

**IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL
ON APPEAL FROM THE COURT OF APPEAL OF THE
REPUBLIC OF TRINIDAD AND TOBAGO**

JCPC/2025/0087

BETWEEN:

OILFIELDS WORKERS' TRADE UNION

Appellant

- v -

PETROLEUM COMPANY OF TRINIDAD AND TOBAGO LIMITED

Respondent

AND

THE ATTORNEY GENERAL

Interested Party

STATEMENT OF FACTS AND ISSUES

*(References to the Record of Proceedings are in the format **[ROP XX/YY]**
in which **XX** corresponds to the page number of the Record of Proceedings – Main Hearing Bundle
and **YY** is the line or paragraph where applicable)*

FACTS

1. The Appellant is a trade union and was at all material times the recognised majority union for six bargaining units within the Respondent **[ROP 147/2-3]**, which at all material times was a wholly owned State company with two petroleum-related operations: upstream exploration and production (**E&P**) and downstream refinery and marketing (**R&M**) **[ROP 147/1]**.
2. In September 2017, the Respondent, under its newly appointed Board, determined that it was losing substantial sums of money, its operational costs were extraordinary, it had a severe debt load that was beyond its capabilities to manage, and a large part of that debt was to become due in a short space of time **[ROP 118/42; 441-442/7; 453/4]**.
3. After retaining the services of professional advisors in the energy industry and considering their assessment of the Respondent's operations against international

benchmarks, the Respondent formed the view **[ROP 118-119/43; 454-454/5-7]** during the period October to December 2017 that:

- (a) the Respondent was uncompetitive due to ageing plant, manpower in excess of 50% required by companies of a similar nature, and practices and skill levels which were not consistent with international benchmarks or best practices in the industry;
 - (b) the upstream operations in E&P had the potential/capacity to be profitable and to generate a free cash flow;
 - (c) the downstream operations in R&M could at best yield a break-even position at the level of free cash flow;
 - (d) substantial changes were needed to a number of areas including reduction in the number of employees, increasing shifts from 8 hours to 12 hours, cutting back on overtime, etc; and
 - (e) the co-operation of the Appellant was necessary to effect a change in culture.
4. The parties then met in January 2018. The Respondent made a presentation on its financial position and both parties agreed that restructuring of the Respondent was required **[ROP 119/44]**.
5. After a series of meetings held during the period 29 January 2018 to 3 April 2018, the parties executed a Memorandum of Agreement (**the MOA**) on 3 April 2018 **[ROP 119/45]**. The MOA was subsequently entered as an order or award of the Industrial Court on 20 July 2018 **[ROP 150/15]** pursuant to s 58 of the Industrial Relations Act, Chapter 88:01 (**the Act**) **[ROP 1977-1978/58]**.
6. The MOA provided **[ROP 319-321]**:

WHEREAS:

- a. The Company and the Union have recognised that they have a common interest with respect to the survival, sustainability and profitability of the Company; and
- b. Notwithstanding the Company's profitability in the past, the Company and the Union understands that currently the Company must become competitive within the general principle of international benchmarks in order to become profitable; and
- c. The parties recognise that "TIME IS OF THE ESSENCE" and consequently all initiatives agreed by parties must be implemented in a timely manner within a time frame of eighteen (18) months

from the date of execution of this MOA, which is a condition precedent to the receipt of funding and financial concessions from the Company's financiers; and

d. The Union and the Company have agreed to meet and resolve the organizational structures, work processes and skills/competencies and manpower requirements to ensure the survival, sustainability, profitability of the Company; and

e. The parties recognise the need for respect and mutual trust in their relationship; and

f. The necessities to adhere to all the provisions of the various Collective Agreements.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. The Executive of the Company agrees to meet on a monthly basis with the Union's Executive ("the Executive meeting") for the following specific objectives:-

(a) To progress the implementation of the organizational structures, skills/competencies, work processes, customs and practice and the manpower requirements in all areas of the Company's operations which will ensure the Company's survival, sustainability and profitability; and

(b) To review, monitor and ensure progress of the Working Committee described in Article 2 of this MOA; and

(c) To resolve issues which may arise from time to time within the Working Groups.

2. The Company and the Union agree to the establishment of a Working Committee comprising representatives of both the Company and the Union that will work over the next eighteen (18) months to address, resolve and agree on the four (4) organizational structures, work processes and skills/competencies and manpower requirements which will make the Company internationally competitive thus ensuring its survival, sustainability and profitability. The parties agree to a timetable for these meetings commencing in the month of April, 2018 with the enhancement of operational efficiencies, reduction of waste and the promotion of the business of the Company.

3. The parties to this Agreement recognizing their common interest in the promotion of the business of the Company, declare jointly and separately that they will use their best endeavours to protect and further the wellbeing of the enterprise. To this end, the Union agrees that it will cooperate with the Company and support its efforts to secure a full day's work on the part of its workers who are members of the Union and it will actively combat absenteeism and other practices which curtail production, and will support the Company in its efforts to maintain discipline and eliminate waste and inefficiency to improve the standard of workmanship and to prevent accidents. In this regard the Company will ensure that a safe and secure work environment is provided at all times.

7. During the period May 2018 to August 2018, the Respondent was engaged in the process of collating information on every single activity, defining the duties for each position, and determining the costing so that it could engage in focused discussions with the Appellant [ROP 119/46; 455/13]. There were, however, no meetings between the parties as contemplated by the MOA [ROP 119/46; 294/16]. The Respondent's reason for this was that it was neither practical nor realistic to meet with the Appellant during this period because the Respondent was dealing with a mass of information which was being updated or corrected on a regular basis and which had to be collated in a manageable form and analysed before a discussion could take place [ROP 119-120/46; 455/14].

8. In August 2018, the Respondent examined the cost of restructuring and came to the conclusion that its financial situation was far worse than it had anticipated and that the only recourse available to the Respondent in order to earn a return and to enable it to refinance its debts was to close down the Respondent and create a new entity focused entirely on E&P in accordance with international benchmarks [ROP 120/47; 456-458/16,18,20].
9. Before the Working Committee agreed upon in the MOA could be established, the Honourable Prime Minister informed the Appellant on 21 August 2018 that the Respondent would be going out of the refinery business [ROP 224/18]. The Respondent then informed the Appellant at a meeting held on 28 August 2018 that there were three options available, two of which involved continued operations, and confirmed that the Respondent had selected, with the approval of Cabinet, the third option, namely, to close the refinery and terminate the employment of all employees. The Appellant proffered engagement under the MOA as another option and made representations to the Respondent to reverse its decision but the Respondent refused to do so [ROP 224-225/20-22].
10. Thereafter the parties held a series of meetings in September 2018 at which the Appellant presented an alternative plan, and the Respondent requested further information in order to assess the viability of the plan. On 1 October 2018, the Respondent informed the Appellant that its alternative plan was not a viable one and that it would be proceeding with the closure of the Respondent and the termination of all its employees effective 30 November 2018 [ROP 122/50; 296-297/26-29; 458/22-24].
11. The termination letter issued to the Respondent's (permanent) workers provided 45 days' notice of termination and advised of termination payouts utilising the formula for severance pay as existed in the Collective Agreement [ROP 122/51; 423-425].
12. On 1 October 2018, the Appellant referred to the Industrial Court pursuant to s 84 of the Act a complaint that the Respondent had committed an Industrial Relations Offence by breaching s 40(1) of the Act by failing, in good faith, to treat and enter into negotiations with the Appellant for the purpose of collective bargaining [ROP 147/4; 217-219]. More particularly, the Appellant complained that the Respondent had "*acted in bad faith in*

arriving at its decision to terminate all employees by 30th November 2018 without first consulting with the [Appellant] in accordance with the [MOA], or at all” [ROP 219].

STATUTORY FRAMEWORK

13. Section 2(1) of the Act **[ROP 1962-1966]** contains the following relevant definitions:

“collective agreement” means an agreement in writing between an employer and the recognised majority union on behalf of workers employed by the employer in a bargaining unit for which the union is certified, containing provisions respecting terms and conditions of employment of the workers and the rights, privileges or duties of the employer or of the recognised majority union or of the workers, and for the regulation of the mutual relationship between an employer and the recognised majority union;

“collective bargaining” means treating and negotiating with a view to the conclusion of a collective agreement or the revision or renewal thereof or the resolution of disputes;

...

“trade dispute” or “dispute”, subject to subsection (2), means any dispute between an employer and workers of that employer or a trade union on behalf of such workers, connected with the dismissal, employment, non-employment, suspension from employment, refusal to employ, re-employment or reinstatement of any such workers, including a dispute connected with the terms and conditions of the employment or labour of any such workers, and the expression also includes a dispute between workers and workers or trade unions on their behalf as to the representation of a worker (not being a question or difference as to certification of recognition under Part III);

14. Part I of the Act establishes the Industrial Court **[ROP 1968]**.
15. Part III of the Act provides for certification of recognition of trade unions. Within that Part, s 40 **[ROP 1976]** provides:
- (1) Where a trade union obtains certification of recognition for workers comprised in a bargaining unit in accordance with this Part, the employer shall recognise that trade union as the recognised majority union; and the recognised majority union and employer shall, subject to this Act, in good faith, treat and enter into negotiations with each other for the purposes of collective bargaining.
 - (2) A recognised majority union or an employer that fails to comply with this section is guilty of an industrial relations offence and liable to a fine of four thousand dollars.
16. Part IV of the Act provides for collective agreements. Within that Part:
- (a) Section 44 provides for a recognised majority union and an employer that have negotiated and executed a collective agreement to transmit it to the Minister with a request that it be registered by the Industrial Court.
 - (b) Section 45 provides for the Minister (unless they object) to forward the collective agreement to the Industrial Court and for the Court to register it.

- (c) Section 46 provides that the Industrial Court may (inter alia) register the collective agreement.
 - (d) Section 47 provides that the terms and conditions of a registered collective agreement are binding on the parties thereto and shall be directly enforceable, but only in the Industrial Court.
 - (e) Section 49 provides for a recognised majority union and an employer to enter into an agreement supplementary to a collective agreement and for it to be registered in the same way.
17. Part V of the Act provides for the disputes procedure. Within that Part, s 58 **[ROP 1977-1978]** provides:
- (1) Where a dispute has been determined or resolved (either before or after conciliation by the Minister), the parties shall prepare a memorandum of agreement setting out the terms upon which the agreement was reached and either party may present the memorandum to the Minister with a request that it be forwarded to the Court under this section.
 - (2) Upon receipt of the memorandum referred to in subsection (1), the Minister shall forward it to the Court and the Registrar shall enter the memorandum of agreement as if it was an order or award of the Court and when so entered the memorandum shall have the same force and effect and all proceedings may be taken thereon as upon an order or award of the Court.

PROCEDURAL HISTORY

Industrial Court

18. After a trial the Industrial Court delivered its ruling on 19 November 2018. The Court made findings of fact **[ROP 148-154/6-25]**, including the following:
- (a) After April 2018, the parties did not meet until 28 August 2018 when the Respondent informed the Appellant that the situation had changed and that closure of the Respondent was the only viable option of three options then open to the Respondent. At the time of the meeting, the Respondent had already, with Cabinet's approval, made the decision to close the Respondent beginning 1 October 2018 **[ROP 151-152/17-18]**.
 - (b) The Respondent's decision to close raised critical issues of surplus labour, alteration of employment contract, termination of all workers, separation packages

and rehiring of some workers. There was no evidence that the Respondent and the Appellant as the bargaining agent of 5,500 workers held discussions in good faith to address issues which affected the terms and conditions of employment and the entitlement of workers who were now faced with unemployment. The main subject matter of the meetings between the parties concerned the question of ownership or the leasing of the refinery, which is not the subject of collective bargaining [ROP 153/21].

- (c) The evidence before the Court showed that the Respondent was undertaking a restructuring and was not just closing its operations as alleged by the Respondent. However, the Court also noted that “[w]e do not find it at this time to address the issue canvassed before us of whether the proposal is a closure or a restructuring, which has significantly different legal consequences” [ROP 154/25].

19. The Court reiterated the overarching principles in the Act [ROP 156/32-33] including in particular the primary directive in s 10(3) [ROP 1972/(3)], reiterated the importance of the requirement for parties to treat and negotiate in good faith in industrial relations law and practice [ROP 156-157/34], and considered [ROP 156-158/34-38] the statutory definitions of “collective bargaining” and “collective agreement” and the s 40 offence [ROP 1976]. The Court then held:

- (a) The interlocking terms “*treating and negotiating*” require meetings, discussions, and consultations towards the broad and inclusive objectives mentioned in the definition of collective bargaining [ROP 157/35].
- (b) The Respondent was wrong to claim that the Court had no jurisdiction to determine the Appellant’s complaint that the Respondent had failed to consult. The statute intended the terms “*treating and negotiating*” to encompass a broad scope of activity with the goal of arriving at a resolution to disputes and differences in relation to the terms and conditions of employment of workers. “Consulting” is a synonym of the words “negotiate” and “treat” in the industrial relations context. Section 9(1) of the Act required the Court to “*act without regard to technicalities and legal form*” with regard to the hearing and determination of any matter before it. The Court considered the case of **IRO 31 of 2015 between Steel Workers Trinidad and Tobago v Arcelor Mittal** [ROP 158-160/40-44].

- (c) The Respondent's argument that when it moved from the initial decision or restructuring to the new decision of closure, there was no need to treat and negotiate with the Appellant was rejected. This was for three reasons **[ROP 160/45]**.
- (d) First, termination of employment of workers whether the cause be closure of the company or for any other reason is fundamental to the terms and conditions of employment of workers included in the Collective Agreement **[ROP 160/45a.]**.
- (e) Second, the MOA laid the framework for the parties to treat and negotiate in good faith regarding the future of the Respondent in relation to the terms and conditions of employment of the 5,500 workers covered by the Collective Agreement. Upon its registration, the MOA became an addendum to the Collective Agreement that regulated the relationship between the parties and could not be ignored by either party **[ROP 160-161/45b.]**.
- (f) Third, "good faith" means, in this case, that any departure from the terms of the MOA or the reconsideration of the goal of restructuring to closure must be discussed with the Appellant beforehand. The Respondent violated the MOA when it went on its own to work out and decide on the future of the company and then presented it to the Appellant as a fait accompli and began issuing letters of termination **[ROP 161/45c.]**.
- (g) For these reasons and the facts found by the Court, the Industrial Relations Offence under s 40 of the Act had been made out **[ROP 162/46]**.
- (h) The Appellant's complaint was not out of time **[ROP 162-163/47-50]**.
- (i) The Appellant's application to restrain the Respondent from distributing termination letters was refused **[ROP 163-166/51-57]**.

20. The Court ordered that **[ROP 167/4a.-d.]**:

- (a) the Appellant and the Respondent meet, in good faith, to address the below issues and other issues, if any, before the termination of the workers:
 - (i) what criteria would be used for the rehiring process;
 - (ii) what would the proposed structure of the Respondent be;

- (iii) the pension and medical plans of the workers;
 - (iv) workers' savings plan and other benefits;
 - (v) computation of termination packages;
 - (vi) outstanding loans that workers might have **[ROP 166-167/3]**;
- (b) those meetings were to take place daily from 9:30am on 20 November to 26 November 2018 (inclusive);
 - (c) those meetings were to be held at the Respondent's premises or a mutually agreed venue; and
 - (d) the Respondent was further ordered to pay the maximum fine of \$4,000 on or before 23 November 2018.

Court of Appeal

- 21. The Respondent appealed to the Court of Appeal **[ROP 1783-1793]**. On 27 June 2025, the Court allowed the appeal, holding that the Industrial Court had erred in concluding that the Respondent had breached s 40 **[ROP 1976/40]** of the Act **[ROP 106-145]**.
- 22. Kokaram JA delivered the principal judgment **[ROP 115-145]**. Pemberton JA gave a shorter concurring judgment **[ROP 107-115]**. Holdip JA agreed with both judgments **[ROP 107]**.
- 23. Kokaram JA held:
 - (a) Although the MOA **[ROP 319-321]** was a contract between the parties, it could not be construed as the parties' collective agreement. It could not be said that a breach of the MOA constituted the commission of an Industrial Relations Offence **[ROP 134-135/72-73]**.
 - (b) The MOA was premised upon the continuation of the business of the Respondent and it articulated a mechanism by which the parties would collaborate to pursue the common interest with respect to survival, sustainability and profitability of the Respondent. It was not contemplated that any obligations were to be created where the Respondent ceased its operations. The MOA addressed the question of what

should the parties devise to keep the Respondent afloat. It did not contemplate what should be the items for discussion after the closure of its business. Having made a decision to cease its operations, the MOA became a historic fact rather than a present reality with binding obligations **[ROP 135-136/74]**.

- (c) The Industrial Court failed to take into account the different obligations arising under the MOA to an entirely different scenario posed by a closure. The Industrial Court's key finding was that the Respondent had failed to treat and negotiate with a view to the conclusion of a collective agreement, or revision or renewal thereof. It viewed the definition of collective agreement as all-encompassing of the relationship between the employer and employees and registered majority union. However, there was a stark difference between a memorandum of agreement and a collective agreement. The MOA created binding obligations insofar as the Respondent remained in business; it did not cater for a case where the Respondent was closing its operations **[ROP 136-137/75-79]**.
- (d) There was no evidence that the parties were engaged in treating and negotiating either a collective agreement or a supplemental agreement as contemplated by Part IV of the Act **[ROP 137/80]**.
- (e) In its complaint to the Industrial Court, the Appellant had alleged that the Respondent had acted in bad faith in arriving at its decision to terminate all employees by 30 November 2018 without first consulting with the Appellant in accordance with the MOA or at all. However, the evidence showed that it was clear that the demand that was being made by the Appellant to meet and enter into discussion was with respect to the future viability of the Respondent. The Respondent could only have been in breach of s 40 **[ROP 1976/40]** if it failed to treat or negotiate with the Appellant for the purpose of resolving a dispute **[ROP 138-140/86-88]**.
- (f) The decision of the Respondent to close did not constitute a trade dispute but would inevitably give rise to one after it decided to terminate its workforce. It was open to the parties to set up suitable arrangements and forum to collaborate and devise mechanisms to ease the transition of the workforce after the closure of the business and taking the decision to terminate the workforce. However, no authority had been

provided by the Appellant to demonstrate that there was a general duty to meet and enter into negotiations before a decision to terminate was made save for a general duty to consult which the Industrial Court wrongly imported from s 5 of the Retrenchment and Severance Benefits Act, Chapter 88:13 (RSBA) [ROP 1995/5]. There was no roving duty by an employer to consult the recognised majority union before it decided to terminate its workforce for the purposes of s 40(1) [ROP 1976/40] of the Act [ROP 140-141/89].

- (g) A critical platform of the Appellant's submissions was that there was a duty to consult the registered majority union before it terminated the workers. It was accepted by Senior Counsel for the Appellant that there was no duty to consult the registered majority union before any decision was made to close the business [ROP 141/90].
- (h) For the purposes of s 40(1) [ROP 1976/40], there was no general duty to consult. There was a focused and important duty to treat and enter into negotiations for the purpose of collective bargaining. There was a difference between consultation and negotiation. The Industrial Court in **ICA 11 of 1990 Trinidad Cement Limited v Oilfields Workers Trade Union** [ROP 2255-2261] had accepted that in industrial relations "consultation" was used in contradistinction to "negotiation". "Negotiation" required mutual agreement but consultation differed in that it was intended to be advisory rather than a decision-making process. Negotiation required consent of both parties but under consultation the power to make the final decision was retained by management [ROP 141-143/91-94].
- (i) The obligation to meet and enter into negotiations was conjunctive. They were both activities for the specific purpose of collective bargaining. It would not make sense to merely consult without a view to arriving at an agreement. In contrast, s 5 of the RSBA [ROP 1995/5] specifically imposed a duty to consult in cases of redundancy, but this case was not one of retrenchment, severance, or temporary layoff, which would be caught by s 5 of the RSBA [ROP 143-144/96-98].

24. Pemberton JA held:

- (a) Section 40 speaks to a pathway to the arrival at a specific destination, a collective agreement or revision or renewal or the resolution of a dispute. There was a

collective agreement in place between the parties and there was no evidence led or considered speaking to a revision or reversal of that existing collective agreement or any dispute to be resolved between the parties. It was clear therefore that s 40 does not readily address or do not address at all the concerns harboured by the Appellant that there was a breach of the terms of the MOA **[ROP 113/22]**.

- (b) The Industrial Court was plainly wrong to invoke ss 9(1) **[ROP 1971/9(1)]** and 10(3) **[ROP 1972/(3)]** of the Act to interpret s 40 **[1976/40]** of the Act to find that the Respondent had committed an Industrial Relations Offence. The words of s 40 are clear and admit of no ambiguity **[ROP 113/23]**.
- (c) Section 40 did not apply here **[ROP 113/24]**.
- (d) The Respondent had signalled its intentions to close its doors. What use would negotiation or engaging in collective bargaining be to produce a collective agreement, the conclusion of the collective bargaining process? This was a clear and cogent reason why s 40 of the Act did not apply in the circumstances. There was simply no evidence upon which a court could find that the parties had engaged in the collective bargaining process to arrive at a collective agreement **[ROP 113/25]**.
- (e) The Industrial Court put the MOA on equal footing with the term “collective agreement”, as defined by s 2 of the Act, as the negotiated agreement between the parties at the end of the process of collective bargaining. The Court stated that this section obliged an employer to negotiate with the Appellant with respect to a restructuring. That not having been done, it was found that there was a clear violation of s 5 of the RSBA. However, the Court did not go on to declare that there was an industrial relations violation under s 25 of the RSBA; instead it found a violation of s 40 **[ROP 114/27]**.
- (f) That approach was clearly wrong in law. Section 5 of the RSBA **[ROP 1995/5]** does not place an obligation on the Respondent to consult with the Appellant. The ordinary meaning of consultation does not fix any legal rights or responsibilities on parties even though their agreement may be reduced to writing. The legal responsibility was to consult and there was no evidence that there was no

consultation. The results of that consultative process on its own could not create legal obligations on either party **[ROP 114/28]**.

- (g) The uncontroverted evidence was that the Respondent was on the brink of closing down and could not service its massive debts. As a result, the RSBA clearly came into play. The use of s 5 of the RSBA **[ROP 1995/5]** was clearly unfortunate, since using s 5 as a backdrop or as a mechanism to stretch the meaning of s 40 of the Act to decide that an Industrial Relations Offence was committed by the Respondent was not the route to follow. Further, there was no finding by the Industrial Court that the Respondent's alleged offence was an offence captured by s 25 of the RSBA. The use of s 5 of the RSBA was misguided at best **[ROP 115/30]**.

Permission to Appeal to the JCPC

- 25. The Appellant applied for **[ROP 7-8]** and was granted permission to appeal to the Privy Council on 23 February 2026 on the following ground of appeal:

The Court of Appeal erred in law when it held that section 40 of the [Act] does not apply to the facts and circumstances of this case **[ROP 9-11]**.

- 26. A full chronology of the key dates referred to above is in Annexure 1 **[ROP 45]**.

ISSUES

- 27. The issues raised in the appeal before the Board are:
 - (a) Did the Court of Appeal err in law when it held that section 40 of the Act does not apply to the facts and circumstances of this case?
 - (b) Did a “dispute” within the meaning of the Act arise? If so, did it only arise once the Respondent decided to close its operations and terminate its workforce or did it arise before that?
 - (c) Does the obligation to treat and enter into negotiations pursuant to s 40 of the Act include a duty to engage in consultation with the recognised majority union prior to the making of a decision to close down its business?

- (d) Was the MOA premised on the continuation of the Respondent's business and/or did not apply once the Respondent had decided to close down its business?
- (e) If there was non-compliance with the MOA, did that amount to a contravention of s 40 of the Act?
28. The Respondent agrees to the inclusion of the issue in paragraph 27(c) above without prejudice to its primary position that in the Court of Appeal it was "*accepted by Senior Counsel for the Union in his oral submissions that there was no duty to consult the [registered majority union] before any decision is made to close the business*" [ROP 141/90]. The Respondent's position is that the Appellant is bound by that concession.

Douglas Mendes SC

Anthony Bullock

Counsel for the Appellant

Anand Ramlogan SC

Mohammud Jaamae Hafeez-Baig

Ganesh Saroop

Jared Jagroo

Counsel for the Respondent

ANNEXURE 1 – CHRONOLOGY OF KEY DATES

Sep 2017	Respondent realised that it was facing severe financial issues [ROP 118/42; 441-442/7; 453/4]
Oct – Dec 2017	Respondent obtained professional assessment of its operations and formed the view that it needed to make substantial changes to its operations [ROP 118-119/43; 454-454/5-7]
Jan 2018	Appellant and Respondent met and were <i>ad idem</i> on the fact that restructuring was necessary [ROP 119/44]
Jan – Apr 2018	Appellant and Respondent held a series of meetings [ROP 119/45]
3 Apr 2018	Appellant and Respondent executed the MOA [ROP 119/45; 319-321]
May – Aug 2018	Respondent was engaged in collating information on its activities, defining all the duties for each position in its operating structure, and determining the total costing for its operations [ROP 119/46; 455/13]
20 Jul 2018	The MOA was entered as an order or award of the Industrial Court [ROP 150/15] pursuant to s 58 of the Act [ROP 1977-1978/58]
Aug 2018	Respondent examined the cost of restructuring and realised that its financial situation was worse than it had originally anticipated ROP 120/47; 456-458/16,18,20]
21 Aug 2018	The Prime Minister informed the Appellant that the Respondent would be exiting the refinery business [ROP 224/18]
28 Aug 2018	The Respondent informed the Appellant that only three options were available (two involved continuity of operations and the third involved complete closure and termination of the employment of all employees) and that the Respondent (with the approval of the Cabinet of Trinidad and Tobago) had decided to proceed with option 3, that is, complete closure. The Appellant raised compliance with the MOA [ROP 224-225/20-22]

Sep 2018	Parties held a series of meetings wherein the Appellant proposed an alternative plan for consideration and the Respondent requested further information to determine its viability [ROP 122/50; 296-297/26-29; 298-299/36-38; 458/22-24]
1 Oct 2018	The Respondent informed the Appellant that the alternative plan was not viable and that it would be proceeding to close its business and terminate all employees effective 30 November 2018 [ROP 122/50; 298/37; 458/24]
1 Oct 2018	The Appellant referred to the Industrial Court pursuant to s 84 of the Act, a complaint that the Respondent had committed a breach of s 40(1) of the Act by failing, in good faith, to treat and enter into negotiations with the Appellant for the purposes of collective bargaining [ROP 217-219]
19 Nov 2018	The Industrial Court delivered its ruling on the complaint and held that the Respondent had committed the Industrial Relations Offence complained of [ROP 146-167]
20 Nov 2018	The Respondent appealed the judgment of the Industrial Court [ROP 1783-1793]
30 Nov 2018	The Respondent terminated the employment of all its employees and closed its business
22 Apr 2024	The appeal was heard [ROP 1879-1957]
27 Jun 2025	The Court of Appeal delivered its judgment and allowed the appeal [ROP 106-145]
22 Aug 2025	The Appellant applied to the Privy Council for permission to appeal the decision of the Court of Appeal [ROP 7-8]
23 Feb 2026	Privy Council granted permission to appeal

**IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL
ON APPEAL FROM THE COURT OF APPEAL OF THE
REPUBLIC OF TRINIDAD AND TOBAGO**

JCPC/2025/0087

BETWEEN:

OILFIELDS WORKERS' TRADE UNION

Appellant

- v -

PETROLEUM COMPANY OF TRINIDAD AND TOBAGO LIMITED

Respondent

AND

THE ATTORNEY GENERAL

Interested Party

PRECIS

1. The Appellant is a trade union and was at all material times the recognised majority union for six bargaining units within the Respondent, which at all material times was a wholly owned State company with two petroleum-related operations.
2. In September 2017, the Respondent, under its newly appointed Board, determined that it was losing substantial sums of money, its operational costs were extraordinary, it had a severe debt load that was beyond its capabilities to manage, and a large part of that debt was to become due in a short space of time.
3. After retaining the services of professional advisors in the energy industry and considering their assessment of the Respondent's operations against international benchmarks, the Respondent formed the view during the period October to December 2017 that it needed to make substantial changes to its operations.
4. The parties met in January 2018. The Respondent made a presentation on its financial position and both parties agreed that restructuring of the Respondent was required.
5. After a series of meetings held between January 2018 and April 2018, the parties executed a Memorandum of Agreement (**the MOA**) on 3 April 2018. The MOA was

subsequently entered as an order or award of the Industrial Court on 20 July 2018 pursuant to s 58 of the Industrial Relations Act, Chapter 88:01 (**the Act**).

6. The MOA provided (*inter alia*) that the Executive of the Respondent and the Executive of the Appellant were to meet on a monthly basis with specific objectives. It also provided for a Working Committee.
7. During the period May 2018 to August 2018, the Respondent was engaged in the process of collating information but there were no meetings between the parties as contemplated by the MOA.
8. In August 2018, the Respondent examined the cost of restructuring and came to the conclusion that its financial situation was far worse than it had anticipated and that the only recourse available to the Respondent was to close down the Respondent and create a new entity focused entirely on exploration and production in accordance with international benchmarks.
9. Before the Working Committee could be established, the Honourable Prime Minister informed the Appellant on 21 August 2018 that the Respondent would be going out of the refinery business. The Respondent then informed the Appellant at a meeting held on 28 August 2018 that there were three options available, two of which involved continued operations, and confirmed that the Respondent had selected, with the approval of Cabinet, the third option, namely, to close the refinery and terminate the employment of all employees. The Appellant proffered engagement under the MOA as another option and made representations to the Respondent to reverse its decision but the Respondent refused to do so.
10. Thereafter the parties held a series of meetings in September 2018 at which the Appellant presented an alternative plan, and the Respondent requested further information in order to assess the viability of the plan. On 1 October 2018, the Respondent informed the Appellant that its alternative plan was not a viable one and that it would be proceeding with the closure of the Respondent and the termination of all its employees effective 30 November 2018.
11. On 1 October 2018, the Appellant referred to the Industrial Court pursuant to s 84 of the Act a complaint that the Respondent had committed an Industrial Relations Offence by

breaching s 40(1) of the Act by failing, in good faith, to treat and enter into negotiations with the Appellant for the purpose of collective bargaining. More particularly, the Appellant complained that the Respondent had “*acted in bad faith in arriving at its decision to terminate all employees by 30th November 2018 without first consulting with the [Appellant] in accordance with the [MOA], or at all*”.

12. On 19 November 2018, the Industrial Court delivered its ruling and found that the Respondent had committed an Industrial Relations Offence by failing to treat and negotiate, in good faith, for the purpose of collective bargaining under s 40 of the Act.
13. The Respondent appealed to the Court of Appeal which, on 27 June 2025, allowed the appeal and found that no breach of s 40 had been established.
14. The Appellant applied for and was granted permission to appeal to the Privy Council on 23 February 2026.