## MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

## RESPONSE TO RECOMMENDATIONS OF THE SECOND REPORT OF THE JOINT SELECT COMMITTEE ON HUMAN RIGHTS, EQUALITY AND DIVERSITY ON THE CHALLENGES FACED BY PERSONS WITH DISABILITIES WITH SPECIFIC FOCUS ON ACCESS TO SERVICES AND EMPLOYMENT

1. The Attorney General and Minister of Legal Affairs takes the opportunity to commend the excellent work of the Joint Select Committee on Human Rights, Equality and Diversity on compiling its second (2nd) Report on the Challenges faced by persons with Disabilities with specific focus on Access to Services and Employment ("the JSC Report").

2. It is noted that according to the 2011 Census, there are approximately 52,244 persons with disabilities in Trinidad and Tobago. The needs of such persons must be given special consideration. The role of the Ministry of the Attorney General and Legal Affairs in setting out the necessary legislative framework is critical in addressing these challenges in order to safe guard the rights of persons with disabilities.

3. The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) provides that the purpose of the Convention is "*to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect for their inherent dignity.*" Article 16 of the Convention further provides that: "*Laws and administrative measures must guarantee freedom from exploitation, violence and abuse.*"

4. Recognising these obligations and the need to ensure that legislation sufficiently safeguards non-discrimination and equality of opportunity for persons with disabilities, and further recognising the need to improve existing legislation, the Ministry of the Attorney General and Legal Affairs has embarked on several initiatives geared toward legislative reform to address the challenges faced by persons with disabilities.

### THE EQUAL OPPORTUNITY ACT, CHAP. 22:03

5. One such measure is the establishment of ***"The Equal Opportunity Commission ad hoc Committee"*** in May 2016 with a view towards amending the *Equal Opportunity Act, Chap. 22:03.*

6. The membership of the Committee comprises of attorneys from the Ministry of the Attorney General and Legal Affairs, including representatives from the Law Reform Commission, the Chief Parliamentary Counsel Department, the Attorney General's Secretariat and attorneys from the Equal Opportunity Commission (EOC), including the Chairperson of the Commission, Mrs. Lynette Seebaran-Suite.

7. The Committee meets almost monthly to hold discussions on the various proposed legislative amendments to the Equal Opportunity Act and is expected to finalize such amendments by the end of this year, 2016.

8. Importantly, one of priority items tabled for amendment is the expansion of the definition of the term "disability" under the Act and consideration is being given to disability laws in countries such as the Bahamas, Guyana, South Africa and the Commonwealth. The Committee also agreed to adopt the proposals put forward by the EOC as it relates to the duty of an employer to make reasonable adjustments for persons with disabilities.

9. The JSC Report was considered by the Equal Opportunity Commission *ad hoc* Committee at its meeting on July 26th, 2016 and the Committee is expected to have further discussions on same, with particular attention focused on the other stakeholder proposed amendments to the Equal Opportunity Act, Chap. 22:03 as contained in the report.

## COMPLIANCE WITH THE UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

10. In regard to Findings and Recommendations of **Objective 1**, which deals with challenges to access service faced by persons with disabilities in Trinidad and Tobago included but not limited to, Transport, Education Facilities, Health and Licensing Office, all the recommendations submitted by the Committee in paragraphs 4.9 – 4.18 are in compliance with Article 9 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD).

11. In regard to Findings and Recommendations of **Objective 2**, which deals with challenges to access employment faced by persons with disabilities in Trinidad and Tobago, all the recommendations submitted by the Committee in paragraphs 4.23 – 4.26 are in compliance with Article 27 of the CRPD.

12. In regard to Findings and Recommendations of **Objective 3**, which deals with the current revisions to the National Policy on Persons with Disabilities to access employment faced by persons with disabilities in Trinidad and Tobago, the recommendation submitted by the Committee in paragraph 4.28 suggests a holistic approach to adopt the CRPD as the National Policy.

13. In regard to Findings and Recommendations of **Objective 4**, which deals with the status of stakeholder consultation with respect to the review of the National Policy on Persons with Disabilities, the recommendation submitted by the Committee in paragraph 4.30 is apposite to accomplish Objective 3 aforementioned above.

14. In regard to Findings and Recommendations of **Objective 5**, which deals with the legislative framework required to safeguard the rights of persons with disabilities, all the recommendations submitted by the Committee in paragraphs 4.34 – 4.36 are in compliance with Article 4 of the CRPD.

15. In regard to Findings and Recommendations of **Objective 6**, which deals with the fiscal framework and procedures to engage non-governmental organizations and the private sector to partner with the public sector on differently abled issues, all the recommendations submitted by the Committee in paragraphs 4.44 – 4.46 are in compliance with Articles 8 and 31 of the CRPD.

## WORKSHOP ON HUMAN RIGHTS AND DISABILITIES

16. Of worthy mention is the hosting of a workshop by the Equal Opportunity Commission of the Ministry of the Attorney General and Legal Affairs on "Human Rights and Disability" on October 14, 2015. The aim of the workshop was to obtain feedback from stakeholders on priority areas for recommendations on the implementation of the UNCRPD.

17. The workshop proved to be a tremendous success in garnering necessary information and a report has since been generated with several recommendations. The workshop was attended by 105 representatives from various stakeholder agencies including, Ministries of Government, Public Sector Policy Makers and Administrators; Corporate Executives; Persons with Disabilities and their families; the University of the West Indies; the Equal Opportunity Tribunal, the Law Association of Trinidad and Tobago, Media representatives, Professionals in related areas such as health, education, support services, Trade Unions; and Non-Governmental Organisations of/for Persons with Disabilities.

18. The Equal Opportunity Commission, in recognising its responsibility for ensuring that, by way of the Equal Opportunity Act 2000, Persons with Disabilities have equal opportunities to access employment, education, the provision of goods and services and the provision of accommodation without discrimination, sought to utilize this workshop to, create awareness of and, educate participants on the principles of the UNCRPD and to allow stakeholders the opportunity to discuss and make recommendations regarding the implementation of same.

**THE MARRAKESH TREATY TO FACILITATE ACCESS TO PUBLISHED WORKS FOR PERSONS WHO ARE BLIND, VISUALLY IMPAIRED OR OTHERWISE PRINT DISABLED**

19. Article 21 of the UNCRDP states that disabled people have the same right to access information as others. The rights of persons with disabilities to take part in cultural life on an equal basis with other persons is enshrined in Article 30 of the UNCRDP. The Convention specifically refers to the right to enjoy access to cultural material in accessible formats and the duty on Member States to ensure that laws on intellectual property rights do not constitute an unreasonable or discriminatory barrier to access to cultural materials by persons with disabilities.

20. The Intellectual Property Office of the Ministry of the Attorney General and Legal Affairs is engaged in critical legislative reform to facilitate persons who are blind, visually impaired or otherwise print disabled to access published work through amendments to the Copyright Act, Chap 82:80 in order to incorporate the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (Marrakesh Treaty).*

21. The Marrakesh Treaty is an international copyright treaty administered by the World Intellectual Property Organization (WIPO). The Treaty was adopted on June 27, 2013, and although Trinidad and Tobago signed the Final Act of the Marrakesh Treaty in 2013, the Copyright Act has to be amended in order to incorporate the provisions of the Treaty.

22. The main objective of the Treaty is to create mandatory limitations and exceptions for the benefit of persons who are blind, visually impaired or otherwise print disabled (VIPs). The key provisions of the Treaty which are being focused on is as follows:

    - Contracting Parties are required to have a limitation or exception to domestic copyright law for VIPs. The rights subject to such limitation or exception are the right of reproduction, the right of distribution and the right of making available to the public;

    - Authorized entities may, on a non-profit basis, make accessible format copies. The conditions for this activity include having lawful access to the work, introducing only those changes needed to make the work accessible and supplying the copies only for use by beneficiary person/VIPs; and

    - Contracting Parties are required to allow the import and export of accessible format copies under certain conditions. Regarding importation, when an accessible format copy can be made pursuant to national law, a copy may also be imported without the right holder's authorization.

23. The Intellectual Property Office (IPO) has taken several steps towards implementing the Marrakesh Treaty including the appointment by WIPO of a local consultant, Mr. Anthony Vieira, who had several widespread meetings with the respective stakeholders to ascertain their views and collect information regarding incorporation of the Treaty. Stakeholders included the following: National Library and Information System Authority, Blind Welfare Association of Trinidad and Tobago, Trinidad and Tobago Reprographic Rights Organisation, W R Torres Foundation for the Blind and National Centre for Persons with Disabilities as well as the Ministry of the People and Social Development Disability Affairs Unit, Ministry of Foreign Affairs, Ministry of Education, Ministry of Tertiary Education and Skills Training, Ministry of the Arts & Multiculturalism and National Archives.

24. During these consultations, key provisions in the Marrakesh Treaty were discussed in depth inclusive of the terms "authorized entity," "accessible format copy," "beneficiary person" and "technical means of protection." Arising out of the consultations, the Consultant drafted amendments to the Copyright Act to incorporate the Marrakesh Treaty in consultation with the Office of the Chief Parliamentary Counsel (CPC), who has been extensively involved in this process. This was subsequently reviewed by WIPO to ensure compliance with the provisions of the Treaty. The proposed copyright amendment legislation has been approved by WIPO's Copyright Law Division.

25. Following WIPO's review, the Consultant in tandem with the CPC worked on finalizing the draft amendments. The guidance of the Intellectual Property Office (IPO) was also obtained in the drafting process. Arising out these efforts are the finalized amendments to the Copyright Act of Trinidad and Tobago to incorporate the Marrakesh Treaty.

26. Currently, the IPO is working on drafting a policy for the incorporation of the Marrakesh Treaty into national copyright legislation. Recently, the Office has obtained the policy document for the implementation of the Marrakesh Treaty from the United States Patent and Trademark Office. This document provides progressive justification for implementation of the Treaty and will serve as an invaluable guide for the preparation of our own copyright policy in Trinidad and Tobago.

27. It is anticipated that the policy will be finalized within six (6) weeks and that the amendments to the Copyright Act of Trinidad and Tobago to incorporate the Marrakesh Treaty will enter Parliament in mid-2017, in keeping with the Government's legislative agenda for same (2017-2018).

**28.** The Marrakesh Treaty entered into force internationally at the end of September, 2016. As such, Trinidad and Tobago, in many ways, is ahead of the worldwide process to enact this Treaty into domestic copyright legislation.

## COMPREHENSIVE LEGISLATIVE REFORM

29. It is evident that in addressing the challenges faced by persons with disabilities there must be a systematic review of legislation. To this end, the Ministry of the Attorney General and Legal Affairs is represented by the Chief Parliamentary Council's Department on the Cabinet appointed "*Inter-Ministerial Committee to Monitor, Co-ordinate and Evaluate the Implementation of Articles of the United Nations Convention on the Rights of Persons with Disabilities*".

30. The Committee is currently developing its policy with a view to identifying the necessary amendments to legislation and whether such amendments should take the form of omnibus legislation or discrete amendments to the individual pieces of legislation.

31. The Ministry of the Attorney General and Legal Affairs remains committed to pursuing the legislative proposals of the Committee to ensure significant progress in providing access to persons with disabilities across various sectors of Trinidad and Tobago.

**THE ATTORNEY GENERAL AND MINISTER OF LEGAL AFFAIRS**