnerships from Oxford Institute of Energy Studies and the Jackson School of Geosciences Bureau of Economic Geology to review some contracts and to provide recommendations.
- f) The Committee was informed that the dispute resolution clause of the contract allows for arbitration.
- g) The Committee expressed concerns that Government of Trinidad and Tobago that facilitated the creation of Atlantic LNG are not allowed to know LNG contractual contents to ensure the maximum tax is received. Officials indicated that an in camera meeting would be more appropriate to discuss this matter, however certain details cannot be disclosed due to confidentiality clauses. The standard to be a recipient of confidential information is that it must be with the permission of the disclosing party and an undertaking is given from the recipient to be bound by the similar confidentiality. The Committee encouraged the Ministry to write to these companies submitting a request to have access to information on commercial arrangements to be discussed in camera.

### ii. Tracking of LNG Cargo

- a) Officials provided clarification on the written submission that, "86% of this company's Train 4 cargoes over the same period have been sent to Spain and received extremely low prices that are not a reflection of European benchmark prices such as NBP. The net result of this effective swapping of cargoes is that a significant amount of value is captured by the marketer outside of our tax net and GORTT loses out on this revenue."
- b) Companies are contractually permitted to divert cargo destinations to receive the best market price. However, cargoes are diverted to affiliated companies with lower than the best market price. The control and management of the portfolio of cargoes is outside of the jurisdiction and are not tracked by the Ministry.

### iii. LNG Exports from 2005 to 2015

The North American region is now set to become an LNG exporter because of shale gas.

### iv. Stakeholder Consultations on the Energy Industry

Officials are awaiting confirmation from the Minister of Energy and Energy Affairs on the proposed meeting schedule. In addition, the consultation structure has changed from a series of large to small grouping with common interests to commence tentatively in July 2016.

### v. Supplemental Petroleum Tax (SPT)

The Committee expressed that SPT arrangements are outdated and should be revised, as low oil prices leads to lack of SPT revenue. It was proposed that SPT benchmark be increased or linked to profitability

rather than the benchmark price of US\$50. In addition, the Committee were also informed that small companies views the SPT as an additional penalty for increased profitability.

### vi. Transfer of Local Content and Knowledge

Some agreements have provisions to ensure local content and local input are maximized within limits. Some provisions span over the life of the project in order to support and finance the operations of these facilities. The permanent Local Content Committee was recently resuscitated with a specific mandate to closely monitor the operations and commitments of the companies.

### vii. Human Resources

The Committee was informed that the 144 out of 408 vacant positions is a mix of established and contract positions and is a result of delays to the restructuring process. In addition, there is currently a proposal to fill the established vacant positions and to change the structure which will be sent to PMCD within a week.

- 8.4 The Chairman indicated that an in camera would be held with MEEI officials to discuss LNG pricing at a date to be determined.
- 8.5 The Chairman thanked officials of the MEEI for attending.

### **Adjournment**

9.1 The meeting was adjourned at 12:06 p.m.

I certify that these Minutes are true and correct.

Chairman

**Secretary** 

June 08, 2016

# Appendix II Verbatim Notes

VERBATIM NOTES OF THE FOURTH MEETING OF THE JOINT SELECT COMMITTEE ON ENERGY AFFAIRS, HELD IN THE J. HAMILTON MAURICE ROOM (MEZZANINE FLOOR) (IN PUBLIC), OFFICE OF THE PARLIAMENT, TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON WEDNESDAY, MARCH 02, 2016 AT 11.00 A.M.

### **PRESENT**

Mr Colm Imbert Chairman
Mr. Franklin Khan Vice-Chairman
Maj. Gen. Edmund Dillon Member
Mrs. Paula Gopee-Scoon Member
Mrs. Ayanna Webster-Roy Member
Mr. David Small Member
Mr. Daniel Solomon Member

Ms. Candice Skerrette Secretary

Ms. Sheranne Samuel Assistant Secretary

Ms. Katharina Gokool Graduate Research Assistant

# OFFICIALS OF THE MINISTRY OF ENERGY AND ENERGY INDUSTRIES

Mr. Selwyn Lashley Permanent Secretary
Ms. Heidi Wong Deputy Permanent Secretary

Mr. Richard Jeremy Chief Technical Officer (Ag.)

Ms. Louise Poy Wing Senior State Counsel

Mr. Ivor Superville Senior Energy Analyst (Ag.) Mr. Monty Beharry Director, Minerals (Ag.)

Mr. Frank Look Kin Advisor Mr. Leroy Mayers Advisor

**Mr. Chairman:** Good morning, everyone, I would like to welcome the Ministry of Energy and Energy Industries. This is the Parliament's Committee on Energy Affairs. I think it is the first time the Parliament has had a Committee of this nature, set up in this way, and the mandate of this Committee is to examine all matters relating to the energy sector. The members of the Committee, myself as Chairman, Colm Imbert, and I would ask members on my right to introduce themselves.

[Members of the Committee introduce themselves]

**Mr. Chairman:** And we have Ms. Samuel and Ms. Skerrette providing Secretariat support. Could I ask now for the Permanent Secretary in the Ministry of Energy and Energy Industries to introduce your team and yourself?

**Mr. Lashley:** Thank you, Chair, and good morning to everyone. It is a pleasure to be part of the inaugural meeting of this Committee. As you know, the energy sector is a pivotal part of the economy of Trinidad and Tobago, so it is really a pleasure for us to appear this morning to provide information, as requested by the Committee, to yourselves and, of course, to the general public in terms of it being televised, et cetera. I am Selwyn Lashley, the Permanent Secretary at the Ministry of Energy and Energy Industries, and I will ask the other members of my team to introduce themselves, starting on the left.

[Officials of the Ministry of Energy and Energy Industries introduce themselves]

**Mr. Chairman:** Okay, thank you. Is everybody hearing everybody, by the way? Okay? All right, let me just give you a brief overview. I did indicate the mandate is to examine all matters relating to the energy sector, but I can give you some greater details. The first objective is to determine the Ministry of Energy and Energy Industries current and upcoming strategies and incentives to promote new production in the energy industry; secondly, to examine current efforts being taken to improve the supply of natural gas; thirdly, to investigate areas of prospective oil exploration in

Trinidad and Tobago, and that would include gas exploration as well; fourthly, to gain an appreciation of the status of drilling activity in Trinidad and Tobago, and, also, to assess current and forthcoming initiatives and incentives to tackle the development of small and marginal gas fields, and I would add to that, deep-water fields as well.

Now, members have specific questions, I would let you know. This will not be our only meeting; we are going to start today but we will be asking the Ministry of Energy and Energy Industries to come back, because we have a very long shopping list, which I suspect would take at least three meetings, including this one. So I would open the floor now to questions from members. Sen. Small, do you want to go first?

**Mr. Small:** Thank you, Chairman, I appreciate that. Good morning, members of the representatives of the Ministry of Energy and Energy Industries. Thank you for taking the time out of your, what I know, very busy schedules to join us here this morning. Mr. Chair, with your permission, I want to run quickly to—we, the Committee, submitted several questions and the Ministry prepared several responses, and the first issueI would like to be able to elicit a response, I want to rush to page 8 of the Ministry's response, and it speaks to the initiatives regarding the availability of natural gas, supply of natural gas in the country, and I would like to be clear and to be guided by the Ministry, because there is a newspaper report today in the *Express* by, I think it is Aleem Khan, which essentially is saying natural gas is at the lowest level in 10 years and that it does not seem that the outlook looks positive. My understanding, Mr. Permanent Secretary, is that, just as you outlined here, that certainly by the middle, or to the end of 2017, there is very likely to be more than enough gas supply, all of the existing customers and potentially new customers. I would like to be guided on whether or not my summation of that is correct or otherwise.

Mr. Lashley: Thank you for the question, and, certainly, the issue of the availability of natural gas has been an issue that we have been treating with at the Ministry over the last couple of years. Just to give a little history, the shortage, or non-alignment of supply and demand, was something that crept into the landscape as far back as 2010, and what has happened is because of a mismatch of activity on the upstream end, in terms of what was required to provide adequate gas for the needs of the downstream consumers, we have been in a situation where we have had to manage the supply and demand. Now, the initiatives that have been put in place, as you outlined with our submission, have been arrived at through collaboration with the upstream suppliers, and, certainly, we have had discussions with the downstreamers as well. There has been a lot of effort devoted towards scheduling of activities to ensure that periods of curtailment or apparent shortages will be minimized, but the situation is, currently, that there are activities on the way, as you have indicated that, towards the latter part of this year and into next year, that is when those activities will manifest themselves in additional production which then would be able to address the needs of the consumers downstream. In the interim, we continue to manage the situation in terms of scheduling, maintenance—so, for instance, at this time there is not a shortage because one of the plants is off for maintenance activities, and this scheduling and managing that situation is the mode we are in right now. But you are quite right, towards the latter part of this year and into next year, there is production expected from some of the initiatives, and the operations that are currently in train by several of the upstream suppliers.

**Mr. Small:** Mr. Lashley—Mr. Chair, if you would permit me—in your response you noted that the Ministry conducted discussions with the upstream and the downstream, am I to assume that also you conducted discussions with the National Gas Company also in arriving at these numbers?

**Mr. Lashley:** Yes, indeed. The National Gas Company is critical. In fact, they play a very critical role, being the company that is the aggregator of gas, the transport to the supplier, and, of course, the purchaser and seller, upstream and downstream, and, certainly, the National Gas Company is a critical player in those discussions. In fact, on a daily basis we get reports coming in from all the upstreamers and the National Gas Company to ensure that we manage the situation in the best way possible.

**Mr. Small:** Thank you, Mr. Chair. I just have one additional question on the same track and I will pass on to someone after. Mr. Permanent Secretary, thank you for your response; I want you make a statement, I want you to guide me on whether or not my statement is going in the right direction. Would it be fair to say then that the Ministry, after consultations with the upstream, the downstream, and, of course, our key player in the sector, the National Gas Company, is of the view that, let us say by the middle of 2017, the issues that are currently being faced by companies regarding curtailments, there is a high likelihood that those issues would have gone away and perhaps may even be in a surplus position? Is that an unfair or a correct statement? Could you guide me, Mr. Permanent Secretary?

**Mr. Lashley:** Well, I would not want to be the one to pre-empt ongoing discussions and to, let us say, forecast the results of current activities, because, as you know, activities would be programmed to produce particular results. In fact, one of the issues that has contributed, in part, to the situation we are in now is a lack of success on a particular initiative by one of the companies, but, of course, one of several suppliers. So we are managing the situation. I am hopeful that, in the time frame that you indicated, in fact the situation would be much improved, and, in fact, you went further to say, oversupplied; I would not be as bold as you, but, certainly, managing and balancing the supply, a demand situation is the objective.

Mr. Small: Thank you very much.

**Mrs. Gopee-Scoon:** Could you not be a little bit more specific, because I think it is public knowledge that the Juniper fields are supposed to come into market—when? In 2017? Yes. And are there any other prospects? I am just talking about those that are public knowledge that you can give a little more detail on.

**Mr. Lashley:** Certainly, the Juniper project does in fact provide, or will provide a significant additional amount of gas into the system, along with other initiatives that are earmarked to also contribute to the supply picture. What I was careful to say though is that—I mean, as an engineer by training initially, I am always mindful that in the execution of projects, you know, there can be delays in part because of unforeseen circumstances, but, certainly, all indications are that the gas supply picture is going to be significantly better; it will improve. The upstream companies are committed to work, and they are conducting work right now, which in fact will contribute to improving the supply.

Mr. Chairman: Minister Khan?

**Mr. Khan:** Mr.Lashley, with regard to the first question on what are the current strategies and incentives in place to promote new production in the energy sector, I want to deal with the taxation aspect of this. Bearing in mind the principle of taxing, depleting finite reserves in a country, which is mineral taxation, the governing principal of that is that in a wasting asset the State must extract maximum economic rent because the resource are not renewable. So it is in that context I see some very, very lenient measures that were implemented, what year was that implemented?—2013 or 2014, all these allowances and—

**Mr. Chairman:** What the Minister is specifically referring to is early write-off of exploration and development expenditure.

Mr. Khan:—early write-off of exploration and development expenditure. 2014?

Ms. Wong: 2014, Chair.

**Mr. Khan:** Yeah. But it did not really attract new investment in the sector because in 2014 the oil prices was still reasonably high?

**Ms. Wong:** What would happen, once the incentives are in place there would be a period in which they will take effect from, and normally what—the Juniper field, which is one of the projects that is earmarked to produce additional gas, this project will benefit from these incentives that have been put in, in 2014. The list that was provided in the response is a series of incentives that have been enacted from over 2011 to 2014. There are various incentives here that we have put in to simplify the tax regime and also to get a greater benefit for the country.

**Mr. Khan:** No, but from 2011 onwards, during the 2011 to 2014 period, oil prices averaged \$80, close to \$100. I want to know if these measures did in fact bear fruit as it reflects to increased activity, because these write-offs are very, very affable to the operating companies. I mean, you are writing off 100 per cent of your capital cost in year one, and not even only on exploration drilling. I mean, it pumped up to 140 per cent for tax purposes for 8,000 foot land wells and 12,000 foot shallow marine wells, heavy oil is the same thing, capital allowances; it is just, you know, so what I want to know, if you do not have a ramp up of activities to justify that reduction you are just picking the Government's pocket.

**Ms. Wong:** What I would like to say, the activity, while we may not get the increased revenue immediately, what you would see is an increase in the activity, and one of the indicators is the number of rig days over the period of time

which has shown an increase. There was a table, page 19—you would recognize that there was a total increase in the number of rig days from 1,628 in 2011 to 2,010 in 2012, and 2,092, so there was increase in activity, and most of it was spurred because of the changes in the tax regime. What we are mindful of is that with the increased activity we are hoping to get increase in the production of oil and gas, and that will be hopefully down the line.

**Mr. Khan:** But you did not get—even though you got some increase in activity you did not get increase in production, because production—and oil produces most of its oil in the first year because it is a 50 per cent exponential decline for solution gas drivers. So what I am saying is that, at a cursory analysis, these tax breaks that were given to the companies, it affected the Ministry of Finance figures, obviously, negatively, and operationally at the Ministry of Energy and Energy Industries, at the production level we did not see the benefit. So, could you respond to that?

Mr. Lashley: Let me respond, and you are quite right, Minister Khan. The fact is, there are several factors at play, in terms of the maturity of the assets in Trinidad and Tobago and the attendant decline rate in terms of production, we are always in a cycle where unless there is activity—in order just to maintain levels, let alone increase, you need to have a certain level of activity to support and to ensure that production levels are maintained. So that is one of the things which we will have to—I understand your question, and what we can do is interrogate the information to try to do a correlation, if we can, with respect to introduction of the incentive and incremental production, perhaps, as opposed to the absolute production levels. But, certainly, as DPS Wong was indicating, one of the indicators, and, in fact, the increased level of drilling activity has in fact corresponded to a decrease in the decline rate in terms of oil production. Certainly, these measures were introduced following consultation and collaboration with the industry and, in fact, doing an analysis of the external environment as well, to ensure that, in addition to us extracting, as you quite rightly indicate, the maximum benefit from a declining resource, we also need to be competitive in terms of the competition for capital. So, certainly, there is a balance that we have to maintain. Several of these measures as well, I would want to point out, there are sunset provisions in terms of the applications. So, certainly, it was something offered for a period of time to incentivize and stimulate, and I am quite mindful, as you pointed out, that the Ministry of Finance is certainly very mindful of the impact on the revenues to the country and, of course, the Treasury.

### 11.20 a.m.

Mr. Khan: So you had sunset clauses to this legislation?

**Mr. Lashley:** Yes, several of the provisions, I think, go until 2017, so there was a window where operators could access that provision and the incentive. In fact, what we witness is an increase in activity.

**Mr. Khan:** But again, my core point is at the time these incentives were offered to the industry there was no fiscal basis to do it, because oil prices were on or about—now, if you say you wanted to offer this same package, there may have been a justification. So that is the basic point I am making.

**Mr. Chairman:** I will recognize Mr. Small in a short while; but I think we need to be very clear on what we are being told. Let us deal with some of them specifically. With respect to the Petroleum Profits Tax—this is on page 2 of your document—you state that with respect to exploration, "100 % of the exploration expenditure may be allowed in the year the expenditure was incurred" and this is applicable from January2014 and will expire in December2017. What occurred before this? What was the equivalent write-off provision prior to this?

**Mr. Superville:** Prior to this the provision was an initial allowance of, I think, about 10 per cent in the first year and also a first year allowance of about 30 per cent.

Mr. Chairman: And then what happened after that?

Mr. Superville: So that was the initial, that is what they had there before, and then we have the new provision being introduced.

**Mr. Chairman:** No, no, no; I have a specific question. What I am seeing here is as of January01, 2014, 100 per cent of exploration expenditure can be written off in the first year, but what happened before that is what I want to know.

Mr. Superville: Like I said, before this provision was introduced, the allowances or the capital was written off over

a longer period.

**Mr. Chairman:** That is what I am trying to find out, because you said 10 per cent initially and when I said what happened after that I meant what happened to the other 90 per cent; was it over two years, five years, 10 years. What was it?

**Mr. Superville:** A five-year period.

**Mr. Chairman:** Well the exploration expenditure previously was written off over a five-year period, and that was changed to a one-year period?

Mr. Superville: One-year period, correct.

Mr. Chairman: Okay. What was the reason for that drastic change from five years to one year?

**Ms. Wong:** Minister, there were committees that were set up to review the fiscal regime, and at the point in time the competitive nature of our sector was being considered. When we reviewed the fiscal as compared to several other countries, it was found that we needed to improve our competitiveness. This was one of the areas we felt that we needed to increase the incentives to the upstream investor, mindful of the situation that we have with the depleting resources, that we needed to increase and boost activity as quickly as possible. So it was given as an incentive to the upstream to bring on board earlier and quicker work within the industry.

**Mr. Chairman:** I fully understand that, but that is not what I am looking at. You went from a situation where you could write-off the exploration expenditure over five years, to a situation where it could be written off over one year. So you went from zero to 100 in one go. Is there any other country that does this, that you can write off 100 per cent of exploration expenditure in the first year?

**Mr. Superville:** This type of arrangement is very common in mature provinces. If my memory serves me right, the UK has a similar arrangement with respect to capital allowances.

**Mr. Chairman:** We need some more information on this. What it has done, I will tell you what has happened. Because the oil companies can now write off 100 per cent of exploration expenditure, you have some of the bigger companies writing off more than their expenditure. So that the tax coming to the Government is zero. Did you realize that that would be the effect of this, that you would have a situation where profits would be low so that when they write off 100 per cent of the exploration expenditure in the first year, the effect of that was that they would pay no taxes to the Government? Did you know that or did you figure that out or did you suspect that when you did this?

**Mr. Lashley:** Minister, perhaps I could just set the scene. At the time these incentives were introduced, one of the principal concerns would have been ensuring that our reserve base—because annual audits would show that in fact based on our depletion rate of gas and of course the declining oil rate, the indication is clear that there needed to be some sort of incentive for increased exploration.

**Mr. Chairman:** Mr. PS, I know that. We all know that, that there needed to be incentives. The question I am asking is why this incentive where you go from a five-year write-off to a one-year write-off, and the effect of that now is because of the size of the investment they are paying no taxes. Did you anticipate that this would happen when you did this?

**Ms. Wong:** Minister, when we did the analysis in fact, we recognized there would be reduced—there is a report in fact and it indicated where we showed that there would have been reduced revenues, but the pricing environment in which the review was done is completely different from what pertains today, so the answer to that is no, there was no recognition.

**Mr. Chairman:** Now my next question: Why not? Why did you not anticipate that prices could collapse and have a sliding scale or a two-tiered regime where if prices remain at a certain level you write off 100, but if prices drop to where they are now, you might write off 50 per cent and 50 per cent? Why did you not think of that?

**Ms. Wong:** Minister, I do not think the pricing environment that we have today anyone anticipated that it would happen. I think what we need to be mindful of is that we need to be proactive as there are changes in the environment that we need to look at.

**Mr. Chairman:** So you agree now we should revisit this? Well I am getting no tax, so I certainly am going to revisit it. [*Laughter*] Minister Khan, Mr. Small was before you. Before that I just want you to answer this. You agree now that because the volatility of oil prices has manifested itself, the extreme volatility, that when you are doing things like this, you need to have some kind of escape clause to get out of where we are now, where they are writing off all the investment and no tax, because the price of oil is so low? Do you agree?

Mr. Lashley: Yes, I absolutely understand.

Mr. Small: Thank you, Mr. Chair. You asked a couple of my questions, but that is fine, and I promise only two questions, so forgive me. But I am going down the same road, Mr. Chairman, because you have asked what happened and why. I am asking a completely different question: What was the effect? So I am going down the same road as the hon. Chairman. What is the effect? We understand the effect on production, which I think is insignificant or none. What was the financial effect in terms of—did it mean that these incentives that were afforded these companies essentially went straight to their bottom line? Is there something from the BIR that the Ministry can work with to help the Government understand what was the effect of these incentives on the bottom line of these companies? And if there was a negative impact towards the BIR and the other State's source of revenue, that is where I would like to go. Perhaps that may not be something we could talk about in this session, but I believe it is something that might be useful for the Committee to come up for your consideration, Mr. Chairman.

**Mr. Chairman:** I actually have the information, but we could talk about that at the next session. The result was zero. We went from US \$1 billion in revenue from a particular company, to zero. That is the effect of this.

**Mr. Small:** Permit me one other thing, Mr. Chairman, and I will not trouble the Ministry staff anymore. I have a question around the rig days. I take note of the comments, the responses provided by the Ministry team that the incentive yielded increases in rig days. When I look at page 19, I look at the rig days' numbers, it is interesting. I see rig days have increased, but when I look at it in 2015, of the rig days, 65 per cent of those rig days were done by Petrotrin, including lease operators and farm out. In 2014 it was 72 per cent, the previous year it was 63 per cent, the previous year it was 79 per cent. So that if the effect of the incentives was only to incentivize Petrotrin, and the other—it is a very small group of other companies who are doing any other work.

This is why I am saying I am really concerned—if we want to champion or to explain the rationale for the incentive that it was intended to deliver rig days, I am not sure if this is the result that we were hoping to achieve, and if this is the result that actually came out, then it needs significant revisiting, because Petrotrin has its own special challenges. These numbers do not impress me in any way.

**Mr. Lashley:** Just to address the concern actually raised by Sen. Small. Again, I think in order to correlate the impact of an incentive, some analysis has to be done specifically, and, in fact, that work is work that is ongoing, both in the context of the Ministry. I just want to go back. These incentives were not unilaterally developed by the Ministry of Energy and Energy Industries. The Ministry of Finance, the Board of Inland Revenue, certainly other state players, because of particularly the impact that these incentives, it was anticipated, would have on the bottom line and on their taxes, et cetera, and certainly as well collaboration with the industry and, of course, looking at what the external environment, the global environment that we are operating in, that has changed and certainly I am in full agreement. That is something which should be the subject of some substantial review, and looking forward in terms of crafting some sort of fiscal system incentives or structure, architecture that would work for us in this time.

Mr. Chairman: Before I allow Sen. Small to continue, Mr. Khan, you wanted to get in something?

**Mr. Khan:** I have some other aspects of it. I want to support Minister Imbert in the context of the exploration capital is so high and just to offer to write off that in year one, to me does not make sense, but it has happened already, we will relook at it.

If you go to "b", "Development: Workover/qualifying side-tracks"—you could easily justify 100 per cent of that write-off in the year in which it was done, because the capital cost in these development and side-tracks and work overs are low. So it can assist the company in boosting their production and at the same time provide the incentivization. What

is dangerous about this legislation, you go down to page 3, under 3b: "Losses can be carried forward indefinitely". So Mr. Imbert is not finished yet, because if they pay no taxes for 2016, but they still have write-offs, they could carry it forward to 2017, 2018 and 2019, because an exploration programme is extremely high capital. So apart from offering it to write off in year one instead of year five, if the write-off carries you to significant losses, you can write off just enough to pay zero taxes and carry forward the write-offs to subsequent years. This thing really needs relooking at.

**Mr. Chairman:** Before Mr. Small jumps in, I just want to get some clarification on a statement made about rig days. I think Ms. Wong had said if we look at rig days for 2011 we would see 1,628 and then in 2015, 2,045. Correct? Total? At page 19. So I am seeing that the total rig days, 1,628, 2011; 2,045 in 2015. But the incentive here for exploration expenditure only kicked in, in 2014, so we really need to start looking from 2014 going up. What I am seeing is 1,587 rig days in 2014 and 2,045 in 2015.

Would you say that that increase from 2014 to 2015 is a direct result of this incentive? Could anybody on the Ministry's side say, in the back, in the front?

**Mr. Lashley:** Actually, Chair, I would want to be cautious as I indicated. What we would need to do is to do a thorough interrogation to determine and to see if we can correlate the timing and the introduction of the incentive and the actual programmes that would be instituted by the respective companies.

**Mr. Chairman:** Because what I am seeing is in 2013 it was 2,092. It was actually higher than it was in 2015. That may be that the price of oil was high in 2013 so that motivated the companies to explore. Then it started to drop in 2014, so it dropped off, then the incentives kicked in so it came back up, but I think we need to be very scientific and we need to be data driven in dealing with these issues.

**Mr. Small:** Thank you, Mr. Chairman. I must seek your indulgence. The Ministry presented data on page 16 regarding the footage drilled and it categorizes it by land and marine and total, but there is a further categorization that I would like to request, with your permission, Mr. Chairman. I believe that for us to understand the differentiation between development drilling and exploration drilling—because the Committee is well aware that development drilling really speaks to maintenance of current production levels, and exploration drilling is really where you are looking to try to find, to increase the resource base. I ask that deliberately, because I think that the Ministry continues to say that one of the drivers is to try to find new resources and to understand where we can monetize and find new places where we can bring up additional oil and gas.

From these pure numbers in front of me it looks good. Footage drill is increasing, but where is that footage drill increasing? If it is purely or mostly in development drilling, then the other aspect of the Ministry's portfolio of trying to grow the resource base, perhaps there is a challenge there, and this is where the Committee can be of assistance to the Ministry. So this is a data request from me, not necessarily a question, but I think that for us to understand just the break out, what is really happening with development as opposed to exploration drilling—I know it is tied to the bidding rounds, but I think it is also important for us to understand what has happened. The history is important for us to plan for the future. Thank you, Mr. Chairman.

**Mr. Lashley:** That information can be supplied to the Committee certainly.

Mr. Chairman: I would like to ask a question. Any other members want to ask questions before I go in?

**Mrs. Gopee-Scoon:** It is a little bit different to what we were speaking of. I noticed something in the social media, this week actually, about a private consultation on tar sands. I wanted to get the Ministry's view of it, especially with regard to the modern thinking on the environmental side of it.

Mr. Lashley: Well, certainly, as a natural resource, tar sands is one of the resources that is available for consideration for exploitation in Trinidad and Tobago, but you are quite right, the exploitation of tar sands, the particular methods, the technologies that are applied would have to be examined carefully in the context of the impact that exploitation of these resources can have on the environment, on stakeholders, on land use. Certainly that is something which is the subject actually right now of some examination in academia, and the Ministry is supporting research in terms of not just identification, but characterization of a lot of the tar sands resource base, its spatial location, its quality and, in addition to that, the technologies that can be utilized to exploit these resources, if and when we decide to do so, mindful of course of the impact that certain technologies can have on the environment and the use of limited land space in

Trinidad and Tobago.

Mrs. Gopee-Scoon: So there is research ongoing?

**Mr. Lashley:** Yes, there is ongoing research.

**Maj. Gen. Dillon:** Thank you, Chair. I want to go back to the statement made by Minister Khan with respect to losses being carried forward indefinitely. Two questions, one: what is the rationale for losses being carried forward, and two, what type of losses can be carried forward indefinitely?

Mr. Lashley: Ms. Wong was part of the fiscal review committee so I will ask her to answer that one.

**Ms. Wong:** When we indicated the losses carried forward, it is part of the Corporation Tax Act and the Petroleum Tax Act under—I cannot recall the section, but it is part of the tax incentive that is given to companies under the E&P tax regime, and under the basic tax law provisions for companies, where they are afforded—it would be all costs that can be carried forward.

**Mr. Chairman:** I would like you to go to page 3 of your document. In terms of capital allowances I see you are making a statement that qualifying exploration and development expenditure can be written off over three consecutive years, 50 per cent in year one, 30 per cent in year two, 20 per cent in year three, effective January2014. But on page 2, you said 100 per cent of exploration expenditure may be allowed in the first year. So is there some other type of exploration expenditure that you are referring to here?

**Mr. Superville:** Chair, the exploration expenditure in respect of 100 per cent, the company could choose to do that. The company has an option of either doing it that way, taking 100 per cent, or writing it off over the 50, 30, 20. So they have to elect either to write off 100 per cent or to write it off over three years, 50, 30, 20. So it is an election.

**Mr. Chairman:** What company would do that? If you could write off the whole thing in year one and carry forward the loss, what company would do that?

**Mr. Superville:** Chair, it depends on the planning of that particular—the tax plan of the company. They have to make a decision what is best for them.

**Mr. Chairman:** So you are saying there is a dual regime in place where you can write off the 100 per cent if you wish or write it off over three years if you wish?

Mr. Superville: You have that option.

**Mr. Chairman:** That is currently in place right now?

**Mr. Superville:** That is in place.

Mr. Chairman: What was the thinking behind that?

**Mr. Superville:** Again, the incentive more or less based on what we spoke about before is to stimulate the sector. We have to recognize that our sector now is very mature, very, very mature, and the issue is how do you attract investment into the country.

**Mr. Chairman:** I understand that, and therefore I can understand why, and I think everybody here understands why, you went to the 100 per cent. But that argument does not hold if you are telling them they could also do it over three years. How would that incentivize anybody? If they can do it all in one year, how do you incentivize them by telling them you could also do it in three years if you want?

**Ms. Wong:** Minister, if you recall, there was a difference in the tax regime prior to 2014 and what was introduced in 2014.

Mr. Chairman: Yes.

**Ms. Wong:** The capital allowances that would have been written off, there would have been an accumulation which would have been carried forward under the old regime. That exploration expenditure is the one that is referred to in "b". So where before you would have had to write it off in five years, you now have the option of that being included in this.

**Mr. Chairman:** So this is for prior; so there is a difference?

**Ms. Wong:** Yes, there is a difference.

**Mr. Chairman:** The second issue I want to address is on page 4, Item 2, where you talk about a discount on SPT rates, supplementary petroleum tax rates. You say there is a discount of 20 per cent. So assuming that SPT—is 35 per cent the highest rate of SPT now?

**Mr. Superville:** I believe it is 33 per cent.

**Mr. Chairman:** Because you told us SPT rates were harmonized for land and deep water from 35 to 18. So you are saying it is 33 per cent?

**Mr. Superville:** 33 per cent.

**Mr. Chairman:** Okay, fine. It says for new field development 33 to 25, it says marine 42 to 33, land, 35 to 18. I will take your word for it that it is 33. So the 20 per cent discount will take that down to 27, somewhere around there? An argument has been presented to the Ministry of Finance by small operators that with the current price of oil, from the time oil goes from \$49 to \$51, the SPT immediately kicks in, and because these rates and this threshold were determined when oil was, say, \$25, so you had \$25 oil, and then if it went to \$50 that was a windfall, so the SPT then kicked in to deal with a windfall. That this is no longer relevant with respect to oil prices in the \$40, \$50 range because as soon as it crosses \$50, you are hitting them with 33 per cent SPT right away, which makes it unprofitable to produce oil at \$51. What is your answer to that?

Mr. Lashley: Just to go back, Minister, to my full agreement with you in terms of—

**Mr.** Chairman: I posed a question to you, I did not ask you to agree, but go ahead. [Laughter]

**Mr. Lashley:** Certainly, I think it is apparent to all that there is a need to revisit the incentive package or the fiscal architecture, in light of the change of environment. So certainly what was previously structured as an incentive, in the current environment certainly it does not present any at all.

Further to that, I think in terms of strategizing, given the outlook for oil prices over the short to medium term, I think it is incumbent on the Government to address this matter. I think the way we have addressed it in the past is through a tax review committee, and certainly I would strongly recommend that that is something that should be afforded a high priority.

**Mr. Chairman:** But dealing with this specific issue of the fact that if our oil is \$49, you are paying a certain level of taxes, and as soon as it hits \$51 SPT is coming at you, which may make it unprofitable to produce at \$51. What is your answer to that?

**Mr. Lashley:** What I think the answer is, we need to ensure that any sort of structure we put in place—a step change always influence behaviour sometimes in ways that we did not intend. So we need to probably look at ways where there are changes anticipated, there is some sort of—I would suggest formula that takes you gradually into that particular realm. Certainly our objective is as a windfall manifests itself, our position, I am sure it will be shared by the Ministry of Finance, is that needs to come.

**Mr. Chairman:** The point I am making is when oil was \$25 and then there is a war in the Middle East or something happen, and it jumps to \$50 in a month, that is a windfall. But if oil is averaging \$49 and just kind of goes over to \$51, \$52, that is not a windfall, but SPT is a windfall tax. I am asking you if the Ministry has looked at this at all.

**Ms. Wong:** Minister, yes, through the several tax committees that we have had over the years the SPT regime has gone through several substantial changes. In 2010, we had a multitiered system that ranged from about \$15, \$11 straight on to about \$49, where there were subsequent increases, as you increased every \$10 or \$5 there was a percentage increase.

What we sought to do over the last five years was simplify the SPT regime, and every simplification that was made meant that there would have been less and substantial reduced revenues to Ministry of Finance. So that had to be managed in a particular way. As the review came about, certain incentives in fact were put in place, but it is a constant review that is done annually with respect to the fiscal regime and its incentives that are offered. So in this environment another review can be—

11.50 a.m.

**Mr. Chairman:** I hear you, but do you think annually is a sufficient period with this kind of volatile environment? Should you be reviewing taxes on an annual basis?

**Ms. Wong:** At one time there was a policy directive to do it every two or three years, but I think it is something that needs to be done constantly as the environment is changing. Yes.

**Mr. Chairman:** Okay. But do you buy the argument that the rate at which SPT kicks in—the price at which SPT kicks in should be looked at? Because what has been adjusted is the rate—

**Ms. Wong:** What has been adjusted—

**Mr. Chairman:**—they changed the rates, but you have not changed the threshold. Do you buy that argument that you should look at the threshold of \$50?

**Ms. Wong:** That is another—we have changed the threshold, in fact, the earlier ones ended at \$50 and we had changed the threshold up to about \$200 with the expectation that you would have had another type of pricing environment, and as the environment changes, I think, a review has to be done on the—

Mr. Chairman: On the price?

Ms. Wong:—on the price and on the structure itself as well.

Mr. Chairman: Okay. All right. Well I do not have any more questions on that today.

**Mr. Small:** Thank you, Mr. Chair. I have a data request and one short question. At the Ministry's document at page 5, at the very bottom speaks to the work analysis, and there is a statement that rolls over to page 6 where it says: "The current strategies and incentives compare favourably with those offered by new and emerging hydrocarbon producers."

Through the Chairman I would like to ask, could the Committee, please, be provided with a copy of the analysis and data to support this statement? I think that it is always good to understand what—because the statement is there and it says very clearly what the Ministry's position is, but I think it would be informative for the members of this Committee to understand, to see what the Ministry saw. Perhaps we may look at the same thing and see something very different.

Mr. Chairman, I have one short question again and it has to do: given the current situation where we are in terms of optimizing our resources, the Ministry should be aware that there are several smaller gas pools that are available and then, of course, there is one big gas pool in the north coast that, for some reason, has not been able to figure out what to do with that big gas pool. It is under contract. But I think in a situation where we have been experiencing gas curtailments for a couple of years because of a whole range of issues, we have actually gas that is available. It is proven, it is under contract and for several reasons they are not being produced. And the core reason, in my respectful view, is that the companies have not decided when they want to produce it or how to produce it. And I have a challenge with that because that is our resource. I understand that it is under contract, but I am not enamoured of the position where a company can sit on resources and decide to produce it when it is convenient for them. I have a huge challenge with that and I would like to understand, from the Ministry, is there any way that the Ministry has looked at this and

has said, we need to find a way to incentivize, take away or whatever? I have a simple view. If you tell companies these resources you are sitting on, you are not dealing with it and it is in the Government's interest that we get those resources back out to people who may be interested, let them make a case for what they are going to do with it. Let them make that case. And I think that this is something the Ministry should consider and I would like to get some feedback from the Permanent Secretary and any other member of this team on this thought process.

Mr. Lashley: The only feedback I can give at this time, Sen. Small, is that the matter is being actively looked at right now. Now, and you are quite right, the resource base is the subject of several licenses and production-sharing contracts and there are contractual arrangements in the downstream for gas supply. Certainly we need to be mindful of the measures we introduce in terms of what would be the best way to—I mean, you mentioned incentivize. It may not even be incentivizing, it may be ensuring that there is alignment of opportunities that make commercial sense. Yes? So certainly all of these things are being looked at, but I would not want to pre-empt any sort of plan that would come out of our review and a strategy adopted to address the issue there that you have just identified.

Mr. Small: For just—

**Mr. Chairman:** No. No. We have a new entrant. [Laughter]

**Mr. Solomon:** Thank you, Chairman. I just wanted to understand, for the listening public as well, is that you are saying that we have some natural gas supply that is going to increase by the middle of 2017. What did we do right in order to create this supply coming in 2017? I understand that it takes some time before we make decisions that we are going to reap the benefits as a result of the investments. Could you articulate for us what was done to create this supply that we expect in 2017 and when was it done?

**Mr. Lashley:** Yeah. I mentioned earlier some of the incentives, and I think the DPS Wong pointed out one of those in terms of the Juniper Gas project that is earmarked to bring supply on in a particular time frame. That particular project certainly, like any other operator, would of course have the benefit of accessing the incentives that have been provided over the time frame 2014/2017. So certainly that is one example. But I think at the end of the day the increase in supply is guided in part by the contractual commitments as well, in terms of commitments to supply to existing contracts. And certainly going further after that, any sort of opportunities for even supplying for, you know, wedges of gas where there may be some operators who, because of their lack of success, it provides an opportunity for another supplier to step in and supply. So those are some of the things which would have created this opportunity and the increase in gas supply.

**Mr. Solomon:** Through the Chair, I am also just wondering, and I know a lot of the people, a lot of the citizens of our country are concerned about the forecast for jobs in the energy sector. I do not know if you can help us and enlighten us in that regard? Thanks.

**Mr. Chairman:** Well, what I would ask is, that is a question we are going to put to you in writing. Because after this session we are going to send you more questions and that will be one of them. I do not think it would be fair for them to speak off the cuff, unless you want to, PS?

**Mr. Lashley:** I was just about to share the interest in terms of the impact. Certainly a lot of it is a manifestation of the current economic environment, but certainly that is information we need to compile and then we can supply.

Mr. Chairman: I continue, based on that question.

Mr. Lashley: Sure.

**Mr. Chairman:** I just want to give you one final question because we are going to wrap up at 12, but I think we will have you for at least three sessions. And what will happen after every meeting like this we will send you written questions for further answers.

In your document you spoke on page 5, I believe?—yes. Page 5 you spoke about a consultation. Was this not supposed to take place in December or January?

Mr. Lashley: Yes, Chair. You are correct. Initially the plan was to engage in some consultations with key

stakeholders in order to inform the development of strategy going forward. Those plans have, in fact, moved into this year, but certainly the intention is still there to have consultations.

**Mr. Chairman:** Yes. If you do not set a definite time frame for these consultations they will never happen, you know. So does the Ministry have a definite date or month for this consultation?

Mr. Lashley: Yeah. The consultations are being planned for this quarter.

**Mr. Chairman:** Before the end of March?

**Mr. Lashley:** Before the end of March and into April. What has happened is in terms of defining the structure of it, it was the subject of discussion within the Government, in terms of how do we structure the consultations, you know, to have the maximum effect in terms of getting key information to feed into the policy. So certainly that is what we are looking at—

**Mr. Chairman:** It is not something that—

Mr. Lashley:—to be effective.

**Mr. Chairman:**—anybody should drag their feet on. It is very, very important and I personally remember at the energy conference one of the speakers, I think it was the President of BHP, had made the point that this Government had promised consultation and urged us to get on with it. So that we will be writing you. We want an answer as to when this consultation will take place. Okay?

Mr. Lashley: Noted. And we will respond, Chair.

**Mr. Chairman:** And I want to wrap up now, but if anybody else wants to ask any questions? Okay. Well thank you very much. And as I said, we will be seeing you again. I can assure you the questions will be harder on the next occasion. Okay.

Mr. Lashley: We are here to respond, Chair, to all the questions.

**Mr. Chairman:** We ease you up. We "soften yuh up" for the first meeting. Okay. But what I would say though is that it is not appropriate to say, "you think, maybe, might". Be prepared for all sorts of questions. I mean, you are not psychic, but be prepared to come with information to answer questions, specifically if you can, because that is what we want from you. Okay?

**Mr. Lashley:** Certainly, Chair, and we are here to support the Committee.

Mr. Chairman: Thank you very much. Okay. All right.

Mr. Lashley: Thank you.

11.59 a.m.: Meeting adjourned.

VERBATIM NOTES OF THE FIFTH MEETING OF THE JOINT SELECT COMMITTEE ON ENERGY AFFAIRS, HELD IN THE J. HAMILTON MAURICE ROOM (MEZZANINE FLOOR) (IN PUBLIC), OFFICE OF THE PARLIAMENT, TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON TUESDAY, MAY 17, 2016 AT 11.00 A.M.

### **PRESENT**

Mr Colm Imbert Chairman
Mr. Franklin Khan Vice-Chairman
Maj. Gen. Edmund Dillon Member
Mrs. Paula Gopee-Scoon Member
Mr. David Lee Member

Mrs. Paula Gopee-ScoonMemberMr. David LeeMemberMr. David SmallMemberMr. Daniel SolomonMember

Miss Candice Skerrette Secretary

Miss Sheranne Samuel Assistant Secretary

Miss Katharina Gokool Graduate Research Assistant

**ABSENT** 

Mrs. Ayanna Webster-Roy Member

## OFFICIALS OF THE MINISTRY OF ENERGY AND ENERGY INDUSTRIES

Mr. Selwyn Lashley Permanent Secretary

Ms. Heidi Wong

Mr. Richard Jeremy

Deputy Permanent Secretary

Chief Technical Officer (Ag.)

Ms. Louise Poy Wing Senior State Counsel

Mr. Ivor Superville Senior Energy Analyst (Ag.)
Mr. Monty Beharry Director, Minerals (Ag.)

Mr. Frank Look Kin Advisor
Mr. Leroy Mayers Advisor

**Mr. Chairman:** I think we can start with just the formalities while we are waiting for the broadcast to start. I would like to welcome you all once again, and to tell you we will have one more session with you in two weeks' time, on June 01<sup>st</sup>, and we will let you know today what that final session will be about. So let me just introduce the members of the Committee, starting with Minister Dillon. Could you kindly introduce yourself?

[Members of the Committee introduce themselves]

**Mr.** Chairman: Okay, and although we have seen you all before could you kindly introduce yourselves again, starting with the Permanent Secretary.

**Mr. Lashley:** Thank you, Chair, and good morning to members of the Committee. It is a pleasure to be here before you again. You promised the last time that you had additional questions to ask of us and we are here at your disposal. We did supply some information that you requested and we hope that it satisfies at least some of the questions that were raised arising out of the last meeting. Let me start, I will ask the members of my team to introduce themselves, starting on the left.

[Officials of the Ministry of Energy and Energy Industries introduce themselves]

Mr. Lashley: Thank you, Chair. That is the team that I have with me this morning.

**Mr. Chairman:** You have some others in the back there?

Mr. Lashley: Yes, well, certainly, they are in the gallery; they can introduce themselves as well.

**Mr. Chairman:** Something has just struck me when Mr. Beharry, who is in charge of the minerals division, so we will have a fourth session only on the minerals division, [Laughter] okay, but the next session will be on oil and gas.

So the fourth one will be on minerals.

We got your responses to the questions, thank you very much for your comprehensive replies, and I am afraid to unleash Sen. Small on you, but I think I will. Sen. Small, could you open the batting? You have any questions to put to the Ministry?

**Mr. Small:** Thank you very much, Mr. Chairman, given that, you know, I had so much preparation for this role. I would also like to join with the Chairman in congratulating the Ministry on the fullness and completeness of the submission. As the Ministry is the line agency for several entities, at least the Ministry is setting the right tone by being fully compliant to the request of the Committee for information. I hope that at some point in time that transcends to some of the entities under your purview.

Mr. Permanent Secretary, I want to rush to your submission and there are several issues inside of there that the Committee members want to ask, but I want to deal with what I consider to be one of the challenges, the major challenges in the sector, and that has to do with the—when I look at the numbers reported, in particular, for the past five years for exploration drilling, the footage, you provided quite comprehensive information on the footage. When you look at the period for 2015 to around 2010, going back, and then if you compare to the preceding period there has been quite a drop off in exploration drilling, and given the fact that where we are we have a resource that the proven reserves are declining, I would like to understand, one, what may have accounted for the reduction in exploration footage drilling, and then what key initiatives is the Ministry engaging upon to get this done, because if we do not have the exploration drilling to find new resources then we would run into a serious problem, or probably an even more serious problem going forward. Could you assist with that information please, Mr. PS?

**Mr. Lashley:** Sure, and thanks for the question. Now, exploration drilling, and I would be zeroing in on a particular aspect of the work programmes of the companies we engage under licences and production sharing contracts, a lot of the drilling commitments that are contained within minimum work programme obligations in the respective licences and PSCs so that over a particular period, I think it is a five-year period you had looked at, depending on the timing and phasing of the obligations, in large measure the footage, or the amount of exploration drilling undertaken by the various companies would be a reflection of what terms and conditions they have in their licences. This is in the exploration phase.

Now, in addition to that, over and above the minimum obligations some companies, based on their outlook, and they would also have plans for exploration drilling. Some may, in fact, be moved to take advantage of having a rig in country and an exploration opportunity close to existing prospects being developed, et cetera. So that it is a combination of those things, but in large measure it is driven by the minimum work commitments which would be contained in the separate licences and PSCs.

Now, several of these things would be—typically an exploration phase would be six years in the case of onshore and shallow water, and nine years in the case of deep water. So that the phasing has to do with a comprehensive or an ordered exploration programme starting first with seismic, followed by drilling and evaluation of information, and further drilling, et cetera, and success of course in terms of the discovery of new resources. So that is an outline in terms of what would guide or drive the fluctuation in the numbers as you described as over that period that we would have looked at.

**Mr. Chairman:** Sen. Small, before you continue, just let me come in here. Permanent Secretary, what struck us, looking at the numbers, we were looking at exploration wells offshore, and if you look at the totals for, let us say for 2006, the number is 5,622. I am not sure if that is feet or metres. Is it feet or metres, by the way? I am on page 15 of your response to us, and it is with respect to the exploration wells offshore, in 2006, 5,622—look at the bottom of the—is that feet or—

**Ms. Wong:** These are rig days.

Mr. Lashley: Rig days.

**Mr. Chairman:** Rig days, okay. So it is rig days. So, 5,622 rig days, and then if you go to 2007 it drops to 710, then you go to 2008, 837; then in 2009 it drops down to 113; then in 2010, 87, and then 142, 268, 227, 270, et cetera, what

struck us is, prior to say 2007, 2008, you had fairly substantial rig days and then it dropped down to almost nothing after that, and continued at a very low level, particularly between, say 2009, 2010 and 2014. What went on there?

**Mr. Lashley:** I could probably ask the Chief Technical Officer to give the details, but it is in sync with what I am describing, 2006 would probably have been a year when there would have been a number of drilling programmes executed, because that would have been the phase in the exploration programme that several of the PSCs may have had the commitment—

**Mr. Chairman:** I fully understand what you told Sen. Small, that is not my point. I would hope as a country we would have a consistent sort of minimum number of rig days that we would like to achieve every year based on continuous dialogue and agreements with the companies, why did we have a fairly constant high number and then drop off for about 8 years to nothing? What went on there?

**Mr. Lashley:** From the statistics I have before me, Chair, if you go back to 2005, when you look at the figure for exploration wells offshore—I mean, that number is 365—the number kind of, it spiked in a sense in 2006. So that, I am suggesting, may have been a reflection of a very intense programme of drilling. Sometimes, and particularly for offshore drilling—[Cell phone rings]

**Mr. Chairman:** A little icebreaker there, right. [Laughter] Go ahead.

Mr. Lashley: I was moved to salute, Mr. Chair. But, certainly, so what happens—

**Mr. Chairman:** No, but hold on, hold on, hold on. You are telling us to look at 2005 with 365; okay, I am looking at it, and you are saying there was a spike in 2006. Fine, I accept that, but then in 2007: 710, 837, and then all of a sudden it drops down to 113 and does not really recover in any substantial way until—well it does not, it stays down there, so what happened?

**Mr. Lashley:** It is precisely what I was describing. So what happens typically with offshore drilling, and there is a practice where a company, or a group of companies, would bring a rig inter-country so they would be rig sharing. So to execute a number of the drilling programmes you would have this clustering of activity in and around the presence of a rig in country that can execute the separate programmes. That is done in order to save on costs in terms of mobilization and demobilization of rigs, et cetera. So what would happen, you may, over that period, see a spike, and that, in my humble view, is a manifestation of an intensification of execution of the drilling aspect of work programmes by a number of companies in that particular year, driven in part by, you know, having a rig available that had the capacity and capability to execute.

**Mr. Chairman:** Yes, but if you drill deeper into the numbers you are seeing a number of companies doing no exploration whosoever for many, many years, at all.

**Mr. Lashley:** Chair, exploration is composed of a number of elements, drilling is just one aspect, so if you zero in on drilling, and not only drilling but exploration drilling, I think sometimes the numbers may be deceptive. It may move you to form an opinion that no activity, or no exploration activity is taking place, but there are other forms of exploration, the seismic, the interpretation, et cetera.

**Mr. Chairman:** All right. I think I will put back Sen. Small, but I think I am probably in good company then with the rest of the world, because when the rig days drop in the United States the price of oil goes up, as occurred just two days ago. So they also look at rig days as an important factor, but, all right, we will deal with that in the next meeting. Sen. Small.

Mr. Small: Thank you, Mr Chairman, I appreciate that. Mr. Permanent Secretary, I was going down—the intervention with the Chairman is timely, I was going along the road of, does the Ministry have a target to say—and it may not always be achievable, but on a rolling basis does the Ministry have a target to say that the target for the next five years is we would like to have 200,000 feet of X amount of wells? And then from that target now you roll back, you use that target to develop your activity, your bidding rounds, whatever you need to do, because I believe that I am not sure if I understand how this happens. What is the structure of the planning process for this? The numbers are haphazard. When you look at the footage numbers, in particular, it has skewed a lot of development

drilling in some years and a lot of exploration drilling, and then I understand the explanation for that. My question here is, do we have a structured plan for exploration in the country that allows us to understand that the plan is that the Ministry is saying we would need to have X amount of wells drilled over the next zero amount, 10 years, whatever the period is, and then out of that we say, listen, in order to achieve that these are the series of activities the Ministry is going to engage in to make sure that we meet that target, or we get close to that target.

**Mr. Lashley:** And, again, I just want to re-emphasize that the metric being focused on of rig days or exploration, and, again, offshore exploration rig days may be a deceptive metric. The Ministry, the objective of exploration programmes, and we have a philosophy of supporting and encouraging continuous exploration of our acreage and resources, that is achieved through having information and data that we put out in order to increase interested stakeholders in the prospectivity of particular pieces of acreage, inviting them to submit proposals on a competitive basis through the bid round process, sitting and executing contracts and licences which have prescribed minimum work obligations which would then lead to, in our view, a likelihood of finding additional resources, okay.

So what drives us really is having a process, or a system in place which would continually invite an interested party in going after and conducting exploration work in order to discover resources and prove up reserves which would then feed into the hopper development, et cetera. So the disconnect with the metric that you have focused on is that in executing what may be a comprehensive work programme, which is a six-year work programme, the drilling aspect of it may or may not fall early or late in that six years, and what we are looking at is an overlay of several contracts and licences so that from time to time, based on the obligations in the respective licences and PSCs, companies, and based on their evaluation of data collected through seismic and other information available, the definition of a viable prospect, and the planning that goes into, prior to the execution of a well, all of that is a timeline that would then lead to eventually execution or the drilling of a well, which would manifest itself in footage.

Now we hope that that footage, in some instances, unfortunately, may be a dry hole, because the expectation of finding is a risk expectation. So, certainly, we also have to look at that in terms of what activities or what actions need to be taken in order to place ourselves in the best position to ultimately result in success. And our definition of success is not necessarily—it is a collateral activity, and there is economic activity arising out of drilling, et cetera, but, ultimately, the Ministry will be looking at what is the best chance we have of finding additional resources and reserves, right, which then can be monetized to bring in revenue, et cetera, et cetera.

Mr. Small: Mr. Chairman, would you permit me one last question in this round? Mr. Permanent Secretary, I accept that the metric of the footage drilled is a metric that is not—it may not necessarily yield what I am looking for. I recall, probably I was in the system a little bit, I recall some work was done, at a point in time, that where we looked at the profile of the current production system to understand where the rate of decline was, and in order to establish what type of activity was required to maintain the level of production there was an exercise done to say, listen, this is the production level now, this is where we forecast it to be, what needs to happen, from a drilling basis, so that is how I came up with my drilling—so I did not go all the way back, so I am going all the way back now, that looking at where the current gas production is and what the forecast is, look at the current oil production and where the forecast is, what types of activity, and how much of that activity is required to, given with the understanding that if you drill five wells probably one or two may be successful given the normal statistics? So this is where I was going with my question. Is that type of analysis still in place? I need to understand where we are with that.

**Mr. Lashley:** To answer your question, yes, it is something that is evaluated, but you will appreciate it is a mix of several things. There are several operators with different exploration appetites for risk in terms of their concept behind the particular plays, in terms of their access and their involvement, or their working interest in their particular acreage that may or may not be more or less prospective. So, certainly, when we look at what is required to achieve a certain result, yes, we look at that and we believe that in having the companies under production-sharing contracts most of the new entrants in the offshore area, offshore gas area where under production-sharing contracts, but there is the other element of existing suppliers like the BPs, et cetera, who have licences. They have acreage and there is no exploration programme in the licence to which they are committed by licence to execute.

So that is a conversation that has to take place in terms of, you know, what do they have in their inventory, what is the sort of prospectivity, and their programme in terms of investment, capital investment, in order to support drilling, exploration drilling, and, of course, development as we go along. So it is a mix of those things. When we look at the target that we need, when I do the annual resource estimate, the independent evaluators, based on our rate

of depletion, they would normally suggest that, look, we need to have a replacement of reserves target of 1 Tcf a year, et cetera, and in order to achieve that we would say, okay, you would need to have a certain number of successful, not just wells but wells targeting prospects of a particular potential.

So it is a mix of a number of factors, and the drilling—the number of wells would fall out from that, but to focus only on the wells, you know, is not what we do. We look at what is the likelihood and the sort of prize at the end, what sort of numbers we could reasonably expect from a drilling programme executed by the different operators that make up the mix in Trinidad and Tobago.

Mr. Chairman: Let me come in here. Let us assume all things are equal and the likelihood of finding oil is equal, and we know that because of our geology there is a rapid decline in production, soon after you start to bring a field in the production there is a rapid decline, and this was drawn home to me by the BHP field off the East Coast where I recall it started off at about 75,000 barrels a day, and now I think they are below 10,000, or somewhere around there, and I remember the former Prime Minster explaining our geology is like that, that you have high production at the beginning and then very rapidly decline to low levels. Since we all know this, and I am sure Energy knows much more about this than I do, why would you not have a targeted drilling programme on an annual basis since the only way you could increase production is by drilling? You cannot do it any other way. I mean, the fact is, yes, there will be dry holes; yes, in some areas you may not get any significant quantities of oil. We all know this. But the only way to increase production is either to improve the uplift from existing fields by secondary recovery methods, or whatever, or you find new oil. So I would think you would need to be focused on finding new oil, so why would you not use drilling as a factor improving increasing drilling as a target in order to ensure that our production goes up. I just want to know why.

### 11.30 a.m.

Mr. Lashley: Perhaps I conveyed the wrong impression that we do not look at drilling as one of the elements that—

**Mr. Chairman:** Mr. Lashley how else can we find oil except by drilling? We could find it any other way?

**Mr. Lashley:** I am just trying to describe to you, Chair—so for instance, in evaluating proposals submitted by companies in response to our invitations for bidding, when we weight the sort of points allocation to different types of activity, it is evident that we place a high emphasis on the drilling of wells and footage, et cetera. So, you know, that is one manifestation of the line of sight that we have.

**Mr. Chairman:** But you did say that you need to have a conversation now with the companies to tighten up that aspect of the contract, not so?

**Mr. Lashley:** No, what I said is with respect to companies that have gone past that part of their licence, so they have acreage, so I drew reference to one company who has significant acreage, but in terms of exploration obligations, their licence is at a stage where there are no firm exploration obligations.

**Mr. Chairman:** So what do you do in a case like that?

Mr. Lashley: In a case like that, what we do is we have an ongoing discussion and conversation—

**Mr. Chairman:** That is what I am saying.

**Mr. Lashley:** But I am singling that particular scenario and I am distinguishing it from the scenario where we invite new players.

**Mr. Khan:** Yes, actually that is the key point, because if you go back to your drilling, you opened on the assumption that the only exploration programme that exists is the minimum work obligation for new licences and/or new PSC. You said that initially. Having said that, we are in a situation now where a significant portion of our prospective acreage as a country lies in the domain of two to three companies that are not bound by a minimum work obligation anymore. If you check the statistics of offshore drilling for exploration wells, all these wells were drilled by Repsol which was when they were trying to expand Poui, Teak and Samaan, and by Petro-Canada and Canadian Superior which was a north coast block that they were working on. So your core companies—I do not want to call them by

name, but you know who they are—they have gone past—and you rightfully said—their minimum work obligations, but they still sit on the prime acreage of the country.

As a country and as a Ministry, you have to engage them now to come up with a robust exploration programme because they are on the productive acreage, and we have to do something about that because that is the issue here. The issue here is not giving a new PSC with somebody getting a new company to drill two exploration wells, because the chances of finding there is significantly smaller than in the productive acreage under the control of the three companies of which I speak.

**Mr. Lashley:** Thank you for that, it is an accurate description. Because of the terms of the licence, the mechanism for engaging the companies to pursue prospects is an iterative one. Their perspective is always one of they are competing for capital internationally. Certainly, we are of the view that we have viable prospectivity and we will wish these things to be developed. What we have done over the years is a number of changes or features in the licensing, and I want to add, sublicensing arrangements which would encourage or facilitate activity taking place under the ambit of the head licence, but certainly targeting prospects that may or may not be of priority to the particular companies or the entities that hold these licences.

**Mr. Chairman:** Mr. Lashley, let me intervene here, because they have told me that as well, that they are competing for capital. So, one of the largest companies would have operations all over the world, and they have to compete in the company now as to where capital is invested. That is all very well; that is their business model. It is fine for the head of an oil company to say, "Look, we have operations in Africa. We have operations in the United States, in England and in Trinidad, and we have to go and bid or compete to get an agreement from our head office to do exploration in Trinidad or production." They could say that, they are entitled to say that. But what are we are doing as a country do deal with that, because that is their perspective, that is not ours?

**Mr. Lashley:** I am in agreement. I recall on the last occasion we were here there was concern, and rightly so, about the offering of incentives. That of course is not something that the Ministry of Energy and Energy Industries would do on its own. It would be done in collaboration with the Ministry of Finance and the BIR, et cetera. Certainly, that is one of the requests that you would get from a number of companies, suggesting that that is a mechanism to facilitate pursuit of what they describe as marginal prospects.

Another approach, which is what I was attempting to describe, is where you could put a system in place, or an arrangement, which would facilitate the introduction or the involvement, as in the case of TSP and some of these other things, of other companies who have a different appetite for undertaking a particular activity that the head licensee would not—Petrotrin as well is one of the companies that would have acreage available, but perhaps not be in a position to pursue certain prospects immediately. So the sublicensing, the farm-outs, that type of arrangement is one that can facilitate increased activity, drilling, which as you quite rightly said, is the only way to prove up resources as we go forward.

Mr. Chairman: On that note then—

Mr. Small: Mr. Chairman-

**Mr. Chairman:** No, this will bring us back to what I think you are about to say. On page 6 of your response you said you would commence stakeholder consultation in April. Well, we are in May, so?

Mr. Lashley: Yes, I want to—just to update and say that we are late with that, reason being there were some different views in terms of how we proceed with the stakeholder discussions. We have landed on an approach now in terms of pursuing the consultations in smaller bites, maybe leaning on and learning from seeing how some of the other public consultations have been taking place in the public space—I will not call names—or other Ministries. But certainly, dividing the stakeholder consultations into discrete areas where we engage a group of stakeholders, and then we can escalate that up into a national policy.

Mr. Chairman: So at our next meeting in two weeks you will tell us when the stakeholder consultations will begin?

**Mr. Lashley:** Yes, definitely.

**Mr. Small:** Mr. Chairman, thank you very much. I want to flag for me I have a note of concern. I am concerned when the Ministry of Energy and Energy Industries apparently is advancing an argument that is not a Trinidad-centric argument. I say that deliberately. I do not intend to be controversial, but I think that where we are, we have over 200,000 hectares of some of the most prospective acreage in the country, where we are in a situation, Mr. Chairman and members of the team from the Ministry of Energy and Energy Industries, where our natural gas industry is stagnant, our oil production is in steep decline. I think that some urgent action is required.

I understand that the contractual mechanism requires some engagement, but that engagement has to take, respectfully, a firmer tone, because we are in a situation where we are not able to grow our gas sector, and our oil sector is in rapid decline, and we have assets that are very prospective. There needs to be a discussion around—the short version is: these are assets that are prospective, could you give us your plan for activating these assets? And if your plan does not meet our requirements then let us discuss a way in which we could get some other party in there to get our requirements met.

We have to take it from the position of Trinidad and Tobago-centric. It does not mean that we are oblivious to the concerns or the issues of the operating entity, but at some point in time we have to take the interest of our stakeholders. That is my concern. It is not something that I am beating up the Ministry for, it is a concern that I hold as a professional in this industry, that where we are we need to be in the same way as which these entities are very, very focused on delivering results for their stakeholders. They are laser focused on it, and when they come in the room they do not want to move until they get their stakeholders met. All I am saying is we should adopt a similar strategy.

We have our stakeholder commitments. We have a situation where our gas industry is stagnant, our oil sector is also in sharp decline, and we need some of these assets to be performing for us, not on your schedule but rather on our schedule. So, Mr. Permanent Secretary, that is my entreaty to you and your team. I know it is not an easy ask, but I think you have a strong supporter in the Chairman of this Committee and all the members of this Committee, that this is something we have to try to have a little firmer conversation.

**Mr. Lashley:** Certainly, and I share your sentiments. Certainly the tenor, I may have sounded perhaps a tad diplomatic in terms of describing the engagement of the companies, but certainly when we approach the companies it is very clear in terms of what the country requires, what are our needs, what we would like them to do. But certainly at the end of the day I just want to remind you, we have a tradition of respect for licences, contracts, et cetera, so the process we choose to adopt in engaging the companies is one of dialogue, being very clear, as you quite rightly pointed out, what we require, but certainly having that dialogue in order to achieve the objectives as you described.

**Mr. Small:** One closing comment. Mr. Permanent Secretary, I agree. I am supportive and I understand the dynamics. But I have also been in a room with companies under contract, with firm hard commitments to the Government of Trinidad and Tobago, have come to the room and said, "Listen, we are not able to abide by these current terms, and we would like to have a discussion with you to change these terms". I recall very well, one very large company decided that they were not going to drill a certain amount of wells, and opted to do some programme with Petrotrin and the Ministry accepted that.

All I am saying is when these companies have their issues and they want terms changed or adjusted, they come knocking and they come knocking very, very hard and are very clear about what they want. All I am saying is, in your most diplomatic style, that we engage them with similar fervour. Thank you.

**Mr. Chairman:** Okay, Mr. Small, I think you have beaten that horse, that horse is dead and buried. The Minister of Trade and Industry.

**Mrs. Gopee-Scoon:** This is not the question that I wanted to ask, but arising out of the last discussion by Mr. Small I am really concerned as to whether or not the Ministry is well resourced to handle what is required of them now, and then I will move into my next question.

**Mr. Lashley:** The question of resourcing in the Ministry has come up quite frequently. In fact, I am not too sure if it was before this Committee, but we were describing a process that we are engaged in and we have been engaged in for quite a while in terms of the restructuring of the Ministry, and by restructuring it is really in a sense an increase in

the capacity and capability of the Ministry, and fine-tuning and sharpening the skills that are required in order to pursue some of these strategic items.

That process has, in my view, been taking too long, regrettably. It is unfortunately part of the process within the public service. We have adopted some interim measures to the extent we have the authority to do certain things, but certainly, ultimately—and I hope I can rely on the support of the Committee to endorse the position. In fact, strong support for bolstering the resources and increasing the capacity and capability of the Ministry is something that is required and will be required as we go forward.

**Mrs. Gopee-Scoon:** I think that largely lies with the Ministry, because there are several ways in which you can engage and obtain your resources. I would say yes you need the support of the Committee and Government, but I think a lot relies on you and the Ministry and the pace that you have been going at.

**Mr. Lashley:** Yes, Minister, I take your point. To the extent we have the authority to do so, we have been adopting measures in order to ensure that we continue to move forward. The point I was making was that unless and until you have a longer term, more sustainable organization to support that activity, we will be in a position of uncertainty. But I take your point and we are focused on ensuring we have the resources. We have, in fact, retained some of the resources that we know can contribute and assist with some of the items that we have to pursue. But those are short-term measures. Ultimately you want to have an organization that organically has that capacity to be able to treat with these matters on an ongoing basis.

**Mrs. Gopee-Scoon:** The question which I originally wanted to ask had to do with a chart which you provided of fields that were not under production. In it you gave an indication of marginal fields under development, at page 36 that is, sorry. There was a schedule of proven pools of natural gas that are not under production, exclusive of crossborder fields. The Ministry's strategy to monetize would be the last column, and there are indications there, "marginal field need gas contract", et cetera.

It is well known and in the public domain that there is a shortage of gas which is affecting the supply to many downstream operators and also to Atlantic as well. But I am seeing in the column here "need gas contract" for several fields. Whose responsibility is that and why is it that these gas contracts remain outstanding?

**Mr. Lashley:** To begin the answer to you, Minister, the issue of marginal fields, I know it has been discussed in the national space quite vocally recently. Because of the maturity and the complexity of our resource base here in Trinidad and Tobago, we are at a point now where the larger fields have been brought onto production. What you are looking at is a pool of resources that are of smaller sizes, probably less attractive reservoir characteristics that would require the application of technology, that would require operators with lower overheads, et cetera, in order to pursue.

That discussion is one that we have actually been pursuing with stakeholders. In fact, there was a discussion quite recently at UTT where the two universities are actually—the University of the West Indies and UTT had invited discussion on what is required, both from a technology standpoint as well as other measures, in order to facilitate pursuit of these marginal resources, these marginal fields.

Again, engaging the stakeholders is one part of it, but certainly having the full benefit of the ideas and the approaches and techniques that could best result or redound to the success of pursuing these marginal resources, because these are resources that are found. They are part of the reserve base, so certainly what you need is to have some sort of system in place to facilitate going after them and bringing them onto production in the shortest possible time.

**Mrs. Gopee-Scoon:** I understand what you have said, and I have seen the classification "marginal field under development", but there are those "need gas contract". What is the next step for those that are classified "need gas contract"?

**Mr. Lashley:** That is a manifestation of where we are right now in the cycle of contracts coming to an end and the discussions in terms of renewing or extending gas contracts. That is something that the NGC is currently engaged in with several of the existing suppliers. So that description "need gas contract" is saying that unless and until there is a gas contract in place, which has been negotiated and the terms and prices and volumes have been determined, the

pursuit of these marginal discoveries, or these fields, would hinge in large measure on the terms to be agreed for the volumes and the prices for gas to be supplied from these fields.

**Mr. Solomon:** Through the Chair, I am looking at pages 5 and 6 in relation to the rankings of Trinidad and Tobago. I see on page 6 that you say Trinidad was ranked 39 out of 126 for 2015, and it has gone up every year. From 2012 it was 69 out of 147; 2013 it was 53 out of 157; and 2014, 44 out of 156. There is a chart that shows the ranking of Trinidad. I am just wondering what is your target for 2016 and how these rankings—how some of these countries are above us? I see Nigeria is above us, and yet still United States is below us. I wonder if you could help us to explain that and what are your targets for increasing the ranking of Trinidad and Tobago.

**Mr. Lashley:** I will ask DPS Wong to say a few words on it and Mr. Superville as well, who is our senior energy analyst. The point you are making, I understand in terms of the objective of where we sit in the rankings and moving in the right direction is one that we would want to pursue.

**Ms. Wong:** Good morning again. We always try to see if we can become very competitive in the oil sector and it requires, in fact, looking at and reviewing the fiscal regimes of several countries. When the comparisons or the surveys are done, it is normally against whatever fiscal regime exists at the countries at that particular point in time. Other countries themselves are also doing a review and they themselves are making changes. We are not privy oftentimes to what other changes countries make. So when we ourselves do changes in the fiscal regime, the comparison will be done with the other countries.

The chart that you see on page 5, in fact the countries that are above Trinidad and Tobago are in a worse position, because what this is saying, as the Government share per MPV is way above the estimated six eightyper cent that Trinidad achieved—so which would indicate in fact that these countries are severely handicapped or in a worse-off position than we are, not as attractive as we are.

**Mr. Chairman:** Actually I wanted you to clarify that. I am glad you have clarified it somewhat. But the more fiscally attractive a country is, the less money we get, not so? It is a serious question.

Ms. Wong: It is a serious question that you have raised, but I think one of the issues that we have always been—if we are to remain in the market, we must be competitive. We can always take the stance that we are trying to achieve the maximum revenue, but I am not sure where it would place us competitively and if investments in fact will be attracted to the country.

**Mr. Chairman:** I understand, but it is not something to be proud of that you are fiscally attractive, because the more fiscally attractive you are, the less revenue you get as a country, not so?

**Ms. Wong:** No, I would not like to make that statement, because one of the things that in seeking to get the country to grow, the sector to grow, you need investments coming in. If the country is not fiscally attractive enough, you will not have the required investments coming in. So there is always that balancing act that needs to be achieved.

**Mr. Chairman:** I understand, but then we reach present day where they are writing off 100 per cent of the capital investment in the first year and you get zero income, and they are carrying forward their losses and you get zero income next year and the year after that. So do you have a scientific approach to this? Is it a hit and miss approach or is it that there is a particular point in the range of countries that you want to be? Are you scientific about your approach to this?

**Mr. Superville:** Good morning, Mr. Chairman. As we are talking about the incentives, just give me a few minutes to explain the context, especially to the viewers, if you permit me.

Mr. Chairman: As long as you do not go off topic.

**Mr. Superville:** No, no, I just want to put it in some kind of context.

**Mr. Chairman:** I will stop you if you are going off topic.

# Mr. Superville: No problem.

So basically what we are facing here as a country are a number of issues. This is the context in which these incentives we will look at. We have a situation where oil production plunged from 140,000 barrels per day in 2006 to 87,000 barrels per day in 2015.

Mr. Chairman: And now 75,000.

**Mr. Superville:** Right. We have a situation also where we have according to the audit done by Ryder Scott that our proven gas reserves have declined from 12.2 trillion cubic feet or Tcf of gas to 11.5 Tcf. These reserves, according to Ryder Scott, for the last 12 years have fallen by one Tcf per year. I just want to make a point here. It is critical that we should have systems in place to attract investment. We need to deal with the situation as it is.

In addition, I just want to continue the context, we have a situation whereby the infrastructure that we have is over 25 years.

**Mr. Chairman:** You are going off topic now. I will let Minister Khan and Minister Gopee-Scoon come in. The topic is, when you make your decisions as to the level of incentives that you would want to give oil and gas companies, are you scientific in the way you do this or is it a knee-jerk reaction that companies are not investing and therefore you need to give them more and more until they start to invest, or do you have a model? Are you scientific in your approach? I will allow two Ministers to come in.

**Mr. Khan:** Let me just come in here because I think I have a pertinent point to make. The Chairman is asking to be scientific and he is right. The governing principle of taxation of a wasting asset is that the State must maximize economic rent, because we are not producing oil just to say we are producing oil, because "when de oil finish, it finish." When de gas finish, it finish." In other words, if the State cannot extract economic rent from that asset that God has put here, it makes no sense producing it. That is point one. So there is a limit to where you could bring the incentivization, because when the graphs cross it makes no sense.

Secondly, when you give 100 per cent write-off on an exploration well, PPT is 50 per cent, unemployment levy is 5 per cent. What you are in fact doing, if the company is not tax liable, is the State is funding 55 per cent of that well once you can write it off on your petroleum profit and your unemployment levy. So understand it, you are actually funding that well half way. It almost comes like a joint venture between the State and the company. I think the key error you all are making—if I just say that word guardedly—is what you classify as an exploration well.

If you have a new production sharing contract where there is no production, you can afford to write off an exploration because there is no revenue stream to write off until it comes into production. But what seems to be happening is that in known acreage, new field extensions and field extensions, if they are categorized as exploration you are shooting yourself in the foot, because in some of those old E&P licences it is difficult to classify a field extension prospect as a new field wildcat. I feel you have to make a further subdivision of your exploration wells to say "new field wildcat, granted", 100 per cent write-off of exploration costs. But you should have a sliding scale where those that fall in between cannot qualify for 100 per cent write-off.

Mrs. Gopee-Scoon: Again, concerning this same treatment of trading losses, the way we have done it, arising out of Income Tax Act, is without limitations. Whereas I recognize from the statements that you have given there are a number of countries that allow the losses to be carried forward, but there is a limited period, for instance three to five years or in the case of Chile, Germany and Saudi Arabia, they limit the losses to the percentage that can be done in the first year and the percentages in the second year and so on. Why is it that we have driven ourselves to this extent where you can just do what you want for as long as possible?—which is what it seems to me. Other countries are not doing that.

## 12.00 noon

**Mr. Lashley:** Let me ask Mr. Superville to address Minister Gopee-Scoon's question in the first instance, and I will like to come back to Mr. Khan's after, actually of which I—

Mr. Chairman: And do not forget I have asked you whether you used a scientific approach, and I am not getting an

answer. All I am getting is an overview of the industry, which we all know already. We do not need that. Okay?

Mr. Lashley: I will come back to your question as well, Chair.

Mr. Chairman: Okay.

Mr. Superville: Minister, you are talking about the third question on rationale for the incentives, is that it?

Mrs. Gopee-Scoon: Yes.

**Mr. Superville:** This decision, as you would see, was taken by Finance Act, 1988. That is some time ago. The decision covers not only the petroleum sector, but also company tax and income tax. We look for the rationale, but basically this is a decision taken by the Board of Inland Revenue. As to why they made that decision to write off 100 per cent going forward? We do not know why, but it is a decision taken by the Board of Inland Revenue.

**Mr. Chairman:** Mr. Superville, since you do not know, and we are asking you, is it time now to revisit this? What do you think, should we revisit this?

**Mr. Superville:** Well, given the situation there we could contemplate or we could look at, instead of carrying 100 per cent write-off we could look at probably some of the other options that they have here, which is more or less—the first one would be like, whatever it used to be before.

**Mr. Chairman:** Yes, but we need you to advise us, you know. We are examining you, so we want you to recommend to us. You said this thing was put in place since 1988, that was a long time ago.

Mr. Superville: Yes, yes.

**Mr. Chairman:** Should we revisit this thing?

**Ms. Wong:** Chair, I would just like to say something. The 100 per cent, the losses carried forward is under the Income Tax Act, Ministry of Finance, and it is one of those incentives that we—the Ministry of Energy has met. We have met that incentive there. I think like all other fiscal incentives and measures that are taken from time to time, they can be reviewed and they can be revisited. So, there are periods of times when changes are needed. At one point in time the losses carried forward, I think, was limited to 50 per cent, and it was changed, I think, in 1988 by the Ministry of Finance. So, we are guided by whatever policy decisions and changes will be emanating with respect—

**Mr. Chairman:** I can assure you that no one around this table was in Government in 1988 and, therefore, that is not the policy of anybody around this table. So, we are asking you, since we are now—how long is that now, almost 30 years? Thirty years later and many, many Governments later, does the Ministry of Energy and Energy Industries feel that the Government should revisit this policy of carrying forward trading losses indefinitely? That is a simple question.

**Mr. Lashley:** Chair, and again, I think at our last engagement a similar question was asked in a broader sense in terms of whether we believe it is time to revisit and, yes, we fully agree. The mechanism that has been adopted in the past—

**Mr. Chairman:** So, since you agree, at our next meeting you will give us firm recommendations. [Laughter]

**Mr. Lashley:** But, Chair, I just want to add that the mechanism has been one of collaborating with the agencies with responsibility.

Mr. Chairman: You have two weeks.

**Dr. Lee:** Thank you, Chair. On your document on pages 2 and 3, you might be able to add some clarity in relation with what was just discussed. The effect of the capital allowance, I think you gave an example on pages 2 and 3 about a company that had no exploration expenditure in 2015, yet the impact of the increased capital allowance has resulted

in a reduction of taxes of over \$103 million. I do not know if you would like to elaborate on this example.

**Mr. Superville:** This example was to give an illustration of the impact of the capital allowance with respect to the deferral of Government revenue. This increase of capital allowance is not a loss to Government in respect to revenue. It is a deferral of Government revenue. What it affects is basically the timing of Government revenue. It affects Government cash flow. So this year if you write off—like, for instance, the 100 per cent exploration, if you write off a hundred this year, it means that next year the company will have that expenditure write-off in the following year. So, therefore, they would have higher tax in the following year. So, the notion that this write-off is a loss to Government is not correct.

**Mr. Khan:** Time value of—[*Inaudible*]

**Mr. Chairman:** So, I am getting taxes this year then?

**Mr. Superville:** Like I said, it is a timing difference. It affects your cash flow this year, but next year you could probably get double.

**Mr. Chairman:** No, but if you can write off the whole amount in the first year, obviously that is more valuable, obviously it is a loss. If we get more revenue this year than next year or the year after that, obviously there is a loss to the Government. But, let us not argue that point. The point is that this 100 per cent capital allowance is there, it will obtain until 2017, unless it is changed, and we want to go forward now that we do not do that sort of thing again. Because, I do not think it was appropriate. It was appropriate at the time, but it was not tied to the price of product at all. So that it was just in space that we need to get people to come in, let us give them this incentive. It worked, but it worked in one way. They are coming in but we are getting no revenue, so it really hurts the country in terms of the bottom line. So, we need to look at it again.

**Dr. Lee:** My other question, we talked earlier on about offshore drilling, I did not hear anything about onshore exploration bidding and what is the status with that?

**Mr. Jeremy:** Morning to all. In 2014, we have given out three land blocks with a total of 12 exploration wells committed. The companies are now in the first phase, I would say, in terms of their exploration process, in terms of carrying out geological and geophysical work. The exploration wells are expected to start drilling, if not later this year, in 2017, on land.

**Maj. Gen. Dillon:** My question relates to page 45 in terms of the backlog of the 385 audits. The question has to do with what measures are you putting in place to treat with those audits bearing in mind that you also mentioned there is a recent increase in service providers, and this audit provides the assurance that the contractors are, in fact, in compliance.

**Mr. Lashley:** On the last occasion, if I am not mistaken, it may have been raised in terms of, again, the capacity of the Ministry to pursue and take care of its obligations in a timely fashion. One of the challenges we currently face is the structure, and the size, and capacity of the audit unit that has responsibility, so that there is a backlog of quarterly audits that need to be done. We have been addressing it, as I indicated, by some interim short-term measures, but ultimately the solution is an expanded capacity in a restructured PSC Audit Unit.

**Mr. Chairman:** Let us go straight into that, Mr. Lashley. You have 11 people doing audits. You have a backlog of 385. How many people do you need realistically to make sure there is not this huge backlog?

Mr. Lashley: I would let Ms. Wong speak to it in terms of our proposal.

**Ms. Wong:** Currently we have a proposal, phase one of the restructuring plan that is before our current Minister of Energy and Energy Industries. She is reviewing the proposal structure, and the audit. PSC audit is one of the groups that has been given consideration under this first proposal. They have proposed at least two additional personnel to try and treat—a proposal for 13 persons right now.

Mr. Chairman: Two?

Ms. Wong: Yes, sir.

Mr. Chairman: I thought you were going to say 22.

**Ms. Wong:** No, this is to handle the ongoing work. With respect to the backlog, we have been in discussion with PMCD, and they have indicated that the backlog should be addressed as a project, and that additional persons can be employed as service providers at this point in time, to come in.

Mr. Chairman: But, do you have definite plans for this?

**Ms. Wong:** Yes, we do.

**Mr. Lashley:** Yes, certainly, Chair. What I want to also indicate is because of the resource constraints we have prioritized the particular audits. Although they are required under the contract, there are some contracts that, yes, there is a need for the audits to be done with respect to costs, but some of these contracts are not yet in the productive phase, so there is not a—

**Mr. Chairman:** Mr. Lashley, let me ask a more gentle question. You say resource constraints, and I get the impression from everything that we have read, we are hearing that you are short-staffed.

Mr. Lashley: Absolutely.

**Mr. Chairman:** I find that the two Ministries that should not be short-staffed is my Ministry and Energy. And, let us not go into why you are short-staffed. What we want to know is how much, what is the extent of your shortage, or your resource constraints, and in which disciplines, and do you have is definite plan? Because I can assure you, I think I can speak for all members of this Committee, we will support any increase in staffing at the Ministry of Energy and Energy Industries that is required, so we need to know. One of the things I want to tell you, by the way, I will keep pushing until all secrets are revealed. We are not going to allow any secrets in this Committee, eh. So, we want to know what are your staff constraints. Let this Committee know, so we can see what you need, what you want, and we will, at the level of the Parliament, send the information to the relevant place to make sure you get your resources.

**Mr. Lashley:** I welcome that support.

**Mr. Chairman:** So, for the next meeting, tell us what your resource constraints are, your staff shortages, what you need to deal with all of the issues the Committee is bringing up.

Mr. Lashley: Thank you very much, Chair.

Mr. Chairman: I just wanted to—before anybody else comes in—say that at the next meeting, because I want to close off at 12.30, we are going to have an in-depth discussion on the revenue the Government gets from Atlantic LNG. This Committee needs to know. We need an explanation of Train 1, Train 2, Train 3, Train 4. How it works. How come you get revenue from one train and you do not get from another. And you need to demystify the LNG business in Trinidad and Tobago because we have heard sometimes cargoes are sold and the Government loses money on the cargoes. So we have been told. Not by the Government, but when some of the companies sell cargoes, when you netback the expense of producing and selling the cargo is more than the value you get for the cargo itself, and we need to deal with this at whatever level we can. I mean, I know there are confidentiality issues, but we need to get as much information into the system as possible. So, that is the major topic of discussion at the next meeting: gas production, and LNG production, and the revenue the country gets from LNG.

Mrs. Gopee-Scoon: Just to add to that also, the market shifts for LNG and, also, the implications for revenue.

**Mr. Chairman:** Mr. Solomon, you wanted to come in? [*Mr. Solomon indicates in the negative*]

Mr. Small: I do, Chair.

Mr. Chairman: Okay, well, let me just before Mr. Small comes in, I will let you have the final bite. Could we go straight to page 40 of your document, please? That is the one that deals with the areas in which we are exporting our LNG, and I am seeing that the majority of LNG produced in Trinidad and Tobago now goes to South America, followed by the Caribbean, then Europe, then the Middle East. Sorry, followed by North America, then the Caribbean, then Europe, then the Middle East and Asia. But, when we look at the changes in the destination from 2005 to 2015, what I do not understand, and I would like to you to explain to me, why are we increasing the sale of LNG in North America where the prices are low, and why are we reducing the sale of LNG in Asia, where the prices are high. And that is one of the things we want to get into more detail on the next occasion. Can you tell us what is going on? Look at the table, look at 2015, you have a deep red bar for North America, and it has gone up. It was systemically going down from 90 per cent—[Interruption] Yes, I know, you do not have to explain—in 2005, down to just about 12 per cent in 2014, and it is back up to 20 per cent now in 2015; and when I look at Asia, Asia is down to 3 per cent, 2 per cent, or something. Can you explain what is going on there?

Mr. Lashley: I would ask Mr. Jeremy to walk you through, well, those two items that you have identified.

**Mr. Jeremy:** From 2012, 2013, going down, the fall-off there is due to the committed gas. There is a committed gas contractually to sell to the Boston market. So, you would see the fall off down to almost the contracted volumes. Two years before would have been cargoes being sent to facilitate cooling at terminals in the US. Because, when you divert cargoes away from the US, there are facilities that require LNG to cool the tanks at those facilities. So, you would see probably a few cargoes going to the US. But 2013 and 2014 numbers are more or less down to almost contracted volumes. In 2015, the increased cargoes have gone to Mexico, because Mexico has been included in that column there.

Mr. Chairman: Mexico was not included before?

Mr. Jeremy: Yes, Mexico numbers are included.

**Mr. Chairman:** I am looking at absolute numbers and I am seeing 90 per cent in 2005 went to North America including Mexico.

Mr. Jeremy: Right, yes.

**Mr. Chairman:** And then that dropped down to about 12 per cent in 2014, and it is back up to 20 per cent, and that is what I want to know. Why? Why did it go back up? Is that a lucrative market?

**Mr. Jeremy:** I will have to just confirm, in some of those years no cargoes were sent to Mexico. I think because of pricing and also new terminal that came on, that have facilitated the movement of cargoes back to Mexico now.

**Mr. Chairman:** But is it beneficial to send our gas to Mexico? Beneficial to Trinidad and Tobago? That is the question I am asking.

Mr. Jeremy: I know of two cargoes where the prices were higher than the Henry Hub price.

**Mr. Chairman:** Yes, they might be higher than Henry Hub, but are they higher than the price we are getting in Europe, South America and Asia?

**Mr. Jeremy:** Okay, the prices on the Asia market in 2015 have fallen, and what you are seeing is the movement by companies to move their cargoes to South America. Because of the shipping cost you would get more value if you go to South American where you have a lower shipping cost to the South American Market than to go to Asia.

**Mr. Chairman:** You are talking about the company's perspective, I am talking from Trinidad and Tobago's perspective.

**Mr. Jeremy:** Well, from these companies the LNG is marketed by companies that are external. Meaning the marketing entities.

**Mr. Chairman:** I know, but what are we doing about it? What I am looking at is that we get revenue from LNG, what is our control mechanism in all of this? We just stand by and watch them and they send it wherever they want, and get whatever price they want? This is the topic we want to get into.

**Mr. Jeremy:** Yes, because that is basically—Probably at the next sitting we could get into it a "lil" more. That is basically it.

Mr. Chairman: We need to get into that so we can understand what is going on. Okay?

**Mr. Small:** Thank you, Mr. Chairman. I have a quick question for Mr. Permanent Secretary and probably Mr. Look Kin. It has to do with the natural gas allocation policy in the country. I want to draw your attention at page 38 of your document, and this speaks to the export, quantities of LNG for the period 2005 to 2015, I recall Mr. Look Kin in a previous session in this room, indicated that the petrochemical industry has suffered curtailments as high as 20 per cent. When I look at the data presented here, over the five-year period 2006 to 2010, and if I compare that to the period 2011 to 2015, there has only been a 4 per cent reduction in Atlantic LNG's export quantities, which suggests to me that the gas curtailment to Atlantic LNG is much less than what happens with the petrochemicals. So that, I want to find out from you, whether one, what is the plan regarding allocation of gas in the country?

And, then two, am I wrong, am I interpreting this data incorrectly where it suggests to me that Atlantic over the most recent five years as opposed to the previous five years, has only recorded a 4 per cent decline in export quantities, which suggests that it has more or less been getting all of its gas. And we have a situation where petrochemical downstream, apparently is still suffering much larger declines. So, my question is around the gas allocation policy. Do we have one? And then, why are we allowing this situation to continue where if there is pain, I believe pain should be applied evenly, given that the Ministry is the authority or, as suggested by the member, we look to see the areas where we get the best revenue? I am not sure what the policy is currently, or what the thinking is, but these numbers suggest to me that there is a disparity between the gas allocation to LNG as opposed to others.

**Mr. Look Kin:** First of all, I think, there is no official policy on gas allocation. In about 2005, I think, there were attempts to bring a policy into effect, but there was no policy that was done in that regard, so what happens is a kind of informal arrangement. The difficulty is that when NGC signed this contract with one of the major gas producers, that contract was in 2000/2001, and what happened is that when subsequent contracts were signed between the major gas producer and those entities, more favourable conditions applied. And, therefore, in a sense NGC suffered on a broad basis in terms of allocation or where gas was then considered as dedicated fields. But it happened in NGC's case.

At that point in time when the contract was signed, certain fields were dedicated to the performance of the contract together with an open ended that we can get gas from other fields. But as time went along and we started committing more gas to, whether it is to LNG, because you have to understand that in the case of NGC, overall they were buying about 1.8 bcf of gas, but in some of the contracts you would probably see a smaller amount, let us say 600, 700 million cubic feet of gas. Each train of LNG is in the order of 450 to 500 million cubic feet of gas. So every time a new train was added, they had a much greater drain on what was the resource based or the reserve base of the country. And, therefore, it got more and more difficult to kind of meet the requirements especially in terms of dedication of fields that supplied gas to the NGC. And, therefore, what happened was, we had a situation whereby, in a sense, it was the question of the allocation of gas between the trains and to the downstream industries. But, I think we need to provide the numbers, that we will go back into the details as to what was the allocation as we went through the time.

**Mrs. Gopee-Scoon:** Just a quick follow-on. What we would want to know is, what is the current allocation? Because I feel we are in a different place, 2016, to where we were in 2015. So, when you come on the next occasion I would like to know what is the current allocation to LNG, to Atlantic, and to also the methanol producing, urea producing, ammonia producing companies?

Mr. Look Kin: All right.

**Mr. Chairman:** Mr. Look Kin, I would like to close off shortly. You made a statement that there is no policy, so when you come next time you will tell us whether you think there should be a policy.

**Mr. Lashley:** I can tell you today, Chair, I believe there should be, and certainly that is one of the things that the discussions—

**Mr. Chairman:** I know, in another place. I notice Mr. Mayers is over there very quiet. [*Laughs*] Maybe we will hear from him next time. But when we are talking about Atlantic, I think the lawyer needs to talk to us too about the legal—within reason. I mean, I know, as I said, there are confidentiality issues and other factors to consider, but we need to talk about our legal position as well, in terms of how much revenue we can get out of the LNG industry. Are there any other questions from members, or shall we close off now?

So, the Secretary will write you to confirm everything that we have asked. That will be the next meeting. And then the fourth meeting will be all about quarrying. Okay?

**Mr. Lashley:** Thank you, Chairman. **12.25 p.m.:** *Meeting adjourned.* 

VERBATIM NOTES OF THE SIXTH MEETING OF THE JOINT SELECT COMMITTEE ON ENERGY AFFAIRS, HELD IN THE A.N.R. ROBINSON MEETING ROOM (EAST), OFFICE OF THE PARLIAMENT, TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON WEDNESDAY, JUNE 01, 2016 AT 11.08 A.M.

### **PRESENT**

Mr. Colm Imbert Chairman
Mr. Franklin Khan Vice-Chairman
Maj. Gen. Edmund Dillon Member

Mr. David Lee Member
Mr. David Small Member
Mr. Daniel Solomon Member
Miss Candice Skerrette Secretary

**ABSENT** 

Mrs. Paula Gopee-Scoon Member [Excused]
Mrs. Ayanna Webster-Roy Member [Excused]

# OFFICIALS OF THE MINISTRY OF ENERGY AND ENERGY INDUSTRIES

Mr. Selwyn Lashley
Ms. Heidi Wong
Deputy Permanent Secretary
Mr. Richard Jeremy
Chief Technical Officer (Ag.)
Ms. Louise Poy Wing
Senior State Counsel

Mr. Ivor Superville
Mr. Dave Mungal
Senior Energy Analyst (Ag.)
Senior Energy Analyst (Ag.)

Ms. Susan Singh Senior Human Resources Officer (Ag.)

Mr. Frank Look Kin Advisor

**Mr. Chairman:** Good morning, good to see you all again. Mr. Lashley, we waited for you and Ms. Wong, we could not do this without you.

Mr. Lashley: My apologies.

**Mr. Chairman:** No problem at all. All right, in this meeting we will just continue where we left off and particularly focus on the answers that you provided to the questions we asked on the last occasion, and maybe one or two other items. Does any member of the Committee want to go first? I seem to have lost Minister Khan. Okay, all right gentlemen, well I have some questions on the responses you gave us with respect to Atlantic LNG. If you go to the document, I think it is page 5 of the document—all right, now you are familiar with what I am talking about, this is your responses to us, Mr. Lashley—the second to last paragraph, the last sentence where you say:

"Most contracts provide 50% sharing of the diversion upside with the gas supplier, however in one contract, there is no sharing of the upside."

Could you explain what that means? What do you mean by that?

**Mr. Lashley:** Good morning, Chair, and members of the Committee. First let me just put in context the response that we sent in, and I think we alluded to it on the last day, a lot of the contractual arrangements are just that, subject to contract and confidentiality, so the response, or responses may seem to be broad. So we have kept some names out certainly, and, certainly, in terms of details, contractual details.

**Mr. Chairman:** On that, perhaps you can answer a question that I had asked in another forum, these confidentiality agreements are between who and who?

Mr. Lashley: It would vary in terms of the parties to the contracts. Some contracts we are party to the contracts and we actually are bound by the confidentiality provisions of the contracts. Other contracts we may have sight of the contracts but under side letters of confidentiality as well. I can let our legal representative to probably speak in more

detail to that.

Mr. Chairman: Sure, okay.

Ms. Poy Wing: Good morning, Chair and members, just as PS is indicating there are certain agreements that were entered into in respect of LNG between the Government and some of the companies and those are mainly contained in project agreements between us and the Train 1 partners, the Train 2/3 partners, the Train 4 partners, and those do have confidentiality clauses. In terms of the LNG sales agreements, those are entered to between the companies that are producing under the PSCs and their ultimate buyers, and those contracts, as PS would have indicated, we would have sight of but we are not parties to, and so they do contain confidentiality provisions but those are as between the seller and the buyer of the LNG.

**Mr. Chairman:** Let me tell you what I am driving at, in this document here, again, I believe it is on page 9—I think it is 9—if you look at the first paragraph on page 9, the top there, go to the sentence that start with:

"In addition, 86% of this company's Train 4 cargoes over the same period have been sent to Spain and received extremely low prices that are not a reflection of European benchmark prices..."

And then, yes, page 8—Mr. Lee, you are quite right—on the second paragraph, last sentence on page 8:

"...in recent years some companies have opted to manipulate the spirit of the contracts, and so the original intent of these contracts are not being honoured."

How do we as a Committee find out what are these agreements that are not being honoured in the spirit? How do we find out what is going on since everything seems to be locked up by confidentiality?

**Mr. Lashley:** In another edition of these discussions I heard some sort of indication as to probably another mechanism for having some sort of interaction, maybe in camera, where speaking a little, you know, more freely, we can do it, but I mean that is notwithstanding the fact that there are certain details which we are still bound to not disclose based on disclosures that have been made to us. So I am just suggesting maybe that might be a mechanism that the Committee can explore.

**Mr. Small:** I am not an attorney so I am just asking, when you say it has been disclosed to the Ministry but the Ministry cannot disclose it to anyone else, not even to the Government—

Mr. Chairman: I do not think he is saying that.

**Mr. Small:** That is what I am trying to get clear. So who cannot—I am not an attorney so you have to guide me. If information is disclosed to the Ministry, and, for instance, this Committee has an in camera, completely private session, are there still information that even in a private session you would not be able to disclose? Is that what you are saying?

**Mr. Lashley:** I will allow the attorney to guide you, but, generally, the sort of standard that the recipient of confidential information is held to most times is that they have to ensure that any disclosure that they make, first of all is done with the permission of the disclosing party; and, two, that in fact we receive undertakings from any other party similar to what we are bound by. So those are the types of things normally that would apply to disclosures under covered by confidentiality.

**Mr. Solomon:** Chair, if I may, I am an attorney and I just want to find out exactly why it is that the Parliament, or the Government of Trinidad and Tobago, whom we represent, and I imagine would be the signatory to these contracts, are not allowed to know what the contents of it—I agree we could do it in camera, but it seems very strange to me that these are contracts that deal with the natural resources of our country and we are the representatives of that, that we should be held in the dark and not know what is going on. How are we going to make a report or suggestions about improving it if we do not know what the deal is? That to me just seems alien and unacceptable.

Ms. Poy Wing: Perhaps it may be helpful if I could respond in broad terms, because as PS indicated, we cannot indicate specific companies or specific contracts. To try and assist with the area you identified earlier, Mr. Imbert, when we spoke about—you said there was one contract that did not have the destination premium. In some of those

contracts what we did is under the base contract there is a particular destination that those cargoes were agreed upon between buyer and seller. The contract allows some flexibility in terms of excess cargoes and even in the contracted cargoes, and it is what we refer to as a destination premium, and I would let my friend on the other side, Mr. Jeremie, assist when I am through. So if that cargo of LNG was destined, let us say to the US, but the buyer has been able to find a better market, a better price for that LNG, our cargoes have gone as far as Korea and Japan and so on, the price that they would get for the cargo going to the premium destination, obviously it is a better price so you deduct the base price from that price and that destination premium, which we referred to in the contracts, is divided between the seller and the Government, 50/50. The contract that did not contain that clause, it would have been a factor of, it was just not negotiated by the Government at the time, so that it was omitted from that particular contract, and we did seek to improve on that in the later contracts.

**Mr. Chairman:** But is that a contract or a destination, or for one of the trains? That is what I am getting at, what do you mean by, a contract did not have an upside premium? What do you mean by that?

Ms. Poy Wing: For those of the Committee that are not familiar I am going to give you a little background. All of the contracts, the gas we are talking about, natural gas, comes from the upstream under production-sharing contracts, all right, and the parties under those contracts. Those, the LNG, so when the contractor companies discover the gas they then find a market for that gas. If it is LNG it goes to Atlantic to be liquefied, and then it is sold to whoever the buyers, they negotiate. It is not the Government that finds the buyers, it is the sellers. So that it is these upstream companies that would be selling the gas that would have negotiated the sale of the gas under those PSCs to whoever the eventual buyer is in the market.

**Mr. Chairman:** No, but what I am driving at is your words here on page 9 where you say that there was a particular contract—is it page 9? Is it page 4? You are sure?

Mr. Khan: Page 5.

**Mr. Chairman:** Page 5, yeah, where you say, in one contract there is no sharing of the upside, that is a contract for what?

**Ms. Poy Wing:** This would be, one, it would be the project agreement between the Government and these companies, and it would also be in the LNG sale and purchase agreement between the companies again, the same companies in the upstream that are selling the gas to the buyer.

**Mr. Chairman:** Yes, but, again, I do not think you are understanding my question so I will try to be a better communicator. Is this a contract for all of the LNG coming out of a particular train? Or is it a contract for some of the gas? What is it? Okay, that is what I am driving at.

**Mr. Lashley:** Chair, perhaps I can allow Mr.Jeremie just to walk you through, because the question you posed, I think it brought it out. The commercial arrangements are between a number of entities on the upstream. There are several trains and there are different arrangements for the trains, and then there are several parties or entities that are responsible for marketing on the downstream end. So I would ask my Jeremie to just walk you through.

**Mr. Jeremie:** As the PS had mentioned, in terms of the contracts they have particular arrangements. So just one correction in terms of the PSC, there are both ENP and PSC in terms of where the gas is sourced. Now let us say, for instance, in Train 1 there are two buyers of the LNG to particular markets; in Trains 2 and 3 there are about 5 different buyers of the LNG, one, in terms of Trains 2 and 3, there is one particular buyer in its contract does not have where you can share 50/50, the arrangements.

**Mr. Chairman:** What percentage of the output would that be?

**Mr. Jeremie:** It is between 30 and 40 per cent.

Mr. Khan: You cannot call the name—

Mr. Chairman: How much?

Mr. Jeremie: 30 and 40 per cent.

**Mr. Chairman:** 30 to 40 per cent of Trains 2 and 3?

Mr. Jeremie: Yeah.

Mr. Khan:—but the name listed here.

**Mr. Chairman:** All right, now that is interesting. So, you know, I just want to ask a general question now, so we as a country have caused this project to happen, Atlantic LNG, but we cannot find out what is going on as a country? That is my question. We as a country have facilitated the creation of the Atlantic LNG project and the production of gas, the selling of gas, the processing of gas, the sale of LNG, we facilitated all of that. But we as a Committee now trying to find out, are we getting the best deal, are we getting the best value, are we getting the best price, are we getting the most amount of tax we could get, we cannot find out? That is my question.

Mr. Lashley: The thing about it, you are—I do not know whether it is a question or assertion—

**Mr. Chairman:** It is a question.

**Mr. Lashley:** It is a question, because I was suggesting that one of the ways to get some more specific information is perhaps have a closed session—

**Mr. Chairman:** I understand that, I am trying to get there, that there is a way that this Committee can get more information, but you are implying that if we speak to you out of the public eye we cannot talk about it, that is what you are saying?

Mr. Lashley: Yes. There are constraints that the Ministry of Energy would be held to.

Mr. Chairman: All right, I would hand you over to the other members of the Committee now. Go ahead, Minister.

**Mr. Khan:** I mean, I just want to make a general point here, please. We are a Committee of the Parliament, and the Parliament is the highest court in the land, and, fundamentally, unless it is very extraneous circumstances, should the Parliament not have access to certain information. I am just saying that as a general principle. On page 8, second paragraph, I want to repeat what the Chairman said:

"However, in recent years some companies have opted to manipulate the spirit to the contracts, and so the original intent of these contracts are not being honoured."

I want to move on to page 9 to repeat again what the Chairman has said, last sentence on the first paragraph:

"In addition, 86% of this company's Train 4 cargoes over the same period have been sent to Spain and received extremely low prices that are not a reflection of European benchmark prices such as NBP."

And it concludes by saying:

"The net result of this effective swapping of cargoes is that a significant amount of value is captured by the marketer outside of our tax net and GORTT loses out on this revenue."

Now that is a very, very fundamental statement, and we have a responsibility to the population, because here we have an industry that is the prime revenue earner for the State and it is clouded in secrecy, so while we do not want to breach any confidentiality agreement, as a Committee we must find an opening where certain amount of information has to be shared with this parliamentary committee to bring greater clarity to this issue.

**Mr. Small:** Thank you, Mr.Chairman, I want join in supporting the comments that have been made to date on this issue. I believe that the Ministry has the ability to write to these agencies and say, the Parliament, or the Committee of the Parliament wishes to have full access to the information and allow the companies to say, no, because that would send a particular type of message, because in a closed hearing the Committee would like to have full access to all of the commercial arrangements, and, of course, the Parliament is known for its confidentiality. Issues of confidentiality should not arise regarding the Parliament. Because we cannot function in a space where we have an industry, Mr.

Chairman, that is using over 70 per cent of our gas on a daily basis—by my calculations, Mr. Chairman, based on the submission of the Ministry in the previous submission, I have done a calculation where I have netted off—I have done a netback backed off shipping based on the submission of the Ministry of the volume sold and the various markets they went to, and then the average prices. The LNG business is generating in the order of \$60 to \$65 billion in gross revenues a year, and that is net of shipping, that is netback. So that we have to figure out some way to understand, are we really getting from—you would be well aware, Minister, of what your take is, that does not need to be public information, but when an industry is generating more than the national budget then we have to have very clear sight of what is going on with that industry. And we have to create new means, create creative avenues to try to see how we could understand what is going on and try to make sure that in a state where we have a wasting resource that we try to make sure that we capture as much rent as we can, and make sure we have the structures in place to do so.

I just have a question after my statement, Mr. Chairman. I know the same issue is on page 9 of your document about the swapping of cargoes, what does the Ministry use to track? Because for you to be able to say this I assume that you are tracking the cargoes. I have an access to a nice online portal where when a cargo leaves here I know the ship, the ship number, I know where it goes; so they go to Boston and then they transfer—I can tell you what happens to the cargo, there are services available. So that when the Ministry is making this statement, I suppose that the Ministry should be able to provide some guide as to how much value has been lost as to when the cargo is actually sold in a market, because there are services that are available from Lloyd's and from other parties where you can actually track every day where the ship goes. And it is a subscription service, it is not free, so I suspect the Ministry is using that, but I want to understand how is—because for the Ministry to make this statement:

"The net result... is that a significant amount of value..."

I want to understand, what do you mean by significant amount of value? How are you estimating that? And what is it that you are using?

**Mr. Lashley:** I would allow Mr. Jeremie to respond specifically to what you are saying, but let me just point out that the monitoring or the tracking of physical delivery of cargoes is what you are speaking to and that is what we monitor as well, but there is another element in terms of paper transactions that can take place that are outside of our jurisdiction as well.

**Mr. Chairman:** Let me just come in here. You have made some statements here that:

"...companies have opted to manipulate the spirit of the contracts, and so the original intent of these contracts are being honoured."

What are you doing about that?

Mr. Lashlev: You want me to answer that first before Mr. Jeremie?

**Mr. Chairman:** It does not matter.

**Mr. Lashley:** Well, in terms of this particular instance we have had some extensive negotiations with the company. They have not borne fruit to date because certainly we have indicated and we have pointed out the issues we have with them. Of course, their response has been, well, they are not dishonouring the contractual provisions. There is a contractual freedom available to them to do certain things, but our position has always been, as originally conceived and drafted, that the contracts were designed to facilitate a particular set of marketing arrangements.

In fact, as Ms. Poy Wing has indicated, in some other instances when we provided for additional flexibility, the contract was adjusted to ensure that there was upside sharing, because we realize that in the changing environment for LNG it behoves all stakeholders to seek the best price and the best opportunity for cargoes, but, certainly, in all fairness, if in fact a cargo coming from Trinidad and Tobago receives a particular price with a premium, that premium, to our mind, should be shared with the Government.

**Mr. Chairman:** All right. Well let me tell you what I mean by the question when I ask what are you doing about it? Have you received legal advice on this?

Ms. Poy Wing: Internally, yes; external advice outside of the Ministry of Energy, no.

Mr. Chairman: Not yet.

Ms. Poy Wing: Not yet.

**Mr. Chairman:** Okay. And then with respect to the comment about 86 per cent of Train 4 cargoes being sent to Spain and receiving extremely low prices, are they allowed to do that contractually? Go ahead, Mr. Jeremie.

**Mr. Jeremie:** Yes, they are allowed to divert to destinations of their choice, it is in the contract, in terms of to get better pricing, but what we referred in the statement is that the companies in terms of pricing in the market, that is what we were referring to, in terms of diverting to markets and fetching prices which in our view are not the best price that should be had in the market.

**Mr. Chairman:** Why would a company sell its product at a lower price than it could get elsewhere? Why would they do that?

**Mr. Jeremie:** To also answer Mr.Small's question, the contract are between the LNG, buyer in Trinidad, buys from Atlantic, and the marketer, all right, and the contract is not—

**Mr. Chairman:** Are they selling it to themselves?

Mr. Jeremie: Correct, in terms of—

**Mr. Chairman:** So that is transfer pricing then?

Mr. Jeremie: No, but it is based on contracts which were approved by the Government.

Mr. Chairman: No, it is okay, I understand. So they are selling it to affiliated or associated companies—

Mr. Jeremie: Correct.

**Mr. Chairman:**—which they have an interest in. So even though they sell it at a low price they then benefit from receiving that cargo which they could then sell again, so it could be sold two and three times, the same cargo? It is a hypothetical question I am putting to you.

**Mr. Lashley:** To put another way, Chair, the control and management of the portfolio of cargoes is outside of the jurisdiction.

**Mr. Chairman:** I understand that, that is not my question. I asked first, why would a company sell its product at a lower price that they could get in the market, and then we got to the point where it is agreed that they could be selling it to an associated company, therefore selling it to themselves, is it that when they sell it to themselves they then sell it again to somebody else, hypothetically?

Mr. Jeremie: Well, what we get is really what is reported, and it has to be based on our reporting.

Mr. Chairman: I know that.

Mr. Jeremie: But, you know, it is hard for us to say because we do not track it, we do not track the cargoes after.

Mr. Chairman: Well, I think we need to start tracking.

Mr. Small: We need to start tracking the cargoes.

# 11.35a.m.

**Mr. Lee:** Good morning to the panel. I am just leading off with the discussion we just had, and I want to carry that into question 9, which is the rationale for the markets for LNG exports from 2005 to 2015. On page 12, I want to direct

and maybe get some clarification on the second to last and the last paragraph of the export to North America. Does that also play out in this scenario that we have been discussing a while ago?—because you talked about the LNG to North America had been down between 2013/2014, and it increased in 2015. Then you mentioned in the last paragraph: "It must be noted that the region"—and the region I assume is the north-east region. Is that correct?—"is now set to become an LNG exporter".

Mr. Lashley: Yes.

Mr. Lee: Are you saying that they are now going to be exporting our gas that we sent to that market?

**Mr. Jeremie:** No. It is because of the shale gas in the US. They now have gas that they can now export. So the regasification terminals, which previously received LNG from Trinidad, are now being converted into liquefaction plants, so the US can now export.

**Mr. Solomon:** I am having an issue with this contract. I am sorry to go on about it. You say that, however, in recent years some companies have opted to manipulate the spirit of the contracts, and so the original intent of these contracts are not being honoured. If they are not being honoured and the companies are allowed to manipulate them, and the original intent is not being met, it means that those contracts are either faulty or they are being allowed to get away with it, and they need to be redrafted or reconsidered. I mean, that is something that is a major concern. We need to know what is going on here. How is it that these companies are allowed to manipulate the spirit of the contracts and the original intent? That means the contracts have failed.

Ms. Poy Wing: I will attempt to begin, and I will defer to my partner, Mr.Jeremie, to complete. In brief, Mr. Solomon, you are correct. At the time some of these contracts were negotiated, TrinidadandTobago was obviously not experienced in LNG as we are today, so there are deficiencies in some of these contracts. As PS indicated, we have attempted to negotiate with the companies to improve the benefits and revenues to the country, and what we have been met with on the other side is that they are honouring the letter of the contract, as we say, though not the spirit of it. So that is a challenge that we have at the moment.

Mr. Chairman: Let me come in here. Is there a dispute resolution clause in these contracts?

Ms. Poy Wing: Yes.

**Mr. Chairman:** Is it arbitration, is it litigation?

**Ms. Poy Wing:** It is arbitration in the energy sector under the Petroleum Act.

**Mr. Chairman:** So if TrinidadandTobago felt that these companies were in breach, what would we do? We would file a claim with some arbitral panel? What would we do?

Mr. Solomon: It seems they are not in breach.

Mr. Chairman: No, well, we are getting there. So if we felt that they were in breach, what would we do?

Ms. Poy Wing: Initially we would need to seek external advice.

**Mr. Chairman:** If you got advice that it is not just the spirit of the contracts they are breaching, they are breaching the actual obligation?

Ms. Poy Wing: Then we would have to institute arbitral proceedings.

**Mr. Lashley:** Just to add though before Richard may also jump in. As I indicated we have had discussions with the companies. The preferred route, of course, is first have a discussion to see if we can solve it across the table. But certainly we have put them on notice that, in fact, if we do not get the sort of relief, that any sort of pathway that is open to us we will proceed, inclusive of litigation or policies that we may wish to bring to bear.

**Mr. Chairman:** Let me ask you a question. It might be an unfair question because I asked this of the Securities and Exchange Commission and the answer was no. Have you ever taken any of these companies to arbitration?

Mr. Lashley: The Ministry of Energy and Energy Industries? I am not aware.

**Ms. Poy Wing:** The answer is no.

Mr. Chairman: So, the answer is no. Well, there is a first time for everything.

**Mr. Jeremie:** Could I bring some further clarity? The PS is correct in terms of what we are doing. When we see things that are not correct we bring it to the fore to the local company, but the contracts are not with the Government. We cannot bring the marketer to litigation or to arbitration. We have to get the "himself to himself", the local companies to take action against the affiliate, and that is what we find ourselves in.

**Mr. Chairman:** I understand. What I am driving at is, have you ever got to the point—I mean, I know the answer already because you have told me—where the Government is of the view that, "Look, we are being cheated," and you go through the process and you ask the local companies to deal with it and they do not, and then you go to the point of, "All right, you do not want to deal with it, then we will enforce our rights under the contract". You take it to dispute resolution and you get a ruling. So, you have not done that yet? You just try to sort it out in amicable discussions and mediation and that sort of thing?

**Mr. Jeremie:** There was one instance where the Government was able to get a particular company to take the marketer to arbitration, and they lost.

**Mr. Chairman:** I think I know which company—I think so. But that does not mean anything. Arbitration, like litigation, is a lottery, you win/you lose, but that does not mean you should not try. Otherwise we would have no need for people like Mr. Solomon. [*Laughter*]

**Mr. Lee:** Chair, a question to the panel. Let me just change the topic a little bit. Question one, commencement date for stakeholders' consultation on the energy industry. Again, the response does not give us any comfort.

**Mr.** Chairman: Yes, Mr.Lashley, let me come in here. You gave us a non-response here, you know. You say you will do it when you will do it.

**Mr. Lashley:** What I was trying to indicate, Chair, was that it is not totally in the hands of us here; there is a process. The process is in train, but we are awaiting confirmation.

**Mr. Chairman:** What you are telling us is that you have sent it to the Minister for her consideration. So you throw the Minister under the bus?

**Mr. Lashley:** No, no. I think it is in a broader context than that. At the end of the day I think what we are seeking is the most effective way to conduct the consultations and, in fact, we are drawing on the advice that we are receiving in terms of how we structure it.

**Mr. Chairman:** All right. But, I mean, we cannot command you to do anything, we are just a parliamentary committee. We can only ask. I wish I could command you to have this consultation tomorrow. But you would have to be more specific.

Mr. Lashley: Sure, and to the extent that we can be, we will.

**Mr. Chairman:** What I mean is, what are your time frames?

**Mr. Lashley:** This month. The structure has changed, as I indicated the last time we sat. There was an initial construct of having about two or three large assemblies of stakeholders. The thinking now is moving towards having smaller groupings clustered around their sort of common interests. So, for instance, upstreamers and downstreamers, et cetera, and having groupings that would feel free in the particular forum to have a productive and fruitful exchange with

respect to policy going forward.

Mr. Chairman: Mr. Lashley, I understand all of that, you know, but you still have to tell us when.

Mr. Lashley: That is the only specific that I cannot give you.

Mr. Chairman: Because the Minister is considering it.

**Mr. Lashley:** It is even broader than the Minister. In the national agenda, there are consultations on energy that we would want to have as we move forward to framing the policy.

Mr. Chairman: I will tell you why I think it is important. A proposal was made to me as the Minister of Finance that we should, as a Government, seriously consider looking at the supplemental petroleum tax. The view of the industry—the small players in the industry, not so much the big players—was that this is outdated, that it was designed at a time when the price of oil was about \$25 a barrel, so therefore if the price shot up to \$50, it would really be a windfall. In other words the price would double, so there would be an unexpected increase in price, and therefore you would want the country to benefit from that windfall that the oil companies would earn. But with the average price, Mr. Small did a calculation the other day. I do not know how accurate his calculations are, but he said the average price is \$43. Am I correct, Mr. Small? You calculated the average price of WTI over the last 20 years or something.

**Mr. Small:** The weighted average of West Texas from the inception of indexing. The weighted average price, inflation adjusted also, was already \$43.

**Mr. Chairman:** So he did a calculation; we will assume that his calculation is correct. So if the average price is \$43, \$50 is not really a benchmark for a windfall. How does one deal with this? Right now because oil is not \$50, I am getting no supplemental tax at all. We used to get about \$4 billion in SPT when things were going good. In 2013 and so we got about \$4 billion in SPT for that year. Now we are getting zero. What the small companies are saying is: look, this is a penalty because at \$49.50, my profitability is reasonable, but from the time it hits \$50.50, you are imposing this additional penalty on me, this SPT, even though it is for the extra dollar. As we go up to \$52, \$53, it is making my business unprofitable, so that I would prefer not to produce oil at \$52 or \$53 because I have the extra burden of the SPT on me. So they have asked for it to be increased. They have asked for it to go up to \$80, which I thought was ridiculous.

But the point is that it is a problem, we need to deal with it. Some of the advisors that advised me recently on oil and gas taxes, told me we should look at SPT in the context of profitability rather than price. So look at how profits increase with an increase in price, rather than benchmark the price and put a tax on that. The reason why I am giving you this long story is you need to settle this matter. It cannot be that, you know—because eight months of this Government's life has passed, you know, Mr. Lashley. I count it, I do not know if you count it. We really need to get these consultations going. So, could you impress upon your Minister, since you are saying it is being considered by her. Even though she is my colleague, could you impress upon her that we need to get this show on the road.

**Mr. Lashley:** And we will. We are just as anxious, Minister, to have the consultations, get the feedback. The input from the stakeholders is critically important in terms of framing a policy going forward that works, as you indicated with the SPT issue, not just for the Government, but stakeholders and investors going forward. It goes back, as we mentioned on the previous day, to the whole perception of the competitiveness and fairness, if you will, of our fiscal system, which we are in full agreement needs to be reviewed. The only point I would think is that we cannot finally settle because this is an ongoing thing. So we have to continually review and ensure that the measures you put in place are relevant for the current environment.

**Mr. Chairman:** Let me tell you what I am driving at with the SPT. It is either we increase the benchmark or we link it to profitability, or we leave it at \$50. We have to do something, because it is an issue. Then there is also an issue with respect to marginal fields, and fields that are costly to produce. Again, that is inhibiting investment, it is inhibiting production.

Petrotrin told us the other day that their cost of lifting is \$47. So they are not making any money at all with oil at \$47. So there will be marginal fields that have that kind of high cost. We need to settle these things, because

leaving the oil in the ground does not help anybody. I do not know if anybody wants to comment?

Mr. Khan: Going back to LNG, if you do not mind—

Mr. Chairman: Let us stay on this one. Are we done, so that we are waiting until you tell us when?

Mr. Lashley: The thing about it is what was requested was a schedule going forward.

**Mr. Chairman:** We just want to get an idea whether it would be in the next month, the next two months, the next three months, the next six months.

Mr. Lashley: I would say the next month.

**Mr. Chairman:** Within the next month or so?

**Mr. Lashley:** Within the next month, because what we intend to have is a series of stakeholder forums. They are being designed, as I said, around some clusters of stakeholders, inviting them in, having a full discussion and getting that feedback and incorporating it into the policy.

**Mr. Khan:** Sorry to belabour the LNG point, but I think it is extremely important. We are in a revenue strapped situation as we speak, as a Government, and I get the impression from this discourse that, whether either breach of contracts or not well structured contracts, the State seems to be foregoing significant revenue from the LNG business and marketing. Is that a fair statement?

**Mr. Lashley:** I would say yes, in broad terms.

**Mr. Khan:** Do not answer any more. And that is largely due because of, as I said, "flawed contracts", the lack of monitoring capacity at the Ministry of Energy and Energy Industries in particular as to where cargoes' final destination occurs, and other certain shortcomings in the system. So it is something we have to put right, because to me this is the largest stream of revenue that can now be captured by the State legitimately, even without the investment of a single cent. So it is not something to blink your eye at.

With regard to the marketing of LNG, I take Ms. Poy Wing's comments that when these contracts were put together we were very inexperienced in the LNG business. As a matter of fact, the LNG business itself did not know what its business was. Crude is marketed by index: crudes, WTI, Brent, what have you, and the only difference in crude sales, because it is ubiquitous all over the world, is whether you are on a long-term contract or you are on the spot market. But crude sells basically at the same price based on the benchmark crude that you have.

The gas business was not like that. Gas is not a transportable commodity except through pipelines, and that has its Henry Hub issues, and then when the LNG business came on stream you were able to transport gas with regasification. So if you did not have regasification, you could not buy LNG. Then the whole issue of destination came in. So when these contracts were put in place, I understand there was a lot of ignorance on the market.

The point I am coming to is that there is a concept in law—and I am guided by my attorneys—called "changed circumstance". I think the circumstance in the industry has changed so fundamentally that it could form the basis of a renegotiation. Am I right, Mr. Solomon?

Mr. Solomon: Yes.

**Mr. Khan:** And that is the principle I would like the State to adopt, because this thing has changed fundamentally. You cannot tell me five years ago, all our LNG was going to Boston, 75 per cent of Trinidad and Tobago's LNG. We were the largest supplier, 75 per cent to the US market, and that crashed because of certain circumstances. Now all our LNG is going to Chile, and five years ago it was going to Spain. So a contract could not have possibly covered all these scenarios.

Again, just to summarize my thesis, I think if it is possible with a legal team, if we can invoke the concept in

law called "changed circumstance", and if we can use that as a template to renegotiate some of these contractual issues. It is a comment, I do not expect a response from it now.

**Mr. Chairman:** Mr. Lashley, I think we would have one more session with you. It will be in camera, where we can have more open discussions on LNG pricing and so on. We will tell you when. What I would like now is for members of the Committee, do you have any further questions for the Ministry of Energy and Energy Industries?

**Maj. Gen. Dillon:** Just one question, Mr. Chairman. It is different to what is on the question paper. It has to do with more of the human resource component. We have seen an increase in terms of the international players in the gas industry. Is there a monitoring role by the Ministry with respect to the transfer of local content, the transfer of knowledge and the encouragement of basically local content throughout? Is there a monitoring role by the Ministry and how effective has that been?

**Mr. Lashley:** Certainly I think the establishment of certain provisions for local content, some may argue, had the genesis in when the LNG projects were developed. There is a large element. As the representative for Point Fortin I know you would have seen a lot of—entrenched within some of the agreements, without getting into specifics, were provisions for contributions and initiatives geared towards increasing and ensuring that local content and local input were addressed or maximized to a particular level. So there were some limits set in some of the contracts.

In addition to that, contributions to some national efforts, like the National Energy Skills Centres, have to do with specific provisions for contributions over the life of the project, to sustain or to support and finance the conduct of and the operations of some of these facilities. That has been expanded even further under the PSCs and some other project agreements, where that focus on ensuring that as we develop the resource, there is that due attention being paid to the development of the human resource. Certainly that is something that we continue to monitor within the Ministry.

In fact, we recently resuscitated the permanent Local Content Committee with a specific mandate to get into more detail and monitor more closely some of the operations and provisions and commitments of the companies, going forward. So certainly I want to give you the assurance that that is front and centre in terms of the Ministry's agenda going forward. In collaboration with some of the other stakeholders, we are moving forward full steam ahead with that.

**Mr. Chairman:** Before Mr. Small comes in. In your responses you told us that you have 144 vacancies. Could you give us some idea of what areas these are in? You said technical and administrative. What do you mean by that?

**Mr. Lashley:** I would let the DPS speak more specifically to that, but certainly it is a mix from inspectors, engineers, geoscientists as well as administrative.

**Ms. Wong:** Good morning, Chair, members. These positions and so on are a mix of both contract as well as established positions. Over the years we have, in fact, tried to see if we could get some of the established positions filled. We are relooking at the structure. We have a proposal which would be sent to PMCD by next week. So there is a proposal on the table, and this is only looking at phase one of the structure. There is a broad framework that has been identified. Some of the issues for job descriptions and the core areas have been thrashed out for certain divisions and sections within the Ministries, and that would be forwarded for PMCD's comments by next week.

**Mr. Chairman:** All right, let me ask the question a different way. For how many years have you had this level of vacancy, 144? Has that been going on for a very long time?

**Ms. Wong:** It has been with the Ministry for a substantially long time. It has been because of the restructuring process that has taken so long. Once a structure has been identified and there are changes in the administration and so on, each administration needs time to review, and rather than move forward with what was last proposed there is always a continuous review that is taking place. We are hoping that this time the review and the proposal can go forward straight through to implementation. This has happened because there has been a lack of implementation of the last structure.

Mr. Chairman: These are primarily contract positions?

Ms. Wong: No, it is a mix of established and contract positions.

**Mr. Chairman:** If it takes the Service Commission so long to fill vacancies, why are you focusing on establishment positions? Because you were told to do that?

Ms. Wong: No, I said it is a mix of established—

Mr. Chairman: No, listen. I have in my own Ministry, I am looking at contract positions in the Government with a view to rationalizing them. There is a view you should go for establishment positions rather than contract positions. I know the general policy. But in a specialized Ministry like the Ministry of Energy and Energy Industries, if for 20 years you cannot fill the establishment posts—you know, in the army they say if something is working, do not try to fix it, but if something is broken you should try to fix it. I am just wondering if your focus is on going the familiar route of trying to get the Service Commission to fill these posts or you are going to focus on contract positions. It is just a question.

**Ms. Wong:** No, we have adopted a blend in fact, because some of the contract positions are those positions in fact where there is no classification. Once you have positions that have been established and that have been properly classified, the policy has been to go with those positions. So you have geophysicists, you have geologists, those positions have already been classified.

**Mr. Chairman:** What I am picking up as well is that the salary is uncompetitive, so you are not keeping people. So, the point I am making is if something has not worked for the last 20 years, why continue? According to Einstein that is the definition of insanity, doing the same thing over and over and hoping for a different result.

**Mr. Small:** Mr. Chairman, you went along the same route. That is the big issue for me. You have the Ministry here before us today that is in charge of overseeing the energy sector running at 65 per cent of its manpower. That is simply not on. I always have a view, perhaps I have some little history on this matter, that the Ministry also is able to recover its cost through the petroleum impost. So for me theoretically there should be no hold-back by the Minister of Finance and the sitting administration to make sure the Ministry of Energy and Energy Industries is properly resourced.

I believe that the challenges the country is facing now is because we have a dearth of people who want to work in a system. The system does not allow for flexibility and it is certainly not the most attractive place. The important issue, Mr. Chairman, you hit it, is that these types of energy jobs have become more transient. People are not going to come to work in a place for 20 years. They want to come, they want to work for five or 10 years and move on to another place, and the system has to accommodate that. So the position you have taken, you have outlined about why we have not been able to fill permanent positions, it is painfully obvious in my respectful view. I would support any initiative of this Committee to give the guidance, to support the Ministry having the resources that it needs to do the job effectively. I say that very clearly.

The Permanent Secretary indicated that in the discussions with the companies on the issues raised here about the contracts, they have taken their position and they are holding. We need to be able to have the manpower and resources and the skills and capability to go in that room and hold our position also. It is a view I have espoused on more than one occasion, and I continue to hold. Thank you, Mr. Chairman.

**Mr. Chairman:** I am speaking on behalf of the Committee. We will give you any support you require. I think you should start trying something new. We will help you to see if you could get better terms and conditions, and different ways of getting skilled professionals into the Ministry because you need it.

**Mr. Lashley:** We appreciate the support of the Committee.

Mr. Khan: There was a time you all were paying a professional allowance. Is that still there or has that been ceased?

Mr. Lashley: It is still there for some categories of workers. There was an initiative actually to seek to improve it, which was not entertained at the time.

**Mr. Chairman:** I can assure you that it will be entertained. [*Laughter*]

Mr. Lashley: Chair, just to clarify one of the issues, and I agree with Sen. Small and the opinion that Minister Khan

put out in terms of renegotiations of the contracts. That is a process which I have seen it even when it happens between companies. It takes a while, so that is something which we can take and we will take, but certainly in the interim we are also pursuing face to face discussions. Those discussions have not borne any sustainable fruit. But certainly with respect to some of the contracts, as Mr.Jeremie alluded to and Ms.Poy Wing, there have been changes. Some of them initiated by insistence by the Ministry that the parties change some of the terms in order to make them more, in our view, fair, in terms of the arrangements. Certainly on a face to face discussion carrying on that dialogue in the interim, I think it is important.

**Mr. Small:** Chairman, if you permit me. I think also the Ministry needs to look at having the appropriate support. There are entities out there, and you can work out the confidentiality issues. If you approach the Oxford Institute of Energy Studies and say, "Listen, we would like you to partner with the Ministry to review some of these contracts and to help us understand what is the best way to go about it", or you approach Jackson School of Geosciences Bureau of Economic Geology, you have people who are doing this who are in the numbers, and they would kill, give their left arm to be able to look at real contracts and understand, and give the Government recommendations, at a fraction of what it would cost for Wood McKenzie or similar entities. We have to try to engage other entities to support the work that we are doing.

The Ministry has these relationships already that I am aware of that you can try to find other parties to support what you are doing. Not necessarily to guide but to support the Ministry and say, "Listen, have a clean eye, look at this for us", and you can have a confidentiality arrangement that can work out. And everybody signs the document and it is all wonderful, to support the Ministry so that when you go in the room, you are powerful in the room.

Right now I think that what is happening in the room is that you go in the room and the rooms are staged properly, and we are not as powerful as the others. That is no reflection on us, it is just a capacity issue in my respectful view.

**Mr. Chairman:** I would like to wrap up now, unless members have any other questions you want to ask. I would just want to say, Mr. Lashley, and to your staff, it has been a pleasure. Despite the questions we have posed to you and the things we have said to you, speaking on behalf of the Committee, I really appreciate the way the Ministry has made an effort to respond to our questions and give us the information we require. We look forward to that in camera session where we could see if we could get some more details on these LNG contracts. Thank you most sincerely.

12.06 p.m.: Meeting adjourned.

Appendix III Countries that provide a 100% Write-off of **Exploration** Expenditure

Countries that allow 100% Write-off of Exploration Expenditure in the First Year					
Australia	Italy				
Canada	Kenya				
China	Mexico				
Columbia	Mozambique				
Cote D'Ivoire	Netherlands*				
Denmark	New Zealand				
India	Norway*				
Ireland	Philippines				
Republic of Congo	Senegal				
Russia	South Africa				
Tanzania	Tunisia				
Trinidad and Tobago*	United Kingdom*				

<sup>\*</sup>Mature Provinces

# Appendix IV Schedule of Proven **Pools of Natural Gas** not under production

Schedule of the Size and Location of all Proven Pools of Natural Gas Currently <u>not</u> under production (exclusive of cross-border fields)

Operator		Field	Estimated		Year of Con	Contractual	Ministry Strategy to	
		Location	Proven		Discovery	arrangement	Monetize	
			Reserve					
			<20	>200	>			
			0 Bcf	& <500	500 Bcf			
			BCI	Bcf	BCI			
Field A	Α	ECMA	х			NA	Tax & Royalty	Marginal field
Field B	A	ECMA			х	NA	Tax & Royalty	Under Development
Field C	A	ECMA		x		NA	Tax & Royalty	Need gas Contract
Field D	Α	ECMA		x		NA	Tax & Royalty	Need gas Contract
Field E	Α	ECMA		x		NA	Tax & Royalty	Need gas Contract
Field A	В	ECMA	х			NA	PSC	Marginal field
Field B	В	ECMA	x			NA	PSC	Marginal field
Field C	В	ECMA	х			NA	PSC	Marginal field
Field D	В	ECMA		x		NA	PSC	Need Gas Contract
Field E	В	NCMA	X			NA	PSC	Marginal field
Field A	C	WCMA	х			NA	PSC	Need Gas Contract
Field B	C	WCMA	х			NA	PSC	Need Gas Contract
Field C	C	ECMA	х			NA	PSC	Marginal field
Field D	C	NCMA	х			NA	PSC	Marginal field
Field E	C	NCMA	x			NA	PSC	Marginal field
Field F	C	NCMA		x		NA	PSC	Marginal field
Field A	D	ECMA		x		NA	Tax & Royalty	Under Development
Field A	Е	ECMA	x			NA	Tax & Royalty	Marginal field
Field A	F	ECMA	x			NA	PSC	Marginal field