

### **Additional Questions For Mr David Mackay**

1. Did Andrew Fitchie inform you in October 2007 that he had been told by Bilfinger Berger (BB) that the works would cost £80m more than the tender sum?

With the caveat that I am being asked to recall something that is claimed to have been said approximately ten years ago, I do not think that Andrew Fitchie told me anything about this in 2007. As I said in my statement, I reacted with surprise and fury when Richard Walker said in February 2009 that Bilfinger were seeking a further £50-£80m to complete the work, and accordingly I do not think I had any prior warning of Walker's view on the "need" for this additional level of funding.

I only had limited contact with Andrew Fitchie before I became interim Chair of TIE in November 2008. I had frequent contact with him once I was in post. It would be very odd for a matter of this significance to have been raised with me only in conversation and not in writing. The same point applies to 2 and 3 below.

2. Did Andrew Fitchie report to you that BB were not willing to enter into a fixed price deal?

Not that I recall.

3. Did Andrew Fitchie report to you that he had doubts about the sub-contracting chain BB said they had in place?

Not that I recall, but I knew that TIE had their own doubts on that issue because Bilfinger had failed to sign up their sub-contractors in time.

4. In what context were you told of these matters?

Not applicable.

5. What did you do with the information and with whom did you discuss it?

Not applicable.

6. What difference did it make to the decisions as procurement of INFRACO?

Not applicable.

7. Was it discussed in the context of reporting to CEC and, of so, what decisions were taken in relation to it?

As I have said, I have no recollection of Andrew Fitchie raising these matters with me. Had he done so, I would have reported them to the CEC officials with whom I had regular contact on the TPB. Until I became Chair of the TIE board any formal reporting function between TIE and CEC lay with others, albeit that I had frequent contact with Tom Aitchison and kept him informed of my views and concerns.

8. Did Andrew Fitchie report to you on 6 February 2008 (or any other date) that Pricing Assumption 1 in Part 4 of the Schedule was fixed and could not be negotiated and that it would be difficult to claw anything back?

According to my diary I did not see Andrew Fitchie that day. I do not recall him saying that to me.

9. After you became interim Chairman of TIE, did Andrew Fitchie advise you as to the effect of the Wiesbaden Agreement?

I don't recall him doing so.

10. What did he say?

Not applicable.

11. What impact did that have on the approach you took to the relationship with the contractors?

Not applicable.

12. Did Andrew Fitchie recommend at any time that the award of the INFRACO contract should be delayed?

I don't recall him making any such recommendation to me. However as I have said above, I was not in post at TIE prior to contract close. He would normally have been reporting to Willie Gallagher in this period.

13. If so, when and why did he make his recommendation and what was the response to it?

Not applicable.