

PSOJ HOSTS CORPORATE GOVERNANCE SEMINARS

In collaboration with the Commonwealth Association of Corporate Governance (CACG), the PSOJ presented a series of Corporate Governance seminars in April 2004 at the Hilton Kingston to support its goals to promote effective corporate governance in Jamaica. This series comprised three seminars: for directors of financial institutions, for Chairmen and an introductory course for directors and was attended by over 60 executives. It is worthy of note that, under a CACG global corporate governance programme, the PSOJ has already facilitated training of over forty directors, of whom four have gone on to qualify as certified trainers for the programme.

Presenters at these workshops included Geoffrey Bowes, CEO of the CACG and an internationally renowned expert on Corporate Governance and Anne Simpson, CEO of the Global Corporate Governance Forum. Local presenters included CACG certified trainers, Maxine Garvey, Archibald Campbell and Greta Bogues.

Included in the materials presented to each participant was the Draft Code of Corporate Governance for Jamaica, which has just been completed by the PSOJ Corporate Governance Committee. The code has been drafted so that it does not conflict with the provisions of the Companies Act, 2004 and is a first of its kind for Jamaica. This code is currently being reviewed by the Executive Council of the PSOJ, and copies have also been circulated to the Ministry of Finance & Planning, the Bank of Jamaica, the Financial Services Commission and the Jamaica Stock Exchange for their comment and input.

The PSOJ also hopes that Jamaica will play a leadership role in the regional development of corporate governance. A Caribbean Corporate Governance Task Force was set up in September 2003 with the objective of coordinating the development of a regional code on corporate governance. To date, it appears that Jamaica is the only country that has formally drafted such a code for its domestic corporate sector, and the PSOJ will offer its draft code to the other countries in the region as a potential model for the regional code.



L-R: Mr. Geoffrey Bowes, CACG Chairman, Ms. Greta Bogues, PSOJ CEO and Mr. Brian Wynter, Executive Director, Financial Services Commission

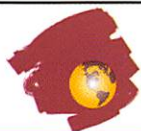
As recently noted by the Chair of the PSOJ Corporate Governance Committee, Alastair MacBeth, "In order to overcome the current debt crisis, proper corporate governance must play an important role, if the country is to attract the increased inward investment that will be required to sustain its economic recovery over the next decade".

In support of this opinion, it is worth recording that the McKinsey Global Investor Opinion Survey 2002 established that professional investors surveyed rated corporate governance as equal to or more important than financial statements, when selecting companies in which to invest. Further, in every region of the world, investors said that they would be willing to pay a premium for the stock of a well-governed company.

Additional information on Corporate Governance and the PSOJ Corporate Governance Committee is available on the PSOJ website, www.psoj.org.

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Trade Policy

THE SINGAPORE ISSUES: WHAT ARE THEY ABOUT? The Private Sector Trade Team

PART 2a (Cont'd)

GOVERNMENT PROCUREMENT

The issue of Government Procurement (GP) relates to the procurement of goods and services by government and its agencies for its own use. Albeit representative of an important share of total government expenditure and a major contributor to the growth of domestic economies, Government Procurement is outside the scope of the main rules for goods and services as governed by the World Trade Organisation (WTO). In fact, in the predecessor of the WTO, the General Agreement on Tariffs and Trade (GATT), GP is exempted from the basic rules of national treatment in Article III.

Within the WTO there are three areas of work on the issue of Government Procurement. The first is the Working Group (comprised of all members of the WTO) to oversee transparency in government procurement. The second is the Working Party on GATS Rules, which speaks to the issue of government Procurement in Services. The third is the actual Agreement on Government Procurement (GPA) which is a plurilateral agreement signed by some WTO members and is administered by a plurilateral committee. Jamaica is not signatory to the GPA, nor are the other members of CARICOM, while the US and Canada are the only countries from the Western Hemisphere who have acceded to this Agreement.

The issue of Government Procurement is commonly referred to as one of the four "Singapore Issues" as it arose out of the Singapore Ministerial which was held in 1996, which identified the four areas that required further study before a decision could be made on whether they should be taken up in multilateral trade negotiations. The mandate of this Ministerial spoke to parties agreeing "to establish a working Group to conduct a study on transparency in Government Procurement practices, taking into account national policies, and based on this study, to develop elements for inclusion in an appropriate agreement".

These issues were further considered in the Doha Ministerial meeting where it was held that negotiations of GP would be limited to transparency and would not include market access issues. Originally, slated to be negotiated by explicit consensus after the 5th Ministerial Meeting, the question of modalities of negotiation for Government Procurement came to a head when it was announced as one of the issues to be negotiated immediately after the Cancun Ministerial. As with investment and the other Singapore Issues, this was opposed by the developing countries, even prior to the meeting of Ministers, on the basis of incapacity to undertake negotiations of this nature in light on

ongoing negotiations. In its official Declaration prior to the 5th Ministerial, the Caribbean countries declared "The Singapore Issues have far-reaching implications for national economies, including the constriction of policy space, the irreversibility of negotiation outcomes and implementation costs. It is imperative that the process of clarification of these issues should continue before contemplating negotiations on these subjects."

As with the other three contentious issues, countries from the developing world, particularly the Caribbean delegation, deemed that they were ill-prepared to negotiate on an equal footing with developed countries on a multilateral agreement to this effect, particularly in light of their onerous obligations under other negotiating frameworks. Not only was the Caribbean unprepared to negotiate these issues, but there were strong reservations about their ability to implement them as they were qualified as being very costly and that capacity-wise or otherwise, the region simply was not ready to address these four issues.

Notwithstanding the original understanding for negotiation of rules governing GP, an annex to the Draft Ministerial Text coming out of Cancun set out the modalities for negotiations and included discussions on transparency in government procurement which would focus on which government entities and products to cover. This was an overtly highhanded attempt by developed country governments, namely the US, Japan and the EU, to force this issue on the negotiating table against the will of less developed countries.

Often referred to collectively as the reasons for the breakdown/collapse of WTO negotiations in September, Government Procurement and the other "Singapore Issues" are in a peculiar position. Government procurement, like investment and competition policy is part of the FTAA negotiating agenda which the 34 countries of the Western Hemisphere are set to complete by January 2005. This then begs the question as to why the Caribbean is willing to facilitate negotiations within the FTAA, but so unwilling to do so at the multilateral level?

Looking to the future, given the fallout on this issue at the WTO level, what are the expected ramifications for Caribbean stakeholders in negotiating Government Procurement in the FTAA with one of the main proponents of these very Singapore issues, the United States? It is fair to hypothesize that the FTAA may be used by the United States to ensure that more US trading partners within the Hemisphere adhere to the disciplines in the GPA.

Part 1a & 1b appeared in the PSOJ News of Nov/Dec 2003 and January-March 2004 respectively. Part 2a & 2b will focus on one of the remaining Singapore issues - government procurement.

FOR YOUR INFORMATION

Seminars On Companies Act



Hon. Phillip Paulwell, Minister of Commerce Science & Technology, listens to Mr. Mark Golding, Attorney-at-Law, make his presentation at the Seminar held at the Jamaica Conference Centre on 30 March, 2004. (Right) other panelists and participants at Companies Act Seminar.

The Private Sector Organisation of Jamaica (PSOJ) hosted a Companies Act Seminar on Tuesday, 30 March 2004 at the Jamaica Conference Centre.

This half-day seminar examined the implications of the new Act from an operational, legal and accounting perspective and the Hon. Phillip Paulwell,

Minister of Commerce, Science and Technology delivered the opening remarks.

The main presenters were Mr. Mark Golding, Attorney-at-Law and Carey Metz, Partner of DeloitteTouche and Mrs. Judith Ramlogan Chung, CEO of the Registrar of Companies.

During her opening remarks, PSOJ President, Beverley Lopez, noted that the new Companies Act makes notable changes to the existing law. "The Seminar will examine the impact of the Act on companies" continued Mrs. Lopez, and is in keeping with our commitment to be responsive to the needs of the business sector and to keep them informed".

Excerpts from presentation made by Mark J. Golding at PSOJ Seminar

-For companies under the new Act, a single document, the articles of incorporation, will replace the traditional Memorandum of Association and Articles of Association.
-The Ultra Vires doctrine has been abolished, therefore, there is no longer the need for the long list of objects and powers which had to be stated in the Memorandum of Association.
-Companies may now be incorporated with a single subscriber - section 3 (1). This puts an end to the requirement under the old Act of at least two

subscribers to the incorporation documents, a requirement that was inconvenient and pointless in the case of companies formed for the use and purposes of a single individual or as a wholly owned subsidiary of another company.

-A new duty is put on directors of public companies to take all reasonable steps to ensure that the secretary (or each joint secretary) of the company is a person who appears to them to have the requisite knowledge and experience to discharge the functions of secretary of the company. It is clear that in view of some of the

requirements introduced by the new Act, the secretary is a most important officer of a company, whose knowledge of the new Act will have to be quite comprehensive.

-The new Act is a document the importance of which to the Jamaican economy is matched by the size of the document itself. Having 396 sections and 15 schedules, totalling 364 pages, it is the largest statute in the laws of Jamaica.

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BULLETIN BOARD



Job Creation Awardees for May are here displaying their plaques: L-R Mr. David Minott, Minott Services, Ms. Patricia Smith, Jade Vine, Mr. William McConnell, J. Wray & Nephew, (70+ years Award) and Mr. Vaughn Morris, Seal Sprayed Solutions,

JEA's TOURISM CLUSTER WINS J\$36 MILLION DFID GRANT

The Tourism Cluster of the Jamaica Cluster Competitiveness Project (JCCP) has been awarded a grant of J\$36 million (360,000 pounds sterling) by the UK's Department for International Development (DFID) to drive market penetration activities.

These funds will be used to drive cost-effective and innovative marketing efforts over the next three years in the U.S. and U.K. for the "My Jamaica consortium". During that time period, member companies will invest in upgrading their products and training staff in an effort to meet international market standards. This collaborative effort will leverage strong partnerships with the JHTA, Jamaica Tourist Board, the Tourism Product Development Company (TPDco) and the Ministry of Industry and Tourism. This marks a milestone for SME players in the Tourism industry.

The Tourism cluster is one of the three clusters in the Jamaica Exporters' Association's JCCP. The JCCP which began in September 2002, is a two-year project dedicated to increasing the export competitiveness of Jamaican firms, and is funded by the DFID, USAID, GOJ and the JEA.

PSOJ INTERNATIONAL TRADE CONFERENCE - "Trade Connections: Your link to the world"

The PSOJ Trade Policy Committee, in collaboration with the Mona School of Business, will be hosting a one-day international trade conference entitled "Trade Connections: Your link to the world". The conference will be held on **Wednesday 14th July, 2004 from 8.30 am to 4.30 pm** and will feature various speakers from the regional business, academic and diplomatic communities. Come and hear a blend of speakers from the region and the Americas as they share strategies and opportunities for businesses in an increasingly competitive global market. **This is an event not to be missed.**

Who should attend? All top executives and members of the business community, members of the academic community, media personnel, regional organisations, non-state actors and other interest groups through the region. The conference will also be webcast throughout the region.

The premier event of the Trade Policy committee for 2004, with some 100-150 participants, this is also an excellent opportunity to advertise your products and/or services. For further information on the conference and sponsorship opportunities, please contact Sacha Vacciana (876) 927-6238 ext. 2246 or sachav@psoj.org.

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