



Government of the Republic of Trinidad and Tobago
Office of the Attorney General and Ministry of Legal Affairs

OFFICE OF THE PERMANENT SECRETARY

Ref: 1/10/12 Vol.II

June 8th, 2022

Ms. Jacqui Sampson-Meiguel
Clerk of the House
Parliament of the Republic of Trinidad and Tobago
Office of the Parliament
Parliamentary Complex
Cabildo Building
St. Vincent Street
PORT OF SPAIN

Dear Ms. Sampson-Meiguel,

Re: First Report of the Joint Select Committee on Finance and Legal Affairs on an inquiry into the Ease of Doing Business in Trinidad and Tobago, First Session (2020/2021), Twelfth Parliament


I refer to the Report stated at caption and to the findings and recommendations directed to the Office of the Attorney General and Ministry of Legal Affairs (“the Ministry”) on pages fifty-seven (57) to sixty (60) and sixty-nine (69) to seventy-two (72) of the Report therein.

I also refer to Standing Orders 100(6) and 110(6) of the Senate and the House of Representatives respectively. Said Standing Orders obliges the Minister with responsibility for the Ministry to respond to any directed recommendations within sixty (60) days of the laying of the Committee’s report.

The Ministry humbly apologises for the delay of the submission of its written response and advises that said response is now enclosed.

I thank you for your kind consideration.

Yours sincerely,


Permanent Secretary
Office of the Attorney General and Ministry of Legal Affairs

Encl. (1)



**THE OFFICE OF THE ATTORNEY GENERAL & MINISTRY OF LEGAL
AFFAIRS**

Response to the

**First Report of the Joint Select Committee on Finance and Legal Affairs
on an**

Inquiry into the Ease of Doing Business in Trinidad and Tobago

First Session (2020/2021) of the 12th Parliament

I. Introduction

The First Report of the Joint Select Committee on Finance and Legal Affairs on an inquiry into the Ease of Doing Business in Trinidad and Tobago, First Session (202/2021), Twelfth Parliament was presented in the House of Representatives on July 2, 2021 and in the Senate on July 5, 2021.

Standing Orders 100(6) and 110(6) of the Senate and House of Representatives respectively, require the Minister with responsibility for the Ministry/body reported on by a Joint Select Committee to present to each House, a paper responding to the recommendations/comments contained in the Report.

This report is the Ministerial Response to the recommendations and comments as presented in the said First Report, to be presented to Parliament, through the Attorney General and Minister of Legal Affairs.

II. Summary of Findings Identified, Recommendations and Responses

During the Committee's inquiry into the Ease of Doing Business in Trinidad and Tobago the following findings were identified and recommendations proposed that require written responses from the Attorney General and Minister of Legal Affairs. The responses of the Attorney General and Minister of Legal Affairs to these recommendations are contained hereinafter in this report.

Finding Identified

- v. The MoAGLA had successfully implemented a number of reforms to improve customer experience and access to their services in the Civil, Company and Land Registries, however the Committee would have appreciated receiving evidence of the existence of an appropriate measurement system to gauge overall utility and impact of these changes;

Recommendations:

G. The response of the MoAGLA must provide the Parliament with a status update on the following deliverables:

- i. The draft of the legislation for the implementation of a Secured Transactions Regime; and**
- ii. The implementation of the Business Property Registration System at the Registrar General's Department.**

Response:

i. Draft Legislation for the implementation of a Secured Transactions Regime

The Attorney General and Minister of Legal Affairs wishes to report that by letter dated August 18, 2021, the Office of the Attorney General and Ministry of Legal Affairs wrote to the Ministry of Trade and Industry (MTI) regarding the status of the draft legislation for the implementation of a Secured Transactions Regime. MTI submitted its response by letter dated October 5, 2021. The Status Update is hereto attached as Appendix I.

ii. Implementation of the Property Business Registration System

The Attorney General and Minister of Legal Affairs can state that a contract was established between the MoAGLA, Ingeierie Geographique Numerique Francaise L'International (IGN FI), GEOFIT, and the UWI to design and implement a Property Business Registration System. A joint venture was entered between the IGN FI, GEOFIT and the UWI to undertake the project with IGN FI acting on behalf of the three entities. The contract is ongoing.

The Project was affected by the Covid-19 Pandemic and as such, there were delays which affected the established timelines for the different phases of the Project. Accordingly, the timelines were revised as follows:

- Phase A – October 2020 – there was a partial Go Live with the release of the search portal for the Property Business Registration System (PBRs).

There was another partial Go Live on November 1, 2021.

The Consultant has completed Enhanced End User training of the system to One Hundred and Sixty (160) members of staff of the Registrar General's Department (RGD) over a period of thirty-three (33) days. Additionally, testing of the system is ongoing to ensure that all issues which may arise are addressed prior to going live.

- Phase B – will be for a period of three (3) months and will follow the completion of Phase A; and
- Phase C – will be for a period of three (3) years, upon the expiration of Phase B.

Conclusion

The Attorney General and Minister of Legal Affairs assures that the feedback required from MoAGLA, in particular, the Registrar General will be submitted to MTL.

Further, the Attorney General and Minister of Legal Affairs states that once the Property Business Registration System is fully operational it will allow for electronic registration of land titles, streamline the property registration process, improve the ease of doing business, mitigate fraud and ultimately improve the country's investment climate.

Finding Identified

- viii. The Committee observed that human resource constraints appeared to be a general deficiency among the border agencies which has had negative consequences on their productivity;

Recommendations:

- B. The Committee endorses the efforts of the Chief State Solicitor and Solicitor General's Department to augment the total number and expertise of staff as well as accompanying remuneration packages in order to improve employees' work flow process and technical expertise to apply the appropriate judicial principles with respect to the resolution of litigious matters involving the State.**

Response:

The Attorney General and Minister of Legal Affairs can state that to date, steps have been taken to address the staffing concerns, which were previously raised at the meeting of the Committee held on January 15, 2021.

Pertaining to the Civil Law Department, particularly the Office of the Chief State Solicitor, the Judicial and Legal Service Commission (Commission) by authority dated May 12, 2021 and February 12, 2022, respectively, promoted persons to the positions of Senior State Solicitor and Deputy Chief State Solicitor and Assistant Chief State Solicitor.

Further, the Commission by authority dated December 31, 2021, filled seven (7) State Solicitor I positions, however, only six (6) officers assumed duty on January 10, 2022.

It is noted that there are other vacancies which require filling and steps will be taken to fill those vacancies also.

Regarding the Office of the Solicitor General, the Commission, by authority dated April 20, 2022, filled the position of Deputy Solicitor General, however, the officer has not as yet assumed duty.

Further, the Commission by authority dated December 31, 2021 filled the office of ten (10) State Counsel I, of which six (6) officers have assumed duty, with effect from January 7, 2022.

The Offices of the Solicitor General and Chief State Solicitor remain committed to their mandate and are executing said mandate to the best of their abilities with their existing resources, while the matter of the expansion of the permanent establishment in these Offices are addressed.

Conclusion

The Attorney General and Minister of Legal Affairs and by extension, the Office of the Attorney General and Ministry of Legal Affairs continues to provide the required support and stands ready to assist said Offices to ensure that litigious matters involving the State are processed in a timely and cost effective manner.


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Senator the Honourable Reginald T. A. Armour, SC
Attorney General and Minister of Legal Affairs

Status Update on the Provision of Advisory Services for the Development of a Legal Framework for Secured Transactions as of August 2021

Cabinet, by Minute 648 of April 26, 2018, noted the work of the Ministry of Trade and Industry (MTI) in collaboration with the World Bank Group aimed at examining Trinidad and Tobago's financial, legal and institutional frameworks in respect of secured transactions; and approved the Policy to Enhance the Secured Transactions Regime in Trinidad and Tobago. The existing framework for secured transactions favours the use of immovable property as collateral while being very complex and fragmented given the existence of a number of security arrangements including 'quasi-securities' as well as multiple registries which are regulated under different pieces of legislation.

As a follow up to Cabinet's approval of the Secured Transactions Policy, the MTI contracted a Consultant (Mr. Spiros Bazinas) to provide expert services which included, but were not limited to, the provision of advice, training, and the drafting of legislation to assist the Government of Trinidad and Tobago in the establishment of a legal framework for an integrated Secured Transactions Regime in Trinidad and Tobago. The consultancy was completed in September 2020 and consisted of three main phases, which included:

- Phase One - Project Initiation where the consultant completed an Inception Report;
- Phase Two - Situational Analysis which included the hosting of stakeholder workshops with key public and private stakeholders and the completion of a Detailed Report; and
- Phase Three - Amendment of the Secured Transactions Regime Legislative Brief and the preparation of Draft Legislation for the creation of a Secured Transactions Regime.

The final version of the DRAFT Personal Property Act was submitted by Mr. Spyridon Bazinas on August 21st, 2020, followed up by the submission of the final version of the Legislative Brief on September 10th 2020.

Since then, the Ministry of Trade and Industry (MTI) has been actively reaching out to members of the Cabinet-appointed Steering Committee for their feedback and clarification on some outstanding policy areas that are crucial to the development of the legislation.

During the month of December 2020, individual correspondence requesting clarification on outstanding policy areas to the Secured Transactions Bill along with their respective appendices with policy areas to be clarified was sent to the following organizations: -

- Central Bank of Trinidad and Tobago;
- Bankers' Association of Trinidad and Tobago;
- Law Association of Trinidad and Tobago;
- Intellectual Property Office;
- Office of the Supervisor of the Insolvency; and
- Registrar General's Department (RGD)

Policy Areas Addressed by Members of the Steering Committee

Some of the main areas that were highlighted by the MTI for stakeholders to provide clarification were

- issues with regard to the use of intellectual property, in particular trademarks, patents and their use as assets for secured transactions;
- issues with regard to the definition of a deposit-taking institution and its role in the secured transactions eco-system;
- issues with regard to the rights of a creditor; and
- issues of contention under existing areas of law and the role of the RGD in the administration of the collateral registry.

Stakeholders that have provided a response thus far are highlighted below, up to this time we have not received any feedback from the Law Association of Trinidad and Tobago (LATT) and the Registrar General's Department (RGD).

- Central Bank of Trinidad and Tobago;
- Bankers' Association of Trinidad and Tobago;
- Intellectual Property Office; and
- Office of the Supervisor of the Insolvency;

The Role of the Registrar General's Department and the implementation of a Secured Transactions Regime in Trinidad and Tobago

The Registrar General's Department (RGD) and the Chief Parliamentary Counsel (CPC) both under the Office of the Attorney General and Legal Affairs are members of the Cabinet-appointed Committee instructed to draft Secured Transactions law via Cabinet Minute No. 648 of 26 April 2018. The CPC has played an integral role so far in the drafting of the legislation by providing commentary, attending meetings of the Steering Committee and providing relevant direction to the process of developing the Bill. The Office of the Attorney General and the Registrar General have been communicated to via correspondence dated November 16th 2020, December 8th, 2020 and March 3rd 2021, however to date no response has been forthcoming.

With regard to correspondence dated March 3rd, 2021 to the Office of the Attorney General and the Ministry of Legal Affairs, the MTI was contacted by Ms. Vyanna Sharma, Head, Anti-Terrorism Unit on April 20th, 2021 requesting a copy of the Draft Bill and the attached appendix highlighting the outstanding policy areas that were sent to the RGD to be addressed. Since then, she has indicated to the MTI that her unit is following up with the RGD to furnish us with a response.

The Recommended Way Forward

At this time, we would like to explore a way to expedite the process of finalizing the Secured Transactions Bill by engaging the CPC with the feedback we have received so far from stakeholders while we await relevant feedback from the RGD and the LATT.