

REGULATED INDUSTRIES COMMISSION

TRINIDAD AND TOBAGO

(TC-971139)

EXECUTIVE SUMMARY

EXECUTING AGENCY: The Ministry of Public Utilities and The Regulated Industries Commission.

BENEFICIARY: The Regulated Industries Commission.

FINANCING: Modality: Grant from Facility I, TC
Beneficiary: US\$ 1,066,000
MIF: US\$ 900,000
Total: US\$ 1,966,000

OBJECTIVES: The general objective of the project is to increase the efficiency and effectiveness of the utilities sector of Trinidad and Tobago. The specific objective is to help the GORTT in establishing the appropriate legal, regulatory and institutional framework to render the Regulated Industries Commission fully operational and effective in discharging its responsibilities.

DESCRIPTION: The project will have four components: (i) contracting an international specialist to be the Executive Director of the RIC for the first eighteen months; (ii) training approximately eighteen professionals of the local staff for a period of about two weeks in the theory and practice of modern incentive-compatible utility regulation; (iii) developing the legal and regulatory framework for the water and sanitation sector and; (iv) developing new policy and the legal and regulatory framework for the electricity sector.

SCHEDULE OF EXECUTION: Execution 20 months
Disbursement 24 months

SPECIAL CONTRACTUAL CONDITIONS: None

EXCEPTIONS TO BANK POLICY: None

I. COUNTRY AND PROJECT ELIGIBILITY

- 1.1 Trinidad and Tobago is eligible for all forms of MIF financing as declared by the MIF Donors Committee on December 11, 1993. The financing of this project is compatible with the MIF objective of fostering increased private sector participation in the infrastructure and provision of basic services and is eligible for grant funds through the Technical Cooperation Facility.

II. BACKGROUND

- 2.1 The Government of the Republic of Trinidad and Tobago (GORTT) has been the traditional provider of public services. In 1987 GORTT policy began to shift towards increasing private sector participation in public services. In 1992, the GORTT embarked on a comprehensive divestment program and since then has steadily increased private participation in the utility companies.
- 2.2 In the water sector, the Water and Sewerage Authority (WASA) is currently managed by a consortium composed of Severn Trent Water International and Tarmac. The Management Contract expires in April 1999. In the event that the current contract is not extended, the Government plans to increase private participation in the sector. The GORTT has already approved a "Cabinet Decision" to deepen private sector participation in WASA through a concession arrangement involving the division of WASA into two companies, namely, an Asset Company of which GORTT will retain ownership, and an Operating Company. The Operating Company will be privately owned, will provide all the financial needs of WASA and will have operational responsibilities and rights to use and upgrade infrastructure assets.
- 2.3 In the electricity sector, the Government has largely privatized generation. The Power Generation Company of Trinidad and Tobago Limited (Powergen) is owned 51% by the Trinidad and Tobago Electric Commission (T&TEC) and 49% by Southern Electric/Amoco. Powergen has a contract that guarantees a firm supply of 719MW to the national grid. The national grid is owned and operated by T&TEC. Any demand above 719MW T&TEC may buy from other suppliers through Independent Power Production (IPP) contracts. In this context, InnCogen is an important player. InnCogen is owned by four private co-generators that are building a 225MW plant for self-consumption. By an IPP contract InnCogen will be able to sell its excess capacity up to 195MW to the national grid. In the near future, an aluminum plant will come on line with a high auto-generating capacity and will also sell excess power to the grid.

- 2.4 In the telecommunications sector the utility company is Telecommunications Services of Trinidad and Tobago Limited (TSTT). The GORTT owns 51% of the company and Cable and Wireless owns 49%. When Cable and Wireless acquired its 49% participation, it signed a Shareholders Agreement with GORTT which confers TSTT some exclusive rights for the provision of telecommunications services until the year 2009. The GORTT is committed to liberalization of the market for telecommunications services and has received a preliminary legal opinion that the Shareholders Agreement does not preclude participation of other companies in the provision of telecommunications services. The GORTT has requested assistance from MIF to engage the services of a law firm that would help define the manner in which competition could be introduced.
- 2.5 Notwithstanding these major reforms, the regulatory framework for the public utilities sector remains weak. The regulatory agency, Public Utilities Commission (PUC), has been practically inactive since 1994. To provide the necessary regulatory environment for continued private participation, the Government recently passed the Regulated Industries Commission Act, 1998, establishing the Regulated Industries Commission (RIC), to replace the Public Utilities Commission. The Act has been approved by Parliament, and is awaiting the proclamation by the President of the Republic. The RIC has been designed to have a board of five to seven Commissioners, one Executive Director contracted internationally, two Assistant Executive Directors and a staff of about 18 professionals.¹
- 2.6 The primary mandate of the RIC is the regulation of public utility services provided under monopolistic conditions. Presently the Act includes the services of: supply and distribution of electricity, supply and distribution of water, provision of sewerage and wastewater, and telephone services (local and international but excluding data services, cellular and call-management services). Other public services such as gas and postal services may be included in the future. All entities, including a statutory authority or a company incorporated under the Companies Act that provide any of the services above will be under the jurisdiction of the RIC. Presently these companies include: T&TEC, Powergen, InnCogen, WASA, and TSTT.
- 2.7 The functions of the RIC include: making recommendations on the awarding of licenses; establishing the principles on which tariffs will be based; and monitoring and enforcing compliance with license conditions. It is intended to use incentive-compatible regulation to provide incentives for efficiency while ensuring financial viability for efficient utilities. A regulatory specialist was contracted by the Bank to review the RIC Act prior to its Cabinet approval. In particular, the consultant made recommendations to ensure that the Act would establish an independent and effective regulatory body by restricting the conditions under which a Commissioner may be removed from office and by giving financial autonomy to the Commission. The RIC Act is an umbrella legislation intended to be supplemented by sector-specific legislation and/or licenses, which will provide the detail of the sector regulation. Therefore, the effectiveness of the RIC is largely dependent on further work.

¹ The organizational chart of the RIC is available upon request,

III. PROJECT OBJECTIVES AND BASIC ACTIVITIES

- 3.1 The general objective of the project is to increase the efficiency and effectiveness of the utilities sector of Trinidad and Tobago. The specific objective is to help the GORTT in establishing the appropriate legal, regulatory and institutional framework to render the Regulated Industries Commission fully operational and effective in discharging its responsibilities.
- 3.2 Strengthening the regulatory framework for public utilities in Trinidad & Tobago requires work on a number of fronts. The RIC itself must be established and developed as an institution. Several sector specific utility Acts need to be rewritten because they are not compatible with the regulatory approach the RIC is intended to adopt. Each of the utility sectors will require legislative reform and development of new regulations and licenses. In several sectors, Government policy on matters such as ownership and competition in the sector is not fully developed. In these sectors, policy will need to be clarified before legislative reforms are developed. The norms and regulations for utilization of natural resources and its social impact will need to be evaluated.
- 3.3 Given the amount of work involved, the GORTT decided to concentrate efforts in the establishment of the RIC and in preparing the regulatory framework for water and sewerage and for electricity. The GORTT requested MIF assistance for this project.

The project will comprise four main components:²

- (i) **Institutional Development of the RIC. Institutional Development of the RIC.** This component includes the definition and implementation of the organizational structure and operational procedures for the RIC, as well as the provision of on-the-job training to the Assistant Executive Directors. To develop this component, an international specialist is required for a period of eighteen months. In this period the specialist will act as an Executive Director of the RIC. The MIF support will include the financing of the cost for the recruiting process, relocation and salary. Upon completion of the eighteen-month period one Assistant Executive Director will be appointed as the new Executive Director of the RIC.
- (ii) **Training the local staff of the RIC.** Approximately eighteen professionals of the local staff will be trained for a period of about two weeks in the theory and practice of modern incentive-compatible utility regulation. The training program will cover topics such as: the role of the regulator, the relationship between the regulation and competition, incentive based regulatory systems, regulation of service standards, and monitoring and enforcement;

² The TORs for each of the components are available upon request.

- (iii) **Developing the legal and regulatory framework for the water and sanitation sector.** The Government has decided to proceed with a long-term arrangement for private participation in the water sector. The RIC will regulate the private operator. The consultant will: advise on the statutory amendments and regulatory instruments necessary to implement the reform, prepare draft instructions for a new Water Act and other statutory amendments and, draft regulatory instruments;
 - (iv) **Assisting in the development of the policy, legal and regulatory approach for the electricity sector.** The consultant will develop a strategy for the reform of the electricity sector, and its regulation. In the first phase the consultant will advise on the structure of the sector, and the appropriate levels and options for competition and private ownership. In the second phase the consultant will develop a regulatory framework, provide drafting instructions for a new Electricity Act and other necessary regulatory amendments and draft regulatory instruments.
- 3.4 The project team envisages that if this project is implemented successfully the MIF could finance follow-on projects for the institutional strengthening of the Ministry of Public Utilities, the regulation of the telecommunications sector, training in post office regulation, as well as the regulation of the gas sector.

IV. PROJECT EXECUTION

- 4.1 The execution of the project will start with the Ministry of Public Utilities hiring the Executive Director and the President of the Republic appointing the Commissioners. The Executive Director, once hired, will be responsible for the staffing of the Commission. The Executive Director, with the other Commissioners, will also be responsible for preparing its detailed budget, contracting the consultants to prepare the regulatory documents, and contracting the consultants for the training program. The hiring of the Executive Director and of the consultants will be conducted in accordance to MIF procedures. Grant funds will be disbursed following Bank procedures, and the procurement of goods and services will be limited to MIF eligible countries. The execution is anticipated to require a period of 20 months.

V. COST AND FINANCING

- 5.1 The cost of the project during the 20 months period is estimated in US\$1,966,000 as shown in the table below.

| Estimate budget | | | |
|---|----------------|------------------|------------------|
| Activity | MIF | Counterpart | Total |
| Recruitment of Executive Director for 18 months | 140,000 | | 140,000 |
| Remuneration of the Commissioners | | 95,000 | |
| Salaries of staff | | 680,000 | 680,000 |
| Water sector legislation & regulation | 280,000 | | 280,000 |
| Electricity sector legislation & regulation | 380,000 | | 380,000 |
| Training | 60,000 | 45,000 | 105,000 |
| Office technology and systems implementation | | 71,000 | 71,000 |
| Communication & publicity | | 34,000 | 34,000 |
| Accommodation & supplies | | 110,000 | 110,000 |
| Other contracted services | | 16,000 | |
| Vehicle | | 15,000 | |
| Contingency | 40,000 | | 40,000 |
| Total | 900,000 | 1,066,000 | 1,966,000 |

- 5.2 The counterpart funds for the 20 months period will amount to US\$1,066,000 coming from three different sources as established in the RIC Act. The first source will be a transfer of US\$42,000 given by the GORTT for the initial three months of operation of the RIC. The second source will be fees collected by the RIC from the granting of licenses in an amount equivalent to US\$22,000. The third source will be a cess imposed upon the revenues of service providers in an amount estimated in US\$1,002,000.

VI. PROJECT PERFORMANCE CRITERIA AND EVALUATION

- 6.1 The project envisions the RIC to become a fully functioning regulatory agency through the accomplishment of the four project components. The project team or staff from COF/CTT will periodically visit the executing agency to assess progress of the project. (Logical framework, Annex 1)

VII. BENEFITS AND RISKS

- 7.1 The project will improve the legal and regulatory framework for the provision of public services. Additionally, it will improve the efficiency and quality of services through a more open environment for private sector participation.
- 7.2 The political risks of the project have been minimized by the fact that the Regulated Industries Commission Act has already been approved in Parliament and by the fact that different public services already have private sector providers.
- 7.3 The financial risks of the project also have been minimized by the existence in the Regulated Industries Commission Act of provisions enabling the RIC to generate sufficient funds to cover its operating expenses.

**Regulated Industries Commission
Logical Framework**

| General objective of the project: Help in the establishment of the Regulated Industries Commission | | |
|---|---|---|
| Component | Activity | Expected result |
| Institutional Development of the RIC | Ministry of Public Utilities recruiting the Executive Director of RIC. | Executive Director starting to work in Port of Spain at end of 2 nd month. |
| | President appointing the Commissioners. | Commissioners appointed at end of 1 st month. |
| | Executive Director hiring staff. | Main professional staff positions hired at end of 4 th month. |
| Training RIC staff | Preparing detailed TOR for the training program | TOR ready at end of 4 th month |
| | Selecting and contracting consultants for the training. | Starting of training program at end of 6 th month. |
| | Executing training program. | Professional staff trained at end of 8 th month. |
| | Evaluating the training program and making recommendations for further training | Assessment of further training needs and TOR at end of 10 th month. |
| Legal and regulatory framework for water and sewerage services. | Preparing detailed TOR. | TOR ready to start selection of consultants at end of 5 th month. |
| | Selecting and contracting consultants | Consultants in office at end of 8 th month. |
| | Preparing instructions for new Water Act. | Draft of the new Water Act at end of 10 th month. |
| | Preparing instructions for other necessary statutory amendments. | Identify and draft amendments at end of 12 th month. |
| | Preparing appropriate regulatory instruments. | Regulatory instruments ready at end of 14 th month. |
| Policy and legal and regulatory framework for the electricity sector. | Preparing detailed TOR. | TOR ready to start selection of consultants at end of 6 th month. |
| | Selecting and contracting consultants | Consultants in office at end of 10 th month. |
| | Advising on the structure of the sector, and the appropriate levels and options for compensation and private ownership. | Advise GORTT in policy for the sector at end of 12 th month. |
| | Preparing instruction for new Electricity Act. | Draft of new Electricity Act at end of 14 th month. |
| | Preparing instructions for other necessary statutory amendments. | Identify and draft amendments at end of 18 th month. |
| | Preparing appropriate regulatory instruments. | Regulatory instruments ready at end of 20 th month. |

PROPOSED RESOLUTION

TRINIDAD AND TOBAGO. NONREIMBURSABLE TECHNICAL COOPERATION FOR
THE REGULATED INDUSTRIES COMMISSION

The Donors Committee of the Multilateral Investment Fund

RESOLVES:

1. That the President of the Inter-American Development Bank or such representative as he shall designate is authorized, in the name and on behalf of the Multilateral Investment Fund, to enter into such agreements as may be necessary, and to take such additional measures as may be pertinent for the execution of the project proposal contained in the Project Memorandum MIF/AT-_____ with respect to a nonreimbursable technical cooperation program for the Regulated Industries Commission.
2. That up to the sum of US\$900,000 or its equivalent in other convertible currencies shall be authorized for the purpose of this resolution, chargeable to resources of the Technical Cooperation Facility of the Multilateral Investment Fund.
3. That the above-mentioned sum is to be provided on a nonreimbursable basis.