OFFICE OF THE CONTRACTOR GENERAL OF JAMAICA

Report of Investigation

Conducted into the Divestment of the Shares of Petrojam Limited

Ministry of Energy, Mining and Telecommunications

EXECUTIVE SUMMARY

The investigation into the divestment of the state-owned oil refinery, Petrojam Limited (Petrojam Ltd.), was initiated by the Office of the Contractor General (OCG) on 2007 May 24, pursuant to Section 15 of the Contractor General Act (1983).

The investigation was prompted by an allegation which was made in the electronic media by the then Leader of the Opposition and now Prime Minister of Jamaica, the Honourable Orette Bruce Golding, MP. Mr. Golding had alleged that the Petrojam Ltd. shares were sold below market value and that the market value for the shares was in the region of US$300 Million.

In response to a formal and written request for information which was made by the OCG to Mr. Golding, Mr. Golding failed to provide any documentary evidence which could support or substantiate his allegation. Mr. Golding, in his written response to the OCG, advised it to "determine the credentials" of the entity/entities that had performed the valuation.

The investigation was undertaken in accordance with the discretionary powers which are reserved to the Contractor General under Section 15 (1) of the Contractor General Act (1983), and was guided by clearly defined terms of reference and methodologies which were used to inform the findings and the recommendations which are contained herein.

The primary means of data collection which was utilised throughout the investigation was the conduct of interviews, meetings and the review of certain documents which were provided by Petrojam Ltd.

The findings of the investigation revealed that the divestment of the Petrojam Ltd. shares was actuated by a policy decision which was made by the Government of Jamaica (GOJ) in response to the energy needs of the country.

On the recommendation of certain technical studies, the GOJ had decided to upgrade the Petrojam oil refinery by way of a joint venture. Having expressed a strong desire to partner with the GOJ on the venture, the Venezuelan Government was deemed to be a viable partner for the execution of the joint venture to upgrade the refinery. Consequently, both countries executed the Petrocaribe Agreement, in 2005 August.

In keeping with the terms of the Petrocaribe Agreement, a Joint Venture Agreement was signed by the Petroleum Corporation of Jamaica (PCJ), the parent company of Petrojam Ltd, Petroleos de Venezuela S.A. (PDVSA) and Petrojam Ltd, in 2006 August.

Both Petrojam Ltd. (and the PCJ) and PDVSA agreed to utilise the expertise of the firm Purvin and Gertz Inc (PGI) to perform the valuation of Petrojam's assets. Their decision was premised on the fact that (1) the firm was internationally recognised and had a reputation of being highly competent in offering advice in the oil refinery industry and, (2) Petrojam had a long-standing relationship with PGI, dating back to the 1980s.

The findings of the investigation revealed that the contracting of Purvin and Gertz Inc (PGI) was done via a method which was similar to that of sole source or direct contracting. However, the prior written approval of the National Contracts Commission (NCC) was never sought by Petrojam for its use of the sole source methodology in procuring the services of PGI.

As such, the OCG has concluded that there was a breach of the Government's Procurement Guidelines, in regard to Section 2.1.3.4 of the GPPH, which requires NCC approval for any sole source contracting which is greater than J$1Million, or above, in value.

The findings of the investigation, with regard to the valuation of the shares, revealed that valuations were undertaken by two separate and independent entities, Muse Stancil and PGI. Based upon the two separate and independent valuations of the entire facility, the values which were arrived at were in the region of US$126 Million and US$128 Million, respectively.

The methods of valuation that were employed included, (1) the income approach, (2) the market approach and (3) the cost approach – with each having independent mechanisms for determination. As a result, there was a wide variance in the values which were derived by each method.

The valuators recommended the use of the income approach for the valuation of the Petrojam shares. This produced a value of US$128 Million which was the highest of the values which were produced by the differing valuation approaches. The final negotiated sale price for the subject shares was set at US$130 Million.

In addition, it must be noted that an estimated capital cost of US$300 Million was presented as the cost of the upgrade of the refinery which was to be undertaken by Petrojam, in partnership with PDVSA, and not as the value of the shares of Petrojam.

In the circumstances, the OCG has concluded that there is no merit to the allegation which was made by the then Leader of the Opposition, Mr. Golding, that Petrojam's shares were sold below market value or that the correct value of the shares was in the region of US$300 Million.

In light of the foregoing, and having regard to the other findings, information and conclusions which are detailed in this report, the OCG has made the following recommendations:

i. Petrojam Ltd. And the PCJ must at all times adhere to the Government's Procurement Procedures and Guidelines by ensuring that the requisite procedures are followed by it.

ii. The Permanent Secretary of Petrojam Ltd.'s and the PCJ's portfolio Ministry, must 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 Petrojam Limited and at the PCJ, in an effort to mitigate against any possibility of deviations from the GPPH and the Contractor General Act by the institutions' management and procurement staff.

iii. The Ministry of Finance and the Public Service should administer Procurement workshops for Petrojam Ltd., and the PCJ, to reinforce the requirements of the GPPH.

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INTRODUCTION

On 2007 May 24, the Office of the Contractor-General (OCG), acting on behalf of the Contractor General, convened an investigation into the circumstances surrounding the divestment of 49% of the Petrojam refinery and its business operations to Petroleos de Venezuela S.A. (PDVSA), and the value thereof.[1]

The investigation was prompted by electronic media reports in which the then Leader of the Opposition, Mr. Bruce Golding, alleged that the 49% shares being sold were undervalued and that they were valued in the region of US$300 Million.

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

The Terms of Reference of the OCG's Investigation into the circumstances surrounding the divestment of 49% shares of the Petrojam refinery, and its business operations, to Petroleos de Venezuela S.A. (PDVSA), and the value thereof, 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).

TERMS OF REFERENCE

The primary aim of the Investigation was to ascertain whether there was compliance with the provisions of the GPPH and the Contractor General Act (1983). The following specific objectives were targeted:

1. Determine whether the divestment of Petrojam's shares was conducted in compliance with the GPPH and the Contractor General Act.

[1] Correspondence from the OCG to Group Managing Director, PCJ dated May 24, 2007

2. Determine whether the consultant which was contracted to provide the subject valuation services was so contracted in compliance with the GPPH and the Contractor General Act.

3. Determine whether there is any merit to the allegation which was made by the then Leader of the Opposition that the shares, *inter alia*, were undervalued.

BACKGROUND

On 2007 May 24, the Contractor-General, acting pursuant to Section 15 (1) of the Contractor-General Act, commenced an investigation into the divestment of 49% of the shares of Petrojam Ltd to PDVSA, a state owned oil corporation of Venezuela.

The investigation was prompted by an allegation which was made in the electronic media by the then Leader of the Opposition, Mr. Bruce Golding, which alluded to the fact that the shares were being sold below market value and that they were valued in the region of US$300 Million.

Being cognizant of the allegation, the Office of the Contractor-General (OC-G), on 2007 May 24, wrote to Mr. Golding requesting the information he had purported to have received which substantiated his allegation. Mr. Golding, in his 2007 June 6 written response to the OCG's request, stated that the information he had received was undocumented and had emanated from more than one source.[2] Mr. Golding did not provide any evidence which could substantiate his allegation.

The divestment of PCJ's 49% shareholding in Petrojam Ltd. was as a result of a policy decision which was taken by the Government of Jamaica in 2004.

[2] Correspondence from the Leader of the Opposition to the OCG dated June 6, 2007

The Government was of the view that the refinery had to be upgraded from a hydro-skimming facility to a plant which was capable of producing a higher percentage of clean products from each barrel of crude oil processed, in addition to increasing the plant's output to 50,000 barrels per day.[3]

The then Minister of Commerce, Science & Technology, The Hon. Phillip Paulwell, "recommended that the upgrading exercise should be pursued through a lead investor/private financing type arrangement, under a Build, Own and Operate (BOO) Scheme".[4]

Subsequently, Jamaica and Venezuela signed the Petrocaribe Agreement on 2005 August 23, signifying both countries' commitment to the upgrading of the oil refinery. Accordingly, the Government of Jamaica, through PCJ, entered into a Joint Venture Agreement, on 2006 August 14, with Petroleos de Venezuela S.A. (PDVSA), to finance the upgrade of the refinery.[5]

PCJ and PDVSA, together, agreed to the selection of Purvin and Gertz Inc (PGI) to value the refinery.[6] "PGI is an international firm, which provides professional consultations to businesses in the petroleum, refining and petrochemical industries."[7]

METHODOLOGY

As was previously indicated, the Terms of Reference of the OCG's Investigation into the circumstances surrounding the divestment of 49% shares of the Petrojam refinery to Petroleos de Venezuela S.A. (PDVSA), and the value thereof, were primarily developed

[3] Former Minister of Commerce, Science and Technology, The Hon. Phillip Paulwell Sectoral Debate Presentation on May 12, 2004.
[4] Ibid.
[5] Copy of Joint Venture Agreement between PCJ and PDV Caribe S.A. and Petrojam Ltd.
[6] Statement Petrojam Refinery Valuation from the Board of Directors PCJ & Petrojam Ltd. The Gleaner, June 1, 2007
[7] Ibid

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 following techniques informed the Findings and Conclusion of the investigation:

1. Perusal of certified copies of the Joint Venture Agreement between Petroleum Corporation of Jamaica and PDV Caribe S.A. and Petrojam Limited;

2. Perusal of the Valuation of the Petroleum Company of Jamaica Business Operations by Purvin and Gertz Inc;

3. Perusal of email correspondence between Petrojam Ltd. and PDVSA;

4. A meeting and interview with representatives of Petrojam Ltd.;

5. References made to the Contractor General Act;

6. References made to the Government Procurement Procedures Handbook (GPPH).

FINDINGS

Findings Surrounding the Divestment

In the 2004/2005 Sectoral debate presentation which was made by the Honourable Phillip Paulwell, MP, the then Minister of Commerce, Science and Technology, it was announced that "upgrading Petrojam and increasing its throughput to 10,000 barrels per day will be a central policy objective of Government." This was seen as a solution to addressing Jamaica's energy needs.[8] Accordingly, the upgrading of Petrojam was actuated by a policy decision which was made by the Government of Jamaica in 2004 to transform Petrojam into an efficient oil refinery.

In his presentation, the Honourable Minister cited the following considerations which informed the policy decision[9]:

1. The current refinery design is a simple hydro-skimming configuration with a small catalytic reformer for producing high-octane gasoline blending components. Approximately 45% of the refinery's production is heavy fuel oil with the remaining 55% being clean products (LPG, Turbo, Gasoline, and Diesel). Consequently, there is a deficit of high value products such as LPG and gasoline, which now have to be imported.

2. The refinery, in its present state, will not be able to meet upcoming changes in global product specifications, which call for the production of low sulphur gasoline and diesel. Furthermore, the refinery uses MTBE as an octane enhancer for gasoline and there is now an international thrust to phase-out MTBE by 2007 because of

[8] Former Minister of Commerce, Science and Technology, The Hon. Phillip Paulwell Sectoral Debate Presentation on May 12, 2004.

[9] Ibid

environmental considerations. (MTBE, or methyl tertiary-butyl ether, is a chemical compound that is manufactured by the chemical reaction of methanol and isobutylene. It is almost exclusively used as a fuel additive in motor gasoline).

3. Upgrading the refinery, enabling it to supply the full range of finished petroleum products to the local market, and to be in a position to take up anticipated export opportunities, must be a preferred option for Jamaica.

4. Based upon the technical recommendations, the preliminary view is that the refinery upgrade should be pursued through a lead investor/private financing type arrangement, most likely under a Build, Own and Operate (BOO) Scheme.

A screening pre-feasibility study was conducted, on Petrojam's behalf, by Muse Stancil, a global consulting firm which specializes in the energy industry. The findings of the study informed, *inter alia*, the technical recommendations which are outlined in item #4 above. Based upon the findings of this pre-feasibility study, the decision was made to upgrade the refinery in two phases as outlined below:

PHASE I

- Expansion of the refinery's crude capacity from 35 kbbls/day to 50 kbbls/day to better meet local market demand and to achieve competitive economies of scale.

- Installation of a new catalytic reforming unit with increased capacity (7,500 kbbls) capable of supplying the full gasoline demand of the Jamaican market.

- Installation of a new vacuum tower (nominal capacity 30 kbbls/day).

- Installation of a Visbreaker Unit (15kb/d) for the production of a lower cost heavy fuel oil product.

- Installation of new desulphurization facilities to reduce the sulphur content in diesel oil from 5000ppm to around 15ppm.

- The estimated cost for the Phase I program was specified as US$ 200 Million.

PHASE II

- Installation of a bottoms upgrading scheme to reduce the proportion of atmospheric bottoms in the overall refinery production slate, using a delayed coker technology. Depending upon financing and capital considerations, it may be decided to implement Phase II as a separate project. Export of vacuum gas oil will continue.

- The estimated capital cost for the Phase II program was estimated at US$ 250-300 Million, depending upon the final conversion scheme chosen."[10]

PDVSA, under the Petrocaribe Agreement, made a commitment to participate in the proposed upgrade. The Petrocaribe Agreement is the Energy Cooperation Agreement between the Government of the Bolivarian Republic of Venezuela and the Government of Jamaica. The Agreement was signed in Montego Bay, Jamaica, on 2005 August 23.[11] Consequently, the Cabinet of the Government of Jamaica made the following decisions:

i. Venezuela, through its oil corporation, would be allowed to purchase a 49% stake in the refinery.

[10] http://www.pcj.com/petrojam/major_text.htm
[11] The Petroleum Act

ii. The sale of the 49% stake would be for the purpose of facilitating the funding of the upgrade of the refinery, by Venezuela. The proceeds of the sale would be re-invested as a part of Jamaica's contribution to the cost of the refinery upgrade.

iii. The cost of the shares would be determined via a professional valuation of the refinery, in addition to negotiations between the parties.

iv. A condition of the divestment of 49% of the shares would be a commitment from the Venezuelan entity to provide capital for the upgrade of the refinery.[12]

Accordingly, on 2006 August 14, after lengthy negotiations among all the parties concerned, a Joint Venture Agreement was signed among the following stakeholders[13]:

i. **Petroleum Corporation of Jamaica**, a statutory corporation established under the Petroleum Act and having its principal office at 36 Trafalgar Road, Kingston 10 in the Parish of Saint Andrew, Jamaica.

ii. **PDV Caribe S.A.,** an affiliate company of Petroleos de Venezuela, S.A., a mercantile society, formed under the laws of the Bolivarian Republic of Venezuela, and having its principal office at Edf. Petroleos de Venezuela, Calle El Empalme, Avd. Libertador, Torre Este, Piso 7, Caracas 1060-A, Venezuela.

iii. **Petrojam Limited,** a company incorporated under the laws of Jamaica and having its registered office at 96 Marcus Garvey Drive, Kingston 15, in the parish of Kingston, Jamaica.

[12] Correspondence from PCJ to OC-G dated October 5, 2007
[13] Copy of executed Joint Venture Agreement

The Agreement was entered into for the purpose of recording the terms and conditions of the joint venture, to regulate the stakeholders' relationship with each other, and to regulate certain aspects of their affairs and their dealings with the JVC. (JVC means Petrojam Limited after completion of the upgrade).

The date of completion of the upgrade project is expressed to be mid-year 2009, after which PCJ and PDVSA is to enter into the Share Sale & Purchase Agreement in which PCJ shall sell and transfer to PDV Caribe, and PDV Caribe shall purchase and make a lump sum cash payment for 49% of, the shares issued in the capital of JVC. [14]

The estimated cost of the upgrade is stated as US $300 Million[15] and will be financed through the joint venture. Additionally, PDVSA will also share technical expertise to ensure a seamless implementation of the upgraded facility which is scheduled for completion in 2009.

It must be noted that the Venezuelan Government, through PDVSA, has entered into joint venture agreements with other countries in a bid to alleviate the energy crisis which the world is currently experiencing.

One such venture is with the Iranian Government, through the joint venture holding of Venezuelan-Iranian Oil & Gas Co. (VENIROGC). VENIROGC will be a 50-50 partnership between state run Petroleos de Venezuela SA (PDVSA) and Petropars.

Unlike existing ventures, this initiative will focus on oil and gas developments outside of the two countries, such as in Bolivia. Presently, Petropars, a unit of National Iranian Oil Co., already has two agreements with PDVSA. One such agreement is for the exploration of the Ayacucho 7 Block in Venezuela's heavy crude producing Faja del Orinoco region.

If the wells are commercially viable, the two companies will develop the wells together with PDVSA holding 51% of the venture. A second agreement, which is subject to

[14] Ibid.
[15] http://www.pcj.com/petrojam/whatsnew_text.htm

Government approval, involves the exploration for natural gas in the Cradon 2 block in the Gulf of Venezuela.

In light of the foregoing, the joint venture between PCJ and PDVSA may be deemed as another effort to alleviate the energy crisis which presently obtains internationally.

Further, PDVSA seems to possess the financial resources, experience and expertise in the exploration of alternative fuel supply.

Findings Surrounding the Selection of Purvin & Gertz Inc. (PGI)

PDVSA and PCJ agreed to use the services of PGI to conduct the valuation of the oil refinery[16]. PGI, which was founded in 1947, is an independent, employee-owned and operated, international consulting firm, which provides technical, commercial and strategic advice to international clients in the crude oil, petroleum refining, natural gas, LPG, NGL, petrochemical and power generation industries.

PGI has its headquarters in Houston, Texas and an international network of offices in the United States, Canada, South America, Europe, the Middle East, Russia and Asia.[17]

The selection and retention of PGI was done via the sole source or direct contracting procurement methodology.[18] PGI charged US$74,894.59, in 2006 October[19], for its services. Its budget and schedule estimate had been set at US$57,500 in 2005 December.

The estimate was greater than J$1Million when converted using an exchange rate of J$65.00 to US$1.00. As such, the prior endorsement of the engagement of PGI, by the National Contracts Commission (NCC), was required by Section 2.1.3.4 of the GPPH. However, there is no evidence to indicate that such approval was either sought by, or was granted to, Petrojam, the PCJ or their portfolio Ministry.

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[16] Statement Petrojam Refinery Valuation from the Board of Directors PCJ & Petrojam Ltd. The Gleaner, June 1, 2007
[17] http://www.purvingertz.com
[18] Notes of Meeting at Petrojam Ltd. on November 22, 2007.
[19] Copy of invoice from PGI to Petrojam Ltd. dated October 25 ,2006

In the circumstances, the findings of the investigation are that the contracting of PGI was carried out in contravention of the GPPH.

Members of the Petrojam Ltd. Team, who were instrumental in negotiating the joint venture, informed the OC-G at a meeting which was held at Petrojam Ltd. on 2007 November 22, that they doubted that the requisite approval was ever sought by the Ministry on Petrojam's behalf.

They further informed the OC-G, at the same meeting, that the entity, Petrojam Ltd., was just coming "on board" where the Government Procurement Procedures and Guidelines were concerned.[20]

PCJ and Petrojam Ltd. cited the following as the reasons for selecting PGI to carry out the valuation:

i. "PGI is a leading, independent consultancy firm in the Petroleum Refinery industry. They have offices on almost every continent in the world. They are widely recognized world-wide as a reputable and capable firm. They publish the quarterly trade publication, "Global Petroleum Market Outlook", which is widely subscribed to and used by many refiners, including Petrojam Ltd. to provide current information and analysis of trends in the industry, including demand, supply, prices, margins, and other general industry indicators.

ii. Their reputation and standing in the industry, the reports, opinions and recommendations offered by PGI are usually considered to be of a high quality, and are therefore readily accepted and are acceptable by third parties.

iii. Petrojam Ltd. has been a long-standing client of PGI since the mid to late 1980's. PGI has become very familiar with the Petrojam refinery through the

[20]Notes of Meeting on November 22, 2007 at Petrojam Ltd.

work they have done for the refinery over the years. The typical services provided by PGI to Petrojam Ltd. include:

- Annual forecasts of crude and product prices for budgeting and other purposes;
- Periodic valuation of assets for insurance purposes;
- Market studies related to potential sale of petroleum products on the export market.

iv. The selection of PGI to do the valuation was readily agreed to by PDVSA, they also being cognizant of the firm's reputation and capability.

v. The fees quoted by PGI to perform the valuation work did not appear to be unreasonable when compared with rates from other consulting firms.

vi. Petrojam Ltd. was able to negotiate with PGI to perform the valuation at their 2005 rate schedule, even though the bulk of the work was expected to be done in 2006."[21]

Findings Surrounding the Allegation Concerning the Market Value of the Shares

Valuation Analysis

The methods of valuation of the Petrojam Ltd. Shares, which were employed, included (1) the income approach, (2) the market approach and (3) the cost approach, with each having its own independent mechanisms for determination such that a wide variance in values was produced.[22]

[21] Correspondence from PCJ to the OC-G dated October 5,2007
[22] PGI valuation report " Valuation of Petroleum Company of Jamaica Business Operations- August 2006

Cost Approach

The cost approach is determined by calculating the value of deferral of replacement of the asset. However, this method is deemed not to be a prime determinant of a facility's fair market value since it has no relation to the earnings capability of the asset.

Its primary significance is to indicate whether there is a reasonable limit on the value of a facility, based upon the asset's value as determined by the calculation of the value of deferral of replacement cost. The cost approach is usually used to determined insurable value, ad valorem tax value, and limits on depreciation.

In the case of the Petrojam shares, its assets – the Kingston refinery and the Montego Bay terminal, were valued at US$230 Million. However, once the facilities were adjusted for depreciation, due to age and wear and tear, the value was reduced to US$67 Million.

Market Approach/ Comparable Sales Approach

The market valuation approach utilizes data which is derived from comparable refinery transactions. The value of the asset is established by comparing recent sales transaction that have been completed on similar or near similar assets.

The market approach valued the Kingston refinery at US$48 Million and the Montego Bay terminal at US$4 Million, for a total of US$52 Million.

The valuators found this approach meaningless in the valuation of an on-going business such as a refinery operation, due to the many differences which exist between individual facilities and the much fewer number of transactions which were then available for comparison. However, in a situation where the asset's economic performance is not known, the market approach may be used as an indicator of the value of a refining asset.

Income Approach

The Income valuation approach is derived from the capitalization of the future cash flows from the asset. This approach is deemed as the best method to employ to estimate the fair market value of a business operation and is commonly utilized by buyers and sellers of such assets.

The income approach valued the assets – the Kingston refinery and Montego Bay terminal, for US$128 Million.

Based upon the foregoing, the valuators recommended the value which was derived from the income approach, viz. US$128 Million, as the preferred fair market value of the assets. This value was accepted by the joint team of PDVSA and PCJ, following after extensive negotiations.

At a meeting, which was convened on 2007 November 22, (hereinafter referred to as "the meeting"), members of the Petrojam team advised representatives from the OC-G that the value which was arrived at by PGI was higher than that which was offered by PDVSA.

However, after protracted negotiations, this value was accepted by both parties. The corporations subsequently agreed on a sale price of US$130 Million and a 49-51% share split, with PCJ owning 51%. Accordingly, PDVSA would pay US$63 million for 49% shares in the facility.[23]

At "the meeting", the OC-G was further advised that the value of the facility which was arrived at by the screening study, which was conducted by Muse Stancil, was less than

[23] Statement Petrojam Refinery Valuation from the Board of Directors PCJ & Petrojam Ltd. The Gleaner, June 1, 2007

that which was arrived at by PGI. Muse Stancil had valued the facility for approximately US$126 Million,[24] while PGI had valued the facility at US$128 Million.

The Petrojam team also hastened to add that in 1996 the Government of Jamaica had wanted to sell the entire facility for less than the cost that PDVSA was willing to pay for the 49% stake in the facility, i.e. US$63 Million.

Consequently, they felt comfortable in accepting the value which was put forward by PGI for the facility and the negotiated sale price of US$130 Million which was settled for same. They were confident that they had achieved value for money on behalf of the Jamaican taxpayers.[25]

[24] Muse Stancil- Refinery Upgrading Project Screening Study Presentation Prepared for Petrojam Ltd. March 2004.

CONCLUSION

The Divestment

The divestment of the Petrojam refinery was as a result of a policy decision which was made by the Cabinet of the Government of Jamaica. The decision was central to the Government's overarching policy objective of addressing Jamaica's energy needs.

The divestment approach which was recommended and employed was that of a joint venture or a lead investor/private financing type arrangement under a Build, Own and Operate (BOO) Scheme.

According to the documents that were reviewed by the OCG, the Venezuelan Government, from the outset, had expressed a strong interest in participating in the upgrading of the refinery.

The Government of Jamaica welcomed this show of interest on the part of the Venezuelan Government and viewed its offer favourably.

Consequently, the Petrocaribe Agreement was signed on 2005 August 23, by the Government of Jamaica and by the Government of the Bolivarian Republic of Venezuela, thus concretising the bi-lateral agreement to upgrade the refinery. The upgrade would be undertaken by state-owned oil refineries, Petrojam Ltd. and PDVSA, and is scheduled for completion in 2009.

Further, the benefits that were to be derived from a joint venture partnership would greatly assist the Government of Jamaica in realizing its objectives in addressing Jamaica's energy needs. These benefits are standard and are as follows:

[25] Notes of Meeting on November 22, 2007 at Petrojam Ltd.

i. Access to new markets and distribution networks;

ii. increased capacity;

iii. sharing risks with a partner; and

iv. access to greater resources, including specialised staff and technology.

The OCG's research on PDVSA, has revealed that PDVSA is involved in a number of joint venture initiatives, mainly in the exploration of alternative fuel supply. Therefore, it is evident that PDVSA has the required financial base, experience and expertise to ensure the success of the joint venture upgrading initiative with Jamaica.

Accordingly, there is no evidence to show that the engagement of PDVSA in this joint venture was characterised by impropriety or irregularity, or that the selection and the contract negotiation process was not transparent. From all indications, the selection of PDVSA has been supported by all parties concerned – that is, the Government of Jamaica and the Government of Venezuela.

Selection of PGI to Perform Valuation

PGI was selected by way of the sole source or direct contracting procurement methodology for reasons which were cited by Petrojam Ltd. However, the required GPPH procedure, viz. Guideline 2.1.3.4, was not followed by Petrojam, or by the PCJ, as the requisite prior endorsement of the engagement was neither sought or received from NCC.

The Veracity of the Allegation

The value of the facility appears to be an accurate and fair one based upon the following:

i. Of the different approaches which are commonly utilized in business valuations, the one which produced the highest value, viz. the income approach, was the one which was selected in the instant case and which produced an asset value of US$128 million.

ii. The valuation which formed a part of the screening study which was conducted by Muse Stancil in 2004 March, valued the facility at approximately US$126 Million. This was less than the value of US$128 Million, which was arrived at by PGI in 2006. Depreciation over a two year period would have made the margin of the difference between the two values even wider, i.e. greater than the US$2 Million difference.

iii. There is no evidence to indicate that the subject shares could have valued more than the amounts which were derived from the referenced valuations which were conducted. Mr. Golding had alleged that the shares were valued in the region of US$300 million. Both valuations produced respective values of US$126 million and US$128 million for the facility. The final negotiated sale price was set at US$130 million, with PDVSA paying US$63 million for 49% of the shares. It must be noted that the figure of US$300 million was put forward as the estimated cost to upgrade the facility and not as the value of the shares.

Based upon the foregoing, the OCG has concluded that there is no merit in the allegation which was made by the then Leader of the Opposition, Mr. Golding, that the subject shares were sold below market value or that the correct value of the shares was in the region of US$300 million.

RECOMMENDATIONS

The OCG has considered and reviewed all of the information which has been disclosed to it by the referenced respondents as per the stated Methodology and in fulfilment of the established Terms of Reference of this investigation.

There is evidence which suggests that the GPPH has been contravened in the procurement practises of Petrojam Ltd.

In the circumstances, it is the OCG's considered and respectful opinion that the following remedial measures and/or corrective actions should be taken by the agency, its parent company and their portfolio Ministry:

i. Petrojam Ltd. and the PCJ must at all times adhere to the Government Procurement Procedures and Guidelines by ensuring that the requisite procedures are followed by it.

ii. The Permanent Secretary of Petrojam Ltd.'s and the PCJ's portfolio Ministry, must 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 Petrojam Limited and at the PCJ, in an effort to mitigate against any possibility of deviations from the GPPH and the Contractor General Act by the institutions' management and procurement staff.

iii. The Ministry of Finance and the Public Service should administer Procurement workshops for Petrojam Ltd., and the PCJ, to reinforce the requirements of the GPPH.