

# OFFICE OF THE CONTRACTOR GENERAL

## Special Report of Investigation

### Conducted into the Oil Lifting Contracts between the Petroleum Corporation of Jamaica (PCJ) and Trafigura Beheer

### Ministry of Energy and Mining (MEM) Formerly Ministry of Industry, Technology, Energy and Commerce (MITEC)

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#### **Ministry of Energy and Mining (MEM)**

#### **Formerly Ministry of Industry, Technology, Energy and Commerce (MITEC)**

## **INTRODUCTION**

On 2006 October 9, the Office of the Contractor General (OCG), acting on behalf of the Contractor General, initiated an Investigation into the oil lifting contract between the Petroleum Corporation of Jamaica (PCJ) and the Dutch company, Trafigura Beheer.

The OCG's Investigation into the referenced matter was undertaken pursuant to Sections 15 (1) and 16 of the Contractor General Act (1983).

Section 15 (1) of the Contractor General Act provides that “...a Contractor General may, if he considers it necessary or desirable, conduct an investigation into any or all of the following matters-

- (a) the registration of contractors;*
- (b) tender procedures relating to contracts awarded by public bodies;*
- (c) the award of any government contract,*
- (d) the implementation of the terms of any government contract;*
- (e) the circumstances of the grant, issue, use, suspension or revocation of any prescribed licence;*

*(f) the practice and procedures relating to the grant, issue, suspension or revocation of prescribed licences”.*

Section 16 of the Contractor General Act expressly provides that *“An investigation pursuant to section 15 may be undertaken by a Contractor General on his own initiative or as a result of representations made to him, if in his opinion such investigation is warranted”.*

It is important to note that on 2006 October 4, a number of media houses reported that the Jamaica Labour Party (JLP) had accused the then ruling People’s National Party (PNP) of financing its annual conference with a J\$31 Million largesse<sup>1</sup>, which was provided by an overseas oil trader, and had called for the immediate resignation of the entire governing administration.

In a media report which was published in the Jamaica Gleaner on 2006 October 4, and which was entitled *“Partying on state funds”*, it was reported, *inter alia*, that:

***“The Opposition Jamaica Labour Party (JLP), yesterday accused the governing People's National Party (PNP), of using state funds of up to \$31 million from the Nigerian oil deal, to finance the party's annual conference last month.***

*But in a quick response last night, the Government denied the claims.*

*The allegations were made shortly after the Opposition members walked out of the House of Representatives during a censure motion debate brought against Karl Samuda, the JLP Member of Parliament for St. Andrew North Central.*

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<sup>1</sup> See extract from the Jamaica Observer dated October 4<sup>th</sup>, 2006. Item No2 of Investigative file 18.04.29 (i)

## *RELEASED FINDINGS*

*In a hastily-called press conference inside the Opposition's quarters at Gordon House, Mr. Golding released findings of transactions, which he said were made to an account in Jamaica known as CCOC Association, with Minister of Information Colin Campbell as one of the signatories on the account.*

*Mr. Golding said that two cheques totalling \$30 million were issued payable to SW Services with both having the signatures of Mr. Campbell, in addition to the signatures of Phillip Paulwell, the Minister of Industry, Commerce and Technology, Prakash Vaswani and Delano Barnett.*

*A third cheque for \$465,000 drawn on the account of CCOC Association, was, according to Mr. Golding, made payable to Mr. Campbell.*

*Mr. Golding claimed that the cheques were deposited by Trafigura Beheer, an international company based in the Netherlands which was engaged to carry out the lifting and trading of oil from Nigera, on the country's behalf.*

*The oil deal with Nigeria was reportedly negotiated in the 1970s by the Michael Manley administration. The country is supposed to benefit from the proceeds of the sale of oil on the international market.*

*But Government member and PNP chairman, Robert Pickersgill, has denied the allegations.*

*"That is a mouthful of allegations and at the appropriate time the party will respond," he said.*



*Dr. Raymond Wright, formerly group managing director of the Petroleum Corporation of Jamaica, and now consultant, said he did not know of the allegations.*

*"I know nothing about these specific allegations. I have no information on it whatsoever. It seems to me very unusual," he said last night.*

*Meanwhile, Mr. Golding has called for the resignation of the entire government.*

*"This government has acquired immunity to scandals but there comes a time when enough is enough. That time has come! It is time for this wretched government to go. This one needs no commission of inquiry," he stated."*<sup>2</sup>

Based upon the foregoing media reports the OCG had made the following determinations, *inter alia*:

1. That the then Opposition, the JLP, alleged that cheques were deposited into an account, in the name of C.C.O.C. Association, by Trafigura Beheer, an international oil trading company which is based in the Netherlands.
2. Trafigura Beheer was also contracted to carry out the lifting and trading of oil from Nigeria, on Jamaica's behalf.

The gravity of the referenced allegations raised several concerns for the OCG, especially in light of the perceived absence of adherence to the contract award principles which are enshrined in Section 4 (1) of the Contractor General Act.

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<sup>2</sup> Jamaica Gleaner article entitled "Partying on state funds", published Wednesday, 2006 October 4

Section 4 (1) of the Act requires, inter alia, that Government contracts must be awarded *“impartially and on merit” and that the circumstances of award must “not involve impropriety or irregularity”*.

Further, and in light of the fact that the allegations had such tremendous national import, which effectively precipitated the then Opposition Party’s call for the *“resignation of the entire government”* and the associated ‘walk- out’ from the House of Representatives by the then Opposition Members of Parliament on 2006 October 3, the OCG deemed the relevant allegations sufficiently pressing to warrant a thorough Investigation.

Consequently, on 2006 October 9, the OCG wrote to the then Minister of Industry, Technology, Energy and Commerce, Mr. Phillip Paulwell, advising him of the commencement of the OCG’s Investigation.

It must also be noted that by way of a written Media Release, which was dated 2006 October 10, and which embodied the OCG’s correspondence of the previous day, which was written to Mr. Paulwell, the OCG placed the following upon the public record:

*(a) That “...the captioned matter has been the subject of extensive media reports over the past six days. Significant public interest and commentary have also arisen over the matter as well as over a number of issues which are associated therewith.*

*The Office of the Contractor General (OCG) has therefore taken a decision to commence a formal investigation into the circumstances which surround the award of the subject Contract.*

*(b) In the exercise of my discretionary powers under Section 28 (2) of the Contractor General Act, I should also like to advise that I will be submitting, in due course, a report or reports on this matter to the Parliament of Jamaica.”<sup>3</sup>*

The primary purpose of the OCG’s Investigation was to, *inter alia*, ascertain the circumstances surrounding the oil lifting contract which was awarded by the GOJ to Trafigura Beheer, and to determine if there was any impropriety and/or irregularity surrounding the award of a Government contract to Trafigura Beheer.

The Terms of Reference of the OCG’s Investigation into the oil lifting contract between the PCJ and Trafigura Beheer were primarily developed in accordance with the mandates of the Contractor General as are stipulated in Section 4 (1) and Section 15 (1) (a) to (d) of the Contractor General Act (1983).

The Terms of Reference of the OCG’s Investigation were designed to elucidate two (2) particular elements of the allegations, which were made in the public domain, namely (a) the propriety of the procurement process and (b) the link, if any, between the money which was paid by Trafigura Beheer and the award and/or future award of any GOJ contract to that entity and, in consequence, evidence of any form of corruption.

It is important to note that on 2006 October 9, the OCG, by way of a letter of even date, requisitioned information in respect of the GOJ’s dealings with the oil trader, Trafigura Beheer, from the then Minister of Industry, Technology, Energy and Commerce, Mr. Phillip Paulwell.

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<sup>3</sup> OCG Media Release which was dated 2006 October 10

On 2006 October 23, Mr. Paulwell replied to the Contractor General, indicating, *inter alia*, that he was not privy to any relationships that would have been collateral to the contract or which are/were directly or indirectly linked to or conditioned upon, its execution or performance.<sup>4</sup>

Based upon the evidence which was provided to the OCG, by Mr. Paulwell and representatives of the PCJ, the OCG was able to undertake a historical analysis of the Government of Jamaica's (GOJ's) contractual oil-lifting arrangements and, consequently, the contract with Trafigura Beheer.

In this regard, the OCG found that the GOJ's first contract with Trafigura Beheer was executed on 2000 August 3 and a subsequent contract was signed on 2004 December 13.<sup>5</sup>

It is instructive to note that at the time of the transfer of J\$31 Million to the C.C.O.C. Association account, Trafigura Beheer was still lifting oil on behalf of the PCJ without a formal written contract in place.

According to the information which was provided to the OCG, by Mr. Paulwell, the contract with Trafigura Beheer provided for the payment of a fee (commission) to the PCJ, by Trafigura Beheer, in respect of every barrel of oil which was lifted from Nigeria, by Trafigura Beheer, on behalf of the PCJ.

Further, the OCG found that the contract award process, which was undertaken by the PCJ in 2001 and 2002, was akin to the Limited Tender Process wherein tenders were invited from a shortlist of oil - lifters.

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<sup>4</sup> See page 4 of Mr. Paulwell's letter to the Contractor General which was dated 2006 October 23. Item No 60 of Investigative file 18.04.29 (i)

<sup>5</sup> See page 1 of Mr. Paulwell's letter to the Contractor General which was dated 2006 October 23. Item No 60 of Investigative file 18.04.29 (i)

However, the PCJ did not deem the contract award to be one of a “procurement contract” as no contract value was involved, that is, there were no amounts to be paid by the PCJ to the contractor. Instead, the PCJ received an agreed amount, from the contractor, for each barrel of oil that was lifted.

In this regard, the OCG found that the contract awards did not receive the prior endorsement of the National Contracts Commission (NCC) nor was there any evidence to indicate that Cabinet approval was granted for the award of the oil-lifting contracts.

The OCG also found that the PCJ did not have a Procurement Committee in place prior to 2006, which is, in and of itself, another breach of the GOJ Procurement rules.

As regards the alleged payments, which were deposited into an account in the name of C.C.O.C. Association, with which Mr. Colin Campbell was associated, the OCG has found that on 2006 September 6, and twice on the 12<sup>th</sup>, three (3) payments, in the respective sums of JA\$10,684,316.05, JA\$10,161,516.72 and JA\$10,410,911.62, were allegedly credited to the account at the First Caribbean International Bank (Jamaica) Limited.

It was further alleged that at the time of the payments, one of the signatories to the C.C.O.C. Association account was the then Senator, Mr. Colin Campbell. Up until 2006 October 9, Mr. Campbell was the Minister of Information & Development and the General Secretary of the then ruling PNP.

It must be noted that Mr. Campbell tendered his resignation from the respective offices, effective 2006 October 9, a few days after the allegations which were levied by the then Opposition Leader, Mr. Bruce Golding.

On 2006 October 26, the OCG wrote to Mr. Colin Campbell on the assumption that he, being the person who featured most prominently in the allegations, may have been able to assist the OCG in its Investigation and/or monitoring of the GOJ's award of any future contract(s) for the lifting and/or sale of Nigerian oil.

It is instructive to note that in the referenced letter of 2006 October 26, the OCG required Mr. Colin Campbell to provide responses to the following questions, amongst others:

- (a) *“Please state if there are/were any agreements of which you are aware, between Trafigura, on the one hand, and the GOJ or any GOJ public body, public officer, other person and/or entity on the other, which are/were collateral to the GOJ's and Trafigura's past, present or prospective Nigerian oil trading contractual arrangements or which are/were directly or indirectly linked to, or conditioned upon, the consummation, execution and/or performance of any such contractual arrangements.*
- (b) *Please state if the subject Trafigura payments of 466,000 euros or any part thereof were in any way linked to or conditioned directly or indirectly upon Trafigura's past, present or prospective Nigerian oil trading contractual arrangements with the GOJ?*
- (c) *How and for what purpose or reason were the Trafigura payments disposed of after they were credited to the CCOC Associates account? Please provide full particulars of the disposition of the entire sum, inclusive of the dates, the amounts and the payee(s) or recipient(s) of any sum which to date has been withdrawn from the account.”*<sup>6</sup>

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<sup>6</sup> OCG Requisition to Mr. Colin Campbell which was dated 2006 October 26

On 2006 October 30, Mr. Campbell replied to the OCG and stated, *inter alia*, that “... CCOC Association, S. W. Services and the Peoples National Party are not public bodies as defined in Section 2 of the Contractor General Act. In the circumstances any relationship between Trafigura and any of the above entities would be outside the provisions of Section 4 of the Contractor General Act”<sup>7</sup>.

Consequently, the OCG wrote to Mr. Campbell on 2006 November 16, outlining the reasons why his aforementioned statements were flawed and gave him additional time in which to furnish the information that had originally been requested by the OCG.

On 2006 November 30, Mr. Campbell wrote to the OCG advising that he could not give any assistance in relation to the above subject matter and, further, that “*In all the circumstances the answers already given remain unaltered.*”<sup>8</sup>

Of significant import also is the fact that on 2006 October 11, the Netherlands Police Agency (KLPD), contacted the OCG, via telephone, seeking assistance in carrying out its own investigations into the allegations against Trafigura Beheer.

The series of communications which followed thereafter, between the OCG and the Dutch Authorities, proved to be of no assistance to the OCG in the conduct of its Investigation. In point of fact, the communications between the OCG, the Dutch Authorities and their representatives failed to assist the OCG in determining whether there was any link between the alleged payments which were made by Trafigura Beheer, and the award of any contract, whether past, present and/or prospective, to Trafigura Beheer, by the GOJ.

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<sup>7</sup> Letter from Colin Campbell dated 2006 October 30

<sup>8</sup> Letter from Colin Campbell dated 2006 November 30

Between 2006 October 11 and 2007 March 20, a combination of approximately twenty three (23) emails were exchanged between the OCG and the Dutch Authorities. The full particulars of these are appended hereto. The referenced emails attest to the OCG's efforts to enquire into the referenced allegations from numerous contemplated perspectives.

Further, the OCG must place upon the Record what it considers to be three (3) distinct classifications of the encounters, which it has had, in regard to the Dutch Authorities, between 2006 October and 2008 January. The three (3) categories are as follows:

- (a) Direct written correspondence between the OCG and the Dutch Authorities;
- (b) Representations which were made to the OCG by a Mr. Harold Brady, a private Attorney-at-Law, in 2007 November regarding a proposed meeting between himself, the OCG and the Dutch Authorities; and
- (c) Contact which was made with the OCG, by the Jamaica Constabulary Force (JCF) in 2008 January, regarding investigations which were being executed by the Dutch Authorities.

The full particulars of the OCG's interaction with the Dutch Authorities, related incidents and the circumstances regarding same, are detailed herein as a sub-section of the Report of Investigation which is aptly entitled **“OCG Interactions with the Dutch Authorities”**.

Detailed below is a synopsis of key elements of the OCG's Interactions with the Dutch Authorities:



## Direct Contact with the Dutch Authorities

By way of an emailed letter, which was dated 2006 October 11, the Dutch Authority advised the OCG that they were investigating Trafigura Beheer and had become aware of the company's alleged involvement in "... a scandal involving a \$31 million transaction between the People's National Party in Jamaica and this Dutch oil company."<sup>9</sup>

In closing, the referenced letter indicated, *inter alia*, as follows:

*"In case you have any information on this case that you might be willing to share with the Dutch authorities or in case you might request our assistance you can contact me at any time."*<sup>10</sup>

It must be noted that as early as 2006 October 26, the OCG had written to the Dutch Authorities requesting their assistance in providing information to corroborate certain allegations to which the OCG was privy.

In this regard, the OCG, by way of a letter which was dated 2006 October 26, advised and requested, from the Dutch Authority, *inter alia*, the following:

- (a) *"It is our belief that the Trafigura executives, during their visit to Jamaica, met with certain Jamaican Government and other public officials. It has also been reported that the Prime Minister of Jamaica was paid a courtesy call by two Trafigura executives during the month of August."*

*We would like to confirm the following:*

- (1) *The names of the Trafigura executives who visited Jamaica and the dates when they visited Jamaica;*

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<sup>9</sup> Letter from the Dutch Authorities to the Contractor General which was dated 2006 October 11

<sup>10</sup> Letter from the Dutch Authorities to the Contractor General which was dated 2006 October 11

- (2) *The names of the Government of Jamaica or other public officials who they met with while in Jamaica;*
- (3) *The dates that they met with these officials;*
- (4) *The purpose of their meetings with the referenced officials;*
- (5) *The particulars of any agreements or understandings, if any, which were arrived at during these meetings;*
- (6) *Whether any Trafigura executive had a meeting or meeting with any Government of Jamaica or other public official at any other time during the course of the current year and, if so, what were the names of the meeting participants, what was discussed or agreed, and where and when the meeting or meetings were held.*

*(b) ...we would be grateful if you could assist us to confirm whether the Trafigura payments were made as a political donation or, as Trafigura has allegedly asserted, whether they were made pursuant to a “commercial agreement”. If indeed a commercial agreement was settled, we would be grateful if you could assist us to ascertain what are/were its terms and/or provide us with some evidence of same.*

*Either way, we would like to understand the bases and understandings upon which the payments were made and who were the Jamaican Government, public or other officials who were party to same.*

*We would also like to know if any of these payments are or were in any way linked, directly or indirectly, to Trafigura’s past, present or prospective oil trading arrangements with the Government of Jamaica.*

*We are grateful to you for your offer of assistance and do trust that you will be able to positively contribute to our on-going investigations.”<sup>11</sup>*

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<sup>11</sup> OCG letter to the Dutch Authorities dated 2006 October 26

The aforementioned questions are indicative of the extent to which the OCG sought the assistance of the Dutch Authorities in advancing its Investigation into the allegations which surrounded Trafigura Beheer.

However, and despite the numerous subsequent correspondence with the Dutch Authorities, the OCG did not receive the requested information. It must also be noted that on several occasions, the Dutch authorities requested guidance and information from the OCG.

It is instructive to note that the OCG, being guided by Section 28 of the Contractor General Act (1983), denied the Dutch Authorities' request for assistance and directed them to make contact with officials of the Jamaican Government.

It is instructive to note that Section 28 of the Contractor General Act provides that:

*“(1) A Contractor-General may at any time be required by Parliament to submit a report to Parliament in respect of any matter being investigated by him.*

*(2) A Contractor-General shall submit to Parliament an annual report relating generally to the execution of his functions and may at any time submit a report relating to any particular matter or matters investigated, or being investigated, by him which, in his opinion, require the special attention of Parliament.*

*(3) Reports under this section shall be submitted to the Speaker of the House of Representatives and the President of the Senate who shall, as soon as possible, have them laid on the Table of the appropriate House.*

*(4) A Contractor-General may, in the public interest, from time to time publish in such manner as he thinks fit, reports relating to such matters as are mentioned in subsection (2) and any case which is the subject of a special report under section*

*21, but no such report shall be published until after it has been laid pursuant to subsection (3).”*

#### Contact with Mr. Harold Brady, Private Attorney-at-Law

On 2007 November 16, Mr. Harold Brady, Attorney-at-Law, through his Secretary, Ms. Michelle Vickerman, telephoned the OCG and, on behalf of Mr. Brady, requested that a meeting be convened between the Dutch Authorities, the Contractor General and himself, for that same afternoon. The Contractor General declined Mr. Brady’s request as he was unaware of the purpose of the meeting and had reservations about the propriety of the request for the convening of a meeting.

As such, the Contractor General requested that a formal letter of request be submitted to the OCG, providing the relevant details, including the purpose of the meeting. However, the letter was never received by the OCG.

#### Contact with the Jamaica Constabulary Force (JCF)

In the third instance, the OCG was contacted by an Officer of the Organized Crime Unit of the JCF, on 2008 January 9, regarding the convening of a meeting between representatives of the OCG, the Dutch Authorities and the JCF. The representations, which were made to the OCG, on that date, indicated that the process was being marshalled by the Office of the Director of Public Prosecutions (ODPP).

The contact which was made with the OCG, by the JCF, represented the first and only instance in which the OCG had contact with the Dutch Authorities via another Jamaica State Authority.

In that regard, the Contractor General personally conveyed to the JCF Officer, amongst other things, that:

- (a) *“...the Dutch authorities had contacted the OCG over a year ago to request information from us and also to offer assistance to the OCG’s investigations into the GOJ’s award of a oil-lifting contract to Trafigura. I told DI Bailey that although we had welcomed their offer of assistance, we had made it clear to them that we could not offer them any assistance.”*
- (b) The OCG had *“...advised the Dutch authorities (a) that the OCG was an independent Commission of the Parliament of Jamaica, (b) that upon completion of the OCG’s investigation into the matter, a Report thereon would be submitted to the Parliament of Jamaica where it would be tabled in the Senate and in the House of Representatives, and (c) that under Jamaica Law, only when that was done would we be at liberty to publish the Report and its Findings to the public at large or to any other person.”*
- (c) *“...at the invitation of the Dutch Authorities, the OCG had written to them seeking answers to certain questions about Trafigura and that they had not responded. I told him that if they had any information for us we would be prepared to receive it but, beyond that, I could see no useful purpose in meeting with them.”*
- (d) *“...he should feel free to communicate my positions to the DPP and to have him contact me directly should he wish to discuss the matter with me.”*

Given the compendium of occurrences, as summarized above, and which are further detailed herein, inclusive of the fact that at least two (2) Jamaican State Authorities, viz, the ODPP and the JCF, were enquiring into the allegations involving Trafigura Beheer as at 2008 January, the OCG took a strategic decision to await further developments regarding the matter, before completing its Report of Investigation into the referenced allegations.

However, approximately two (2) years have since elapsed and there have been no reported developments in the matter, during the referenced period.

Further, and with expressed regard to the fact that the OCG was not provided with any assistance from the Dutch Authorities, nor did Mr. Colin Campbell provide the OCG with responses to its questions, regarding the monies which were received from Trafigura Beheer, the OCG has been unable to definitively and adequately address one major component of its Investigation.

In this regard, the OCG was unable to ascertain the reasons for the payments which were made by Trafigura Beheer to C.C.O.C. Association and the bearing, if any, which it had, or was to have, or may have had on the subsisting and/or prospective oil lifting contracts between the PCJ and Trafigura Beheer.

Out of an abundance of caution and to ensure thoroughness in its Report of Investigation, the OCG took a decision to request pertinent updates from the Jamaica State Authorities which were held out as being involved in the local investigations involving the Dutch Authorities.

As such, and through a series of correspondence which began with letters which were addressed to Detective Inspector Clarence Bailey, JCF and the Hon. Dorothy Lightbourne, Minister of Justice, and which were dated 2010 July 14, the OCG sought the relevant updates from the Jamaica State Authorities.

The OCG's two (2) letters, which were dated 2010 July 14, were both copied to the ODPP.

It is instructive to note that by way of a letter, which was dated 2010 July 21, from the Solicitor General, Mr. Douglas Leys, the OCG was advised that the ODPP was the designated authority, in Jamaica, from whom the requested information could be obtained.

In his letter to the OCG, the Solicitor General also advised the OCG that it was very unlikely that there would have been any difficulty in obtaining the requested information from the ODPP.

Consequently, on Monday, 2010 July 26, the OCG wrote directly to the ODPP requesting that the ODPP provide the OCG with an update of its investigative efforts in the Trafigura Beheer matter, no later than Thursday 2010 July 29.

It is important to note that the OCG did not receive the information which was requested from the ODPP by the stipulated deadline.

As such, on Tuesday, 2010 August 3, the OCG again wrote to the ODPP to ascertain (a) whether the ODPP intended to cooperate with the OCG's Investigation and (b) to request that the ODPP provide the OCG with the requested information no later than Monday, 2010 August 9. The referenced OCG letter was faxed to, and hand delivered to the ODPP on 2010 August 3.

On 2010 August 5, the ODPP responded to the OCG's letters which were dated 2010 July 26 and 2010 August 3 and advised the OCG, *inter alia*, that “ ... we would not be in a position now to release any information at this stage having regard to high levels of sensitivity. To do so now would compromise our international and statutory obligations and might well give others likely to be affected a cause of action where none now exists.”<sup>12</sup>

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<sup>12</sup> Letter from the ODPP which was dated 2010 August 3 in response to the OCG's letters which were dated 2010 July 26 and 2010 August 3.

The full details of the OCG's efforts in this regard are documented in the sub-section the Report of Investigation which is entitled "*Contact with the Ministry of Justice, the JCF and the DPP to Secure Updates on Jamaica State Authorities' Involvement in the Matter.*"

Having regard to (a) the passage of time, (b) the lack of further developments, (c) the challenges which were faced by the OCG and (d) the OCG's stated intent to submit a Formal Report on the matter, the OCG has now deemed it both prudent and necessary to complete its Investigation, in fulfillment of its statutory mandate and in the interest of transparency, and to submit its Report thereon to the Parliament of Jamaica.



## **TERMS OF REFERENCE**

### ***Primary Objectives***

The primary aim of the OCG's Investigation was to determine, *inter alia*, the following:

1. The propriety of the procurement processes which were undertaken by the PCJ in the contracting of Trafigura Beheer;
2. The link, if any, between the money which was paid by Trafigura Beheer and the award and/or future award of any GOJ contract to that entity and, in consequence, evidence of any form of corruption.

### ***Specific Objectives***

The Investigation also had the following specific objectives:

1. Determine the procurement and contract award practices of the PCJ with respect to oil lifting arrangements with the Nigeria National Petroleum Corporation (NNPC).
2. Determine whether contracts which were awarded to Trafigura Beheer conformed to the Government Public Sector Procurement Procedures and Guidelines.
3. Determine whether any other transactions were collateral to the award, execution and performance of past and present GOJ/Trafigura Beheer contracts or whether they would be collateral to the award, execution or performance of any future GOJ/Trafigura Beheer contract.

4. Determine whether there was any impropriety and/or irregularity linked to the award of the GOJ's contract to Trafigura Beheer, specifically:
  - i. Was the awarding public body and/or any public officer or official engaged in and/or was a party to any acts of impropriety and/or irregularity in facilitating the oil lifting contracts with Trafigura Beheer?
  - ii. Was any other public body and/or party involved in any impropriety and/or irregularity that may have influenced, and/or had been influenced by, the award of contract to Trafigura Beheer?
  - iii. Did transactions between any and/or all of the parties, affect the award of past, present and future GOJ oil lift contracts to Trafigura Beheer?
5. Make recommendations for appropriate action in light of the Findings of the Investigation.

## **METHODOLOGY**

The OCG, in the conduct of its Investigations, has developed standard procedures for evidence gathering. These procedures have been developed and adopted pursuant to the powers which are conferred upon a Contractor General by the 1983 Contractor General Act.

It is instructive to note that Section 17 (1) of the Contractor General Act empowers a Contractor General to “...adopt whatever procedure he considers appropriate to the circumstances of a particular case and, subject to the provisions of (the) Act, to obtain information from such person and in such manner and make such enquiries as he thinks fit.” (OCG Emphasis)

The Terms of Reference of the OCG’s Investigation into the oil lifting contracts between the PCJ and Trafigura Beheer were primarily developed in accordance with the mandates of the Contractor General as are stipulated in Section 4 (1) and Section 15 (1) (a) to (d) of the Contractor General Act (1983).

The Terms of Reference of the Investigation were guided by the OCG’s recognition of the far-reaching responsibilities and requirements that are imposed, *inter alia*, upon Public Officials and Public Officers by the Government of Jamaica Public Sector Procurement Procedures Handbook (GPPH), the Contractor General Act and the Corruption Prevention Act.

In addition, the OCG was guided by Section 21 of the Contractor General Act which provides that “If a Contractor-General finds, during the course of his Investigations or on the conclusion thereof that there is evidence of a breach of duty or misconduct or criminal offence on the part of an officer or member of a public body, he shall refer the matter to the person or persons competent to take such disciplinary or other proceeding as may be appropriate against that officer or member and in all such cases shall lay a

**special report before Parliament.**”(OCG Emphasis)

The following methodology was used to inform the Findings and Conclusions of the Investigation:

1. Review of files and documents requisitioned from the PCJ, pertaining to the oil lifting arrangements with NNPC and the oil lifting contract with Trafigura Beheer;
2. Formal requisitions of information from Senator Colin Campbell;
3. Conducting interviews with persons who were considered to have been privy to the Oil Lifting contract with Trafigura Beheer and Accountable Officers at the PCJ.

Requisitions/questionnaires, meetings and interview sessions were either sent to or held between representatives of the PCJ and the OCG. Listed below are PCJ officials who were communicated with by the OCG:

- a) Mr. Phillip Paulwell – the former Minister of Industry, Technology, Energy and Commerce;
  - b) Dr. Raymond Wright – the former Group Managing Director, PCJ;
  - c) Dr. Ruth Potopsingh — the former Group Managing Director, PCJ;
  - d) Mr. Rodney Salmon — the former Company Secretary and Director of Administration, PCJ;
  - e) Mr. Godfrey Perkins- the then Project Manager, PCJ.
4. Letters requesting relevant updates and/or documentation were issued to the following Public Officials/Officers:

- a. Dr. Jean Dixon, the former Permanent Secretary, in the former Industry, Technology, Energy and Commerce;
- b. Mrs. Hillary Alexander, Permanent Secretary, Ministry of Energy and Mining;
- c. The Hon. Dorothy Lightbourne, Q.C., C.D., Attorney-General and Minister of Justice;
- d. Ms. Paula Llewellyn, Q.C., C.D., Director of Public Prosecutions; and
- e. Detective Inspector Clarence Bailey, Jamaica Constabulary Force.

## **FINDINGS**

### **Historical Background to Jamaica's Oil Lifting Arrangements**<sup>13</sup>

Jamaica's oil lifting arrangements with Nigeria commenced towards the end of the 1970s, when the then Prime Minister, the Most Hon. Michael Manley, during an official visit to the Federal Republic of Nigeria, held bi-lateral talks with President Olusegun Obasanjo, the then Head of State of the Republic of Nigeria.

As a result, an agreement was reached, whereby Jamaica would receive supplies of Nigerian crude oil, which would be traded on the open market by the oil lifter on behalf of Jamaica. The sale of the Nigerian crude oil earned margins which were payable by the requisite oil lifter to the PCJ.

Based upon the documents which were reviewed by the OCG, the purpose of the agreement between the Heads of the two Nations was to demonstrate the co-operation and friendly relations that existed between the two countries.

The initial agreement was largely commercial in nature and allowed for a credit facility of ninety (90) days. This type of agreement, between Jamaica and Nigeria, was limited to a few countries and it is the understanding of the OCG that earnings from the trade would be used for development projects and for Jamaica's energy security.

In December 1978<sup>14</sup>, a contract was signed between the GOJ and the Nigerian National Petroleum Corporation (NNPC), establishing the initial terms and conditions of the Trading Agreement. The terms and conditions included, *inter alia*, the following:

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<sup>13</sup> Interview records from Mr. Raymond wright, Files presented to OCG by PCJ

<sup>14</sup> [www.pcj.com/NigerianOilFinalResponseOct2006.pdf](http://www.pcj.com/NigerianOilFinalResponseOct2006.pdf) - [Similar pages](#) / Taken from PCJ's files perused

- **Contract:** An Evergreen Contract for the purchase of crude oil, renewable annually.
- **Crude Oil Types:** Nigerian Crude.

According to the former Group Managing Director of the PCJ, Dr. Raymond Wright “*the first of the lifting arrangements that PCJ had with the NNPC would have seen the crude being delivered to the Shell plant in Curacao for refinement.*”<sup>15</sup>

Further, Mr. Wright stated, inter alia, that “*with the sale of the Curacao plant refinery...the Petroluem Corporation of Jamaica...*” disengaged the relationship with the said plant.

The OCG found that the PCJ was unable to utilize the Nigerian oil at its Petrojam refinery. As such, the PCJ contracted a company that would trade Nigerian oil on its behalf. In this regard, an agreement was entered into with Vitol S.A. Inc.

The Oil lifting agreement with Vitol continued until 1993, when the new Nigerian President cancelled the GOJ/Nigeria contract.

Seven years later, in 2000, there was a change in the Nigerian government and the GOJ sought to have the former oil lifting arrangement re-installed. According to the former Group Managing Director, Mr. Raymond Wright, in 2000, “*It became clear that in order for the arrangement to proceed we would need a contract that would help the process and make certain that the allotted amount of oil under the agreement with the Petroluem Corporation of Jamaica and NNPC is honoured.*”<sup>16</sup>

Having regard to the foregoing, the OCG found that the PCJ and Goodworks International LLC. entered into an agreement in 2001. In the referenced agreement,

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<sup>15</sup> Records of Interview with Mr. Raymond Wright- 2007 June 19

<sup>16</sup> Records of Interview with Mr. Raymond Wright- 2007 June 19

Goodworks International LLC. acted as an oil liaison agent on behalf of the PCJ. This agreement coincided with the revival of the GOJ/Nigerian contract.

Further, according to the then Minister of Energy, Mr. Phillip Paulwell, in his response to an OCG Requisition, which was dated 2006 November 20, “ *...during the initial period after the NNPC contract was renewed in 2000, both Trafigura Beheer and Vitol S.A. lifted Nigerian crude on behalf of the PCJ.*”<sup>17</sup>

It is instructive to note that Dr. Raymond Wright informed the OCG that “*Vitol carried out the first lifting at the recommencement of oil lifting by PCJ in 2000. Then in 2001 the PCJ decided to look for other partners. The reason for this is that PCJ became dissatisfied with the arrangement which was a profit sharing arrangement...PCJ then invited some of these accredited companies to provide quotations for such services. After receiving quotes and carrying out analysis of the various proposals, PCJ awarded the contract to Trafigura Beheer who provided the most responsive bid at the time.*”<sup>18</sup>

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<sup>17</sup> Response from Mr. Phillip Paulwell dated 2006 November 20

<sup>18</sup> Records of Interview with Mr. Raymond Wright- 2007 June 19



## **Procurement Related Main Findings**

On 2006 October 9, the Contractor General formally convened an Investigation into the oil lifting contract between the PCJ and Trafigura Beheer. Detailed herein are the particulars of the OCG's Findings:

1. The contracts which were awarded to Trafigura Beheer and Goodworks International LLC., in 2000 and 2001, respectively, were not subjected to the scrutiny of the PCJ's Procurement Committee, since a Procurement Committee was not established at the PCJ until sometime in 2006 May/June<sup>19</sup>.

Having regard to the foregoing, the OCG found that the PCJ was in breach of Section 1.5.2.3 of the GPPH, which stipulates, *inter alia*, that:

*“Each procuring entity shall establish a Procurement Committee consisting of not less than four (4) persons appropriate to the needs of the entity. The Procurement Committee shall be comprised as follows:*

- *Chairman*
- *Senior Financial Management Personnel;*
- *Secretary; and*
- *Procurement Officer (non-voting member).*

*Technical personnel should be co-opted as necessary, pursuant to the nature of the procurement.”*

Section 1.5.2.3 of the GPPH further stipulates that the Procurement Committee is mandated to:

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<sup>19</sup> Meeting of October 30, 2006, held with the PCJ and OCG at the PCJ's Trafalgar offices. See documents prepared on the matter.

- “ensure compliance with relevant policies, guidelines and procedures;
- effect objective evaluation processes with respect to quotations, tenders and
- requests for proposals;
- facilitate response to contractor inquiries;
- maintain proper record of Committee meetings, including records of the procurement; and
- ensure compliance with reporting obligations.

However, in a letter which was dated 2006 October 23, the then Minister with responsibility, Mr. Phillip Paulwell, stated that:

“In the first contract year, October 2000 to September 2001, the services of Trafigura Beheer and Vitol S.A. were engaged to market oil allocations from Nigeria on a profit sharing basis. The Corporation went to tender for lifters in 2001. The limited tender method was utilized as only four oil traders (lifters) were found to do business in Nigeria. Those four lifters were invited to bid. Vitol S.A. was selected as the company making the best offer. The 2001-2002 contract was with Vitol S.A.. Tenders were again invited in 2002. Trafigura was selected as the company making the best offer of a fixed fee (commission) payable to PCJ for each barrel of oil lifted under the NNPC/PCJ Contract...”<sup>20</sup>

According to the former Group Managing Director, Dr. Raymond Wright, the PCJ had an arrangement with Goodworks International LLC. since 2001. This arrangement with Goodworks International LLC. commenced on an official visit to Nigeria in 2000, where in order to revive the contractual arrangements with the NNPC, officials from PCJ met with the president of Goodworks

<sup>20</sup> See page 2 of Paulwell’s letter to the Contractor General dated October 23, 2006. File No. 18.04.29 (i)

International LLC., Mr. Carl Masters, who was in Nigeria at the time on other business.

Dr. Raymond Wright further explained that Mr. Masters assisted the PCJ in arranging high level meetings with Nigerian Officials. The purpose of the meeting was to resuscitate the oil lifting arrangements which existed in the past between the GOJ and Nigeria.

The role of GoodWorks International LLC. was to ensure that the PCJ was able to maximize on its oil lifting arrangements under the agreement.

From the documents which were furnished by the PCJ, to the OCG, there is no indication that finite procurement procedures were applied to the process which led to the award of contracts to GoodWorks International LLC. and Trafigura Beheer.

However, there are minute traces of the Limited and Sole Source/Direct Contracting procurement methodologies in the contracting of Trafigura Beheer and GoodWorks International LLC. by the PCJ.

Section 2.1.33 and 2.1.34 of the GPPH, which was dated 2001 May, states that “Limited Tender must have prior written approval of Accounting Officers for contracts less than \$4M. All contracts for \$4M or greater must receive prior written approval from the NCC through the Accounting Officer; (and) The Sole Source or Direct Contracting method must have prior written approval from Accounting Officers for Contracts less than \$1M. This approval and the justification for its use must form part of the procurement record. All Sole Source or Direct Contracting greater than \$1M must receive prior written approval from the NCC through the Accounting Officer.”

The OCG is cognizant of the fact that the timelines for the initial contract award to Goodworks International LLC. and Trafigura Beheer, coincided with the drafting of the GPPH.

However, it is instructive to note that the previous procurement regimes which preceded the GPPH were as follows:

- Nov. 18, 1963 - **Government Contracts Committee (GCC)**<sup>21</sup>

Ministry of Finance Notification #182/02 to Permanent Secretaries and Heads of Departments, regarding revised Cabinet procedure. Deals, *inter alia*, with the establishment of the Government Contracts Committee (GCC), the employment of Private Architects, the control of Government Contracts and the tender and award process to be utilized in connection with certain Government contracts, inclusive of works projects over 10,000 pounds in value. Signed by G.A. Brown, Financial Secretary.

- Sept. 27, 1985 - **Cabinet Directive Mandating Adherence to GCC Procedures**<sup>22</sup>

Cabinet Decision #32/85 amending Cabinet Decision #31/85, dated September 16, 1985, requiring, in paragraph #8, “*all Public Enterprises and Statutory Bodies ... to follow the procedures laid down for the award of contracts by submitting tenders to the GCC for decision and, thereafter, through portfolio Ministers, to Cabinet for approval*”. Expressed to apply to contract amounts in

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<sup>21</sup> Time Line Notes - Government of Jamaica Procurement Procedures/National Contracts Commission Regime Development. Sandals Whitehouse Hotel Project - UDC/NEWTOWN – Procurement of Consultancy Services and Award of Consultants’ Contracts. Compiled by the Contractor General in September 2006.

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<sup>22</sup> Time Line Notes - Government of Jamaica Procurement Procedures/National Contracts Commission Regime Development. Sandals Whitehouse Hotel Project - UDC/NEWTOWN – Procurement of Consultancy Services and Award of Consultants’ Contracts. Compiled by the Contractor General in September 2006.

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excess of the limits stipulated by Cabinet from time to time, “currently \$150,000, as set out in Cabinet Decision #43/84 dated 26<sup>th</sup> November, 1984”.

Based upon the foregoing, the contracts which were awarded to Goodworks International LLC. and Trafigura Beheer, prior to 2001 May, would have required the approval of the Cabinet and/or the GCC.

It is instructive to note that the OCG has seen particulars of the following contracts which were awarded to Trafigura Beheer:

- a) Contract entered into on 2000 August 3, with an effective date of 2000 August 3;
- b) Contract entered into on 2003 October 1 with an effective date of 2003 October 1;
- c) Contract entered into on 2002 September 30 with an effective date of 2002 October 1; and
- d) A Term Sale of Nigerian Crude Oil which was dated 2004 December 13, for the period of 2005 January through to 2005 December.

In accordance with the information which was received under the cover of a letter which was dated 2006 October 23, from the then Minister, Mr. Phillip Paulwell, *“The contract was renewed each calendar year from 2002 except that there was no renewal at the end of 2005.”*<sup>23</sup>

The OCG found that the last day of renewal was 2004 December 13.

2. By 2006 October, and at the inception of this Investigation, Trafigura Beheer had been lifting oil on behalf of the PCJ without a written contract in place, for approximately ten (10) to twelve (12) months.

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<sup>23</sup> Letter to the OCG from Mr. Phillip Paulwell which was dated 2006 October 23

3. Twenty-nine (29)<sup>24</sup> crude oil uplifts were made during the six (6) contract periods between October 2000 and April 2006. A total volume of 34,354,660 barrels were lifted which earned the PCJ US\$2,443,381.
4. The C.C.O.C Association account, with which Mr. Colin Campbell was associated, had allegedly received J\$31 Million from Trafigura Beheer in 2006. However, to this date, it remains unclear as to the exact circumstances under which this was done or for what reasons this was done. On 2006 October 3, the then Opposition, the JLP, brought to light, banking transactions carried out between the then Senator Colin Campbell, of the ruling Government and the Dutch oil trader, Trafigura Beheer.
5. In 2007 October, a contract was awarded by the PCJ to Glencore Energy UK Limited for a twelve (12) month period. Of note, the award of the referenced contract was subjected to competitive tender.

The arrangement provided for the uplift of 30,000 barrels of crude per day or an annual uplift of 10.95 million barrels. Glencore Energy UK Limited was offering the PCJ US\$0.25 cents per barrel which was approximately 100% higher than that was formerly offered by Trafigura Beheer in the formative years to this new arrangement.

It is instructive to note that during the latest tender process of 2007 September, Glencore Energy UK Limited offered the winning bid of US \$0.25 cents, while Trafigura Beheer had offered US \$0.24 cents<sup>25</sup>.

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<sup>24</sup> See page 7 of 11 Nigerian Oil Trade Documents [www.pcj.com/NigerianOilFinalResponseOct2006.pdf](http://www.pcj.com/NigerianOilFinalResponseOct2006.pdf) - [Similar pages](#)

<sup>25</sup> See NCC letter to the Permanent Secretary of the former Ministry of Industry, Technology, Energy and Commerce dated 2007 July 26 endorsing the Sector Committee's recommendation to award the contract to Glencore Energy UK Limited. See file No. 16.33.5246

6. It is also apparent that PCJ's selection of an oil lifter had to come from a pre-approved list of oil traders supplied by the NNPC. This reflects a list of oil traders profiles for the 2006/2007 period. A review of the 2006/2007 list, which gives a profile of the oil traders, revealed that Trafigura Beheer, Glencore UK Limited and Vitol S.A. Inc., were named as approved traders. The PCJ has conducted business with Vitol S.A. Inc. and Trafigura Beheer post 2007 September and has subsequently awarded an oil lifting contract to Glencore Energy UK Limited.
7. Although the Nigeria/GOJ oil lifting programme was a Government-to-Government arrangement, the oil lifting contract was to be managed on a strict commercial basis, by the appointed contractors and product purchases would be made at prevailing Government of Nigeria rates. The NNPC reserved the right to adjust the volume of uplifts based upon production and PCJ would receive supplies only when crude oil was available. PCJ was therefore expected to lift crude oil as contracted.
8. According to Dr. Raymond Wright, the former Group Managing Director of the PCJ, the GOJ/ Nigeria agreement started in 1979 and in 1982, the PCJ bought the ESSO refinery in Kingston, Jamaica (now known as PETROJAM.)

However, this refinery did not have the capability to process the Nigerian Crude and so, over the next few years, crude oil lifts were shipped to the oil refinery located in Curacao for processing. However, the arrangement with the refinery in Curacao was terminated in 1984.

9. With the termination of the arrangement with the Curacao refinery in 1984, the PCJ had no choice but to contract a company that would trade Nigerian crude on its behalf.

10. Vitol S.A. Inc. was introduced to the PCJ by a third party. Vitol S.A. Inc. established its office in 1983 and continued trading on PCJ's behalf until 1993 when Nigeria had a change of Government and, under the directive of the new President of Nigeria, the contract was cancelled. Under this new administration, a decree was given to cease commercial oil relationships such as that which existed with Jamaica. For the next seven years (1993-2000), this business relationship ceased to exist.
11. In 2000, with the restoration of the relationship between Nigeria and Jamaica, the PCJ re-engaged Vitol S.A. Inc., for its oil lifting arrangements. According to Dr. Raymond Wright, *"On the revival of this arrangement, the PCJ went back to its old oil trader (Vitol), because there was an arrangement that had not been discontinued during the dormant years. Vitol carried out the first lifting at the recommencement of oil lifting by the PCJ in 2000."*<sup>26</sup>
12. After the first oil lift with Vitol S.A. Inc., in 2000, the PCJ began searching for a new oil lifting partner as it had grown displeased with the profit sharing agreement.
13. With the decision taken to change partners, the PCJ then embarked upon finding a replacement for providing oil lifting services. There is some indication that the PCJ invited some of the NNPC accredited companies to provide quotations for the oil lifting services. Upon receiving the quotations and conducting some semblance of what appears to be an analysis, Trafigura Beheer was selected.
14. An important feature of the arrangement with Trafigura Beheer was that the PCJ was allowed access to Trafigura Beheer's 'books'. This allowed the PCJ to ascertain the amount of profit which was made from the Nigerian crude oil sales.

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<sup>26</sup> Interview records with Dr. Raymond Wright dated 2007 July 19. See Item No. 17 of File No. 18.04.29



However, it is instructive to note that Dr. Raymond Wright, in his statement to the OCG, indicated that “... *at the end of the first trading year by Trafigura, the PCJ realized that it was difficult if not cumbersome to ascertain the precise profit made under the Jamaican shipments because Trafigura was not providing this services to the PCJ only but had other similar business arrangements in Nigeria with other trading partners globally and so bulked all their business into one unit. At the end of this period, the PCJ decided to cease the profit sharing arrangements with Trafigura Beheer and instead opted to go with a fixed profit arrangement.*”

#### OCG Monitoring Activities – 2008 through to 2010

The OCG, during its monitoring of the GOJ Oil Lifting contracts, since 2006 to present, is aware of certain material particulars regarding the latest developments in the GOJ/NNPC oil lifting arrangements.

On 2007 October 1, the PCJ entered into a contract with Glencore Energy UK Limited for the “Sub-Sale of Nigerian Crude Oil”. The referenced contract had been awarded after the PCJ undertook a competitive tender process in 2007 March.

Following upon the award and signing of the referenced contract, the OCG, during the course of its monitoring activities, was advised by the then Permanent Secretary, Dr. Jean Dixon, under the cover of a letter which was dated 2009 January 6, that “... *the Corporation has not been granted any liftings from the Nigerian National Petroleum Corporation (NNPC since the signing of the agreement.*”

Subsequently, the OCG, by way of letter which was dated 2010 July 15 wrote to the Permanent Secretary, Mrs. Hillary Alexander requesting an update on the oil lifting arrangements. Reproduced verbatim below is the OCG’s letter to the Permanent Secretary:

*“July 15, 2010*

*Mrs. Hillary Alexander  
Permanent Secretary  
Ministry of Energy and Mining  
PCJ Building  
36 Trafalgar Road*

*Dear Permanent Secretary:*

***Re: Office of the Contractor General (OCG) Investigation and Contract Monitoring Activities -  
Government of Jamaica Oil Lifting Contracts***

*We write with reference to the captioned matter and further to a letter from the Ministry of Energy, which was dated 2009 January 6, a copy of which is enclosed for your ease of reference.*

*We must also advise you that the Office of the Contractor General (OCG) has been monitoring and investigating the circumstances surrounding the award of a contract or contracts, by the Government of Jamaica, to Trafigura Beheer B.V.*

*The referenced OCG Investigation was initiated in October 2006 and has contemplated the monitoring of subsequent Oil Lift Arrangements which have been entered into by the Government of Jamaica pursuant to the agreement(s) with the Nigerian National Petroleum Corporation (NNPC).*

*As at 2009 January 6, the OCG was advised by the then Permanent Secretary, Dr. Jean Dixon, inter alia, that the contract which was signed with Glencore Energy U.K, on October 1, 2007, had a one year duration period and that the Petroleum Corporation of Jamaica (PCJ) had not been granted any ‘liftings’ by the NNPC to uplift oil since the signing of the referenced contract with Glencore Energy U.K.*

*Having regard to the aforementioned, please obtain and advise the OCG of the following particulars:*

- 1. Has the contract with Glencore Energy U.K. been terminated? If yes, please provide the effective date of the termination and the circumstances related to same;*
- 2. Has the PCJ/MEM undertaken a subsequent competitive tendering process for the lifting of Nigerian Crude Oil? If yes, please provide full particulars of same, inclusive of documentary*

*evidence attesting to the competitive tender process which was utilized and the approvals which were granted;*

3. *Has the PCJ lifted any Nigerian Crude Oil between 2009 January 6 and present? If yes, please state the name of the Oil Lifter which was utilized by the PCJ and the basis upon which same came to be selected.*

*We would be grateful if you could provide us with the requested status update of the referenced Oil-Lifting contracts and if same could be provided in a sealed envelope marked 'Confidential' and addressed to the Contractor General. **The envelope must be deposited at the reception desk of the Offices of the Contractor General, PIOJ Building, 16 Oxford Road, Kingston 5, no later than 3:00 PM in the afternoon on Thursday, July 22, 2010.***

*Should you have any questions, please do not hesitate to contact me.*

*Yours sincerely,*

*Craig Beresford (Signed)*

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*Craig Beresford*

*Senior Director, Monitoring Operations,*

*Corporate Communications and Special Projects*

***For and on behalf of the Contractor-General***

*Enclosure*<sup>27</sup>

Under the cover of a letter, which was dated 2010 July 21, Mrs. Hillary Alexander, advised the OCG, *inter alia*, that “...PCJ has advised that there has been no lifting of Nigerian Crude Oil on their behalf for the past four (4) years”<sup>28</sup>, notwithstanding the fact that the services of an oil-lifter had been engaged in 2007.

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<sup>27</sup> See Appendix # 30 – Appendices Page # 49

<sup>28</sup> Letter from Mrs. Hillary Alexander which was dated 2010 July 21- Appendix # 31 – Appendices Page # 52

The referenced letter from Mrs. Alexander also advised the OCG that, (a) the contract with Glencore Energy UK Limited expired after twelve (12) months and was automatically terminated on 2008 October 1 and, (b) that there has been no subsequent bidding process since 2007.

## **OCG's Attempts to Obtain Information from Mr. Colin Campbell**

It is to be noted that reports, which were made in the media in 2006 October, identified Mr. Colin Campbell as having a direct association with the Bank Account to which the money from Trafigura Beheer was lodged.

In this regard, local media reports indicated, *inter alia*, as follows:

1. *"...In a hastily-called press conference inside the Opposition's quarters at Gordon House, Mr. Golding released findings of transactions, which he said were made to an account in Jamaica known as CCOC Association, with Minister of Information Colin Campbell as one of the signatories on the account.*

*Mr. Golding said that two cheques totalling \$30 million were issued payable to SW Services with both having the signatures of Mr. Campbell, in addition to the signatures of Phillip Paulwell, the Minister of Industry, Commerce and Technology, Prakash Vaswani and Delano Barnett.*

*A third cheque for \$465,000 drawn on the account of CCOC Association, was, according to Mr. Golding, made payable to Mr. Campbell."*<sup>29</sup>

2. *"The Trafigura Beheer saga took a new twist yesterday when a startling revelation surfaced about the donation from the Dutch-based firm to the People's National Party[sic] (PNP).*

*Responding to a query from Hot 102 CVM News, the company's United Kingdom office said, through both fax and email, that as part of the*

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<sup>29</sup> Jamaica Gleaner, 2006 October 4, Article entitle "Partying on state funds"

*development of its business in Jamaica, it has a “commercial agreement with CCOC Associates and payments were made under that agreement.”*

*However, the nature of the agreement was not stated.*

*This is in stark contrast to consistent statements by chairman of the PNP, Robert Pickersgill, and the party’s general secretary, Colin Campbell, who have stated categorically that the \$31 million received from Trafigura was a donation to the party.”<sup>30</sup>*

3. ***“The People's National Party (PNP) yesterday admitted receiving the donation of \$31 million from Dutch oil trader Trafigura Baheer [sic], but insisted that the transaction was proper and above board.***

*"The party's fund-raising team has been raising money for the upcoming general election, and has been receiving donations from both local and international private sectors and individuals," chairman Robert Pickersgill told a press briefing at the party's headquarters, on Old Hope Road, Kingston. "We are confident that all our contributions are proper and above board."*

*Pickersgill said that none of the funds were due to the state, that the payment was not a "kickback" for favours and that there was nothing "unethical" about the transaction.”<sup>31</sup>*

Given the numerous media reports, and the seeming central role of Mr. Colin Campbell in respect of the alleged receipt and administration of the money, which was received from Trafigura Beheer, the OCG deemed it prudent to requisition Mr. Colin Campbell in order to obtain clarification on certain allegations.

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<sup>30</sup> Jamaica Gleaner article entitled “Trafigura’s UK office counters PNP claim” published 2006 October 7

<sup>31</sup> Jamaica Observer article entitled “Nothing Shady” published 2006 October 5

In this regard, on 2006 October 26, the OCG issued a written requisition to Mr. Colin Campbell.

A verbatim extract of the referenced requisition is detailed below:

*“October 26, 2006*

*Senator Colin Campbell  
C/o Mr. K.D. Knight, Esq.  
Knight, Junor & Samuels  
Attorneys-At-Law  
4 Duke Street  
Kingston*

*Dear Senator Campbell:*

*Re: Monitoring and Investigation of Contract Award/Awards by the Government of Jamaica (GOJ) to  
Trafigura Beheer*

*The Office of the Contractor General (OCG) has recently commenced an investigation into the circumstances surrounding the award of a contract or contracts by the Government of Jamaica to Trafigura Beheer B.V.*

*Among other things, the Office of the Contractor General is mandated by the Contractor General Act to monitor the award and implementation of Government contracts with a view towards ensuring that such contracts are awarded impartially and on merit and that the circumstances in which they are awarded do not involve any impropriety or irregularity.*

*Trafigura Beheer, as you might be aware, has been contracted by the Government of Jamaica (GOJ) for the past several years to lift and to sell Nigerian oil on its behalf. It is our understanding that the GOJ is presently engaged in the process of renewing its Nigerian oil trading contractual arrangements or, in the alternative, to put same to competitive tendering.*

*Local newspaper reports have suggested that Trafigura Beheer has recently transmitted amounts totaling 466,000 euros (or the equivalent in value of approx. JA\$31 million) to a local Jamaica banking account which bore the name **CCOC Association**. It has also been alleged that you are/were one of the holders of and/or signatories to the subject account.*

*It has been further alleged that, following after the deposits of the subject Trafigura payments into the CCOC Association account, two (2) checks, totaling JA\$30 million, were drawn upon the CCOC Association account by you in favour of another local account which bears the name of **SW Services**. SW Services has been alleged to be operated by the Peoples National Party (PNP) as a party campaign funds account.*

*Senior officials of the PNP, including yourself, have reportedly asserted publicly that the subject Trafigura payments were in the nature of party donations. However, it was subsequently reported that on or about October 6, Trafigura issued a statement denying that the payments were indeed party donations. Instead, it has been alleged that Trafigura has asserted that it, Trafigura, has “a commercial agreement with CCOC Associates and (that the subject) payments were made under that agreement”.*

*In your recent letter of resignation from your offices of Minister of Information and Development of the Government of Jamaica and General Secretary of the PNP, you were reported to have stated, inter alia, as follows:*

*“As General Secretary, I met with a group of executives from Trafigura Baheer in August, further to their offer to assist the Party as it prepares for a general election. The offer was for a contribution and I made the arrangements for the funds to be paid into the campaign account, in accordance with their wish for confidentiality. As you know, this is not unusual”.*

*In light of all of the foregoing, the OCG is of the view that you may be able to assist it in the captioned investigation and/or in its monitoring of the GOJ’s award of any future contract(s) for the lifting and/or sale of Nigerian oil.*

*In the premises, and further to the responsibilities, rights and powers which are vested in me by the Contractor General Act and particularly by Sections 4, 15, 16, 17 and 18 of the Act, you are now therefore required to furnish the following information and/or to provide definitive answers to the following questions:*



1. *Please provide full particulars of all communications and/or meetings which you have had with any Trafigura employee, officer and/or executive since January 1, 2006. Include dates and places of all such communications/meetings; names and titles of all persons/participants who were involved in same, inclusive of any GOJ official or public officer; the substance of all discussions which took place; and the material particulars of any understandings and agreements which may have been reached.*
2. *Please state if any of the foregoing communications, meetings and/or discussions touched upon or were in any way directly or indirectly related with Trafigura's past, present or prospective Nigerian oil trading contractual arrangements with the GOJ?*
3. *If yes, please provide full particulars of any such relationship;*
4. *Please state if there are/were any agreements of which you are aware, between Trafigura, on the one hand, and the GOJ or any GOJ public body, public officer, other person and/or entity on the other, which are/were collateral to the GOJ's and Trafigura's past, present or prospective Nigerian oil trading contractual arrangements or which are/were directly or indirectly linked to, or conditioned upon, the consummation, execution and/or performance of any such contractual arrangements.*
5. *If yes, please provide full particulars of all such agreements. Please include all material terms; the names of the parties to the agreements; full particulars of how, when, where, by whom and with whom the said agreements were negotiated; full particulars of any payments which were made or which are to be made thereunder; full particulars of the payor(s) and the payee(s) of the said payments; and full particulars of the disposition of any and all payments which to date have been made under any such agreement(s).*
6. *Please state if the subject Trafigura payments of 466,000 euros or any part thereof were in any way linked to or conditioned directly or indirectly upon Trafigura's past, present or prospective Nigerian oil trading contractual arrangements with the GOJ?*
7. *If yes, please explain and provide all material particulars.*
8. *Please explain how the subject Trafigura payments of 466,000 euros or any part thereof came to be made. Please include particulars of the reason(s) for and/or the purpose(s) of the payments; the full particulars of all discussions and arrangements which gave rise to the payments; the*

*names and titles of all persons or entities who participated in said discussions/arrangements; the dates upon which the discussions took place and upon which the subject arrangements were made; and the places where the referenced discussions took place and where the said arrangements were made.*

- 9. Please provide complete particulars of how the subject Trafigura payments of 466,000 euros were made. Please include full particulars of the name(s), address(es) and other contact particulars of the payor(s); the method, date, currency and amount of each payment; and the particulars of the recipient banking account, inclusive of the names and titles of its owners, holders and/or signatories.*
- 10. Please state if there are/were any GOJ public officials or officers, to your knowledge, who are/were aware of the receipt of the Trafigura payments into the CCOC account? If yes, please state who they are?*
- 11. How and for what purpose or reason were the Trafigura payments disposed of after they were credited to the CCOC Associates account? Please provide full particulars of the disposition of the entire sum, inclusive of the dates, the amounts and the payee(s) or recipient(s) of any sum which to date has been withdrawn from the account.*
- 12. Please state if there are/were any GOJ public officials or officers, to your knowledge, who are/were aware of the subject withdrawals or payments' disposition? If yes, please state who they are?*

*Where possible, your answers should be corroborated or substantiated by documentary or other evidence. Authentic copies of all evidentiary documentation must be provided. This should include copies of any relevant contract, agreement or invoice which is in your possession or to which you may have access.*

*The foregoing requisitions and the provision of all evidentiary documentation must be fully satisfied by you by 12:00 Noon on Thursday, November 9, 2006. I should also wish to direct your attention to the provisions of Section 29 (a) and (b) of the Contractor General Act.*

*Having regard to the gravity of this matter and the significant public interest which has attended same, I am copying my letter to the President of the Senate, the Speaker of the House, the Most Honourable Prime Minister and the Leader of the Opposition.*

*In the exercise of my discretionary powers under Section 28 (2) of the Contractor General Act, I should also like to advise that I will be submitting, in due course, a report or reports on this matter to the Parliament of Jamaica.*

*This letter is being sent to you to the two (2) addresses which you provided to me during our telephone discussions of the 24<sup>th</sup> instant, viz. in the care of your attorney, Mr. K.D. Knight of Knight, Junor and Samuels, Attorneys-at-Law, and to P.O. Box 577, Kingston 6.*

*Very respectfully yours,*

*Greg Christie (Signed)*

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*Greg Christie  
Contractor General*

*Copy: Senator The Honourable Syringa Marshall-Burnett, CD, President of the Senate  
The Honourable Michael Peart, M.P., Speaker of the House of Representatives  
The Most Honourable Portia Simpson-Miller, M.P., ON, Prime Minister of Jamaica  
Mr. Bruce Golding, M.P., Leader of the Opposition”*

It is important to note that Section 29 of the Contractor General Act, which was referenced in the OCG’s preliminary requisition to Mr. Colin Campbell, provides, *inter alia*, that:

*“Every person who –*

*...(b) without lawful justification or excuse -*

*(i) obstructs, hinders or resists a Contractor-General or any other person in the execution of his functions under this Act; or*

*(ii) fails to comply with any lawful requirement of a Contractor-General or any other person under this Act;...*

*...shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.”*

By way of a letter, which was dated 2006 October 30, Mr. Colin Campbell responded to the OCG’s requisition. Detailed below is a verbatim extract of Mr. Campbell’s response to the OCG’s requisition:

*“2006 October 30,*

*Mr. Greg Christie  
Office of the Contractor General  
17 Knutsford Boulevard  
KINGSTON 5*

***RE: MONITORING AND INVESTIGATION OF CONTRACT AWARD/AWARDS BY THE GOVERNMENT [sic] OF JAMAICA (GOJ) TO TRAFIGURA BEHEER***

*I received your letter of October 26, 2006.*

*In that letter you stated that “among other things, the Office of the Contractor General is mandated by the Contractor General Act to monitor the award and implementation of Government contracts with a view towards ensuring that such contracts are awarded impartially and on merit and that the circumstances in which they are awarded do not involve any impropriety or irregularity”.*

*Section 4(1) of the Contractor General Act sets out the function of the Contractor General “(a) to monitor the award and the implementation of government contracts”. In your letter under reference several questions have been posed to me which relate to the relationship between Trafigura Beheer and C.C.O.C Association and the People’s National Party (PNP). That relationship has nothing to do with government contracts.*

*You have noted that “senior officials of the People’s National Party, including yourself, have reportedly asserted publicly that the subject Trafigura payments were in the nature of party donations”. Further you state that “it has been alleged that Trafigura has asserted that it, Trafigura, has a “commercial agreement with C.C.O.C Association and (that the subject) payments were made under the agreement.” Your letter*

*also quotes from my letter of resignation which made it quite clear that my meeting with Trafigura was “As General Secretary”.*

*It is necessary to state that C.C.O.C Association, S.W. Services and the People’s National Party are not public bodies as defined in Section 2 of the Contractor General Act.*

*In the circumstances any relationship between Trafigura and any of the above entities would be outside the provisions of Section 4 of the Contractor General Act. You also need to know that the contractual relationship between Trafigura Beheer and the Government of Jamaica Petroleum/Corporation of Jamaica was not developed under my ministerial portfolio responsibilities neither was any future contractual relationship subject to my ministerial duties. I possess neither any particular skill nor information which could assist you in the “monitoring of GOJ’s award of any future contract(s) for the lifting and/or sale of Nigerian Oil”.*

*I will now deal with each question.*

- 1. I had no contact with any Trafigura personnel other than in my capacity as General Secretary of the PNP and so I have no documents understandings or agreements in relation to their dealing with the Government of Jamaica or any of its agencies.*
- 2. No*
- 3. See answer to question 2*
- 4. I am not aware of any*
- 5. See answer to question 4*
- 6. The Trafigura contribution was not linked to the Nigerian Oil trading agreement. It was a straight political contribution*
- 7. See answer to question 6*
- 8. The contribution had nothing to do with any public body*
- 9. No payment was made to any public body*

*10. This matter is now public knowledge hence divers public officials and officers would be so aware*

*11. C.C.O.C Association is not a public body neither is S. W. Services (Team Jamaica).*

*12. See answer to question 10.*

*I hope the answers are helpful.*

*Yours sincerely,*

*(Signed)*

*Colin Campbell”*

Given the positions which were contained in Mr. Campbell’s response to the OCG, and the lack of depth which was contained in the responses thereto, the OCG again wrote to Mr. Campbell on 2006 November 16, advising him of the OCG’s jurisdiction and authority under the Contractor General Act and the further requirement for him to fully satisfy the OCG’s requisition.

Detailed hereunder is a verbatim extract of the OCG’s letter of 2006 November 16:

*“November 16, 2006*

*Senator Colin Campbell*

*54 Haughton Avenue*

*Kingston 6*

*Dear Senator Campbell:*

*Re: Monitoring and Investigation of Contract Award/Awards by the GOJ to Trafigura Beheer*

*We are in receipt of your letter, dated October 30, 2006 which was written in response to a Formal Requisition of the Office of the Contractor General (OCG), dated October 26, 2006. Your letter was hand-delivered to the OCG on November 9.*

*You have stated in your letter that “C.C.O.C Association, S.W. Services and the Peoples National Party are not Public Bodies as defined in Section 2 of the Contractor General Act (and that) in the circumstances any relationship between Trafigura and any of the above entities would be outside the provisions of Section 4 of the Contractor General Act”.*

*The powers of the Contractor General to require the production of information or documents in the pursuit of an Investigation under the Act are not limited to requisitions which are directed to Public Bodies.*

*The powers of the Contractor General extend, inter alia, to Requisitions which can be made of “any officer or member of a public body or any other person who, in (the Contractor General’s) opinion, is able to give any assistance in relation to the investigation of any matter pursuant to this Act”. (Please see in particular Section 18.1 as well as Section 18 of the Act in its entirety).*

*You may further recall that I had indicated the following in the 3<sup>rd</sup> paragraph of my letter to you:*

*“Trafigura Beheer, as you might be aware, has been contracted by the Government of Jamaica (GOJ) for the past several years to lift and to sell Nigerian oil on its behalf. It is our understanding that the GOJ is presently engaged in the process of renewing its Nigerian oil trading contractual arrangements or, in the alternative, to put same to competitive tendering”.*

*It is partly against this background that the OCG is empowered to enquire whether the payment which was made to C.C.O.C Associates, by Trafigura Beheer, at a time when you were a Minister of Government and the alleged holder or signatory of the account into which the payment was made, was or is in any way connected to the award of any Government contract to Trafigura, whether past, present or prospective.*

*Equally, it is also partly against the same background that the OCG is also empowered to investigate whether the “commercial agreement” which the said payment is alleged to be associated with is indeed a “Government contract” within the meaning of the Contractor General Act or is otherwise associated with any other Government contract award, whether past, present or prospective. In this regard, the OCG is not unmindful of the fact that reports have been made in the media that the alleged “commercial agreement” has to do with the retention of Trafigura Beheer to conduct a study of the island’s bauxite and alumina production facilities, on behalf of the Government, this at a time when you were the Government’s portfolio Minister for Mining.*

*Finally, I would again like to point out that the Contractor General is empowered by Section 4 of the Act to monitor the award of all Government Contracts to ensure, inter alia, that the circumstances of their award “do not involve impropriety or irregularity”. Accordingly, an Investigation which is initiated under Section 15 of the Act can indeed be conducted to determine whether any such circumstance was or appears to be present in the award of any Government contract.*

*In the premises, we are therefore again requesting that you provide definitive and written answers to all of the questions which are contained in the OCG’s Requisition to you of October 26, 2006. Your answers will be helpful to us in moving this contract award Investigation and Monitoring exercise forward.*

***You are required to fully satisfy this Further and Lawful Requisition and to produce same, together with any relevant or evidentiary documentation, at the Offices of the OCG, before 12.00 Noon on Thursday, November 23, 2006.***

*We must also again remind you of the provisions and import of Section 29 (b) and (c) of the Contractor General Act. For your ease of reference, I am enclosing herewith a copy of the Contractor General Act.*

*Very respectfully yours,*

*Greg Christie (Signed)*

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*Greg Christie  
Contractor General*

*Enclosure”*

By way of a letter, which was dated 2006 November 22, the Attorneys-at-Law representing Mr. Colin Campbell, Knight, Junor & Samuels, wrote to the OCG regarding the date for the submission of a response from Mr. Campbell. The referenced correspondence from the law firm Knight, Junor & Samuels, which was received by the OCG on 2006 November 22, via facsimile, indicated as follows:



*“22<sup>nd</sup> November, 2006*

*Office of the Contractor-General  
17 Knutsford Blvd.  
P.O. Box 540  
Kingston 5*

*Dear Mr. Christie,*

***Re: Trafigura Beheer Investigations — Matter of Senator Colin Campbell***

*Senator Colin Campbell has instructed us to inform you that regrettably he cannot meet your deadline to respond to your request re the above matter and contained in your letter to him of November 16, 2006.*

*He is off the island.*

*In the circumstances the response will be provided on Friday December 1, 2006.*

*Yours sincerely,  
KNIGHT, JUNOR & SAMUELS*

*PER:(Signed)*

\_\_\_\_\_  
*K. D. KNIGHT”*

It is instructive to note that the foregoing letter from the Attorneys-at-Law representing Mr. Colin Campbell did not amount to a request for an extension of time to respond to a lawful requisition of the OCG. Consequently, the OCG responded to the referenced letter on 2006 November 24. The OCG, in its letter, found it necessary to again caution Mr. Colin Campbell regarding a violation of Section 29 of the Contractor General Act.

The referenced OCG letter is reproduced, verbatim, hereunder:

*“2006 November 24*

*Knight, Junor & Samuels  
Attorneys-At-Law  
3<sup>rd</sup> Floor, 4 Duke Street  
Kingston*

*Gentlemen:*

**Attention: Mr. K.D. Knight, OC, MP**

**Re: Trafigura Beeher [sic] Investigation — In the Matter of Senator Colin Campbell**

*We have received your letter dated 2006 November 22 relating to the captioned matter.*

*Your letter which was received today (and via facsimile on November 22) stated that Senator Colin Campbell “cannot meet your deadline” and has indicated that a response will be provided by Friday 2006 December 1.*

*It is unfortunate that a formal request for an extension was not received prior to the deadline, which as you would have known was noon on 2006 November 23. This, in our view, constitutes the prima facie commission of a criminal offence under Section 29 of the Contractor General Act.*

*Notwithstanding, the Office of the Contractor General will extend the deadline to **Noon on 2006 December 1.***

*Should Senator Campbell for any reason fail to comply with our Requisition by the indicated date and time, we will be left with no alternative but to refer the matter to the Director of Public Prosecutions.*

*Yours sincerely,*

*Percival Griffiths (Signed)*

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*Percival Griffiths*

*Director of Licences & Permits*

***for and on behalf of the Contractor-General***

*Copy: Senator Colin Campbell  
Mr. Greg Christie, Contractor-General*

In response to the foregoing letter and, in particular, to the OCG's warning regarding Mr. Colin Campbell's failure to meet the OCG's stipulated deadline, the Attorneys-at-Law representing Mr. Campbell responded to the OCG on 2006 November 29 as follows:

*"29<sup>th</sup> November, 2006*

*Mr. Greg Christie  
Office of the Contractor-General  
17 Knutsford Blvd.  
P.O. Box 540  
Kingston 5*

*Dear Sir:*

*Re: Trafigura Beeher Investigation — In the Matter of Senator Campbell - Ref #17-1-1*

*Thanks for your extremely informative letter of November 26, 2006 re the above matter.*

*I suggest that the words in section 29 of the Contractor General Act "without lawful justification or excuse" mean something as also did the word "regrettably" in my letter.*

*I feel obliged to say that however powerful one may be correspondence need not be threatening or offensive.*

*Power is temporary and should never be flaunted.*

*Yours sincerely,*

*KNIGHT, JUNOR & SAMUELS*

*PER. (Signed)*

\_\_\_\_\_  
*KD. Knight V*

*/cc-g*

*c.c. Senator Colin Campbell*

*Mr. Percival Griffiths”*

It is instructive to note that following upon the initial letter which indicated the date on which Mr. Campbell would provide his response to the OCG, and the further exchange of several other pieces of correspondence related thereto, Mr. Colin Campbell responded to the OCG, in writing, on 2006 November 30.

Reproduced hereunder is a verbatim extract of Mr. Colin Campbell’s final response to the OCG, on the referenced matter:

*“2006 November 30*

*Mr. Greg Christie*

*Office of the Contractor General*

*17 Knutsford Boulevard*

*P.O. Box 540*

***KINGSTON 5***

*Dear Sir:*

***RE: MONITORING AND INVESTIGATION OF CONTRACT AWARD/AWARDS BY THE  
GOVERNMENT OF JAMAICA (GOJ) TO TRAFIGURA BEHEER***

*Thanks for yours of November 16, 2006 re the above matter.*

*I wish to make it pellucidly clear that C.C.O.C Association and the People's National Party have not been involved in any contract award by the Government of Jamaica to Trafigura Beheer. Indeed, neither has the capacity to act on behalf of the Government of Jamaica. Again if any payment is to be made or has been made by Trafigura Beheer to the Government of Jamaica neither the People's National Party nor C.C.O.C Association can receive nor has received any such.*

*Regrettably, I can give no assistance in relation to the above mentioned contract award. As you know the referred to "commercial agreement" between two private sector entities cannot become a "Government Contract". Further, I know of no report in the media which alleged that Trafigura Beheer was retained "to conduct a study of the island's bauxite and alumina production facilities on behalf of the Government". I would be pleased if you let me have sight of any such report.*

**In all the circumstances the answers already given remain unaltered.** (OCG Emphasis).

*Yours sincerely,*

*(Signed)*

*Senator Colin Campbell*<sup>32</sup>

Based upon the foregoing, and Mr. Colin Campbell's stated positions, it was evident that Mr. Campbell had not developed a full appreciation of the Contractor General Act and the powers which are explicitly stated therein, and in particular, Section 18 (1) of the referenced Act.

Consequently, the OCG has found Mr. Colin Campbell's responses to be severely lacking in respect of the information which was sought, and requested of him, by the OCG. In point of fact, the responses from Mr. Campbell did not lend themselves to further interrogatories.

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<sup>32</sup> Letter from Mr. Colin Campbell to the OCG which was dated 2006 November 30

The OCG is of the belief that the positions which were posited by Mr. Colin Campbell in his letters of 2006 October 30 and 2006 November 30 do not amount to a “*lawful justification or excuse*” to not fully comply with the OCG’s lawful requisition.

Against the aforementioned, it is both necessary and prudent to highlight Section 29 of the Contractor General Act which provides that:

*“Every person who –*

*(a) wilfully makes any false statement to mislead or misleads or attempts to mislead a Contractor-General or any other person in the execution of his functions under this Act; or*

*(b) without lawful justification or excuse –*

*(i) obstructs, hinders or resists a Contractor-General or any other person in the execution of his functions under this Act; or*

*(ii) fails to comply with any lawful requirement of a Contractor-General or any other person under this Act; or (OCG Emphasis)*

*(c) deals with documents, information or things mentioned in section 24 (1) in a manner inconsistent with his duty under that subsection,*

*shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.”*

## **OCG's Interactions with the Dutch Authorities**

During the conduct of its Investigations, the OCG had what it considers to be three (3) distinct classifications of encounters with the Dutch Authorities between the period of 2006 October and 2008 January. The three (3) categories are as follows:

- (a) Direct written correspondence between the OCG and the Dutch Authorities;
- (b) Representations, which were made to the OCG, by a Mr. Harold Brady, a private Attorney-at-Law, on 2007 November 16, regarding a proposed meeting between himself, the OCG and the Dutch Authorities; and
- (c) Contact which was made with the OCG, by the Jamaica Constabulary Force (JCF) on 2008 January 9, regarding investigations which were being executed by the Dutch Authorities.

Following upon the OCG's decision to commence its Investigation on 2006 October 9, and the subsequent Media Release which was issued on 2006 October 10, the OCG was directly contacted by the Netherlands Police Agency (KLPD) on 2006 October 11, regarding "...any misconduct (bribery/corruption) of *TRAFIGURA BEHEER B.V.*..." which might have been associated with the company's alleged transaction with the PNP.

The OCG, upon its receipt of the written correspondence from the KLPD, was of the opinion that it would have access to information which would shed light on the link, if any, between the payments which were allegedly made by Trafigura Beheer to the PNP, and the award and/or potential award of a GOJ contract.

Detailed overleaf is a table detailing the OCG's direct interactions with the Dutch Authorities and the results thereof:

<u>Item #</u>	<u>Date</u>	<u>Occurrence</u>	<u>Appendix Page #</u>
1	2006 October 11	The Contractor General received a telephone call from a representative of the Police Attache for the Netherlands Embassy in Washington D.C., at approximately 9:40 am. The Contractor General verbally requests that the representative of the Police Attache email his credentials and particulars regarding, <i>inter alia</i> , the extent to which the OCG and the Dutch Authorities could cooperate or assist each other.	1
2	2006 October 11	The Netherlands Police Agency (KLPD) sent an email to the Contractor General at approximately 3:41 pm, attaching a letter. In the referenced letter, the KLPD indicated that it was investigating Trafigura Beheer in regard to the illegal dumping of toxic waste and have also learnt of the company's alleged involvement " <i>in a scandal</i> " involving the PNP and Trafigura Beheer. The letter from the KLPD closed by stating " <i>In case you have any information on this case that you might be willing to share with the Dutch authorities or in case you might request our assistance you can contact me at any time.</i> "	3
3	2006 October 12	The Contractor General responded to the KLPD thanking it for the offer of assistance and advised that once the OCG completed its Investigation, a Report would be submitted to the Parliament of Jamaica. Further, only when the Report was tabled would the OCG be in a position to publish the Report or to share information with third parties.	5
4	2006 October 26	The Contractor General again wrote to the KLPD and indicated, <i>inter alia</i> , that the OCG's Investigation is in the fact finding stages. In this regard, the OCG made very specific requests for information from the KLPD regarding the alleged visit of representatives of Trafigura Beheer to Jamaica as well as the alleged payments which were made by Trafigura Beheer to C.C.O.C. Association. (The full text follows hereunder.)	7





7

Any reply or subsequent reference to this communication should be addressed to the Contractor-General and the following reference quoted:-

**OFFICE OF THE CONTRACTOR-GENERAL**  
**17 KNUTSFORD BOULEVARD**  
**P.O. Box 540**  
**KINGSTON 5**  
Jamaica, W.I.

No. :

TELEPHONE No. : 876-929-8560/6466  
FAX No. : 876-929-7335  
E-Mail: gchristie@ocg.gov.jm

HIGHLY CONFIDENTIAL

October 26, 2006

Mr. Herman Heijerman  
Attaché  
Netherlands Police Agency (KLPD)  
Royal Netherlands Embassy  
4200 Linnean Avenue, N.W.  
Washington, D.C. 20008 USA

Dear Mr. Heijerman:

Re: Contract Award by the Government of Jamaica (GOJ) to Trafigura Baheer

I am writing to you further to your letter of the 11<sup>th</sup> instant and to my response thereto of the 12<sup>th</sup> instant.

As I had previously advised, the Office of the Contractor General (OCG) of Jamaica, which is an independent Parliamentary Commission, has recently commenced an investigation into the circumstances surrounding the award of a contract or contracts by the Government of Jamaica to Trafigura Beheer B.V.

Among other things, the Office of the Contractor General is mandated by Jamaican Law to monitor the award and implementation of Government contracts with a view to ensuring that such contracts are awarded impartially and on merit and that the circumstances in which they are awarded do not involve impropriety or irregularity.

Trafigura Beheer, as you are aware, has been contracted by the Government of Jamaica for the past several years to lift and to sell Nigerian oil on its behalf.

The OCG is currently at the preliminary fact finding stage of its investigations. While we intend to question certain Jamaican Government and public officials on this matter, we would nevertheless be grateful if you could assist us, if you could, in shedding light on any of the following issues, for corroborative and/or other purposes.

Alleged Visit of Trafigura Executives to Jamaica

There are reports that a number of Trafigura executives, inclusive of a Mr. Claude Dauphine, visited Jamaica on or around August 23, 2006. Mr. Dauphine, we understand, is currently being detained in the Ivory Coast on charges which are related to the alleged dumping, by Trafigura, of toxic chemicals in Abidjan.

According to the reports, Mr. Dauphine is a French national who traveled to Jamaica on a passport bearing #04RE8541 and who departed Kingston, Jamaica, on August 24, 2006, on an American Airlines flight numbered 2263.



8

(2)

It is our belief that the Trafigura executives, during their visit to Jamaica, met with certain Jamaican Government and other public officials. It has also been reported that the Prime Minister of Jamaica was paid a courtesy call by two Trafigura executives during the month of August.

We would like to confirm the following:

- (1) The names of the Trafigura executives who visited Jamaica and the dates when they visited Jamaica;
- (2) The names of the Government of Jamaica or other public officials who they met with while in Jamaica;
- (3) The dates that they met with these officials;
- (4) The purpose of their meetings with the referenced officials;
- (5) The particulars of any agreements or understandings, if any, which were arrived at during these meetings;
- (6) Whether any Trafigura executive had a meeting or meeting with any Government of Jamaica or other public official at any other time during the course of the current year and, if so, what were the names of the meeting participants, what was discussed or agreed, and where and when the meeting or meetings were held.

#### Alleged Payments Made by Trafigura to CCOC Association

We have seen evidence which would suggest that three (3) payments totaling 466,000 euros (or the equivalent of more than JA\$31 million) were transmitted by Trafigura Beheer B. V. Amsterdam to a local Jamaica banking account bearing the name CCOC Association, C/o Portmore Gas, Bridgeport P.O., St. Catherine, Jamaica. The bank account is numbered 0032105217 and is held with the First Caribbean International Bank (Jamaica) Limited.

The three payments, in the sums of JA\$10,684,316.05, JA\$10,161,516.72, and JA\$10,410,911.62, were credited to the referenced First Caribbean account on September 6, September 12 and September 12, respectively.

At the time of the payments, one of the signatories to the CCOC account was Senator Colin Campbell. Senator Campbell was, up until October 9, 2006, the Minister of Information & Development in the Government of Jamaica and the General Secretary of the ruling Peoples National Party (PNP). Mr. Campbell tendered his resignation from these offices, effective October 9, a few days following after the Jamaica Opposition Leader's disclosure of the particulars surrounding the Trafigura payments.

Shortly after the Trafigura monies were received into the CCOC account, two checks, in the sums of JA\$10,000,000 and JA\$20,000,000 each, were issued on September 7 and 12, respectively, to an account bearing the name of SW Services. SW Services has been alleged to be operated by the PNP as a party campaign funds account.

Senior officials of the PNP have since publicly asserted that the Trafigura payments were in the nature of party donations. However, it was reported here in Jamaica that on or about October 6, Trafigura issued a statement out of its UK Office denying that the payments were indeed party donations. Instead, it was alleged that Trafigura stated, *inter alia*, that it has "a commercial agreement with CCOC Associates and (that the) payments were made under that agreement". It is our understanding that attempts to have Trafigura clarify this alleged statement has so far met with little success.



9

(3)

In his letter of resignation, dated October 8, 2006 and addressed to the Prime Minister of Jamaica, Senator Campbell admitted that he had met with executives of Trafigura in August to assist the (PNP) party as it prepares for the upcoming general elections. Senator Campbell was reported to have said that "the offer was for a contribution and I made arrangements for the funds to be paid into the campaign account, in accordance with their (Trafigura's) wish for confidentiality. As you know, this is not unusual".

It is our understanding that Dutch Law prohibits the making of political donations to foreign public officials and Governments by Dutch incorporated companies.

You might wish to note that a statement from the PNP, issued on October 8, 2006, announced that the party had taken a decision to return the JA\$31 million "donation" to Trafigura.

In light of the forgoing, we would be grateful if you could assist us to confirm whether the Trafigura payments were made as a political donation or, as Trafigura has allegedly asserted, whether they were made pursuant to a "commercial agreement". If indeed a commercial agreement was settled, we would be grateful if you could assist us to ascertain what are/were its terms and/or provide us with some evidence of same.

Either way, we would like to understand the bases and understandings upon which the payments were made and who were the Jamaican Government, public or other officials who were party to same.

We would also like to know if any of these payments are or were in any way linked, directly or indirectly, to Trafigura's past, present or prospective oil trading arrangements with the Government of Jamaica.

We are grateful to you for your offer of assistance and do trust that you will be able to positively contribute to our on-going investigations.

Very respectfully yours,

Greg Christie (Signed)

Greg Christie  
Contractor General

<u>Item #</u>	<u>Date</u>	<u>Occurrence</u>	<u>Appendix Page #</u>
5	2006 October 26	The Contractor General received a telephone call and an email from the KLPD acknowledging receipt of the OCG's email correspondence and voice mail of the same date. The OCG is also advised that the Dutch Authorities would begin working on the provision of any assistance which might be given to the OCG.	10
6	2006 December 5	The Contractor General sent a follow up email to the KLPD to ascertain if there had been any positive developments in terms of the assistance which was requested by the OCG.	12
7	2006 December 6	The KLPD responded to the Contractor General and advised that information was received from "... Mr. Bruce Golding about the contract award by the Jamaican Govt. to Trafigura." The OCG was further advised, <i>inter alia</i> , that "...an investigation into this matter will be set in motion in the Netherlands under the aegis of the National Prosecution Office."	11
8	2006 December 6	The Contractor General acknowledged receipt of the email from the KLPD and advised that the OCG's Investigation was being executed pursuant to the Contractor General Act and was entirely independent of what was being pursued by Mr. Bruce Golding, the then Leader of the then Opposition Party.	11
9	2007 January 10	The Contractor General was contacted by the Dutch Authorities who indicated that <i>"The Dutch authorities will start a criminal investigation concerning the payment of the Dutch company Trafigura."</i>	16
10	2007 January 10	The Contractor General acknowledged receipt of the Dutch Authorities email and indicated that the OCG was looking forward to any information that the Dutch Authorities may provide.	15

<b><u>Item #</u></b>	<b><u>Date</u></b>	<b><u>Occurrence</u></b>	<b><u>Appendix Page #</u></b>
11	2007 January 11	The Dutch Authorities again emailed the Contractor General and advised of the representative in the Netherlands who was responsible for the criminal investigation into the matter.	15
12	2007 February 5	<p>The Public Prosecutors in the Netherlands contacted the Contractor General, via email, and advised that they were yet to obtain answers to the queries which were raised by the OCG in its letter to the KLPD which was dated 2006 October 26.</p> <p>The Dutch Authorities indicated that it was crucial for them to have the OCG's information on individuals or organizations which had knowledge of contact between Trafigura Beheer and holders of political office and individuals in government organizations in Jamaica.</p> <p>Further, the Dutch Authorities expressed their intent to visit Jamaica and requested that the OCG advise them of the names of the individuals within the Jamaican Government to whom such a request could be made.</p>	19
13	2007 February 13	The Contractor General responded to the Dutch Authorities and reminded them that the OCG could not provide any information before its Report had been tabled in the Houses of Parliament. Further, the OCG also advised the Dutch Authorities that it (the OCG) would not purport to be qualified to direct the Dutch on how to proceed to obtain information in Jamaica.	19
14	2007 February 21	The Dutch Authorities responded to the Contractor General's email of 2007 February 13, The Dutch indicated that their request of the OCG was to aid in the preparation of a comprehensive legal assistance request to the Jamaican Authorities. Nonetheless, the Dutch Authorities indicated that it was still possible to draft a legal assistance request with the information that was already available. The Dutch Authorities enquired about the completion of the OCG's Investigation and advised that they would inform the OCG of their trip to Jamaica.	22



<b><u>Item #</u></b>	<b><u>Date</u></b>	<b><u>Occurrence</u></b>	<b><u>Appendix Page #</u></b>
15	2007 February 26	The Contractor General responded to the Dutch Authorities and assured them that he would promptly advise them once the OCG's Report of Investigation became a matter of public record under Jamaican Law.	22
16	2007 March 20	The Dutch Authorities wrote to the Contractor General and advised him that a legal assistance request to the Jamaican Authorities was almost ready. The Dutch Authorities requested that the Contractor General provide them with the names and addresses of the competent Authorities in Jamaica.	25
17	2007 March 20	The Contractor General responded to the Dutch Authorities and reminded them of his earlier communication of 2007 February 13. The Contractor General also informed the Dutch Authorities that they should consider approaching their own Government to decide on how best to proceed in securing the formal permission of the Jamaican Government.	24
18	2007 March 22	The Dutch Authorities responded to the Contractor General's email of 2007 March 20 and indicated that <i>"We will find our direction to the Jamaican Government."</i>	24
19	2007 November 16	A telephone call was received at the OCG from the offices of one Mr. Harold Brady who enquired whether the Contractor General was able to meet with Mr. Brady and a number of unnamed Dutch Authorities regarding the Trafigura Beheer Investigation. The Contractor General issued instructions that a call should be returned to Mr. Brady to advise him that the Contractor General would be unable to meet and that any such request would have to be made in writing with a clear indication of the purpose and bases of the request.	28

<u><b>Item #</b></u>	<u><b>Date</b></u>	<u><b>Occurrence</b></u>	<u><b>Appendix Page #</b></u>
20	2008 January 10	<p>The Contractor General was contacted by a Detective Inspector Clarence Bailey, Organized Crime Unit, Jamaica Constabulary Force. Detective Bailey was desirous of arranging a meeting between the visiting Dutch Trafigura Investigating Team and the OCG. The matter was reportedly being directed by the DPP's Office.</p> <p>The Contractor General advised Detective Bailey that the OCG had been in contact with the Dutch Authorities in the past and had already stipulated the conditions under which it would provide assistance to the Dutch Authorities.</p> <p>The Contractor General also indicated that at the invitation of the Dutch Authorities, the OCG had written to them seeking answers to certain questions about Trafigura Beheer and that they had not responded.</p> <p>In closing, the Contractor General advised Detective Inspector Bailey that he should feel free to communicate the OCG's positions to the DPP and, to have the DPP contact the OCG directly should the DPP wish to discuss the matter with the Contractor General.</p>	29

The email correspondence of 2007 March 22 represented the last direct contact that the OCG had with the Dutch Authorities, regarding the Trafigura Beheer Investigation. However, approximately seven (7) months later, on 2007 November 16, the OCG was contacted through the offices of Mr. Harold Brady, Attorney-at-Law, regarding a proposed meeting with the Dutch Authorities.

### **Involvement and Intervention of Mr. Harold Brady — Private Attorney-at-Law**

Following upon the OCG's final contact with the Dutch Authorities in 2007 March, the OCG was contacted by the offices of Mr. Harold Brady on 2007 November 16. On that date Mr. Brady, through his Secretary, enquired whether or not the Contractor General was able to meet with certain unnamed representatives of the Dutch Authorities and Mr. Harold Brady later that afternoon.

By way of a return phone call, the Contractor General, through his Secretary, advised Mr. Brady that he would be unable to convene a meeting and, that, in any event, the request for such a meeting would have to be formally made in writing clearly outlining the purpose of the meeting and the bases upon which it was being requested.

Reproduced, hereunder, is the full extent of the OCG's documentation of the communications which took place on 2007 November 16 between the OCG and Mr. Brady and his office:



**Re: Trafigura**

At 1:01 p.m., today, Friday, November 16, 2007, I received a call for the CG from Ms. Michelle Vickerman, Secretary to Mr. Harold Brady, Attorney at Law.

Ms. Vickerman stated that Mr. Brady was desirous of speaking to the CG regarding a possible meeting between Mr. Brady, Dutch Representatives and the CG, today, Friday, November 16, 2007 between 3:30 and 4:00 p.m. as the Representatives would be leaving the island tomorrow, November 17.

I advised the CG of the call. The CG in turn instructed me to contact Mr. Brady's Secretary and inform her that he was unable to meet at any time today with Mr. Brady and the Dutch Representatives, as he was unaware of the purpose of the meeting. However, a formal letter could be sent to him outlining the purpose of the meeting for a response from him.

However, I called Mr. Brady at 1:35 p.m. at the number that was communicated to me and advised him as the CG had instructed. Mr. Brady stated that that was okay. He also indicated that he was at the moment in discussion with the two (2) Representatives and had just stepped out of the meeting to take the call.

F. Latty  
November 16, 2007

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Internal File Note from the Contractor General — 2007 November 16

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**Greg Christie**

**From:** Greg Christie [gchristie@ocg.gov.jm]

**Sent:** Friday, November 16, 2007 02:38 PM

**To:** 'Greg Christie'; [REDACTED]; Craig Beresford; [REDACTED]

(Names of OCG Staff  
removed for their  
protection)

**Subject:** RE: Trafigura - File Note - Telephone Call from Harold Brady

I omitted from my File Note below that the request was to convene the subject meeting between 3.30 and 4.00PM today, November 16.

G. Christie  
2.40PM  
November 16, 2007

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**Confidential, Privileged, Proprietary and/or Sensitive Information**

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**THANK YOU FOR YOUR CO-OPERATION.**

Office of the Contractor-General  
17 Knutsford Boulevard  
P.O. Box 540, Kingston 5.  
JAMAICA W.I.  
Telephone #: 876-929-6460, 876-929-6466,  
876-929-7535, 876-929-7536  
Fax #: 876-929-7335.

---

**From:** Greg Christie [mailto:gchristie@ocg.gov.jm]

**Sent:** Friday, November 16, 2007 02:13 PM

**To:** [REDACTED] Florette Latty; Craig Beresford; Florette Latty; [REDACTED]

**Subject:** Trafigura - File Note - Telephone Call from Harold Brady

(Names of OCG Staff  
removed for their protection)

**FILE NOTE**

Today, at approx. 1.10PM, my secretary, Florette Latty, advised me that she had received a telephone call from the secretary of one Harold Brady and that the Mr. Brady's secretary wanted me to indicate if I could meet with a number of unnamed foreign officials regarding the Trafigura Issue. I recognized the name of Mr. Harold Brady as that of a prominent Jamaican attorney-at-law and someone who was also my batch-mate at law school. Upon receiving the note from my secretary, I called [REDACTED] to my office and advised them of the matter. In their presence, I instructed my secretary to return the call and advise that (a) I would be unable to convene the requested meeting at any time today as I was unaware of who I was meeting with and the purpose of the meeting and (b) that if a meeting was required with me, I would need to have a formal request in writing which should state the purpose for and the bases of the meeting.

Greg Christie  
2.10PM  
November 16, 2007

Having regard to the aforementioned File Notes, it is instructive to note that at no point in time was the OCG provided with the letter which was requested from Mr. Harold Brady or any further documentation which attested to the authority and/or bases upon which Mr. Brady had requested a meeting with the Contractor General.

Further, at the time that Mr. Brady had requested a meeting with the Contractor General, the OCG was already aware, via media reports, that provisions had allegedly been made pursuant to the Mutual Legal Assistance Act to facilitate the Dutch Authorities' visit to Jamaica.

In this regard, the Jamaica Gleaner published an article which was entitled, "*Trafigura not going away*", which was dated 2007 November 14. In the referenced article it was reported, *inter alia*, as follows:

*"The Prime Minister said, as part of the probe, the Dutch investigators have expressed an interest in interviewing persons who were involved in the transaction, as well as him, the person who brought the matter to public attention last year.*

*Mr. Campbell, speaking with **The Gleaner** yesterday, said: "Like you, I am hearing about it for the first time. No request has been made of me. I don't have a request and if the request comes, I will deal with it at that time."*

*Mr. Golding revealed that a request by the Dutch authorities to visit Jamaica to conduct investigations into the money lodged to the PNP account was denied by the then PNP government.*

*He said the Dutch request was rejected on the grounds that it did not fall under the necessary legislative arrangements.*

## *Casualty*

*Mounting pressure on the Portia Simpson Miller administration last year resulted in the resignation of Mr. Campbell, the only casualty, to date, from the Trafigura debacle.*

*The Prime Minister told his parliamentary colleagues that the National Public Prosecutor's office has renewed its request of the Jamaican government for the necessary legal assistance to conduct its investigations.*

***"I, therefore, wish to advise that, on my instructions, the Minister of Justice has issued an order, pursuant to Section 32(2) of the Mutual Assistance Act, declaring that the provisions of the act shall apply to the UN Convention Against Transnational Organised Crime."***

***Additionally, the Kingdom of the Netherlands will be designated a foreign state to which the provisions of the Mutual Assistance (Criminal Matters) Act applies.***

***Mr. Golding said this move would enable the central authority to consider the request by the Dutch authorities to visit Jamaica to conduct investigations into the matter.***<sup>33</sup>

*(OCG Emphasis)*

Having regard to the fact that the OCG is an Independent Commission of Parliament with a statutory obligation and the unknown role of Mr. Harold Brady in matters pertaining to the Trafigura Investigation, the OCG deemed it highly inappropriate to have been approached by Mr. Harold Brady regarding a meeting.

The OCG's concerns are compounded by the fact that:

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<sup>33</sup> Jamaica Gleaner article entitled "Trafigura not going away" – published 2007 November 14

1. In the OCG's last written communications with the Dutch Authorities, dated 2007 March 20 and 22, the OCG was advised by the Dutch that a Dutch request for legal assistance from the Jamaican Authorities was almost ready;
2. Indeed, the Dutch Authorities had asserted, on 2007 March 22, that "*We will find our direction to the Jamaican Government.*"<sup>34</sup>
3. Mr. Harold Brady, a private Attorney-at-Law, on 2007 November 16, made representations to the OCG on behalf of foreign officials with respect to a matter which, should the media reports be accepted as factually correct and true, involved legal cooperation between Jamaica and another sovereign state.
4. At the time when Mr. Harold Brady contacted the OCG, via telephone, on 2007 November 16, he was already allegedly having discussions with certain unnamed Dutch Authorities.

The compendium of the foregoing facts has left, to date, critical unanswered questions and concerns for the OCG, regarding, *inter alia*, the following:

- (a) the propriety of the proposed meeting which Mr. Brady had sought with the OCG;
- (b) the role of Mr. Harold Brady and the propriety of his actions in his attempt to convene a meeting with the foreign State Authorities and the OCG, an Independent Commission of the Parliament of Jamaica; and
- (c) who and/or what interests were being served when Mr. Brady approached the OCG on 2007 November 16.

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<sup>34</sup> Email dated 2007 March 22 from the Dutch Authorities to the OCG.

### **OCG's Interactions with the Jamaica Constabulary Force (JCF)**

After the OCG was approached by Mr. Harold Brady in 2007 November, it is instructive to note that on 2008 January 10, the OCG was contacted by a representative of the JCF regarding a meeting with the Dutch Authorities.

The JCF officer requested a meeting with the OCG and indicated that the investigative effort was being marshalled by the DPP's Office. In this regard, the OCG was now of the informed opinion that other Jamaica State Authorities were now enquiring into the Trafigura Beheer allegations.

The OCG's contact with the JCF confirmed the stated intention of the Dutch Authorities to seek audience with State Authorities in Jamaica, via a request for legal assistance. Having regard to the foregoing, the OCG's concerns with respect to Mr. Harold Brady's involvement in the matter was further compounded.

Notwithstanding the OCG's contact with the JCF, in regard to the Dutch Authorities, the OCG has, to date, received no assistance from the Dutch Authorities.

Detailed below is the full extent of the OCG's documentation of the interaction which it had with the JCF, in regard to a meeting with the Dutch Authorities:



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**Greg Christie**

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**From:** Greg Christie [gchristie@ocg.gov.jm]  
**Sent:** Thursday, January 10, 2008 09:38 AM  
**To:** Craig Beresford; [REDACTED]  
**Subject:** Trafigura Investigation - Telephone Call from JCF

**CONFIDENTIAL FILE NOTE**

My Secretary, Mrs. Latty, received a telephone call from a Det. Inspector Clarence Bailey of the Organized Crime Unit of the JCF at approx. 4.12 PM yesterday evening (Wednesday, January 09, 2008). The message that was left was that the call was about the "Trafigura Investigation".

In the presence of Mr. Craig Beresford, Director-Non-Construction Contracts, Licences and Permits, I returned Mr. Bailey's CALL at approx. 4.55PM. The telephone discussion which ensued was a very cordial one and was carried out over the speaker-phone.

At the outset, DI Bailey advised me that he wanted to arrange a meeting between the visiting Dutch Trafigura Investigating Team and myself. He said that the matter was being directed by the DPP's Office, under the supervision of one Ms. Clare.

I advised DI Bailey that the Dutch authorities had contacted the OCG over a year ago to request information from us and also to offer assistance to the OCG's investigations into the GOJ's award of a oil-lifting contract to Trafigura. I told DI Bailey that although we had welcomed their offer of assistance, we had made it clear to them that we could not offer them any assistance.

I emphasized to DI Bailey that we had advised the Dutch authorities (a) that the OCG was an independent Commission of the Parliament of Jamaica, (b) that upon completion of the OCG's investigation into the matter, a Report thereon would be submitted to the Parliament of Jamaica where it would be tabled in the Senate and in the House of Representatives, and (c) that under Jamaica Law, only when that was done would we be at liberty to publish the Report and its Findings to the public at large or to any other person.

I asked DI Bailey if a Mr. Roel de Kruif was a member of the Dutch Investigating Team. He answered in the affirmative I then told him that the OCG's positions had been communicated personally to Mr. de Kruif in writing and that that position had not changed. DI Bailey asked if I would be prepared to still meet with the Dutch Team. I told DI Bailey that I could see no purpose in meeting with the Dutch Authorities and that it would be a waste of their time, his time and my time as my considered position was that I was legally obliged to Report first to the Parliament of Jamaica and that I would not be moved from that position. I also told DI Bailey that, at the invitation of the Dutch Authorities, the OCG had written to them seeking answers to certain questions about Trafigura and that they had not responded. I told him that if they had any information for us we would be prepared to receive it but, beyond that, I could see no useful purpose in meeting with them.

I told DI Bailey that he should feel free to communicate my positions to the DPP and to have him contact me directly should he wish to discuss the matter with me. I also gave DI Bailey my cell phone # and told him that he should feel free to contact me should the need arise. DI Bailey thanked me and expressed his understanding. We exchanged mutual pleasantries and ended the call at approx. 5.05PM

Greg Christie  
9.30AM; Tuesday, January 10, 2008

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It is instructive to note that the OCG, via media reports, became aware that, subsequent to the visit of the Dutch Authorities in 2007 November, and 2008 January, a collaborative investigative effort between the Dutch Authorities and the Jamaica State Authorities was still in train.

In this regard, the Jamaica Gleaner published an article which was entitled “*PNP heads meet with Trafigura investigators*”, which was dated 2008 March 5. In the referenced article it was reported, *inter alia*, that:

***“ROBERT PICKERSGILL, chairman of the People’s National Party (PNP), and senior party members Phillip Paulwell and Colin Campbell yesterday met with Dutch investigators in relation to the Trafigura affair.***

*Norton Hinds, a PNP functionary, is also to be interviewed by the Dutch investigators.*

*Senior PNP member KD. Knight, of the law firm Knight, Junor and Samuels, which is representing the PNP officials and functionaries, said a date has not yet been set for Hinds to meet with the investigators...*

*...Prime Minister Bruce Golding, who as opposition leader unveiled the scandal, piloted a bill in Parliament which allowed for the visit of the Dutch investigators.*

*On an initial visit, the PNP officials refused to meet with them. Knight said that it was because the procedures to meet had not reached a point where the PNP members could be available. Details of yesterday’s meeting were not available.*<sup>35</sup>

Further, in a Gleaner Editorial, which was entitled “*The spectre of Trafigura*” that was published on 2008 March 13, it was reported, *inter alia*, as follows:

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<sup>35</sup> Jamaica Gleaner article entitle “PNP heads meet with Trafigura investigators” – published 2008 March 5



*“Dutch police investigators are, or were, here for a second time this past week, hoping, apparently, to find evidence that officials of the People’s National Party (PNP) were bribed by Trafigura Beheer, the Netherlands firm that used to trade Nigerian crude on behalf of Jamaica.*

*They interviewed no less a personage than former Prime Minister Portia Simpson Miller, the PNP’s chairman Robert Pickersgill, its former general secretary Colin Campbell, and other officials, including party operative, Norton Hinds. The Dutch police, this newspaper reported, were unhappy with the answers they received, although the basis of their discontent is not clear.<sup>36</sup>*

It is instructive to note that the OCG had no further contact with the Dutch Authorities nor has any person and or entity approached the OCG in regard to the investigations which were being undertaken by the Dutch Authorities.

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<sup>36</sup> Jamaica Gleaner Editorial – “The Spectre of Trafigura” published 2008 March 13

**OCG's Interactions with the Ministry of Justice, the JCF and the DPP to Secure Updates on Jamaica State Authorities' Involvement in the Matter**

The OCG, being fully cognizant of the fact that its last discussion with any Jamaica State Authority regarding the Trafigura Investigation, had occurred in 2008 January, and due to the passage of time and the absence or any reported developments, took a decision to secure an update from the Jamaica State Authorities which had been held out as having been involved in the criminal investigation of Trafigura Beheer.

Consequently, on 2010 July 14, the OCG wrote to Detective Inspector Clarence Bailey, JCF and the Hon. Dorothy Lightbourne, Minister of Justice, seeking to obtain an update on the criminal investigations which were being pursued by the Jamaica State Authorities.

Reproduced verbatim hereunder are the OCG's letters of 2010 July 14 to the referenced persons:

**OCG Letter to Detective Inspector Clarence Bailey**

*"July 14, 2010*

*Detective Inspector Clarence Bailey  
Organized Crime Investigation Unit  
Jamaica Constabulary Force  
6-8 Orange Street  
Kingston, Jamaica*

*Dear Inspector Bailey:*

**Re: Office of the Contractor General (OCG) Investigation and Contract Monitoring Activities - Government of Jamaica Oil Lifting Contracts - Trafigura Beheer – Interaction between Jamaica State Authorities and Dutch Investigative Authorities**

*We write with reference to the captioned matter.*

*The Office of the Contractor General (OCG) has been monitoring and investigating the circumstances surrounding the award of a contract or contracts, by the Government of Jamaica, to Trafigura Beheer B.V. The referenced OCG Investigation was initiated in October 2006 and has continued, via monitoring, to present.*

*It is instructive to note that via a media report, which was published in the Jamaica Gleaner on November 14, 2007, and which was entitled "Trafigura not going away" the OCG became aware, amongst other things, that:*

*"...the Minister of Justice has issued an order, pursuant to Section 32(2) of the Mutual Assistance Act, declaring that the provisions of the act shall apply to the UN Convention Against Transnational Organised Crime."*

*Additionally, the Kingdom of the Netherlands will be designated a foreign state to which the provisions of the Mutual Assistance (Criminal Matters) Act applies.*

*Mr. Golding said this move would enable the central authority to consider the request by the Dutch authorities to visit Jamaica to conduct investigations into the matter."*

*A copy of the referenced media article is enclosed for your kind attention.*

*Subsequent to the publication of the media article on November 14, 2007, a telephone conversation, which was initiated by you, ensued between yourself and the Contractor General, Mr. Greg Christie, on January 9, 2008, regarding, inter alia, a meeting with the visiting Dutch Trafigura Investigation Team. For ease of reference, enclosed, herewith, is a copy of the Internal OCG File Note which documented the particulars of the referenced conversation of January 9, 2008.*

*The referenced telephone conversation confirmed that the Dutch Authorities, in conjunction with the Office of the Director of Public Prosecutions (ODPP) and the Jamaica Constabulary Force (JCF) were then actively, and jointly, pursuing investigations into the 'Trafigura affair', at the local level, as at January 9, 2008.*

*Further to same, the OCG also became aware, via the media, that, as at March 4, 2008, certain representatives of the Peoples National Party (PNP) had allegedly met with the Dutch Investigators. A copy of the media article which is entitled “PNP heads meet with Trafigura investigators” is enclosed for your kind attention.*

*Should the referenced media report of March 4, 2008 be accepted as factually accurate, then same can be construed as being directly related to the provisions which were reportedly made under the Mutual Assistance Act, in November 2007, for the Dutch Authorities to pursue investigations in Jamaica and would have, consequently, further legitimized those representations which were made to the OCG, by you, in January 2008.*

*Given the aforementioned, and having regard to the fact that the OCG has not been made aware of any further developments in the investigation which now apparently involves at least two other Jamaica State Authorities, we would be grateful if you could provide us with a status update of those efforts, on your part, and/or any other pertinent information which was so obtained by the Jamaica State Authorities.*

*Your assistance in the matter, and in particular, with regard to the disclosure of any details which would be within the remit of the OCG’s statutory mandate would be greatly appreciated.*

*Should you be so inclined to provide us with any pertinent information, we would be grateful if same could be provided in a sealed envelope marked ‘Confidential’ and addressed to the Contractor General. **The envelope must be deposited at the reception desk of the Offices of the Contractor General, PIOJ Building, 16 Oxford Road, Kingston 5, no later than 3:00 PM in the afternoon on Thursday, July 22, 2010.***

*Should you have any questions, please do not hesitate to contact me.*

*Yours sincerely,*

*Maurice Barrett (Signed)*

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*Maurice Barrett*

*Chief Investigator*

*for and on behalf of the Contractor General*

*Enclosures*

Copy: Mr. Owen Ellington, Commissioner of Police, JCF  
Hon. Dorothy Lightbourne, Q.C., C.D., Attorney-General and Minister of Justice  
Mr. Douglas Leys, Q.C., C.D., Solicitor General  
Ms. Paula Llewellyn, Q.C., C.D., Director of Public Prosecutions”<sup>37</sup>

OCG Letter to the Hon. Dorothy Lightbourne – Attorney General and Minister of Justice

“July 14, 2010

Hon. Dorothy Lightbourne, Q.C., C.D.,  
Attorney-General and Minister of Justice  
Ministry of Justice  
NCB South Towers  
2 Oxford Road  
Kingston 5

Dear Attorney General:

**Re: Office of the Contractor General (OCG) Investigation and Contract Monitoring Activities -  
Government of Jamaica Oil Lifting Contracts - Trafigura Beheer – Interaction between Jamaica State  
Authorities and Dutch Investigative Authorities**

We write with reference to the captioned matter.

The Office of the Contractor General (OCG) has been monitoring and investigating the circumstances surrounding the award of a contract or contracts, by the Government of Jamaica, to Trafigura Beheer B.V. The referenced OCG Investigation was initiated in October 2006 and has continued, via monitoring, to present.

It is instructive to note that via a media report, which was published in the Jamaica Gleaner on 2007 November 14, and which was entitled “Trafigura not going away” the OCG became aware, amongst other things, that:

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<sup>37</sup> See Appendix # 28 – Appendices Page # 31

*“...the Minister of Justice has issued an order, pursuant to Section 32(2) of the Mutual Assistance Act, declaring that the provisions of the act shall apply to the UN Convention Against Transnational Organised Crime.”*

*Additionally, the Kingdom of the Netherlands will be designated a foreign state to which the provisions of the Mutual Assistance (Criminal Matters) Act applies.*

*Mr. Golding said this move would enable the central authority to consider the request by the Dutch authorities to visit Jamaica to conduct investigations into the matter.”*

*A copy of the referenced media article is enclosed for your kind attention.*

*Subsequent to the publication of the media article on November 14, 2007, the Contractor General, Mr. Greg Christie, received a telephone call from a Detective Inspector Clarence Bailey, Organised Crime Unit, Jamaica Constabulary Force, on January 9, 2008, regarding, inter alia, a meeting with the visiting Dutch Trafigura Investigation Team. Enclosed, herewith, for your attention is a copy of the Internal OCG File Note which documented the particulars of the referenced conversation of January 9, 2008.*

*The referenced telephone conversation confirmed that the Dutch Authorities, in conjunction with the Office of the Director of Public Prosecutions (ODPP) and the Jamaica Constabulary Force (JCF) were then actively, and jointly, pursuing investigations into the ‘Trafigura affair’, at the local level, as at January 9, 2008.*

*Further to same, the OCG also became aware, via the media, that, as at March 4, 2008, certain representatives of the Peoples National Party (PNP) had allegedly met with the Dutch Investigators. A copy of the media article which is entitled “PNP heads meet with Trafigura investigators” is enclosed for your kind attention.*

*Should the referenced media report be accepted as being factually accurate, then same can be construed as being directly related to the provisions which were reportedly made under the Mutual Assistance Act, in November 2007, for the Dutch Authorities to pursue investigations in Jamaica and would have, consequently, further legitimized those representations which were made to the OCG, by Detective Inspector Bailey, in January 2008.*

*Given the aforementioned, and having regard to the fact that the OCG has not been made aware of any further developments in the investigation which now apparently involves at least two other Jamaica State Authorities, we would be grateful if you could provide us with a status update of those efforts, as known by you, and/or any other pertinent information which was so obtained by the Jamaica State Authorities.*

*Your assistance in the matter, and in particular, with regard to the disclosure of any details which would be within the remit of the OCG's statutory mandate would be greatly appreciated.*

*Should you be so inclined to provide us with any pertinent information, we would be grateful if same could be provided in a sealed envelope marked 'Confidential' and addressed to the Contractor General. **The envelope must be deposited at the reception desk of the Offices of the Contractor General, PIOJ Building, 16 Oxford Road, Kingston 5, no later than 3:00 PM in the afternoon on Thursday, July 22, 2010.***

*Should you have any questions, please do not hesitate to contact me.*

*Yours sincerely,*

*Maurice Barrett (Signed)*

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*Maurice Barrett*

*Chief Investigator*

*for and on behalf of the Contractor General*

*Enclosures*

*Copy: Mr. Douglas Leys, Q.C., C.D., Solicitor General*

*Ms. Paula Llewellyn, QC, CD, Director of Public Prosecutions”<sup>38</sup>*

In regard to the letter which was addressed to Detective Inspector Clarence Bailey, the OCG must indicate that it did not receive a response of any kind to the referenced letter nor did any of the State officials to whom it was copied provide a response to the OCG, save and except as is hereinafter indicated.

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<sup>38</sup> See Appendix # 29 – Appendices Page # 40

On 2010 July 22, the OCG received a letter, which was dated 2010 July 21, from the Solicitor General, Mr. Douglas Leys, in response to the OCG's letter which was written to the Attorney General. Reproduced, hereunder, is a verbatim representation of the referenced letter from the Solicitor General.

*"July 21, 2010*

*Office of the Contractor General  
PIOJ Building  
16 Oxford Road  
Kingston 5*

**Attention: Mr, Maurice Barrett**

*Dear Sirs:*

***Re: Office of the Contractor General (OCG) Investigation and Contract Monitoring Activities - Government of Jamaica Oil Lifting Contracts - Trafigura Beheer — Interaction between Jamaica State Authorities and Dutch Investigative Authorities***

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*I refer to the above captioned matter and your letter dated July 14, 2010 which have been passed to me for my attention and action by the Hon. Attorney General. I have carefully noted the contents thereof.*

*This is to inform that pursuant to the Mutual Assistance (Criminal Matters) Act, the Minister of Justice under whose portfolio the aforementioned Act falls has by virtue of the provisions of the Act designated as the central authority in Jamaica for such matters the Office of the Director of Public Prosecutions.*

***I have noted where your letter has been copied to the Hon. Director of Public Prosecutions and I can only assume that the relevant update will be provided by that office under whose jurisdiction the matters referred to in your letter now fall.*** *I have, notwithstanding the above information, under separate cover written to the Director of Public Prosecutions urging the learned Director to forward the relevant updates to your Office as requested.*

***In the event that there are any difficulties encountered which, is very unlikely, please do not hesitate to refer to the Hon Minister explaining such difficulties.***



*Thank you.*

*Yours faithfully*

*Douglas Leys (Signed)*

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*Douglas Leys*  
*Solicitor General*

*c. Hon. Attorney General”<sup>39</sup> (OCG Emphases)*

Having regard to the foregoing, the OCG, on 2010 July 26, wrote to the attention of the learned DPP and sought to have the referenced updates disclosed to the OCG as a matter of urgency. Due to the urgent nature of the OCG’s request, the referenced letter was faxed to the DPP on Monday, 2010 July 26, prior to noon, and was also hand delivered to the ODPP on the same date.

Detailed, hereunder, is a verbatim representation of the OCG’s letter which was written to the DPP on 2010 July 26.

OCG Letter to the DPP – 2010 July 26

**“URGENT**

*July 26, 2010*

*Ms. Paula Llewellyn, Q.C., C.D.*  
*Director of Public Prosecutions*  
*Office of the Director of Public Prosecutions*  
*King Street*  
*Kingston, Jamaica*

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<sup>39</sup> See Appendix # 32 – Appendices Page # 54

Dear Director:

**Re: Office of the Contractor General (OCG) Investigation and Contract Monitoring Activities - Government of Jamaica Oil Lifting Contracts - Trafigura Beheer – Interaction between Jamaica State Authorities and Dutch Investigative Authorities**

We write with reference to the Office of the Contractor General's (OCG's) letters which were addressed to the Hon. Dorothy Lightbourne, Q.C., C. D., Attorney General and Detective Inspector Clarence Bailey, Organised Crime Investigations Unit, which were dated July 14, 2010, in the captioned regard. In each instance, both letters were copied to you.

We are also in receipt of a letter which was dated July 21, 2010, from the Attorney General's Chambers, under the signature of the Learned Solicitor General, regarding the captioned matter - a copy of which is enclosed for your ease of reference. The referenced letter has indicated, inter alia, that the Office of the Director of Public Prosecutions has been designated the central authority in Jamaica.

As you might be aware, the OCG has been monitoring and investigating the circumstances surrounding the award of a contract or contracts, by the Government of Jamaica, to Trafigura Beheer B.V. The referenced OCG Investigation was initiated in October 2006 and has continued, via monitoring, among other things, to present.

Having regard to the foregoing, and the referenced letters of July 14, 2010 and July 21, 2010, the OCG would be grateful if you could provide us with the relevant updates as has been requested, as a matter of urgency. Your assistance in the matter would aid the OGG in its continued investigations in the captioned matter.

Should you be so inclined to provide us with any pertinent information, we would be grateful if same could be provided in a sealed envelope marked 'Confidential' and addressed to the Contractor General. **The envelope must be deposited at the reception desk of the Offices of the Contractor General, PIOJ Building, 16 Oxford Road, Kingston 5, no later than 4:00 PM in the afternoon on Thursday, July 29, 2010.**

Should you have any questions, please do not hesitate to contact me.

Yours sincerely,

*Maurice Barrett (Signed)*

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*Maurice Barrett*

*Chief Investigator*

*for and on behalf of the Contractor General*

*Enclosure*

*Copy: Hon. Dorothy Lightbourne, Q.C., C.D., Attorney-General and Minister of Justice*

*Mr. Douglas Leys, Q.C., C.D., Solicitor General”<sup>40</sup>*

It must be noted that the DPP did not provide the OCG with the requested information by the stipulated deadline of Thursday, 2010 July 29 nor was the OCG favoured with a response of any kind from the ODPP, as at 2010 August 3.

Based upon the letter from the Solicitor General, which was dated 2010 July 21, and the assurance which was given by the Solicitor General that there should be no difficulty in obtaining the requested information, the OCG again wrote to the DPP on Monday, 2010 August 3 and requested an update from the Jamaica State Authorities in respect of their involvement in the matter.

Detailed, hereunder, is a verbatim reproduction of the OCG’s letter which was written to the DPP on 2010 August 3:

**“URGENT**

*August 3, 2010*

*Ms. Paula Llewellyn, Q.C., C.D.*

*Director of Public Prosecutions*

*Office of the Director of Public Prosecutions*

*King Street*

*Kingston, Jamaica*

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<sup>40</sup> See Appendix # 33 – Appendices Page # 56

Dear Director:

**Re: Office of the Contractor General (OCG) Investigation and Contract Monitoring Activities - Government of Jamaica Oil Lifting Contracts - Trafigura Beheer – Interaction between Jamaica State Authorities and Dutch Investigative Authorities**

We write further to the Office of the Contractor General's (OCG's) letter which was dated July 26, 2010, in the captioned matter.

The referenced letter, which was faxed to your offices on **Monday, July 26, 2010** prior to noon, and which was also hand delivered to, and received at your offices on the same date, had requested, **as a matter of urgency**, that an update be provided to the OCG **no later than 4:00 pm in the afternoon on Thursday, July 29, 2010.**

Having regard to the fact that as at today, Tuesday, August 3, 2010, the OCG has not yet received a response from you either to (1) acknowledge your receipt of our request or (2) to advise us of your intention to provide us with the information, we have found it necessary to write to you again to request that the required updates be provided to the OCG as a matter of urgency.

Given the urgency of our request, and the fact that the OCG has not had the benefit of a response from you, we are now uncertain whether or not it is your intention to cooperate with the OCG's Investigation and to supply the requested updates. The OCG's foregoing concerns are grounded in the following facts:

1. By way of letters, which were dated **July 14, 2010**, which were addressed to the Hon. Dorothy Lightbourne, Q.C., C. D., Attorney General and Detective Inspector Clarence Bailey, Organised Crime Investigations Unit, who represented in January 2008 that he was acting under the direction of the Office of the Director of Public Prosecutions (ODPP), you were formally notified of the OCG's enquiries and requests for an update as both letters were in fact formally copied to you.
2. By way of a letter, which was dated **July 21, 2010**, the Solicitor General advised the OCG that, under cover of a separate letter, he had already written to you urging that the requested information be provided by you, to the OCG;

3. Under cover of a letter, which was dated Monday, July 26, 2010, the OCG, out of an abundance of caution, wrote to you directly, requesting that the information be forwarded to our Office by Thursday, July 29, 2010, as a matter of urgency; and
4. Despite all of the foregoing occurrences, as at even date, Tuesday, August 3, 2010, the OCG has still not been favoured with a response of any kind from the ODPP.

Having regard to the foregoing, and the urgent and highly relevant requests which have been made of you by the OCG, we would be grateful if you could provide the OCG with the requested update by the close of business on Monday, August 9, 2010.

By copy of this letter we are bringing our further request and concerns to the attention of the Hon. Dorothy Lighbourne, Q.C., C. D., Attorney General and Minister of Justice, and Mr. Douglas Leys, Q.C., C.D., Solicitor General.

Your cooperation in the matter would be greatly appreciated.

Yours sincerely,

Maurice Barrett (Signed)

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Maurice Barrett

Chief Investigator

**for and on behalf of the Contractor General**

Copy: Hon. Dorothy Lighbourne, Q.C., C.D., Attorney-General and Minister of Justice  
Mr. Douglas Leys, Q.C., C.D., Solicitor General”<sup>41</sup>

It is instructive to note that by way of a letter, which was dated 2010 August 3, and which was received at the OCG, via facsimile on 2010 August 5, the ODPP responded to the OCG’s letters which were dated 2010 July 26 and 2010 August 3.

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<sup>41</sup> See Appendix 34 – Appendices Page # 62

The referenced letter from the ODPP, advised the OCG, *inter alia*, that the ODPP, for various reasons, would not, at that juncture, disclose the information which had been requested by the OCG.

It is important to recall that the Solicitor General, in his letter of 2010 July 21 had expressed that it was very unlikely that the OCG would have had any difficulty in obtaining the requested information from the ODPP. However, in the ODPP's letter of 2010 August 3, the ODPP posited positions which were contrary to the Solicitor General's expressed opinion on the matter.

Inserted, hereunder, is a virtual copy of the ODPP's letter to the OCG which was dated 2010 August 3.<sup>42</sup>

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<sup>42</sup> Refer to Appendix # 35 – Appendices Page # 68

ANY REPLY OR SUBSEQUENT REFERRAL  
COMMUNICATION SHOULD BE ADDRESSED  
DIRECTOR OF PUBLIC PROSECUTIONS  
ANY OFFICER BY NAME AND THE  
REFERENCE QUOTED:-

TELEPHONE: 922-6321-5  
TELE FAX: (876) 922-4318

NO \_\_\_\_\_

Post-It® Fax Note	7671	Date	5.8.10	# of pages	2
To	Mr. M. Barrett	From	C.P. Hay		
Co./Dept.	OCG	Co.	Opp's Ofc		
Phone #		Phone #	922-6321		
Fax #	929-2476	Fax #	922-4318		

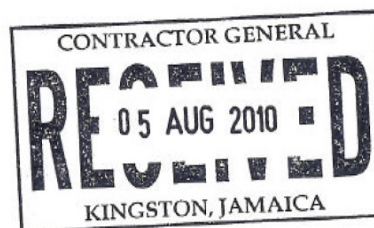
ROSECUTIONS

KINGSTON,  
JAMAICA

August 3, 2010

URGENT AND CONFIDENTIAL

Mr. Maurice Barrett  
Chief Investigator  
The Office of the Contractor-General  
PIOJ Building  
16 Oxford Road  
Kingston 5



Dear Sir:

**Re: Trafigura Beheer BV**

This matter has been passed to the undersigned for handling and response. We apologize for the delay in replying. Any delay in responding to you is regretted and should not be taken as discourtesy.

We have had sight of the following:

- Letter dated July 14, 2010 addressed to Detective Inspector Clarence Bailey, copied to us;
- Letter dated July 14, 2010 addressed to the Honourable Minister of Justice and Attorney-General Senator Dorothy Lightbourne, CD, QC, copied to us;
- Letter dated July 26, 2010 addressed to us; and
- Letter dated August 3, 2010 addressed to us.

We are therefore aware that the Contractor-General is interested in reviewing circumstances surrounding the award, if any, of contract(s) to Trafigura Beheer BV, by the Government of Jamaica. We did receive courtesy copy letter dated July 21, 2010 under the hand of the learned Solicitor General, Mr. Douglas Leys QC, wherein our colleague indicated we would provide the relevant update. We fully understand why the learned Solicitor General would make the suggestion as we are the designated authority under the Mutual Assistance (Criminal Matters) Act. However, the present circumstances require us to adopt a particular course.

Whereas we would agree that there has been quite significant press reportage concerning issues connected to the captioned company and possible dealings in Jamaica, we know that the investigations are now at an advanced stage and we are not presently in a position to assist the learned Contractor-General in the way we would like to with any information at this time. Our reasons follow.

We are in a position to say that any request which might have come to us, would have come squarely within the four corners of the Mutual Assistance (Criminal Matters) Act. As the designated authority for the purposes of the Act, we are required to treat requests for assistance with the utmost degree of confidentiality. Requests for assistance submitted under this Act, usually relate to police investigations, prior to charge. Many times, the target of the investigation has no idea it is under probe or if it does, its knowledge is limited. We are almost always asked for confidentiality and indeed this has been the standard which all such requests have treated by this office. So seriously do we observe this duty of confidentiality, that we hardly ever acknowledge even the existence of a request for assistance. When other States have a joint investigation and enquire whether we would be willing to share information we direct them to the initial requesting State and have them secure their permission to divulge the information. We are in the habit of non-disclosure in this regard. Reciprocity as regards confidentiality is fundamental to our obligations under the relevant Convention and to our continued good relations with our Convention partners.

In your letter to us bearing today's date you enquire whether we intend to co-operate with the OCG's investigation. It is our position that this office ought to assist the OCG in any way it can, bearing in mind all circumstances and all governing laws. Where we are constrained by circumstances, other responsibilities or the letter and spirit of law (whether influenced by local or international agreements) then prudent exercise of the powers of this office demands that we handle our duties carefully. Considering the above factors we would not be in a position now to release any information at this stage having regard to high levels of sensitivity. To do so now would compromise our international and statutory obligations and might well give others likely to be affected a cause of action where none now exists.

We trust we can revisit this matter at a more opportune time in the future.

Yours truly,



CAROLINE P. HAY (Mrs.)  
Senior Deputy Director of Public Prosecutions (Ag.)  
Head, Mutual Legal Assistance and Financial Crimes Unit  
For Director of Public Prosecutions

CPH/

Copies to: Senator The Hon. Ms. Dorothy Lightbourne, QC  
Minister of Justice and Attorney-General

Mr. Douglas Leys, QC  
Solicitor General of Jamaica



Having regard to the reasons which were given by the ODPP, and the content of the referenced letter, the OCG is of the considered opinion that it can be reasonably inferred that the ODPP is seized with information regarding the investigations concerning Trafigura Beheer. However, due to what the ODPP has asserted are confidentiality restrictions, amongst other considerations, the ODPP refused to disclose any of the said information to the OCG.

Consequently, with due consideration to the expressed positions which were placed upon the record by the ODPP, in its letter which was dated 2010 August 3, the OCG acknowledged receipt of the ODPP's letter as follows:

*"August 5, 2010*

*Ms. Paula Llewellyn, Q.C., C.D.  
Director of Public Prosecutions  
Office of the Director of Public Prosecutions  
King Street  
Kingston, Jamaica*

*Dear Director:*

**Re: Office of the Contractor General (OCG) Investigation and Contract Monitoring Activities - Government of Jamaica Oil Lifting Contracts - Trafigura Beheer – Interaction between Jamaica State Authorities and Dutch Investigative Authorities**

*We write to acknowledge receipt of your letter which was dated August 3, 2010, which was written in response to ours which were dated July 26, 2010 and August 3, 2010, in the captioned regard. Your letter of August 3, 2010 was received in our Offices, via facsimile, on August 5, 2010 at approximately 11:35 a.m.*

*We have carefully noted your response and the stated reasons why the Office of the Director of Public Prosecutions (ODPP) is not in a position to provide the Office of the Contractor General (OCG) with the requested updates and/or the particulars of the ODPP's ongoing investigations or involvement in the above referenced matter.*

*Despite the foregoing, we must thank you for the response which has been made available to the OCG.*

*Yours sincerely,*

*Maurice Barrett (Signed)*

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*Maurice Barrett*

*Chief Investigator*

***for and on behalf of the Contractor General***

*Copy: Hon. Dorothy Lightbourne, Q.C., C.D., Attorney-General and Minister of Justice*

*Mr. Douglas Leys, Q.C., C.D., Solicitor General”<sup>43</sup>*

The OCG’s letter of 2010 August 5 represented the OCG’s final attempt to obtain a status report from the Jamaica State Authorities regarding any ongoing investigations into the alleged payment of J\$31 million by Trafigura Beheer to an account which was associated with the then Senator, Mr. Colin Campbell and, by extension, the PNP.

Despite the OCG’s numerous attempts, it has not been able to obtain the required and necessary information from either Mr. Colin Campbell or other Jamaica State Authorities which have become involved in the investigations surrounding the J\$31 million payment by Trafigura Beheer.

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<sup>43</sup> OCG letter to the DPP which was dated 2010 August 5 – Appendix # 36 – Appendices Page # 71

## **CONCLUSIONS**

Based upon the documents which have been reviewed, the OCG has arrived at the following considered Conclusions:

1. The contracts which were awarded to Trafigura Beheer and GoodWorks International LLC., prior to 2006, were not subject to the scrutiny of the PCJ's Procurement Committee as one was not established until 2006 May/June.
2. The OCG has concluded that the PCJ's failure to properly constitute a Procurement Committee, prior to 2006 May/June, has contravened Section 1.5.2.3 of the GPPH (2001 May).
3. The contracts which were awarded by the PCJ to Trafigura Beheer and GoodWorks International LLC., in 2001, coincided with the drafting of the GPPH which came into effect in 2001 May.

However, at that time, the directives which were issued under Ministry of Finance Circular #182/02 and Cabinet Decision #32/85 brought into effect the Government Contracts Committee (GCC) and the Cabinet Directive Mandating Adherence to GCC Procedures, and would have required that the contracts be approved by the Cabinet and the GCC. However, the OCG has not seen any evidence that there was adherence to the referenced requirements.

4. The Trafigura Beheer contracts, which were awarded by the PCJ in 2002 through to 2004, would have required adherence to the GPPH. However, the OCG has not seen any evidence that the PCJ complied with the relevant provisions of the GPPH.

It is instructive to note that elements of the Sole Source/Direct Contracting Procurement Methodology were seen in the PCJ's contracting of GoodWorks International LLC. and Trafigura Beheer. In the first instance, GoodWorks International LLC. was contracted using the Sole Source/Direct Contracting Methodology.

In the contracting of Trafigura Beheer, by the PCJ, the OCG found that traces of the Limited Tender Procurement Methodology were utilized. In this regard, Trafigura Beheer was selected from a NNPC pre-approved list of oil traders.

5. Based upon the reports which were made in the local print media and by the Leader of the then Opposition (JLP), a total of J\$31 million was lodged to the C.C.O.C. Association Account in respect of which Mr. Colin Campbell was an alleged signatory. The alleged beneficiary of the referenced funds was the PNP for its 2006 campaign financing activities.

However, attempts by the OCG to secure information with regard to establishing the link, if any, between the J\$31 million payment which was made by Trafigura Beheer and the award of a GOJ contract, whether in the past or prospectively, proved to be futile.

Notwithstanding, the OCG has been able to establish the following facts:

- a. Between 2002 and 2004, the contract with Trafigura Beheer was renewed annually;
- b. At the time of the alleged transfer of the funds, in 2006, from Trafigura Beheer to C.C.O.C. Association, the PCJ and Trafigura Beheer maintained a contractual relationship which was not evidenced in writing;

- c. In 2007, the PCJ went to competitive tender for oil lifting services;
  - d. A contract for oil lifting services was awarded to Glencore Energy UK Limited in 2007 October based upon the competitive tender process and at a rate which was more competitive than that which was offered by Trafigura Beheer.
6. Based upon the information which has been provided to the OCG, by the Permanent Secretary in the MEM, Mrs. Hillary Alexander, the OCG has found, and has been led to conclude, that the PCJ has not benefited from any Nigerian oil lifts since the PCJ went to competitive tender in 2007 March.

Further, the OCG has also found and concluded that the contract with Glencore Energy UK Limited was automatically terminated in 2008 October and that there has been no subsequent bidding process in regard to the NNPC oil lifting arrangements.

7. The OCG has concluded that the repeated failure and/or refusal of Mr. Colin Campbell to provide detailed and particularized answers to the specific written requisitions and questions which were put to him by the OCG, and to otherwise cooperate with the OCG's Investigation into the allegations which were made concerning the sums which were paid by Trafigura Beheer into the C.C.O.C. Association's account, have, among other things, hindered and obstructed the OCG's investigative efforts in violation of Section 29 (b) (i) of the Contractor General Act.

The OCG, in concluding the foregoing, must also allude to the following considerations, among others:

- Mr. Colin Campbell was allegedly a signatory to the C.C.O.C Association account;
  - Leading up to, and shortly after, the Trafigura Beheer exposé, Mr. Campbell was the Minister of Information for the then administration and, therefore, Mr. Campbell would have been privy to vital information as it related to Government matters;
  - Mr. Campbell was warned on several occasions that should he, amongst other things, hinder or obstruct a Contractor General, same would constitute the commission of a criminal offence under Section 29 of the Contractor General Act.
8. The OCG has not been able to independently determine the purpose of the money which was transferred to the C.C.O.C. Association account from Trafigura Beheer.

This is premised upon the lack of information and/or cooperation from the Dutch Authorities and Mr. Colin Campbell. As such, the OCG is unable to determine whether there was any irregularity and/or impropriety in (a) the award of the contract to Trafigura Beheer and/or (b) the facilitation of the award of any future contract with Trafigura Beheer.

Likewise, and based upon the records which were reviewed, the OCG has seen no evidence which would conclusively suggest that the contract/procurement process was corrupted by the alleged passing of monies through C.C.O.C. Association, to Senator Campbell, via PCJ's oil lifter, Trafigura Beheer. Conversely, the OCG is unable to conclusively conclude that the process was not corrupted.

Similarly, and in the absence of further information from the Dutch Authorities and/or the ODPP, and having regard to the repeated failure and/or refusal of Mr. Colin Campbell to fully cooperate with the OCG's Investigation, the OCG has been unable to conclude that there was any corruption involved in the C.C.O.C. Associations', and by extension, the PNP's receipt of funds from Trafigura Beheer

In the same vein, the OCG has not been provided with any clear and actionable evidence which would lead it to conclude that there was, in fact, any form of corruption on the part of any public official and/or former public official, in so far as the entire Trafigura Beheer matter is concerned.

Conversely, the OCG is unable to conclusively conclude that there was no corruption on the part of any public official and/or former public official, in relation to the issues which are the subject of the OCG's Investigation in this matter.

9. The OCG has found, and has subsequently concluded, that the investigative efforts by the Jamaica State Authorities into the matter of the \$31 Million payment which was made to the C.C.O.C. Association, is one which now resides squarely with the ODPP. The OCG's conclusion is premised, particularly, upon the bases of the following facts:
  - a. The OCG's attempts to obtain information from the Dutch Authorities have proved to be futile;
  - b. The OCG's attempts to obtain critical information from Mr. Colin Campbell have been summarily obstructed. Consequently, the OCG has concluded, herein, that there is *prima facie* evidence that Mr. Colin Campbell has committed a criminal offence or offences under Section 29

(b) of the Contractor General Act – the prosecution of which now resides squarely with the Learned DPP;

- c. By way of a letter, which was dated 2010 July 21, the Learned Solicitor General of Jamaica advised the OCG that the ODPP was designated the central authority in Jamaica for the purpose of investigation “*of such matters*”;
- d. The ODPP’s letter, to the OCG, which was dated 2010 August 3, has confirmed that the ODPP is in fact the designated authority in Jamaica, under the Mutual Assistance (Criminal Matters) Act, in respect of the referenced matters; and
- e. The ODPP’s stated position, in its letter, which was dated 2010 August 3, has clearly conveyed that any disclosure by it of the requested information to the OCG, at the current time, would, among other things, compromise the ODPP’s international and statutory obligations.

Given the compendium of facts as have been stated above, and the challenges which have been faced by the OCG during the course of its Investigation, the OCG is of the considered opinion that the ODPP is now the primary Jamaica State Authority which is seized with the requisite access to information, capacity and resources to further the investigations into the allegations which have been made concerning Mr. Colin Campbell and, by extension, the PNP’s dealings with Trafigura Beheer.

- 10. Finally, it must be noted that the PCJ and Ministry files, which were perused by the OCG, were not consistent with any logical flow which would have led to the ease of referencing and understanding of information which was made available to the OCG.



## **RECOMMENDATIONS**

Section 20 (1) of the Contractor-General Act mandates that “*after conducting an Investigation under this Act, a Contractor-General shall, in writing, inform the principal officer of the public body concerned and the Minister having responsibility therefor of the result of that Investigation **and make such Recommendations as he considers necessary in respect of the matter which was investigated.***” (OCG’s Emphasis).

In light of the foregoing, and having regard to the Findings and Conclusions that are detailed herein, the OCG now makes the following Recommendations:

1. The OCG is hereby formally recommending that a copy of this Report should be referred to the DPP on the basis that there is evidence which is recorded herein which establishes that Mr. Colin Campbell has committed a criminal offence or offences under Section 29 (b) of the Contractor General Act by failing, without lawful justification or excuse, to comply with a lawful requirement of a Contractor General and/or by withholding critical information from a Contractor General, thereby obstructing and hindering him in the execution of his lawful investigative and other functions under the Contractor General Act.

The repeated failure and/or refusal of Mr. Colin Campbell to provide detailed and particularized answers to those of the OCG’s written requisitions and questions which were lawfully directed to him, and/or to otherwise fully cooperate with the OCG’s Investigation into the specific allegations which are associated with the subject payment of \$31 Million to the C.C.O.C. Association, has virtually stumped the OCG’s investigative attempts and efforts in this matter.

Section 29 of the Contractor General Act provides, *inter alia*, as follows:

*“Every person who -*

*(a) willfully makes any false statement to mislead or misleads or attempts to mislead a Contractor-General or any other person in the execution of his functions under this Act; or*

*(b) without lawful justification or excuse -*

*(i) obstructs, hinders or resists a Contractor-General or any other person in the execution of his functions under this Act; or*

*(ii) fails to comply with any lawful requirement of a Contractor General or any other person under this Act;...*

*shall be guilty of an offence...”*

Consequently, the OCG is recommending that the appropriate legal action, as deemed fit by the DPP, be pursued against Mr. Colin Campbell.

2. In light of the controversy that has surrounded this Trafigura Beheer matter, the OCG feels obliged to recommend that stringent and appropriate election campaign financing laws be enacted to, among other things, force the disclosure of the identity of political campaign donors and financiers.

The proposed laws should also stipulate strict procedures regarding the receipt of campaign financing funds from any person and/or entity with whom the GOJ has or has had a contractual relationship.

It is the OCG’s firm belief that once this is done, the OCG and other State anti-corruption agencies will have the ability to cross-check these names against an electronic database of persons who are the beneficial recipients of Government contracts.

In the latter regard, a formal recommendation has already been made by the OCG to the Government, on 2010 February 19.

It is instructive to note that by way of a written Media Release, which was dated 2010 February 19, the OCG placed the following considered actions and positions upon the public record:

*“The Office of the Contractor-General (OCG) has, today, formally submitted to the Government, its detailed proposal for the mandatory disclosure of particulars of the beneficial owners of all Private Entities that are desirous of bidding or tendering on Government contracts which exceed \$275,000 in value.*

*The new anti-corruption measure, which is designed to combat what the OCG views as a corruption-enabling facility which is currently enjoying the colour of law, will significantly improve transparency in Government contracting by revealing the true identities of the owners of companies and other private business entities that are receiving Government of Jamaica contracts.”*

In the above-referenced regard, it is important to note that in 2009, more than 11,800 Government contracts, each exceeding \$275,000 in individual value, and totaling in excess of \$88 Billion in aggregated value, were awarded to contractors, most of whom were private business entities and whose certified beneficial owners were either not known or otherwise not readily identifiable.

Based upon the foregoing, and the gravity of the allegations which surround the J\$31 Million payment which was made by Trafigura Beheer to an account which was associated with then senior Public Officials, the OCG believes it prudent to highlight the Contractor General’s then stated position that:

*“By implementing this very important and ground-breaking anti-corruption measure, we will finally know the true identity of the persons, public officials, parliamentarians and politicians and related parties, inclusive of their friends, relatives and associates, who have been receiving Government contracts”.*

3. It is recommended that the PCJ, if it has not already done so, revamp its Procurement Committee, and undertake initiatives to ensure that the members of same become sufficiently knowledgeable with the Revised Public Sector Procurement Handbook (RPPH) and the Regulations which are associated with same.
4. The OCG also recommends that procurement workshops be undertaken with the PCJ, by the Ministry of Finance and the Public Service, to reinforce the requirements of the RPPH to the PCJ’s Procurement Committee.

Furthermore, the PCJ should commit itself to renewed familiarization with the GOJ Procurement rules through continuous training and workshops for all members of staff who are involved in the procurement of services, goods or works on behalf of the Corporation.

5. The OCG recommends that a review of the PCJs’ records management systems, be undertaken. This should be done with a view of streamlining the methods by which files are created, managed and stored in order to ensure uniformity, thereby implementing a more efficient system of documentation.

The implementation of this Recommendation will ensure an enhanced level of efficiency and accountability in the PCJ’s document management system. Further, it will also allow all relevant stakeholders, both internal and external, to have access to a complete, logical and comprehensive set of records.

6. It is further recommended that towards the end of each oil lifting contractual period, the PCJ should tender all services that are related to the said contract in compliance with the GOJ Procurement Rules.
7. The OCG recommends that regular internal procurement and financial audits be conducted by the PCJ, on a quarterly basis, so as to ensure that its finances are kept in check and are in conformance with all applicable GOJ accounting and financial regulations, namely the Financial Administration and Audit Act and the Public Bodies Management and Accountability Act.
8. With regard to the matter of impropriety, and having regard to the existence of published information which has publicly conveyed that other Jamaican State Authorities were in fact collaboratively working with the Dutch Authorities, the OCG recommends that such investigations be continued by the appropriate Jamaican State Authorities that are mandated under Jamaican Law to undertake a thorough forensic auditing and analysis of the alleged transactions.

If the referenced Jamaica State Authorities have themselves been faced with similar obstacles, such as those experienced by the OCG, then, in the interest of transparency and accountability, such disclosures, if not prejudicial to the case, should be made public with a view to shedding light on the Trafigura Beheer matter.

9. The OCG recommends, based upon the allegations which were made by the then Opposition Party (now the current ruling Administration), relating to corruption and fraud, that those matters be investigated by other agencies, such as the Commission for the Prevention of Corruption, the Office of the DPP and the JCF.

10. Finally, the OCG recommends that the Permanent Secretary, who has ‘Accounting Officer’ responsibility for the PCJ, take a more proactive and aggressive role in developing, implementing and enforcing effective risk management systems, checks and balances and other appropriate management systems at the PCJ, in an effort to mitigate against any possibility of deviations from the RPPH and the Contractor General Act, by the institution’s management and procurement staff – with the intention of promoting good governance within the Public Sector, by enhancing transparency and accountability.

# **OFFICE OF THE CONTRACTOR GENERAL**

## **Special Report of Investigation**

### **Conducted into the Oil Lifting Contracts between the Petroleum Corporation of Jamaica and Trafigura Beheer**

#### **Ministry of Energy and Mining (MEM)**

#### **Formerly Ministry of Industry, Technology, Energy and Commerce (MITEC)**

## **APPENDICES**