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Your ref: TICC Committee, Tuesday 8 March 2011 Follow Up  
Our ref: C 2242429

18 March 2011

*Dear Patrick,*

#### **TICC Committee: 8 March 2011 Follow-Up**

Following my appearance at the TICC Committee last Tuesday, 8 March 2011, I am writing with several points of clarification for the Committee. I have referenced Column numbers from the official report for ease of reference and also Committee members' names where appropriate.

#### Forth Replacement Crossing

Col. 3850

#### **Rob Gibson: Why was contingent liability not discussed during the passage of the Forth Crossing Bill?**

Whilst Transport Scotland officials have been in negotiations with BP managers on the matter of our interface with the BP pipeline for some time, the issue of any contingent liability or its associated value became known towards the end of 2010.

Following the events in the Gulf of Mexico in 2010, and with other oil installations, this has led to a change in the industry's approach to risk. Discussions with the insurance market regarding what they would and would not insure also only culminated at the end of 2010 with the receipt of the insurance tenders. Once assessments had been undertaken on the submitted tenders the existence and value of the contingent liability with BP could be evaluated.

The Finance Committee hearing on 22 February was therefore the first opportunity to speak meaningfully with Parliament on this issue. This was following the lengthy and detailed engagement with BP and the worldwide insurance market over recent months seeking the best possible solution for the public interest. The issue of contingent liability was not discussed during the Bill process as there was not sufficient detail to discuss it meaningfully at that stage and the security issues surrounding this matter would still have required a private hearing.

The agreement which has been put in place between BP and Scottish Ministers is normal practice in the oil and gas industry wherever crossings of pipelines or work adjacent to pipelines is undertaken. This agreement is considered to be the most viable and the one which best meets both BP's and Scottish Ministers' requirements.

**Rob Gibson: Is the Scottish Government likely to have to pay out under the agreement?**

The contingent liability is required to cover the extremely remote possibility that the pipeline could be damaged as a result of the construction of the new bridge. This is a potential liability to Scottish Ministers and not a cost to the contract, and as such does not increase the estimated cost of the project.

Col. 3850

**Rob Gibson: Does the minister wish to bring to the committee's attention any other contingent liabilities or other issues that relate to the Forth crossing?**

The only other contingent liability is that mentioned in the Financial Memorandum which accompanies the Forth Crossing Act. A full reimbursement of fees up to a cap of £10 million to each bidding consortia will be provided, subject to Parliament's approval, if the competition is suspended or the award does not proceed. The contingent liability is therefore £20 million.

Col. 3852

**The Convener: I accept that the contingency is an unlikely one. I am sure that everyone would hope that an incident of the kind that is possible does not happen. Can you confirm that £100 million would be the liability for each such incident? Whose responsibility would it be to put right any environmental damage from a discharge from the pipeline if the cost exceeded that figure?**

Scottish Ministers liability will be capped to £100 million per incident, or series of connected incidents, however the mitigation measures being taken make even one occurrence unlikely and a review would be undertaken following any such incident. It is not possible to quantify the likely number of incidents or the resulting costs with any degree of certainty, except to say that everything is being done to ensure the chance of even one incident is low.

In the extremely unlikely event of an incident a Project Insurance Programme is currently being procured for the whole of the Forth Crossing Works, this will include cover for clean-up costs and third party claims costs resulting from pollution caused by release of oil from the pipeline under a Contractor's pollution Liability policy.

## Rail

The committee also asked Network Rail and First Scotrail for further information on the Key Route Strategy that was put in place over the worst weather periods and I have asked my officials to ensure that this request is followed up.

## Trunk Road Operating Companies

Column 3830

We undertook to follow up with clarification on who the different Trunk Road Operating Companies take their weather forecasts from and how they differ from the generalised Met Office forecast that the Scottish Government receives.

The Trunk Road Operating Companies (TROC) take their weather forecasts from their commercial weather forecast suppliers. In the south west (Amey) and north west (Scotland TranServ) this is from the Met Office Open Road Service (<http://www.metoffice.gov.uk/roads/openroad>) and in the north east and south east units (BEAR Scotland) from the Meteogroup RoadCast service (<http://www.meteogroup.co.uk/>).

The weather forecasts that the TROC receive are much more detailed than the more generalised public facing weather forecasts that the Met Office supply. These forecasts include forecast air and road surface temperatures, precipitation rates and type and the time of freezing, all for specific roads or geographical domains. This allows the treatment plans to be specifically tailored for the forecast conditions on a particular road.

In addition to the basic weather forecast the service allows access to a weather forecaster and is linked to data from the road sensor network and weather radar allowing real time monitoring of conditions.

## Salt Stocks

I should clarify that as at today's date we have 243,000 tonnes of salt in stock and 120,000 tonnes on order. We have used 632,000 tonnes over the winter and distributed 66,000 tonnes to Scottish Local Authorities and TROC through our strategic salt stock.

I hope the Committee finds this information helpful.

Kind regards



**KEITH BROWN**