

**ADDRESS BY PRIME MINISTER,  
RIGHT HONOURABLE PERRY G. CHRISTIE, M.P.  
TO NATION  
ON BAHAMAR NEGOTIATIONS AND PROCEEDINGS  
ON JULY 16<sup>th</sup>, 2015**

My Fellow Bahamians,

It is appropriate for me to address the nation this evening to provide an update on the state of affairs surrounding the delayed completion and opening of the \$3.5 billion mega Baha Mar resort project in Cable Beach. This project, the largest of its kind ever to be built in a single phase in the Caribbean Region, has enormous economic and employment implications for The Bahamas, and my Government has been working diligently with the relevant parties with a view to ensuring the completion of the project as soon as possible.

The project, by most informed estimates, is 97% completed but has missed two opening dates. Construction work has stopped and the general contractor and other contractors and sub-contractors are owed substantial sums of money. A dispute has also arisen between the developer and the general contractor. The balance of the existing loan from China Eximbank is insufficient to settle the amounts owed to contractors and sub-contractors and to complete the project. The Developer has sought to obtain additional construction funding from China Eximbank and the release of the balance remaining under the original loan. In this regard, the Developer solicited my intervention with Eximbank. Over the past several months, I have held a series of meetings and exchanged correspondence with the principals of Eximbank, China Construction and Baha Mar in order to seek a resolution of the various funding and construction issues, all with a view to completion of the project within the shortest possible time frame.

Following direct discussions with the parties, my understanding at the end of June was that the only major outstanding financing issue was that Mr. Izmirlian would be required to provide a guarantee in respect to certain additional funding that Eximbank was willing in principle to advance. Under the terms of the additional loan the bank would contribute 50%, with the remaining 50% being divided equally between the Construction Company and the Developer, with each providing guarantees.

On the afternoon of June 29<sup>th</sup>, 2015, the Developer, in the person of Mr. Izmirlian, requested a meeting with me. It was during this meeting that he, without prior notice to the Government, the Eximbank and China Construction, informed me that Baha Mar had filed a Petition for Chapter 11 bankruptcy in the United States.

Soon thereafter the Developer proceeded to seek recognition of the U.S. Chapter 11 Bankruptcy protection by application to the Bahamas Supreme Court. This was objected to by the Bahamas Government, China Eximbank and China State Construction. The proceedings were adjourned at the request of Baha Mar for a

hearing on Monday July 20<sup>th</sup>, 2015. The Supreme Court nonetheless directed that the parties should continue, in good faith, negotiations aimed at ensuring mutually acceptable arrangements for the completion and opening of the Baha Mar project.

For completeness, it should also be noted that Baha Mar initiated legal proceedings in the United Kingdom against China Construction and locked the Construction Company out of their Cable Beach premises.

Negotiations between the parties were convened in Beijing China from July 13<sup>th</sup> to July 15<sup>th</sup>. The Government delegation was led by the Attorney General and Minister of Legal Affairs, the Honourable Allyson Gibson QC, who, on my behalf, chaired the sessions as well.

After working diligently around the clock to arrive at a solution acceptable to all parties, and having made considerable progress, the talks nonetheless ended without agreement whereupon the delegation returned to Nassau this morning and promptly reported to Cabinet along with its legal advisors.

It transpired at the Beijing negotiations that Baha Mar's additional funding requirements had increased considerably, and now included not only funding for completion of construction, but funding to meet start up and operating expenses; funding to cover other liabilities and deferral of principal and the initial balloon payments under the loan facility with Eximbank.

I am advised that both Eximbank and China Construction Company demonstrated flexibility in meeting Baha Mar's expanded funding requirements, and project completion date. This notwithstanding, Baha Mar still wanted an extended period for further negotiations which, however, was not acceptable. Baha Mar was also not prepared to agree to terms which would have included the immediate discontinuance of their Chapter 11 Bankruptcy proceedings in the United States and their legal action against China Construction in the United Kingdom. These terms were demanded by Eximbank and China Construction, and supported by the Government, as conditions to any agreement for additional funding, resumption of construction and project completion date.

Meanwhile, the Government has arranged for a second payment of salaries of Baha Mar's Bahamian employees, with a view to such payments being recovered in due course so as not to place any additional strain on the Bahamian taxpayer.

Eximbank and China Construction have pledged their willingness to work with The Bahamas Government in their common objective for the completion and opening of the project in the shortest possible time.

In this regard it goes without saying that the completion of the Baha Mar resort is a matter of the utmost national importance. **Baha Mar must open!** Whilst we certainly remain open to further discussions, my Government has taken the decision to seek to

bring the Baha Mar development project under the control and supervision of the Bahamian Supreme Court, right here in The Bahamas. Consequently, on the advice of our Bahamian, U.K, and U.S. lawyers, The Attorney General has today filed a winding up petition in the Bahamas Supreme Court against the 14 Bahamian entities that filed for Chapter 11 protection in the United States at the end of June. These compulsory or involuntary winding-up proceedings are designed to work in very similar terms as a chapter 11 but with the stark difference that they will be controlled by provisional liquidators under the supervision of the Bahamian Courts rather than being controlled by Mr. Izmirlian. These liquidators, if appointed by the court, will be neutral and impartial professionals of the highest quality and of impeccable credentials.

Importantly, the role of the liquidators will be to expedite the resolution of the matter and to prepare a plan for the restructuring of Baha Mar, that will result in the earliest possible completion and opening of the project. The Bahamian court is familiar with using the provisional liquidation procedure as an effective tool to reorganise a company's affairs. Indeed the well-known case of Charter Oil is an instructive example of how a major company in The Bahamas was placed in compulsory liquidation by its creditors, was successfully re-structured in the course of the liquidation, and then, by order Of Justice Harvey DaCosta, was able to come out of liquidation. At that point the liquidators dropped out and executive authority was restored to a new, reconstituted board of directors. Moreover, such a path is specifically provided for under the Companies (Winding-Up) (Amendment) Act 2011.

Baha Mar took the decision to file for bankruptcy protection in the US. Papers filed in the US suggest that if Baha Mar's strategy in the US was allowed to continue, there would not only be a substantial delay in the completion of the project but there would also be great uncertainty as to whether the developer would ever be in a position to complete the project at all.

Further, were the processes to continue in the US, the fate of this Bahamian project, its Bahamian employees and the international reputation of the sovereign nation of The Bahamas would be in jeopardy. Consequently, and in addition, the Attorney General is challenging Baha Mar's application to the Supreme Court of The Bahamas to recognise and accept the jurisdiction of the Delaware Court in The Bahamas. This is not just a matter of national sovereignty. There should be a Bahamian solution to this Bahamian issue and the majority of the key parties in this matter recognise and support that position.

The actions taken by the Attorney General are not designed to punish Baha Mar, much less is it the intention to destroy Baha Mar. On the contrary, the purpose of the provisional liquidation is to enable the appointment of a neutral party to take control of the process and to work with the key stakeholders under the supervision of the Bahamian Court to prepare a strategic and workable roadmap for the completion and opening of the resort. Such a solution will recognise and respect the rights and legitimate interests of the key parties, including Baha Mar and the Bahamian people.

My fellow Bahamians:

**I am absolutely convinced that we are on the right path**, one that will lead to the completion and opening of Baha Mar in the near future. While it is true that there are still major obstacles to be overcome, I remain extremely optimistic about the end-result, one that will not only ensure the employment of thousands of Bahamians but the emergence as well of a resort destined for great success in the tourism industry of The Bahamas and of the region.

As we have done throughout we, as your government, will continue to be guided by what we honestly and truly believe to be in the best interests of the Bahamian people. In closing I need therefore only repeat that we are on the right path and that we can all look forward to the completion and opening of the Baha Mar resort in the near future.

Thank you and good night.