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

ATTORNEY'S GENERAL SECRETARIAT

15th April, 2024

Ms. Jaiwantie Ramdass
Auditor General
Auditor General Department
Levels 2-4 Tower C
International Waterfront Centre
1A Wrightson Road
Port of Spain

Dear Madam,

Re: Your refusal to receive or consider the amended Statement of Revenue for the Financial Year 2023 and other related amended statements

Reference is made to the matter at caption.

This letter is issued pursuant to the Pre-action Protocol.

I instruct Mr. Douglas Mendes S.C. and Mr. M. Simon de la Bastide who act on behalf of the Minister and the Permanent Secretary of the Ministry of Finance.

We are instructed that the Statement of Revenue for the Financial Year 2023 (“the Revenue Statement”) which was submitted to you by the Treasury Division of the Ministry of Finance (“the Treasury Division”) in January 2024 contains a material understatement, and that although the Treasury Division has brought that fact to your attention and has amended the Revenue Statement and other related financial statements so as to correct errors therein arising from that understatement, you have refused to receive from the Treasury Division, and by extension to consider, the amended Statement of Revenue for the Financial Year 2023 and the other amended financial statements comprising the Public Accounts of Trinidad and Tobago. Our detailed instructions are as follows:

- (i) On the 31st January 2024 the Treasury Division submitted to you the Revenue Statement pursuant to section 24(1)(a)(iv) of the Exchequer and Audit Act;

- (ii) The Public Accounts of the Republic of Trinidad and Tobago for the Financial Year 2023 (“the Original Public Accounts”), were prepared by the Treasury Division prior to the discovery of the said understatement (“the understatement”);
- (iii) During the week of 26th February 2023 the Treasury Division was informed by the Budget Division of the Ministry of Finance (“the Budget Division”) of an apparent material understatement in the Revenue Statement.
- (iv) The Financial Management Branch of the Treasury Division deferred the submission of the Original Public Accounts upon the discovery of the said understatement (“the understatement”).
- (v) During the period from late February 2024 to early April 2024, personnel from the Treasury Division, the Budget Division, and the Inland Revenue Division carried out investigations in collaboration with each other for the purpose of determining the causes and the quantum of the understatement;
- (vi) Those investigations established that the understatement in the Revenue Statement is \$2,599,278,188.73 and is comprised as follows:

VAT	\$ 2,262,371,602.00
Individual	\$ 330,050,736.46
Business Levy	\$ 5,708,423.26
Green Fund Levy	\$ 1,147,427.01

- (vii) You were informed of the understatement and the circumstances in which it came to be included in the Revenue Statement. In that regard our instructions are as follows:
 - (a) On the 25th March 2024 the Permanent Secretary in the Ministry of Finance, Ms. Suzette Lee Chee (“the Permanent Secretary”), spoke to you via telephone advising that there appeared to be a material misstatement in the Revenue Statement. On that occasion you stated you were on your way home and that you would contact the Permanent Secretary the following day;

- (b) On the 26th March 2024 the Permanent Secretary, not having heard from you, sent a WhatsApp message to you at 10:11 am. indicating that she wished to follow up on your preliminary discussion with her regarding the understatement on the previous day, and in that regard would very much appreciate a further telephone discussion as well as a physical meeting with you to discuss the Revenue Statement. In response you stated by way of WhatsApp message to the Permanent Secretary that your representative would contact her the following day;
- (c) Subsequently the Ministry of Finance was contacted by Mr. Shiva Sinanan (“Mr. Sinanan”), Assistant Auditor General in the Auditor General’s Department, and a meeting to discuss the Revenue Statement was scheduled for 27th March 2024. The meeting was in fact held on that day at the offices of the Ministry of Finance. Present at that meeting were:

Suzette Lee Chee PS Finance (Ag.)	Shiva Sinanan Assistant Auditor General
Jennifer Lutchman PS <i>in the</i> Ministry of Finance	Michelle Superville Craigwell Audit Executive I
Catherine Laban Comptroller of Accounts	Vidya Ramoutar Accountant IV IRD (Ag.)
Chairman Board of Inland Revenue S. Boodoosingh	Gillian Lee Accountant IV IRD (Ag.)
Director Budgets, Cherry Ann Le Gendre	Dexter Harding Treasury Director
Deputy Director Budgets Muriel Alfred James	Michelle Seifert Thompson Senior Treasury Accountant
Sham Mohammed Budget Manager	
Sharon Campbell Budget Advisor	
Eric James Advisor to Minister of Finance	

- (d) At that meeting Mr. Sinanan was advised that there was an apparent material understatement in the Revenue Statement and that a reconciliation process was

ongoing for the purpose of assessing the quantum and cause of the understatement. At the meeting the Auditor General’s Department (“the AGD”) was also invited to make recommendations with respect to future steps to be taken in resolving the problems and issues raised in the meeting. Mr. Sinanan requested certain documentation and indicated that he would report the matters discussed at the meeting to the Auditor General and then contact the Ministry of Finance on those matters.

(e) On the 28th March 2024 the Permanent Secretary, having not received any further communication from the AGD, called Mr. Sinanan to discuss the Revenue Statement. On that occasion Mr. Sinanan informed the Permanent Secretary that the AGD would not be issuing any communication to the Ministry of Finance and that the Ministry should write to the Auditor General with respect to any material misstatement in the Revenue Statement.

(f) On the 28th March 2024 the Permanent Secretary submitted to you via email a Memorandum of the same date which advised amongst other things that:

(i) The Revenue Statement contained an understatement in the amount of \$3,379,777,908.00 which if not reported correctly would have far reaching implications;

(ii) As at that time the Ministry of Finance had reconciled an amount to the value of \$2,598,130,761.72 as follows;

VAT	\$ 2,262,371,602.00
Individual	\$ 330,050,736.46
Business Levy	\$ 5,708,423.26

(iii) The Ministry of Finance would continue to liaise with the Central Bank of Trinidad and Tobago to complete the reconciliation process.

The Memorandum also explained the process by which the understatement was identified and quantified, what caused the understatement to be made, and the reasons why the understatement was not identified earlier. The Memorandum was copied to Mr. Sinanan, Michelle Superville-Craigwell, Senior Treasury Accountant, Jennifer Lutchman, Permanent Secretary in the Ministry of Finance,

and Catherine Laban, Comptroller of Accounts. A true copy of the Memorandum is attached hereto and marked 'A'.

- (g) On the 5th April 2024 the Permanent Secretary submitted to you via email a further Memorandum advising on the understatement. In that Memorandum the Permanent Secretary advised that the continuing reconciliation process established that the understatement in the Revenue Statement was \$2,599,278,188.73, and that it was comprised as follows:

VAT	\$ 2,262,371,602.00
Individual	\$ 330,050,736.46
Business Levy	\$ 5,708,423.26
Green Fund Levy	\$ 1,147,427.01

The Permanent Secretary also stated in the Memorandum that the understatement was due to posting errors, including double booking of transactions and decimal point transposition errors arising as a result of the new Electronic Cheque Clearing System at the Central Bank of Trinidad and Tobago as well as the *Go Anywhere Platform* which replaced the presentation of physical cheques for reconciliation. A true copy of the Memorandum is attached hereto and marked 'B';

- (h) On the 8th April 2028 the Permanent Secretary sent a further Memorandum to you by email. In that memorandum the Permanent Secretary confirmed that the reconciliation process was complete and that the understatement amounted to \$2,599,278,188.93 comprised as follows:

VAT	\$2,262,371,602.00
Individuals	\$ 330,050,736.46
Business Levy	\$ 5,708,423.26
Green Fund Levy	\$ 1,147,427.01

The Permanent Secretary also indicated in that Memorandum that the Comptroller of Accounts was updating/amending those Statements in the Original Public Accounts affected by the understatement (including the Revenue Statement) so as to correct errors therein arising from the understatement, and that the statements comprising the Public Accounts of Trinidad and Tobago, as amended, ("the

Amended Public Accounts”) would be provided to the AGD by the morning of 9th April 2024. A true of that Memorandum is attached hereto and marked ‘C’.

- (viii) On the evening of the 8th April 2024 the Comptroller of Accounts, Ms. Catherine Laban, sent an email to you advising that a CD containing electronic copies of the Amended Public Accounts would be delivered to your office on morning of 9th April 2024. This email was not acknowledged. A copy of that email is attached hereto and marked ‘D’.
- (ix) On the morning of the 9th April 2023 Ms. Shola Balliram, Treasury Executive in the Treasury Division, attended the office of the Auditor General to deliver a CD containing electronic copies of the Amended Public Accounts. On arriving at the Auditor General’s office Ms. Balliram was told by personnel in the AGD that they had been instructed by the Assistant Auditor General that he was instructed not to accept the CD containing the Amended Public Accounts.
- (x) After being informed of your refusal to receive the Amended Public Accounts the Comptroller of Accounts attempted to call you on your cell phone and on your landline phone on the 9th April 2024 but her calls went unanswered. On the same day the Comptroller also sent a WhatsApp message to you requesting a discussion on the Revenue Statement. You failed to acknowledge that message.
- (xi) After being appraised of your refusal to receive the CD containing the Amended Public Accounts the Permanent Secretary drafted and signed a letter to you of the same date again confirming the amount and cause of the understatement, expressly stating that the Revenue Statement was inaccurate, and warning that if the Revenue Statement were presented in the Auditor General’s report there would be unnecessary complications as a result. There were two CDs enclosed with that letter one of which contained Original Public Accounts and the other which contained the Amended Public Accounts. Finally in that letter the Permanent Secretary requested that the you use the latter CD, that is to say, the Amended Public Accounts. A copy of that letter is attached hereto and marked “E”;
- (xii) On the afternoon of the 9th April 2024 the Treasury Director, Ms. Dawn Craig, the Senior Treasury Accountant Financial Management Branch, Ms. Sherry Ramshai, and

the Treasury Executive I, Ms. Shoba Balliram, went to the Office of the Auditor General to deliver the Permanent Secretary's said letter of 9th April 2024 together with the said CDs. However upon arrival they were told that there was no one there to receive those items and that they should return on the 11th April 2024;

- (xiii) On the 11th April 2024 the said officers returned to the Office of the Auditor General to deliver the said letter and CDs and upon arriving there they were met by the Assistant Auditor General, Mr. Sinanan, who told the officers that he was instructed by you to accept only the CD containing the Public Accounts that were based on the Revenue Statement and not to accept the CD containing the Amended Public Accounts. The officers warned the Assistant Auditor General of the ramifications and implications of presenting the Public Accounts without making the amendments required as a result of the understatement.
- (xiv) At the request of the Assistant Auditor General, the three officers then met with the Senior Legal Officer in the AGD, Ms. Anita Mangra, and they asked her if the Amended Public Accounts could be audited before 30th April 2024. The Senior Legal Office then excused herself to consult with the Auditor General and upon her return indicated that she too was instructed by the Auditor General to accept only the CD containing the electronic copy of the Public Accounts that were based on the Revenue Statement and not to accept the CD containing the Amended Public Accounts.

Your decision to refuse to receive or to consider the Amended Public Accounts is unlawful and irrational. It is unlawful because it constitutes a failure to fulfill your duties under section 116 of the Constitution and section 9 of the Exchequer and Audit Act. It is irrational because it is inexplicable that you would produce an audit based on incorrect information having regard to the dire repercussions of understating revenue to that extent.

In the circumstances, we hereby call upon you to undertake in writing by 12 noon on 15th April 2024 that you will receive and consider forthwith an electronic copy of the Amended Public Accounts as contained in a CD to be provided to you by the Comptroller of Accounts Ms. Catherine Laban.

In the event that you fail to give such an undertaking by that time or to honour any such undertaking proceedings will be instituted against you seeking, amongst other things, an order of mandamus requiring you to accept and consider the Amended Public Accounts.

Yours respectfully,


Kendra Mark-Gordon
Director, Legal