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REPUBLIC OF TRINIDAD AND TOBAGO

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LOCAL AUTHORITIES, SERVICE COMMISSIONS AND STATUTORY AUTHORITIES *(INCLUDING THE THA)*

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on an

Inquiry into Occupational Safety and Health Compliance within the Public Service

Fourth Session (2018/2019), 11th Parliament

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Of the

Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (including the THA)

on an

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ACRONYMS AND ABBREVIATIONS

ABBREVIATION	MEANING
CODO	Consortium of Disabilities Organisations
ISIC	International Standard Industrial Classification
JCG	Joint Coordination Group
JTUM	Joint Trade Union Movement
MOH	Ministry of Health
MOLSED	Ministry of Labour and Small Enterprise Development
MOU	Memorandum of Understanding
NUGFW	National Union for General Federal Workers
OSHA	Occupational Safety and Health Authority and Agency
PRESD	Property Real Estate Division
PS	Permanent Secretary
PSA	Public Service Association

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EXECUTIVE SUMMARY

1.1 At its twenty-third meeting held on Wednesday 25th April 2018, the Committee resolved to conduct an inquiry into Occupational Safety and Health Compliance within the Public Service and agreed that the following three (3) objectives would guide the inquiry:

- **To assess the level of compliance of public bodies (in particular Ministries) with the provisions of the OSH Act.**
- **To examine the efficiency and effectiveness of the operations of the OSH Authority and its Agency.**
- **To assess the adequacy of existing OSH legislation, policies and guidelines.**

1.2 To this end, the Committee obtained evidence from the OSH Authority and Agency, the line Ministry, the Consortium of Disabilities Association (CODO) and the two trade unions, namely the Joint Trade Union Movement (JTUM) and the National Union of Government and Federated Workers (NUGFW). Some of the major issues that were highlighted/identified during the course of the inquiry included:

- **Accommodation arrangements for the OSHA;**
- **Challenges affecting the efficiency and effectiveness of the OSHA;**
- **Complaints received by the OSHA;**
- **Establishment of Health and Safety Committees within the public service;**
- **Inadequate Record Keeping;**
- **Insufficient definitions within the Act;**
- **Investigations**
- **Issuance of Fire Certificates;**
- **Legislative Amendments;**
- **Legislative Inadequacies;**

- **Reporting Relationship between the OSHA and the line Ministry;**
- **Vacancies within the OSHA.**

1.3 Based on the evidence received and the conclusion derived from such evidence, the Committee has proffered recommendations which it believes will appropriately address the issues highlighted. A summary of these recommendations follow this Executive Summary.

1.4 We anticipate that the Parliament, the Ministry of Labour and Small Enterprise Development, the OSH Authority and Agency and all heads of public sector/service organisations, would give due consideration to the findings and recommendations contained in this Report with a view to improving OSH standards and the level of compliance with such standards in the public service. The Committee looks forward to reviewing the Ministry's response to this Report, which becomes due, sixty (60) days after it is presented to the Houses of Parliament.

SUMMARY OF RECOMMENDATIONS

The following is a consolidated list of recommendations proposed by the Committee:

The Committee recommended that the following be implemented in the short-term (3-6 months):

i. **Mechanisms and systems to develop greater uniformity and consistency in the application of OSHA laws and standards are urgently required. In this regard, we recommend that the MOLSED collaborate with OSHA with a view to implementing this recommendation within the next 6 months.**

ii. **The OSHA in collaboration with the Ministry of Labour and Small Enterprise Development and Trade Unions, should conduct a Public Service wide project aimed at encouraging and assisting Ministries and departments to establish Safety and Health Committees.**

iii. **The MOLSED should engage in a nationwide sensitisation drive geared towards increasing awareness of the importance of seamlessly integrating persons with disabilities into workplaces. Additionally, the MOLSED should prioritise the finalization of the OSH Welfare Regulations.**

iv. **Permanent Secretaries and Heads of Department should be mandated to verify and report on the implementation of applicable standards on occupational safety and health regularly.**

v. **We recommend that the Ministerial Reponses to this report include details of the strategies the OSHA intends to adopt with a view to successfully implementing these objectives.**

vi. **We recommend that the management of the Agency conduct a critical assessment of the internal systems and operations of the OSHA with a view to determining areas of inefficiency and poor resource optimization.**

The results of this assessment should be used to better streamline the existing resources of the organization.

vii. **The OSHA should seek to update the baseline data that it utilizes to guide its policies and initiatives.**

viii. **Regarding the lands allocated for the construction of OSHA's head office, the MoLSED must play a more proactive role in expediting the response from the Commissioner of State Lands.**

ix. **The OSHA Board and Management should seek to provide performance incentives within the organisation to boost employee morale and to assist with effort to retaining its current staff complement.**

x. **We recommend that the OSHA include such an evaluation in its legislative review exercise. Specific attention should be given to eliminating any ambiguity arising from definition of terms such as: "Refusal to work", "imminent danger", and "critical injury".**

The Committee recommended that the following be implemented in the medium term (7-12 months):

i. **The creation of a Register comprising the names and designations of all Health and Safety officers assigned to Ministry's and State Agencies.**

ii. **The MOLSED should conduct a public sector-wide sensitization campaign to promote the importance of maintaining and the means of maintaining effective records of work-related hazards, accidents and injuries.**

iii. **OSHA should seek technical assistance from regional and or international organisations and counterparts in furtherance of its human resource development efforts.**

iv. **The Committee recommends that the Act be modified to strengthen the powers and privileges of Inspectors. There is also a need to establish sanctions within the OSHA for Inspectors who intentionally contravenes the Act in the exercise of their duties.**

v. **The Act should clearly stipulate and mandate that employers should compensate, when liable, employees who have obtained any work place injury whether life-threatening or non-life-threatening.**

vi. **We recommend that OSHA conduct workshops and seminars for the benefit of members of vulnerable groups such as 'persons with disabilities' with a view to *inter alia:***

   a. **enhance their level of awareness regarding the regulatory framework for occupational safety and Health in Trinidad and Tobago; and**

   b. **Obtain feedback from the members of these groups regarding areas of the regulatory framework which should be modified to better address their needs and concerns.**

INTRODUCTION

Background[2]

Regulatory Framework

2.1 The OSH Authority was established in October 2006 through an amendment to the Occupational Safety and Health Act, 2004. The core responsibilities of the Authority are to:

- encourage the enforcement of the OSH Act;
- to promote training and research;
- provide information and to develop regulations and Approved Codes of Practice (A.C.O.P.)[3].

2.2 The OSH Agency was preceded by the Factories Inspectorate which operated in accordance with the Factories Ordinance Chapter 30 No.2, 1950. This was Trinidad and Tobago's first safety and health law, which provided for the regulation of safety, health and welfare standards in respect of machinery, plant and hazardous processes[4].

2.3 The OSH Act addresses a variety of workplace issues including workplace health, safety, welfare, occupational diseases and employment of young persons. To this end, the Act imposes duties on employers, occupiers, employees and manufacturers and suppliers of goods. Some of these duties are not only owed to persons working at industrial sites but also to visitors and persons in the environs who might be affected by the activities carried out at the 'industrial establishment'.

2.4 Some of the main powers and responsibilities of the OSH Authority include the following[5]:

- Enforcing the provisions of the OSH Act via the OSH Agency;

[2] http://mbtt.org/index.htm
[3] http://osha.gov.tt/AboutUs/CorporateProfile.aspx
[4] http://osha.gov.tt/AboutUs/CorporateProfile.aspx
[5] http://osha.gov.tt/AboutUs/OSHAuthority/SummarisedTasksoftheOSHAuthority.aspx

- Assisting and encouraging persons to be protected by the provisions within the OSH Act;
- Approving and issuing codes of practice.

Conduct of the Inquiry

2.5 Oral evidence was captured through the convening of two public hearings. The first public hearing was held with representatives of Public Services Association (PSA), the Joint Trade Union Movement (JTUM), National Union of Government and Federated Workers (NUGFW) and the Consortium of Disability Organisations (CODO) on Wednesday May 23rd, 2018. The persons who appeared on behalf of the entities were as follows:

Public Service Association (PSA)

1. Mr. Watson Duke	President
2. Mr. Christopher Joefield	2nd Vice-President
3. Mr. Ian Murray	2nd Vice-President

Joint Trade Union Movement (JTUM)

1. Mr. Chandrasain Ramsingh	Treasurer, O W T U
2. Mr. Kimball Austin	Deputy Secretary General, CWU
3. Mr. Alva Allen	Education Officer, BIGWU

National Union of Government & Federated Workers (NUGFW)

1. Mr. Clifton Simpson	2nd Dep. President General
2. Mr. Patrick Rousseau	Director, Industrial Relations

The Consortium of Disability Organisations (CODO)

1. Mr. Bhawani Persad	Vice-President

2.6 Subsequent to this, a second hearing was conducted with officials of OSH Agency, Ministry of Labour and Small Enterprise Development and the Ministry of Health

who appeared simultaneously on Monday June 11, 2018. A list comprising the names of the officials who appeared is at Appendix I.

2.7 The Minutes and Verbatim Notes are attached as Appendix VII and Appendix VIII respectively.

Summary of Evidence together with Findings and Recommendations

Objective 1: To Assess the Level of Compliance of Public Bodies (in particular Ministries) with the provisions of the OSH Act.

Compliance

3.1.1. The Committee sought to examine the level of OSH compliance within Ministries and public bodies by soliciting the views of various stakeholders. It was in the Committee's interest to examine the Occupational Safety and Health Act Chapter 88:08, thereinafter referred to as 'the OSH Act', in order to gain a greater understanding of the primary compliance requirements for public bodies. Additionally, the OSH Authority and Agency collectively referred to as 'the OSHA', outlined in its submission several sections of the Act which are crucial for compliance by public bodies. Some important features of the Act include:

- **General Duty of Care**
    - General duties of employers
    - General Duties of occupiers
    - Safety and Health Policy
    - Annual risk assessment
    - Establishment of Safety and Health Committees
    - Provision of Personal Protective Equipment
    - Duty to report fatal and critical accidents and keep register of such accidents
    - Duty to report non-critical accidents
    - Duty to report occupational diseases

3.1.2. A detailed description of these sections may be found in Appendix V of this document.

Monitoring Mechanisms

3.1.3. In OSHA's written submission dated May 10 2018, it was stated that the Authority's monitoring mechanisms for Industrial establishments consist of an assessment of the levels and nature of complaints received, accidents reported, Refusal to Work reports, inspections and 'requests for inspection' from Property Real Estate Division (PRESD) of the Ministry of Public Administration.

3.1.4. OSHA works closely with PRESD to ensure buildings for occupancy by state employees are compliant. For the period October 2015 to March 2018 a total of eighty-seven (87) buildings were deemed compliant and therefore approvals were granted for lease/rental by PRESD. The OSHA has specific compliance programmes for public bodies which are known to have high levels of risk within their annual work plans.

Table 1: Public Bodies with Specific Compliance Programs

Public Body (Industrial Establishment)	ISIC classification (Economic Activity)
Ministry of Education	Education
Petrotrin	Mining and Quarrying
WASA	Water Supply, Sewerage, Waste Management and Remediation Activities
T&TEC	Electricity, Gas, Steam and Air Conditioning
Ministry of Works and Transport – Licensing Division	Transport and Storing
PTSC	Transport and Storing

Public Body (Industrial Establishment)	ISIC classification (Economic Activity)
National Security – Roxborough & Point Fortin Fire Stations (OSHA's Intervention resulted in the Premises being closed and subsequent relocation of the institution).	Public Administration and Defence; Compulsory Social Security

3.1.5. The Committee noted that upon inspection of an industrial establishment[6], an evaluation of the level of compliance is conducted where the OSH Agency provides a written report of the infractions identified and the needed requirements for compliance. Further monitoring of compliance is conducted through re-inspections. It was further noted that the OSH Authority issued correspondence to various public bodies informing them of their responsibilities and required compliance.

Reporting Relationship

3.1.6. The existing reporting relationship between all the ministries and OSHA are based on the requirements of the OSH Act. According to Sections 46 and 46A of the OSH Act, employers and occupiers are required to report and notify of accidents and incidents. In an effort to improve efficiency and accountability, the OSH Authority proposed that all incidents, accidents and other OSH data be routinely reported to the Agency on a monthly basis. The THA has been selected for the first phase of this reporting initiative. The wider application of this approach will be based on the success of this pilot effort.

[6] According to Section 4 of the OSH Act "industrial establishment" means a factory, shop, office, place of work or other premises but does not include— (a) premises occupied for residential purposes only; or (b) other categories of establishment exempted by the Minister in accordance with this Act;

Safety and Health Policy

3.1.7. During the public hearing on May 23rd 2018, the NUGFW quoted *"Mr. Chairman, in terms of policy on how workplaces are to function on a day-to-day basis, I think in the absence of having a committee and in having a focal point person to address health and safety issues, a number of the Ministries are deficient on how they will treat with health and safety issues that come up on a daily basis".*

3.1.8. JTUM's submission alleges that trade unions have often been left out of the consultation process as it concerns OSH matters. The Act has not mandated communication between the OSHA and the trade unions.

Annual Risk Assessment

3.1.9. According to Section 13A of the Act, employers should conduct annual suitable and sufficient assessments of risks to safety and health of their employees. Based on JTUM's written submission, dated May 16th 2018, it was strongly suggested that a specific and punitive fine (s) should be applied to employers for their failure to conduct and file their Annual Risk Assessments (ARA) with the Agency. ARA should also be conducted/reviewed and must involve the Employees' Representatives. This alleged lack of consultation with trade unions have also heavily impacted the trade union's ability to lobby for their members. Additionally, JTUM is of the view that safety audits should be conducted every six (6) months to establish gaps and develop reasonable time lines to eliminate and minimize risks.

Establishment of Safety and Health Committees

3.1.10. The written submission of the Ministry of Health dated June 5th 2018 informed the Committee of the Ministry's ability to successfully establish a Health and Safety Committee. The written submission of the OSHA provided the following tables which outline the status of Health and Safety Committees within a sample of Ministries and departments in the public service as at May 10th 2018.

Table 2: Status of Health and Safety Committees within the public service.

No.	Name of Ministry	Yes/No	Remarks
1.	Service Commissions Department (SCD)	No	Currently taking steps to establish a Committee before the next quarter.
2.	Ministry of Social Development and Family Services	No	Committee is non-functional, action has been taken to re-establish the Committee.
3.	Office of the Prime Minister (Tobago Affairs) Central Administrative Services Tobago	No	
4.	Ministry of Health	No	Currently reviewing the status of the Committee
5.	Ministry of Labour and Small Enterprise Development	Yes	
6.	Ministry of the Attorney General and Legal Affairs	Yes	
7.	Ministry of Agriculture, Land and Fisheries	Yes	Four (4) committees established
8.	Office of the Prime Minister	Yes	
9.	Ministry of Public Administration and Communications	Yes	
10.	Ministry of Community Development, Culture and the Arts	Yes	
11.	Ministry of Rural Development and Local Government	Yes	First meeting commenced June 05th, 2018
12.	Ministry of National Security:- Probation Services	No	Efforts will be made to for the formation of a Safety and Health Committee.

Table 2: Status of Health and Safety Committees within the public service (continued)

No.	Name of Ministry	Yes/No	Remarks
	General Administration	No	
	Trinidad and Tobago Defence Force	No	
	Trinidad and Tobago Police Service	Yes	
	Trinidad and Tobago Prison Service	Yes	
	Trinidad and Tobago Fire Service	Yes	
	Immigration Division	Yes	
	Trinidad and Tobago Forensic Sciences Centre	Yes	
	Trinidad and Tobago Cadet Force (TTCF)	No	Steps have been taken to expedite the compliance of OSH.
	Strategic Services Agency	Yes	
	Office of Disaster Preparedness and Management (ODPM)	No	Recommendation was made for the ODPM to reconstitute its Safety Committee.

3.1.11. It is the written view of the JTUM, that the lack of collaboration between Trade Unions and employers for the establishment of Health and Safety Committees by employers has compromised claims for 'Refusal to Work' and 'Removal from Work' claims.

Provision of Personal Protective Equipment

3.1.12. According to the NUGFW, the misconception which exists in several industrial establishments is the notion that the provision of protective equipment equates to the provision of a safe environment for workers. Mr. Simpson, 2nd President General of the NUGFW was quoted as saying *"They see health and safety only in the context of providing protective gear and equipment, and not in the day-to-day operation and process of how workers are to function on a daily basis"*.

Duty to Report Fatal and (non) Critical Accidents/Occupational Diseases

3.1.13. The reporting requirements of ministries to OSHA are outlined in Sections 46, 46A and 48(3) of the OSH Act. It states that employers and occupiers are required to report accidents and incidents. In an effort to improve efficiency and accountability, the OSHA proposed that all incidents, accidents and other OSH data be reported on a monthly basis. The Tobago House of Assembly (THA) has been designated as the first organization to participate in this enhanced reporting initiative. The further expansion of this initiative will be based on the success of the THA pilot.

3.1.14. During the public hearing on June 11th 2018, the OSHA informed the Committee of the following reoccurring issues within Ministries:

- Electrical Issues;
- Lack of maintenance of the Physical Infrastructure;
- Lack of maintenance of machinery;
- Inaccurate storage practices;
- Leaking roofs;

- Mold; and
- Trip, slips and falls.

3.1.15. As at June 11th 2018, the OSHA had prosecuted matters involving the failure of a party to report accidents at the workplace. During the period of 2015 to 2018 200 matters were prosecuted.

3.1.16. Through the execution of inspections, the OSHA may identify non-compliant Ministries. The following table outlines a sample of Ministries and Departments which were in breach of the OSH Act during the period of 2014 – 2017.

Table 3 Ministries in breach of the OSH Act for the period 2014-2017

2014- 2015	2015-2016	2016-2017
Ministry of Sport	Ministry of Education	Ministry of Education
Tobago House of Assembly	Ministry of Health	Ministry of Sport and Youth Affairs
	Ministry of Public Utilities	Tobago House of Assembly
	Ministry of Community Development Culture and Arts Building	Ministry of Housing and Urban Development
		Ministry of Public Utilities
		Ministry of Works and Transport
		Ministry of Tourism
		Ministry of Agriculture, Lands & Fisheries
		Ministry of National Security

3.1.17. A detailed list of public bodies who received letters on Promoting a Culture of Safety in Trinidad and Tobago can be found in Appendix III.

Issuance of Fire Certificates

3.1.18. According to Section 26 of the Act, it is the responsibility of the occupier of a relevant Industrial establishment, to obtain the requisite fire certificate in offices which operate with 25 or more persons. However, the Committee was informed that upon inspections by the OSHA, public offices were not in possession of fire certificates. During its appearance before the Committee on May 23rd 2018, the Public Services Association, alleged that fraudulent fire certificates have been issued. President Watson Duke was quoted as saying *"let me just plough ahead to say, not only is OSH Authority culpable, also the fire services of Trinidad and Tobago, they are culpable. They have been doing a slipshod job. As a matter fact, I could say to you without the fear of contradiction, they have produced many fraudulent fire certificates".*

3.1.19. However on June 11th 2018, the OSHA sought to refute these statements. Executive Director of the OSH Agency was quoted as saying "We have not had that as an official complaint. The fire certificates would tend to come from the fire authority, they are responsible for doing that, but we have not had that as an official complaint. The process that Mr. Duke used for vacating buildings was the wrong one, it did not follow the process that you would use if you were trying to close a building down".

Complaints

3.1.20. For the period October 2013 to March 2018 a total of **two thousand, four hundred and ninety- seven (2497)** complaints were received by the OSH Agency from both public and private entities. More specifically, 81 complaints were submitted for public entities whilst 2416 complaints were submitted from the private sector.

3.1.21. Additionally, there was a backlog of nine hundred and six (906) complaints in 2017. By March 2018, the outstanding complaints were reduced to one hundred and eleven (111).

3.1.22. The nature of these complaints were as follows:

i. Late reporting of accidents;
ii. Unsafe conditions at work dust, fumes, molds Electrical issues;
iii. Poor ventilation/air conditioning problems;
iv. Welfare facilities (leaking toilets, sewer problems, smells, no changing area; no water) Poor housekeeping;
v. Rat infestation;
vi. Pigeon droppings/ living in ceilings Chemicals scents;
vii. Trips/slips falls, strains, minor cuts Noise;
viii. Leaking roof.

Lack of Personal Protective Equipment

3.1.23. OSHA categorizes complaints according to the International Standard Industrial Code (ISIC). Appendix IV represents data regarding complaints involving public bodies from October 2016 to March 2018.

Promoting Compliance through Outreach Activities

3.1.24. The OSH Authority informed the Committee that outreach activities were conducted through:

1. Public campaigns and public education drives through mass media circulations of:
    - The High Five: Five Ways to Reduce risk on construction sites;
    - The Prevention of Occupational Diseases;
    - A Short Guide for Employers to the Occupational Safety and Health Act;
    - A Short Guide for Employees to the Occupational Safety and Health Act;
    - Types of Machine Safeguards;

- A Guide to Risk Assessment;
- Guidance on Safety and Health Committees; and
- Guidance in preparing a Safety and Health Policy;

2. Lectures/presentations on the OSH Act by the Agency;
3. Specialized awareness programme was conducted in 2015 for the beneficiaries of the Enterprise Development Division Small and Micro Enterprise programme;
4. Provided Guidance on the recruitment process for Health and Safety Officers - Ministry of Education;
5. Public consultations on the amendment of the OSH Act.

3.1.25. Based on the International Standard Industrial Classification (ISIC) code, the threats posed by the Industrial Estates and Chemical companies require that annual risks assessment be conducted. In an effort to ensure compliance within the industry letters were sent to the three main companies - PLIPDECO, LABIDCO & ETeck.

Findings and Recommendations

Based on the evidence set out in this section, the Committee concluded the following:

i. The existing compliance and monitoring systems used by OSHA are generally reactionary. The Committee was encouraged by recent efforts by OSHA to adopt a more proactive approach to monitoring OSHA issues at public organizations (on a monthly basis). It was interesting to learn that the THA was designated as the pilot organization for this initiative;

ii. Based on the sample of public service organisations from whom information was received, it was evident that there is a lack of uniformity in the mechanisms and systems used to ensure compliance with occupational and safety rules and

standards. This was manifested in the absence of Health and Safety Committees within several Ministries and departments;

iii. The establishment of a Safety and Health Committee within each public sector organisation is critical in facilitating the thorough investigation of occupational hazard claims made by employees;

iv. There is a need for more consistent tripartite consultation in order to develop a thorough health and safety policy;

v. It is imperative that there is an effective chain of communication to ensure that employees' claims and other necessary information on safety and health matters is transmitted to Safety and Health Committee.

Recommendations

i. Mechanisms and systems to develop greater uniformity and consistency in the application of OSHA laws and standards are urgently required. In this regard, we recommend that the MOLSED collaborate with OSHA with a view to implementing this recommendation within the next 6 months.

ii. The OSHA must ensure that effective oversight is conducted through the establishment of Safety and Health Committees. The OSHA in collaboration with the Ministry of Labour and Small Enterprise Development and Trade Unions, should conduct a Public Service wide project aimed at encouraging and assisting Ministries and departments to establish such Committees. This initiative should be executed within three months of the presentation of this report.

iii. The MOLSED should engage in a nationwide sensitisation drive geared towards increasing awareness of the importance of seamlessly integrating persons with disabilities into workplaces. Additionally, the MOLSED should prioritise the finalization of the OSH Welfare Regulations.

iv. **The creation of a Register comprising the names and designations of all Health and Safety officers assigned to Ministry's and State Agencies. Such a repository will assist the OSHA as a regulator to more effectively disseminate information and professional development material that may be of specifically related to the public sector.**

v. **Permanent Secretaries and Heads of Department should be mandated to verify and report on the implementation of applicable standards on occupational safety and health regularly. This may be facilitated through the submission of monthly reports to the OSHA for review and implementation. These records should contain all notifiable occupational accidents and injuries.**

Objective 2: To Examine the Efficiency and Effectiveness of the Operations of the OSH Authority and its Agency

3.2.1 The following are the primary strategic objectives of the OSH Agency/Authority as stated within its written submission:

i. Establish the National OSH Regulatory Framework;
ii. Balance Compliance techniques;
iii. Target Higher Risk/Impact Groups;
iv. Negotiate Strategic Relationships;
v. Build a Cadre of OS&H Professionals;
vi. Implement supportive infrastructure;
vii. Establish comprehensive practices;
viii. Build Public Awareness;
ix. Collect quality information Managing the OSH Agency's Brand.

Key Performance Indicators (KPI's)

3.2.2 The OSH Agency's Key Performance Indicators (KPI's) are measured by the following:

- % decrease in serious injury;
- % of complement of competent staff;
- % increase of industrial establishments' compliance;
- % positive partner evaluations;
- Public H&S Awareness index.

3.2.3 According to the OSHA submission, the Agency's benchmarks consist of data collected in 2012 by the OSHA, which are used as the Agency's baseline.

3.2.4 As at May 10th 2018, the average number of fatalities per year were 13.75 and the average rate of fatal injuries per 100,000 workers is 2.1.

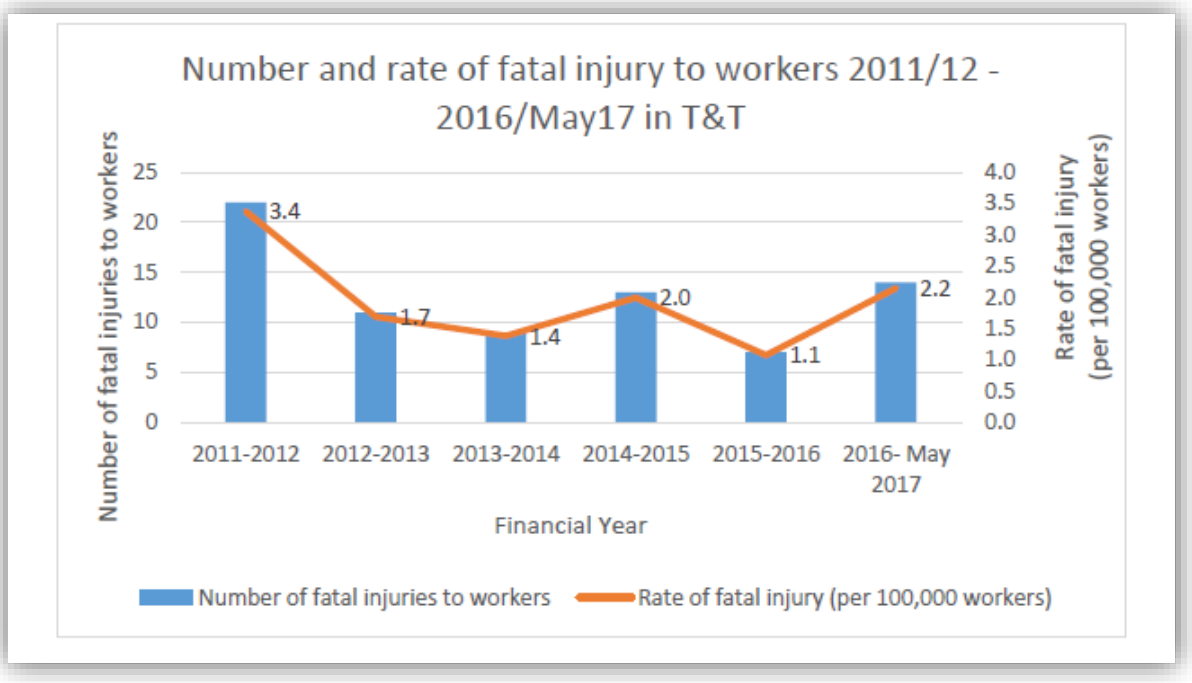


Figure 1 Number and rate of fatal injury to workers

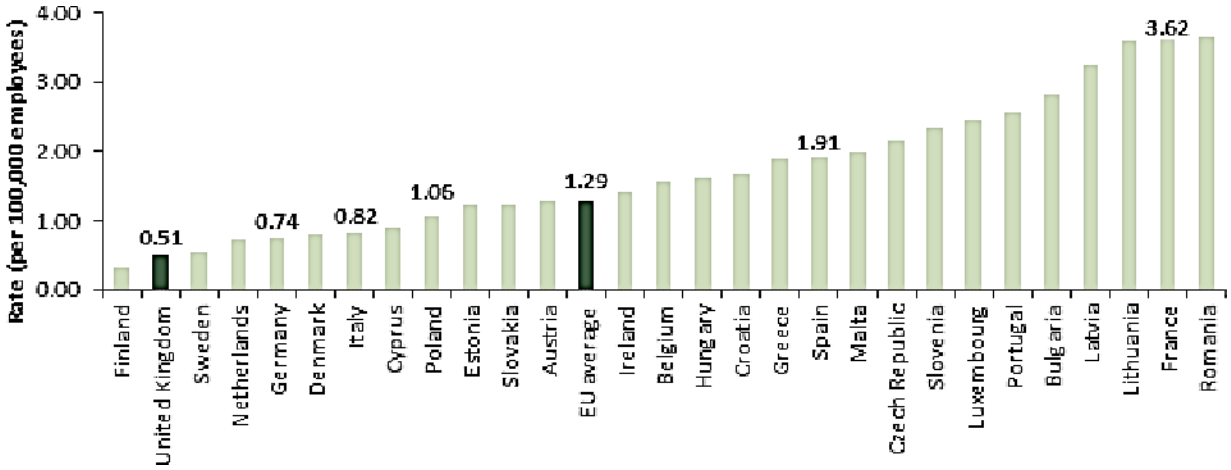
3.2.5 According to the United States Department of Labour, the rate of fatal work injuries per 100,000 full-time equivalent workers was 3.6 and 3.5 in 2016 and 2017 respectively[7]. According to Annual Statistics of the Health and Safety Executive within Great Britain, the annual average between 2013/14 to 2017/18 was 0.45.[8]

[7] https://www.bls.gov/charts/census-of-fatal-occupational-injuries/rate-of-fatal-work-injuries-per-100000-fte-by-age.htm

[8] http://www.hse.gov.uk/statistics/pdf/fatalinjuries.pdf

3.2.6 The figure below provides a comparison of the standardized incidence rates (per 100,000 employees) of fatal injuries at work for 2015.

Figure 2: International rates of fatal injuries sustained by employees



Challenges affecting the efficiency and effectiveness of the OSH Agency

3.2.7 The OSHA informed the Committee that the following areas presented significant challenges to their operations:

- Lack of Accounting Officer status for the Executive Director;
- Insufficient funds to recruit required staff;
- Lack of suitable accommodations for staff;
- Limited ICT infrastructure;
- Lack of resources to conduct basic functions of the OSH Agency;
- Lack of resources to provide continuous training;
- Non-payment of gratuity to employees and outstanding salary negotiations for the periods 2012-2015 and 2015-2018 which contribute to demotivated staff;
- Non-existence of accredited labs for testing samples.

Oversight of OSHA's operations

OSH Authority

3.2.8 The OSHA informed the Committee that the reporting relationship between the OSH Agency and the OSH Authority consists of monthly meetings where the Executive Director reports on the operations of the Agency. This information is further compiled in a report containing information on its relevant department. Another oversight mechanism consists of the Committees of the Authority. They are as follows:

- Finance and Tenders Committee;
- Audit Committee;
- Human Resources and Industrial Relations Committee;
- Technical Operations and Communications Committee.

Ministry of Labour and Small Enterprise Development

3.2.9 Based on the submission of the MOLSED, the Ministry exercises oversight of the operations of the OSHA through the following mechanisms:

i. The OSHA submits the Minutes of its meetings and reports regularly on its functions and operations;

ii. The Permanent Secretary (PS) of the MOLSED currently serves as the Accounting Officer for the OSHA and has oversight for all expenditure over the sum of fifty thousand dollars ($50,000), whilst the Executive Director of the OSHA can only approve up to the sum of $50,000. All payments are conducted through the Accounting Unit of the MOLSED;

iii. Monthly statements of expenditure are submitted to the MOLSED;

iv. The Executive Director is required to attend periodic meetings with the Executive of the MOLSED.

Transfer of Responsibility of Industrial and Labour matters in Tobago to the THA

3.2.10 The MOLSED stated within its written submission that the discussions on the transfer of services from the MOLSED to the Tobago House of Assembly (THA) have commenced. As at July 10th 2018, two meetings were held with the Secretary of Community Development, Enterprise Development and Labour of the THA on November 14 2017 and February 23rd 2018 respectively.

Vacancies

Staffing

3.2.11 Manpower shortages within the OSHA have hindered its ability to efficiently carry out its statutory obligations. In an effort to remedy this, interviews were held on March 2017 to fill some of the existing vacancies within the OSHA.

3.2.12 According to the OSHA submission, dated May 10th 2018, seven (7) Safety and Health Inspectors I and one (1) Safety and Health Inspector II (assigned to Tobago) joined the Agency in July 2017. As a result of internal advertisement, three (3) Senior Inspectors and four (4) Safety and Health Inspectors II were also recruited. One (1) Legal Counsel and three (3) On-the-Job Trainees joined the Legal Division which significantly increased the OSHA's productivity. Three (3) Administrative Assistants also began duties during this period.

3.2.13 There were plans to engage in additional recruitment in fiscal 2018/2019 for the positions of Deputy Director Administration, Safety and Health Inspectors, Communications Manager, Executive Assistant and IT System Analyst. However as with other aspects of the OSHA's operations such recruitment will depend on the allocation of financial resources to the Agency.

3.2.14 However, as at June 11th 2018, the OSH Agency had noted 87 vacancies, 32 of which were Safety Inspector I's. The OSH Agency stated that it required $48M to fill these

existing vacancies, however, for fiscal 2017/2018, the Authority was allocated $21M, with a release of $18.8 M.

3.2.15 The following Table details the 87 vacancies which existed within the OSH Agency.

Table 4: Vacancies within the OSH Agency as at May 10th 2018

Position	No. of vacancies
Specialist Medical Inspector	1
Specialist Technical Inspector	1
Specialist Technical Officer	4
Safety and Health Inspector II	1
Safety and Health Inspector I	32
Hygiene Inspector	6
Technical Assistant	7
Research Planning and Development Manager	1
Research and Statistical Officer	1
IT System Analyst	1
IT Technician	2
Legal Research Officer	1
Deputy Director Administration	1
Administrative Services Supervisor	1
Clerk/ Registry Officer	1
Clerk/ Registry Clerk	1
Driver/Messenger	2
Kitchen Assistant	1
Handyman	1
Human Resource Clerk	1
Accounting Clerk	1
Communication and Outreach	1
Communication Specialist	1
Outreach Specialist	4
Communication Clerk	1
Audit Assistant	1
Assistant Secretary to the Board	1
Executive Assistant	1
Administrative Assistant	6
Hot Line Operator	1
Total	87

3.2.16 According to the OSHA submission, these vacancies have impacted negatively on the Agency's ability to conduct proactive inspections; complete timely investigations of accidents, conduct sensitisation and awareness sessions and capture data. Specifically the vacancies of a Hygiene and Medical Inspectors, has limited its ability to respond in a timely and cost effective manner, as this service is currently being outsourced. The cost of this service was not provided.

3.2.17 The JTUM in its submission stated that the posts of Inspectors should be made permanent in order to guarantee security of tenure and promote longevity in these posts.

3.2.18 As at May 13th 2019, the following vacancies were advertised for the OSHA.

Table 5: Vacancies within the OSHA (2019)[9]

Position	No. of Vacancies
Chief Inspector	1
Human Resource Manager	1
Technical Assistants	3
Safety and Health Inspectors (1)	5
Planning Officer	1
IT Technician	1
Research and Statistical Officer	1
Human Resource Clerk	1
Administrative Services Manager	1
Registry Officer	1
Systems Analyst	1
Specialist Medical Inspector II	1
Deputy Director Administration	1

[9] https://www.osha.gov.tt/Careers Accessed on May 13th 2019.

3.2.19 Within its written submission dated May 16th, 2018, the JTUM further stated that the structure of the Agency should be reviewed and its staff complement should be populated with permanent/ professionals based on present needs. This was underscored during the public hearing on May 23rd, 2018, by Mr. Watson Duke, President of the PSA, who also stressed the need for permanent Inspectors.

3.2.20 Furthermore, during the Public Hearing on June 11th 2018, the HR Officer within the OSHA divulged that all of the positions within the OSHA are contract positions.

Turnover Rates

3.2.21 According to the written submission of the OSHA, there is a benchmark of 10.8% turnover rate for the Enforcement Industry. The OSH Agency is on the border at 10%. The top three reasons for attrition are as follows:

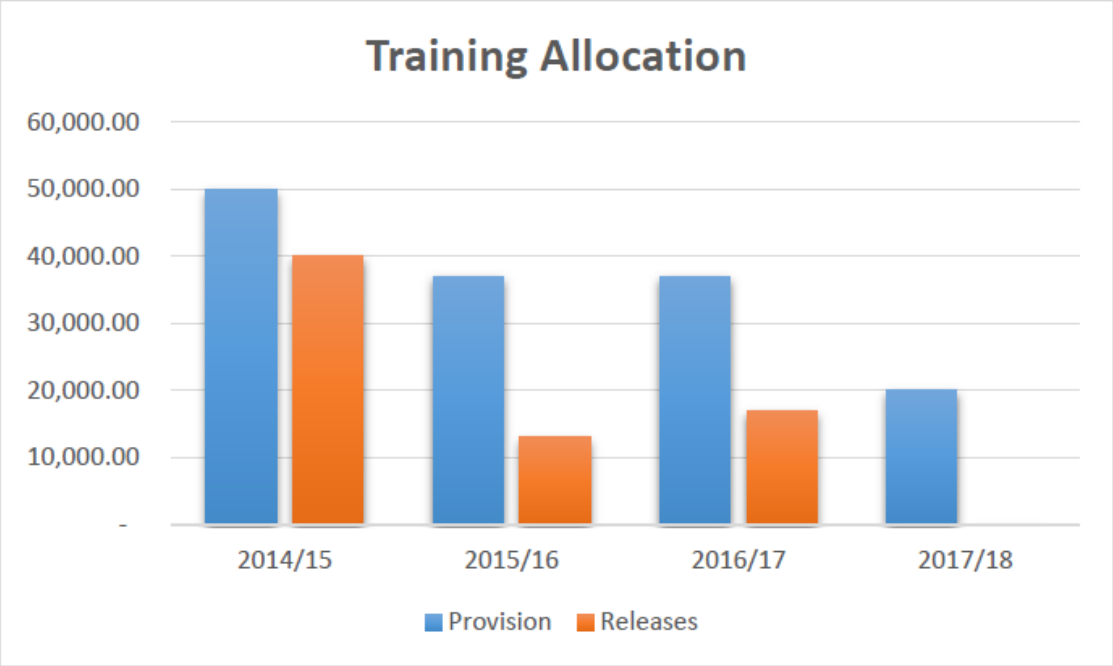
- Insufficient compensation;
- Lack of upward mobility; and
- Contract employment where tenure of service is not guaranteed.

Training

3.2.22 Insufficient funds have hindered the OSH's ability to capitalize on internal and external training opportunities. The OSHA has seen a steady decrease in training releases. The Agency has repeatedly submitted a Public Sector Investment Programme (PSIP) proposal for institutional strengthening of the Inspectorate, however funding has presented a significant challenge.

3.2.23 The following Figure shows the allocations received for training from Fiscal 2015 to May 2018:

Figure 3- Training Allocations and releases for the fiscal years 2015 to 2018 for the OSHA



Accommodation

3.2.24 Due to inadequate accommodation, the MOLSED stated that the Administrative, Legal, Information Technology and Research Units of the OSHA were relocated from the MOLSED Duke Street office to #9 Alexandra Street, St. Clair. In light of this, Cabinet further approved two (2) acres of State Land situated at Main Road Balmain, Couva, for the construction of a new Head Office for the OSHA. Subsequent to this approval, this land was under review by the Commissioner of State Lands. Correspondence pertaining to this matter had not been received from the Commissioner of State Lands as at May 10th, 2018.

3.2.25 The MOLSED had engaged in discussions with the PRSED and the Ministry of Public Administration (MPA) to source accommodation for the Tobago and South offices.

3.2.26 The lack of accommodation has also affected OSHA's ability to hire the requisite staff.

Investigations

3.2.27 A significant role of the OSH Agency is to conduct investigations to determine the levels of compliance within public bodies. However, due to staff shortages, the OSH Agency has been unable to engage in the number of investigations required to maintain a proactive approach to conducting investigations.

3.2.28 During the public hearing, it was stated that there were 16 Safety Inspectors, 14 of whom were situated in Trinidad and two (2) in Tobago and seven (7) Safety Inspector II's. The OSH Agency indicated that its target of 10 inspections (per Inspector) per month, and have a target of four inspections (per Inspector II) per month.

3.2.29 Furthermore, subsequent to the conduct of investigations, the OSH Agency recommends solutions to organisations for implementation. If issues of non-compliance reoccur, the OSHA may issue prohibition notices, if necessary, to public offices who have not implemented the proposed solutions to increase their level of compliance.

3.2.30 Reasons for the delays in completion of the investigation include:

- vagueness of information originating from complainant;
- the delay in receipt of supporting evidence from industrial establishment or victims;
- industrial establishment delay to have inspection conducted or the provision of documentation;
- complainant unavailability;
- limited manpower in the Inspectorate unit.

Infrastructural Compliance

3.2.31 Based on the written submission of the OSHA, inspections which measure infrastructural compliance are conducted on a retroactive basis. This is based on the frequency of reports of accidents, complaints and refusal to work matters.

3.2.32 However, proactive inspections are prioritized based on the levels of risk and social significance, e.g. Health care facilities. In cases where enforcement notices have been issued, re-inspections are conducted to verify whether the entity has become compliance. A detailed list of enforcement notices issued can be found in Appendix VI.

3.2.33 The OSHA also works in collaboration with the PRESD to ensure that public buildings are compliant. This is facilitated through the prioritising of inspection requests made by PRESD for the use of rent/lease public buildings.

Inadequate Record Keeping

3.2.34 OSHA reported that inadequate record keeping at public offices presented a significant challenge to the OSHA. Poor registry processes have inhibited the OSH's ability to obtain the requisite information needed to carry out throughout investigations within Ministries.

MOU with the Ministry of Health (MOH)

3.2.35 According to the written submission of the MOH, the MOH and the OSHA entered into a Memorandum of Understanding on November 7th 2017. This was undertaken in an effort to establish mechanisms for coordination across jurisdictional lines and to provide for the implementation of integrated occupational safety and health programmes in compliance with Section 69 (5) of the OSH Act. As a result of the MOU, a Joint Coordination Group (JCG) was created. The chairmanship of the group will alternate between the Executive Director of the OSHA and the PS of the MOH.

3.2.36 The MOH informed the Committee that it was working with the OSHA and other stakeholders to develop a National Occupational Research Agenda. The status of this Agenda was not confirmed.

Findings and Recommendations

Based on the evidence set out in this section the Committee concluded as follows:

i. Similar to several other public agencies (including other regulatory bodies) the prevailing financial constraints have stymied OSHA's ability to enhance its service delivery and undertake essential institutional development. Notwithstanding, this committee is of the firm view that some organizational transformation can be achieved through the application of more innovative approaches/ideas. Such innovation may not require significant cash injections but can be achieved through process reengineering and by implementing internal monitoring and evaluation systems;

ii. Poor record keeping by Ministries has significantly contributed to delays in investigation and/or the termination of investigations by the Agency;

iii. It was noted that the baseline statistics that are being utilized by the OSHA were collated in 2012. A more accurate reflection of the current realities within industrial establishments inclusive of those that house public sector organisations, would demand a more up-to-date data assessment;

iv. As at 2016/2017, the rate of fatal injuries incurred by workers within Trinidad and Tobago was 2.1. However, in 2015 developed countries such as the United Kingdom, Italy and Poland have recorded ratings of 0.51, 0.82 and 1.06 respectively which fall below local rates. In light of this, a deliberate and structured approach must adopted by OSHA and its affiliated partner agencies to reduce the rate of fatal injuries incurred in Trinidad and Tobago over a specified timeframe;

v. The absence of stipulated timeframes within the Act for the submission of complaints to OSHA has diminished the Agency's ability to effectively hold

Ministries and by extension other industrial establishments accountable in a timely manner;

vi. The OSHA is not adequately staffed to efficiently and effectively execute its regulatory functions;

vii. Additionally, inadequate accommodation has also affected OSHA's operational efficiency. The Committee noted with concern that inadequate accommodation has further hindered the Agency's ability to recruit additional Safety Inspector I' and II's;

viii. The training allocation for the OSHA is insufficient to provide the requisite training for its staff;

ix. The remuneration and contract arrangements for the employees of the OSHA may be a major contributor to the large number of vacancies which exist within the OSHA.

Recommendations

i. **OSHA has developed strategic objectives, which if accomplished, would definitely position the organization as a leading regulatory body in Trinidad and Tobago. We recommend that the Ministerial Reponses to this report include details of the strategies the OSHA intends to adopt with a view to successfully implementing these objectives.**

ii. **We recommend that the management of the Agency conduct a critical assessment of the internal systems and operations of the OSHA with a view to determining areas of inefficiency and poor resource optimization. The results of this assessment should be used to better streamline the existing resources of the organization.**

iii. **The OSHA should seek to update the baseline data that it utilizes to guide its policies and initiatives.**

iv. **Regarding the lands allocated for the construction of OSHA's head office, the MoLSED must play a more proactive role in expediting the response from the Commissioner of State Lands.**

v. **The MOLSED should conduct a public sector-wide sensitization campaign to promote the importance of maintaining and the means of maintaining effective records of work-related hazards, accidents and injuries.**

vi. **OSHA should seek technical assistance from regional and or international organisations and counterparts in furtherance of its human resource development efforts.**

vii. **The OSHA Board and Management should seek to provide performance incentives within the organisation to boost employee morale and to assist with effort to retaining its current staff complement.**

Objective 3: To Assess the Adequacy of Existing OSH Legislation, Policies and Guidelines

Legislative Review

3.3.1 During the public hearing and within its written submission, the OSHA underscored the importance of strengthening its powers under the Act. The OSHA reported that it engaged in public consultations on proposed amendments in Port of Spain and Tobago on March 21st and 22nd, 2017 and on July 10th and 11th 2017 respectively. The MOLSED has also provided guidance and assistance to the OSH Agency in the development of a Draft Policy for the amendment of the Act.

3.3.2 The broad areas for legislative strengthening which were submitted by the OSHA to the MOLSED for consideration are as follows:

i. Increase in fines;
ii. Structure of the OSH Authority and Agency should be clarified or revised;
iii. OSHA should be made autonomous, akin to the EMA;
iv. OSHA should be authorized to charge fees for its function;
v. Power of the OSH Authority to prosecute;
vi. Subsidiary legislation should be amended;
vii. Definitions should be included and updated;
viii. Certificates required under the Act should be revised and include expiration dates;
ix. The procedure and requirement for the issuance of Notices issued under section 74 should be reviewed;
x. Timeframes for reporting accidents;
xi. Guidelines for risk assessments;
xii. The burden on an Inspector should be reduced;
xiii. Extent of exclusion of residential areas;

xiv. Does not outline the duty of the employer to outline policies prior to engagement in employment;

xv. Procedure for safety and health offenses should be clarified; and

xvi. An independent Commission should be created to treat with offenses;

3.3.3 Additionally, it is the view of the PSA that the Act should be specifically amended to mandate that the OSH Agency and employers meet with Unions prior to the implementation of solutions. The Act should further be amended in order to place greater scrutiny on Inspectors in order to ensure that corruptible practices are met with prosecution. During the public hearing on May 23rd he was quoted as saying *"The Act does not provide for action to be taken against inspectors who would maliciously prosecute people, and I think a lot of inspectors have been prosecuting establishments maliciously and under the guise of being independent and they cannot be charged in their own right".*

3.3.4 The JTUM expressed its view in writing that amendments to the Act should proceed subject to tripartite consultations with state, employer and employee representative within the industries/sectors which require amendment.

3.3.5 In its written submission dated May 16th 2018, JTUM proposed that the list of fines outlined in the Act be amended to reflect the current legal costs associated with addresses concerns in this area.

Persons with Disabilities

3.3.6 A major challenge which was highlighted by Consortium of Disabilities Organisations (CODO), concerned the lack of specific reference or consideration within the Act for persons with disabilities. Additionally, the OSH Act was not available in suitable formats to allow persons who are blind and or deaf to access its contents.

Refusal to Work

3.3.7 Stakeholders expressed varying interpretations of the term "Refusal to Work" as outlined in Sections 14 – 21 of the OSH Act. The OSHA reported that it attended to twenty-two (22) Refusal to Work (RTW) cases during the period of 2013 – 2017. This data was not disaggregated to specify the establishments which submitted these claims.

3.3.8 Prior to Fiscal 2017, data was not captured in a way which allows for disaggregation between the public and private sectors. The following list details the Public Sector Organizations which reported justified stoppages of work for the period October 2016 – March 2018:

i. Board of Inland Revenue (Trinidad House);
ii. Ministry of Agriculture Lands and Fisheries – Sugar Cane industries;
iii. Ministry of Agriculture Lands and Fisheries- Administration building;
iv. Ministry of Education -William Webb Primary School;
v. Ministry of Education – Mt Pleasant Primary School;
vi. Ministry of Education - Rudranath Capildeo Learning Resource Center-Printery Division;
vii. Ministry of Sport and Youth Affairs – Administration building;
viii. Arima Borough Corporation – Administration building.

3.3.9 Based on the written submission from the JTUM, the involvement of the Union in "Refusal to Work" complaints are often misinterpreted as strike action. However, JTUM is of the view that refusal to work should be allowed due to the existence of hazardous conditions or due to 'imminent danger'. JTUM further emphasized that prior to the existence of the OSH Act, the actions of workers pertaining to refusal to work claims were not classified as 'strike action' as defined in Section 2(b) of the Industrial relations Act, Chap 88:01.

3.3.10 According to JTUM's written submission, the OSH Act does not provide the necessary safeguards for persons who are employed in inherently dangerous fields

such as the Fire Service, Prison Service, Health Services and Laboratories, in light of their inability to make claims related to 'Refusal to Work".

Definitions within the Act

3.3.11 Stakeholders expressed varying interpretations of the term 'imminent danger' and as outlined in Sections 14 – 21 of the OSH Act. During the public hearing on June 11th 2018, the OSHA stated that imminent danger is based on a risk assessment where buildings may be issued a prohibition notice if *"life or limb of an individual is threatened"* as quoted by Chief Inspector (Ag.) of the OSHA.

3.3.12 The Deputy Director Legal of the OSHA further stated that *"There are several key definitions that are not included, for instance, not even the term "accident" is defined in the Act. The critical injury definition as well should be expanded and updated".*

3.3.13 The President of the PSA, Watson Duke was quoted as saying that *"the court interprets imminent danger to be something that is about to happen… So, I do not know what imminent danger" is, and perhaps that is one of the things that needs to be deciphered and written down in the Act, but it must be done with proper consultation"*

3.3.14 JTUM stated that the definition of 'critical injury' should include the loss of a finger/ toe which was omitted when the old Factories Ordinance Act was replaced by the OSH Act. Based on the OSHA's submission, the definition of critical injury excludes serious non-life threatening injuries. The victim therefore would not be entitled to the compensation awarded under Section 86 (1) of the OSH Act.

Findings and Recommendations

Based on the evidence set out in this section the Committee concluded as follows:

i. The Committee was encouraged to learn that OSHA had conducted a review of its governing legislation with a view to identifying and rectifying its shortcomings;

The Committee trusts that the organization would actively pursue these proposed amendments with a view to having same presented to Parliament by the end of 2019;

ii. There is a need to introduce specific provisions in the Act to holistically treat with persons with disabilities;

iii. Based on the feedback obtained from representatives of the Trade Union Movement, there appears to be some consensus that the definitions within the Act, specifically 'imminent danger 'and 'critical injury' need to be reviewed and perhaps modified.

Recommendations

i. The Committee recommends that the Act be modified to strengthen the powers and privileges of Inspectors. There is also a need to establish sanctions within the OSHA for Inspectors who intentionally contravenes the Act in the exercise of their duties.

ii. The Act should clearly stipulate and mandate that employers should compensate, when liable, employees who have obtained any work place injury whether life-threatening or non-life-threatening.

iii. **We recommend that OSHA conduct workshops and seminars for the benefit of members of vulnerable groups such as 'persons with disabilities' with a view to** ***inter alia:***

- **i. enhance their level of awareness regarding the regulatory framework for occupational safety and Health in Trinidad and Tobago; and**

ii. **Obtain feedback from the members of these groups regarding areas of the regulatory framework which should be modified to better address their needs and concerns.**

iv. **Given that the Act has been in operation for over a decade, the OSH should be in a position to objectively assess any ambiguities associated interpretation of the provisions of the Act. To this end, we recommend that the OSHA include such an evaluation in its legislative review exercise. Specific attention should be given to eliminating any ambiguity arising from definition of terms such as: "Refusal to work", "imminent danger", and "critical injury".**

The Committee respectfully submits the foregoing for the consideration of the Parliament.

Dr. Varma Deyalsingh
Chairman

Ms. Ramona Ramdial, MP
Vice-Chairman

Dr. Lovell Francis, MP
Member

Mr. Esmond Forde, MP
Member

Mr. Darryl Smith, MP
Member

Ms. Khadijah Ameen
Member

Mr. Nigel De Freitas
Member

Mrs. Jennifer Baptiste-Primus
Member

June 6th, 2019

Appendices

Appendix I

List of Officials

The following officials appeared before the Committee on June 11th 2018:

Occupational Safety and Health Authority (OSHA)

- Dr. Surendra Dhanraj — Deputy Chairman
- Mrs. Carolyn Sancho — Executive Director
- Mrs. Pettal John-Beerens — Deputy Director Legal
- Mr. Corey Harrison — Human Resource Manager
- Mrs. Indira Mc Farlane-Lee — Secretary to the Board
- Ms. Annastasia Marchan — Research Planning Development Manager
- Mr. Franz Brisbane — Chief Inspector (Ag.)
- Mr. Farzan Ali — Member

Ministry of Labour & Small Enterprise Development (MOLSED)

- Ms. Natalie Willis — Permanent Secretary (Ag.)
- Mr. Jerome Andre Laveau — Deputy Permanent Secretary (Ag.)
- Ms. Sangeeta Boondoo — Senior Legal Officer
- Ms. Shanmatee Singh Ng Sang — Director, Research & Planning

Ministry of Health (MOH)

- Mr. Richard Madray — Permanent Secretary
- Dr. Brian Amour — Chief Medical Officer (Ag.)
- Dr. Mark Allen — Occupational Health Analyst, Ministry of Health
- Dr. Ishta Rampersad — Occupational Medical Specialist, NWRHA

Appendix II

Main Achievements of the OSH Authority/Agency

The main achievements of the OSH Authority/ Agency are as follows:

- Implementation of a specialized programme to target the Construction Sector - 2011
- Implementation of a specialized programme to target the Manufacturing Sector – 2014-2015
- Decrease in fatalities from baseline year 2012, from 22 to 15 in 2017
- Increase in the number of inspections conducted per inspector on a monthly basis from – In 2017 new performance standards were established, whereby each Safety and Health Inspector I is required to complete a minimum 10 inspections per month and each Safety and Health Inspector II is required to complete a minimum of 4 inspections per month.
- With the recruitment of a Deputy Director–Legal and an additional Legal Counsel in Fiscal 2017 the number of prosecutions increased to 169 from 20 during Fiscal 2016.
- In 2017 OSHA, established its social media identity with the creation of Twitter and Facebook accounts. These accounts are used as a free and green resource to disseminate information and to receive complaints from the public.
- In 2017 the Agency established the OSHA hotline to allow 24-hour access, for the reporting of Accidents and for lodging of complaints by the public.
- Annual commemoration of the World day for Safety and Health through its themed NOSH Week Awareness and Sensitization programme.
- Amendment to the OSH Act – A total of 4 Tripartite and Sectoral consultations were held in both Trinidad and Tobago.
- Recruitment of 7 Safety and Health Inspectors I and 1 Safety and Health Inspector II.
- Development of four Regulations (2018) - Lifting Operation and Lifting Equipment Regulations (LOLER), Provision and Use of Work Equipment Regulations (PUWER), Safety of Pressure Systems Regulations and Gas Safety (Use, Conveyance and Storage) Regulations (GSR)).

- Establishment of Memoranda of Understanding with key public bodies: - Tobago House of Assembly (THA), Environmental Management Agency (EMA), Ministry of Energy and Energy Industries) (MEEI), Trinidad and Tobago Fire Service (TTFS) and the Ministry of Health.

Appendix III

Letters sent to Public Bodies on Occupational Safety and Health Compliance

Stakeholder Engagement

As a proactive measure the OSHA has issued correspondence to various public bodies informing them of their responsibilities toward compliance with the OSH Act. The written submission of the OSHA outlined several initiatives during 2017 -2018 to engage stakeholders and promote the tenets of occupational safety and health. These included:

1) Hosting of Stakeholder Meeting on "Promotion of Safety at our National Festivals" in May 2017 at OSHA Head Office # 9 Alexandra Street, St. Clair. Seventeen (17) organisations were represented, these included:-
    - Ten municipal corporations
    - National Carnival Bands Association
    - Trinidad and Tobago Electricity Commission
    - National Carnival Commission of Trinidad and Tobago
    - Trinbago Unified Calypsonians' Organization (T.U.C.O.)
    - Environmental Management Authority
    - Trinidad and Tobago Fire Service
    - National Council of Indian Culture (NCIC)
2) Issuance of correspondence to seventy-two (72) State Enterprises with respect to Occupational Safety and Health Compliance (April 2017).
3) Issuance of correspondence to fourteen (14) Statutory Corporations regarding "The provision of funding for health and safety matters" and copied to the Minister and Permanent Secretary of the Ministry of Rural Development and Local Government (July 2017).
4) Issuance of correspondence to nineteen (19) stakeholders urgently requesting musicians to use the necessary hearing protection devices at public events (September 2017).
5) Issuance of correspondence to three (3) managers of Industrial Estates regarding "Managing Safety and Health Risks for Industrial Estates" (November 2017).

6) Issuing of correspondence to nine (9) major chemical companies regarding "Safety and Health Risk Assessments - Managing Risk and Promoting Safety and Health in the Workplace" (December 2017).
7) Issuing of correspondence to 18 bodies including Municipal Corporations and Carnival organisations regarding Promoting Safety at Carnival Events (January 2018).
8) Issuing of Correspondence to 10 companies regarding "Request for Information on Boilers/Air Pressure Containers (APC)" (April 2018).

Entities who received letters on 'Promoting a Culture of Safety in Trinidad and Tobago'.

No.	Name of Organization
1.	Agricultural Development Bank of Trinidad and Tobago
2.	Airports Authority of Trinidad and Tobago
3.	Caribbean Agricultural Research and Development Institute
4.	Caribbean Airlines Limited
5.	Caribbean New Media Group Limited
6.	CEPEP Company Limited
7.	Chaguaramas Development Authority
8.	Clico Trust Corporation Limited (Clico Investment Fund)
9.	Cocoa Development Company of Trinidad and Tobago Limited
10.	Community Improvement Services Limited (Special Purpose)
11.	Development Finance Limited
12.	East Port of Spain Development Company Limited
13.	Education Facilities Company Limited
14.	Estate Management and Business Development Company Limited
15.	Evolving TecKnologies and Enterprise Development Company Limited
16.	Export Centres Company Limited
17.	Export-Import Bank of Trinidad and Tobago Limited
18.	ExporTT Limited (formerly BDC)
19.	First Citizens Asset Management Limited

No.	Name of Organization
20.	First Citizens Bank Limited
21.	First Citizens Holdings Limited
22.	Government Human Resource Services Company Limited
23.	Government Information Services Limited
24.	Human Capital Development Facilitation Company Limited
25.	Institute of Marine Affairs
26.	InvesTT Limited
27.	Lake Asphalt of Trinidad and Tobago (1978) Limited
28.	MIC Institute of Technology Limited
29.	National Agricultural Marketing and Development Corporation
30.	National Commission for Self-Help Limited
31.	National Energy Corporation of Trinidad and Tobago Limited
32.	National Enterprises Limited
33.	National Entrepreneurship Development Company Limited
34.	National Flour Mills Limited
35.	National Gas Company of Trinidad and Tobago Limited
36.	National Health Services Company Limited
37.	National Helicopter Services Limited
38.	National Information and Communication Technology Company Limited
39.	National Infrastructure Development Company Limited (Special Purpose)
40.	National Institute of Higher Education Research, Science and Technology
41.	National Insurance Board
42.	National Lotteries Control Board
43.	National Maintenance Training and Security Company Limited
44.	National Quarries Company Limited
45.	National Schools Dietary Services Limited
46.	National Training Agency
47.	NEL Power Holdings Limited
48.	Palo Seco Agricultural Enterprises Limited (Special Purpose)
49.	Petroleum Company of Trinidad and Tobago Limited
50.	Phoenix Park Gas Processors Limited
51.	Point Lisas Industrial Port Development Corporation Limited
52.	Police Complaints Authority
53.	Portfolio Credit Management Limited
54.	Rural Development Company of Trinidad and Tobago Limited (Special Purpose)
55.	Sports Company of Trinidad and Tobago Limited (Special Purpose)
56.	Taurus Services Limited

No.	Name of Organization
57.	Telecommunications Services of Trinidad and Tobago Limited
58.	The Port Authority of Trinidad & Tobago
59.	Tourism Development Company Limited
60.	Trinidad and Tobago Creative Industries Company Ltd
61.	Trinidad and Tobago Free Zones Company Limited
62.	Trinidad and Tobago Hospitality and Tourism Institute
63.	Trinidad and Tobago Institute of Technology and National Energy Skills Sector
64.	Trinidad and Tobago International Financial Centre Management Company
65.	Trinidad and Tobago Mortgage Finance Company Limited
66.	Trinidad and Tobago National Petroleum Marketing Company Limited
67.	Trinidad and Tobago Solid Waste Management Company Limited
68.	Trinidad and Tobago Tourism Business Development Limited
69.	Trinidad Nitrogen Company Limited
70.	Union Estate Electricity Generation Company Limited
71.	Urban Development Corporation of Trinidad and Tobago Limited
72.	Vehicle Management Corporation of Trinidad and Tobago Limited

Appendix IV

Categories of Complaints

Categories of Complaints

SUBJECT OF COMPLAINTS
• Chemical Hazards
• Personal Protective Equipment
• Poor Ventilation
• Poor Housekeeping
• Unsafe Building Structure
• Limited Access/Egress
• Poor Welfare
• Dismissed/ penalized for safety and health complaint
• Tripping/ Slipping
• Unsafe Procedure/Process
• Electrical Hazards
• Lack of health and safety procedure
• Alleged Occupational Illness
• Lack of training
• Lack of preventative maintenance of machinery/ vehicles
• Unreported Accident
• Biological Hazard
• Unsafe Equipment / Machinery
• Vermin
• Unpleasant Odour

Appendix V

Statutory Obligations of Public Bodies

The Statutory Obligations of Public Bodies according to the OSH Act

As an employer and as an occupier, Ministries have the same duties and responsibilities as all duty holders as outlined under the Act.

Some of the duties of the employer and occupier are as follows:

General Duty of Care

Section 6(1)

"It shall be the duty of every employer to ensure, as far as is reasonably practicable, the safety, health and welfare at work of all his employees.

General duties of employers

Section 7(1)

"It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment, who may be affected thereby are not thereby exposed to risks to their safety or health."

General Duties of occupiers

Section 8(2);

"An occupier of an industrial establishment employing twenty-five or more persons shall prepare or revise, in consultation with worker representatives in the industrial establishment—

(a) a written statement of his general policy with respect to the safety and health of persons employed in the industrial establishment, specifying the organization and arrangements for the time being in force for carrying out that policy and the provisions specified in subsection (1); and

(b) an emergency plan in writing based on a risk assessment made in accordance with section 13A which shall include—

(i) Suitable and rapid means of obtaining first-aid help and transportation from the industrial establishment to a hospital for injured workers; and

(ii) measures and procedures to be used to control a major fire, to react to serious damage to the industrial establishment, to evacuate the industrial establishment and to notify rescue personnel, and the occupier shall submit the statement or the emergency plan, as the case may be, and any revision thereof to the Chief Inspector

and bring them to the notice of all persons employed in the industrial establishment.

Safety and Health Policy

Section 6(7)

"An employer of an industrial establishment of twenty-five or more employees, shall prepare or revise, in consultation with the representatives of his employees, a written statement of his general policy with respect to the safety and health of persons employed in the industrial establishment, specifying the organisation and arrangements for the time being in force for carrying out that policy and the requirements of subsections (1) to (6A), and the employer shall submit the statement and any revision thereof to the Chief Inspector and bring them to the notice of all persons employed in the industrial establishment."

Annual risk assessment

Section 13A (1)

Every employer shall make a suitable and sufficient annual assessment of—

(a) the risks to the safety and health of his employees to which they are exposed whilst they are at work; and

(b) the risks to the safety and health of persons not in his employment arising out of or in connection with the environmental impact of his undertaking, for the purpose of identifying what measures are necessary for compliance with this Act or any other statutory provision.

Establishment of Safety and Health Committees

Section 25E

Every employer in consultation with the representatives of his employees shall establish a safety and health committee at an industrial establishment in accordance with this section where—

(a) there are twenty-five or more persons employed at that establishment; or

(b) the Chief Inspector on the basis of prescribed criteria, directs the establishment of such a committee at the industrial establishment where fewer than twenty-five persons are employed.

Provision of Personal Protective Equipment

Section 23

(1) All persons entering an area in an industrial establishment where they are likely to be exposed to the risk of head, eye, ear, hand or foot injury, injury from air contaminant or any other bodily injury, shall be provided with suitable protective clothing or devices of an approved standard and adequate instructions in the use of such protective clothing or devices, and no person shall be permitted to be in any such area unless he is wearing such protective clothing or device.

(2) In every area where protective clothing or devices are required to be worn under subsection (1), a notice to that effect shall be conspicuously displayed.

Duty to report fatal and critical accidents and keep register of such accidents

Section 46

"(1) Where an accident which causes death or critical injury occurs—

(a) in an industrial establishment, the occupier; or

(b) in the course of employment, the employer, shall inform the Chief Inspector of the accident forthwith by telephone, facsimile, e-mail or other direct means and shall send a written notice of the accident, in the prescribed form and accompanied by the prescribed particulars, to the Chief Inspector within forty-eight hours of his learning of the accident.

(2) Where an incident which may be prejudicial to the safety or health of the public, or which has the potential of causing critical injury, including fire, explosion or the release of toxic substances, occurs in an industrial establishment, the occupier shall inform the Chief Inspector of the incident forthwith by telephone, facsimile or e-mail and shall send a written notice of the incident to the Chief Inspector within forty-eight hours of his learning of the incident.

(3) Where an accident resulting in critical injury occurs and death follows the notification of the accident, a further notice in writing of the death shall be sent to the Chief Inspector by the employer within forty-eight hours of his learning of the death.

(4) Where the occupier is not the employer of a person who is killed or seriously injured in an industrial establishment, it shall be the duty of the employer, as soon as he becomes aware of the accident to report it to the occupier, and if he fails to do so,
he commits an offence and is liable, on summary conviction, to a fine of ten thousand dollars and to imprisonment for three months.

(5) Every occupier and every employer shall keep a register of each accident, incident or death reported to the Chief Inspector under subsections (1), (2) and (3) and each entry into the register shall be kept for not less than five years.

Duty to report non-critical accidents

Section 46A;

Where an accident causes injury to a person at a workplace whereby the person is unable to perform his usual work or requires medical attention, and such occurrence does not cause death or critical injury leading to disability, the employer shall give notice in the prescribed form within four days of the occurrence, to the Chief Inspector, containing information and particulars of the accident.

Duty to report occupational diseases

Section 48(3);

If an employer is advised by or on behalf of an employee that the employee suffers from a disease referred to in Schedule 1, he shall give notice in writing to the Chief Inspector within four days of being so advised.

Appendix VI

Prohibition and Enforcement Notices

Table 6: Prohibition Notices Served to Ministries for the period 2013-2018			
Ministry	Building/Property	Date Prohibition notice issued	Date Prohibition notice lifted
	Tranquility Gov't Primary School	January 25, 2016	December 2017
Ministry of Education-	East Mucarapo Secondary School	November 24, 2015	In effect
	San Juan South Secondary School	June 6, 2016	November 21st 2017
	Arouca Govt Primary School	Sep 16, 2016	September 28, 2016

	Rudranath Capildeo Learning Resource Center- Printery Division	Sep 06, 2016 /	May 19, 2017
	Carapo RC Primary School	Oct 12, 2016	October 20th2016
	El Socorro North Govt Primary School, El Socorro	Nov 22, 2016	In effect
	Fifth Baptist Primary School, Princes Town	Feb 24, 2017	October 17th, 2017
	Barrackpore West Secondary School	March 03, 2017	March 06th, 2017
	Elswick Presbyterian School	August 2th 2017 `	November 7th, 2017
	Toco Secondary School Toco	October 23rd 2017	April 4th, 2018
	Webb Memorial Baptist Primary School, located at Hindustan Estate Road, New Grant, Princes Town	October 30th2017	In effect
	Bureau of Standards Trincity Business Park Macoya	November 16th2017	In effect
	Point Fortin West Secondary School Reid Road Egypt Village	December 8th 2017	January 12th2018

Ministry	Building/Property	Date Prohibition notice issued	Date Prohibition notice lifted
	Studley Park Enterprises Limited. Tobago	December 8th2017.	11thDecember 2017.
	Tableland Secondary School. Naparima Road, George Village, Tableland.	December 21st2017.	In effect
	Carapichaima East Secondary School. McLeod Street, Freeport, Carapichaima	January 10th, 2018.	April 12th 2018
	005/01/2018. Carapichaima East Secondary School. McLeod Street, Freeport, Carapichaima	January 10th2018.	April 12th 2018
	Malabar Government Primary School, Pomegranate Avenue, Arima.	March 19th2018.	In effect
Ministry of Health (RHA)	POS General Hospital X-Ray Storage Room	December 30th, 2013	January 14th 2014
	POS Gen. Hosp. (The X-Ray Dept in particular the CT waiting/changing area)	December 30th2013	January 14th 2014
	Mt. Hope Women's Hospital	January 10th 2014	February 3rd2014
Ministry of Sport and Youth Affairs	Dwight Yorke Stadium	October 24th 2014	June 17th 2016
	Dwight Yorke Stadium Tobago	January 19th, 2017	In effect
Ministry of Housing and Urban Development	UDECOTT, Point Fortin Hospital Construction	November 21st, 2016	December 02, 2016
Ministry of Public Utilities	SWMCOL	October 6th2017	In effect
	SWMCOL	October 6th 2017	In effect

Ministry	Building/Property	Date Prohibition notice issued	Date Prohibition notice lifted
Ministry of National Security	Immigration Division Henry St. POS)	August 12th 2014	August 17th 2014
Tobago House of Assembly	Community Development, Enterprise Development and Labour, Belle Gardens Community Centre, Belle Gardens Tobago.	February 18th2018.	In effect
Ministry of Community Development Culture and the Arts	(Lord Kitchener Auditorium – NAPA)	August 6th 2014 -	October 10th2014

Appendix VII

Minutes

MINUTES OF THE 24TH MEETING OF THE JOINT SELECT COMMITTEE APPOINTED TO INQUIRE INTO AND REPORT ON LOCAL AUTHORITIES, SERVICE COMMISSIONS, STATUTORY AUTHORITIES (INCLUDING THE THA) HELD IN THE ARNOLD THOMASOS ROOM (WEST) LEVEL 6 AND THE J. HAMILTON MAURICE ROOM, MEZZANINE FLOOR, OFFICE OF THE PARLIAMENT, TOWER D, 1A WRIGHTSON ROAD, PORT OF SPAIN ON WEDNESDAY MAY 23, 2018

PRESENT

Members

Mr. H. R. Ian Roach	Chairman
Ms. Ramona Ramdial, MP	Vice-Chairman
Mrs. Jennifer Baptiste-Primus	Member
Ms. Khadijah Ameen	Member

Secretariat

Mr. Julien Ogilvie	Secretary
Ms. Simone Yallery	Legal Officer
Ms. Terriann Baker	Graduate Research Assistant

ABSENT/ EXCUSED

Mr. Esmond Forde, MP	Member (Excused)
Mr. Nigel De Freitas	Member (Excused)
Dr. Lovell Francis, MP	Member (Excused)
Mr. Darryl Smith, MP	Member

Those who appeared in public are as follows:

THE FOLLOWING PERSONS WERE ALSO PRESENT:

The Joint Trade Union Movement (JTUM)

Mr. Chandrasain Ramsingh	Treasurer (OWTU)
Mr. Kimball Austin	Deputy Secretary General, CWU
Mr. Alva Allen	Education Officer, BIGWU

The Public Services Association (PSA)

Mr. Watson Duke	President

Mr. Christopher Joefield 2nd Vice-President
Mr. Ian Murray 2nd Vice-President

The National Union of Government and Federated Workers (NUGFW)

Mr. Clifton Simpson 2nd Deputy President General
Mr. Patrick Rousseau Director, Industrial Relations

The Consortium of Disability Organisations (CODO)

Mr. Bhanwani Persad Vice-President

CALL TO ORDER

1.1 The Chairman called the meeting to order *(in camera)* at 10:14 a.m.

1.2 The Chairman informed Members that Mr. E. Forde, Mr. N. De Freitas and Dr. Francis asked to be excused from the meeting.

CONSIDERATION OF THE MINUTES OF THE 23rd MEETING HELD ON APRIL 25, 2018

2.1 The Chairman asked Members to examine, the Minutes page-by-page.

2.2 The Chairman deferred the confirmation of the Minutes to alter in the proceedings because the Members who were present at the time were both absent from the previous meeting.

2.3 Upon the arrival of MS. K. Ameen, the Minutes were confirmed on a motion moved by Ms. K. Ameen and seconded by Mrs. J. Baptiste-Primus.

MATTERS ARISING FROM THE MINUTES

3.1 The following matters were raised:

- With reference to Item 2.2: The Chairman informed the Committee that the Minutes were revised based on the corrections identified at the previous meeting.
- With regard to Item 4.3: The Chairman advised that the information requested from the SASC was received and the Report is currently being finalised.
- The Chairman referred the Committee to Item 5.3(ii) which advised the change in the date of the second meeting on the inquiry into Occupational Safety and Health Compliance within the Public Service from June 27, 2018 to June 11, 2018.

PRE-HEARING DISCUSSIONS ON THE INQUIRY INTO THE EFFICIENCY AND EFFECTIVENESS OF THE REGULATED INDUSTRIES COMMISSION (RIC)

4.1 The Chairman advised Members that the following stakeholders will be appearing before the Committee:

i. the Public Services Association (PSA)
ii. the National Union of Government and Federated Workers (NUGFW)
iii. the Joint Trade Union Movement (JTUM)
iv. the Consortium of Disability Organisations (CODO)

4.2 The Chairman informed Members that copies of the pre-hearing submissions from the NUGFW and JTUM, the OSH Authority and the Ministry of Labour and Small Enterprise Development were forwarded to members via email. The hard copies of the Issues Papers and all documents received were packaged and circulated to Members.

4.3 The President of the PSA advised via telephone conversation on Friday May 18, 2018 that they would not be able to make a written submission but will answer all questions at the public hearing due to time constraints.

4.4 The Secretary to the President of CODO advised that the Consortium would not be able to provide a written submission before the public hearing.

4.5 The Chairman reminded the Committee of the inquiry objectives and the approach to be adopted for the hearing with stakeholders.

4.6 The Chairman advised Mrs. Jennifer Baptiste-Primus, that as the Minister with responsibility for the Occupational Safety and Health Authority, she would have to declare her interest in the matter.

4.7 The Chairman also requested that the Secretariat invite Mr. Douglas Mendes, SC to attend the next public hearing on June 11, 2018 to share with the Committee his expertise in the area of occupational safety and health in the public service.

OTHER BUSINESS

The Date and Agenda of the Next Meeting

5.1 The Committee reminded Members that the next meeting will be held on Monday June 11, 2018 to continue the inquiry into the Occupational Safety and Health Compliance in the Public Service.

The meeting was suspended at 10:33 a.m.

PUBLIC HEARING WITH STAKEHOLDERS

6.1 The Chairman reconvened the meeting *(in public)* at 10:46 p.m.

6.2 Introductions were made.

6.3 The Chairman highlighted the objectives of the inquiry and apologised for the late start of the public hearing.

6.4 The Chairman then invited the stakeholders to each make a brief opening statement:

i. Mr. Chandrasin Ramsingh of the Joint Trade Union Movement (JTUM) stated the following –

- that although the OSH Act was passed in 2004, amended in 2006 and the Agency established in 2007, to date, the Act has been ineffective;
- the OSH Agency is under-resourced and understaffed as such it is unable to operate efficiently and effectively; and
- there has been an increase of accidents by 124% during the period 2014/2015 to 2016/2017 demonstrating the Agency's inability to ensure OSH compliance in Trinidad and Tobago.

ii. Mr. Watson Duke, President of Public Services Association also highlighted the fact that although there is legislation in place there is no oversight by the Agency to ensure the laws are implemented.

iii. Mr. Clifton Simpson, 2nd Deputy President General of the Nation Union of Government and Federated Workers (NUGFW) took the opportunity to address an error made in the correspondence to the President of the NUGFW, in reference to the incorrect use of the term "daily-paid workers". He advised the Committee that the union represents weekly, daily and hourly-rated workers. He also stated that 'daily-rated employees' are not considered 'public officers' as this may cause legal issues in relation to negotiations.

iv. Mr. Banwani Persad Vice-President of the Consortium of Disability Organisations (CODO) informed the Committee that –

- PWDs over the years have focused on the inclusion of their Members into society and levelling of the playing field by working with the trade union movement;

- some Members of CODO are employed in the public service are represented by the respective trade union but encourage Members to inform them of any issues they may encounter;
- the main issues noted by the organization were accessibility and lighting for the PWD community especially person who are visually impaired.

6.5 The following are the main issues highlighted during discussions with the PSA *(for further details, please see the Verbatim Notes)*:

i. The OSH laws are not enacted effectively as complaints by workers are not adequately addressed;
ii. The Act needs to be amended to mandate that the OSH Authority and employers meet with the Unions prior to the implementation of solutions;
iii. The unhealthy relationship that exists between the Union and the OSH Authority;
iv. The OSH Authority has been deemed to be inadequate;
v. Lack of compliance with Section 26 of the Act;
vi. Over 3000 complaints have been submitted over the last three Administrations on safety and health violations;
vii. The five most common breaches recorded within the public service over the years are:
viii. The failure of the Investigator to visit a job site after a complaint has been made within 24 hours.
ix. Poor Air Quality - there is a need for more air tests to be conducted in various offices as persons have been diagnosed with respiratory illnesses due to the discovery of bacteria in the vents; Failure of the Investigator upon visiting site or completing investigation to pass information on to the Union Representative or the employee;
x. The lack of structural integrity
xi. On the job injuries
xii. There are over 500 buildings within Trinidad and Tobago that are non-compliant with OSH Regulations;
xiii. There should be greater accountability for Inspector duties the Act does not allow for the prosecution of Inspectors that have made false reports.
xiv. The proposal of greater compensation for health issues caused by workplaces;
xv. A distinction should be made between injury leave and sick leave;
xvi. The need for differentiations between Workmen's Compensation and money that should be remitted to persons who have been injured;
xvii. The mandatory need for each Government building to receive a Fire Certificate prior to opening, it was alleged in some cases that the Fire Services Association has issued fraudulent fire certificates;

xviii. The term 'imminent danger' needs to be defined in the OSH Act; and
xix. OSH Authority does not provide adequate support to workers.

6.6 The following are the main issues highlighted during discussions with JTUM *(for further details, please see the Verbatim Notes)* :

i. The role of the Quality Assurance Officer in determining the quality of potable water;
ii. There is no provision in the Act to protect trainees at the work place; and
iii. The need for mutually acceptable solutions and amendments to the Act that allow for persons employed in the Prison Service, Fire Service, Laboratory and Health services, to exercise their right of refusal to work in an unsafe work environment.

6.7 The following are the main issues highlighted during discussions with NUGFW *(for further details, please see the Verbatim Notes)*:

i. Section 25 (e) of the OSH Act has not been complied with in the Ministries and there is a lack of assigned Health and Safety Committees;
ii. The Act provides for communication between the OSH Authority and the employer and the Union and the employee. There is no communication between the Union and the OSH Authority;
iii. The misconception that health and safety refers to the provision of protective gear versus the daily safety of workers;
iv. The challenges associated with receiving compensation for persons who may have lost income as a result of an accident in the public sector;
v. The restrictive nature of the Act to provide clear details on the manner in which claims should be treated if accidents occur in the work place;
vi. The leasing of private buildings that are not compliant with the OSH regulations and the Act;
vii. The consequence of a lack of funding for the adequate provision of protective gear;
viii. In the Regional Corporations monies should be allocated in a separate account for safety gear, as opposed to the account that finances burgesses and salaries;
ix. Inadequate record keeping of Occupational Safety and Health issues within Ministries;
x. The OSH Authority does not make time to meet with trade unions
xi. The lack of recognition status for non-registered majority Unions have made addressing concerns uncomfortable;
xii. There are no joint health and safety committees in schools as well as the Ministry of Education;
xiii. The ability of the employer to deny correspondence to the Union; and
xiv. Workers can seek redress for health and safety violations in the Industrial Court.

6.8 The following are the main issues highlighted during discussions with CODO:

i. The critical need for different formats of the Act to be available, such as braille and audio for Persons With Disabilities (PWDs);
ii. The need for continuous educational drives that speak to the terms and conditions of the Act for both the employer and employee;
iii. The Act does not address and make provisions for Persons With Disabilities (PWDs);
iv. CODO does not have representation on the OSH Authority Board; and
v. Health and safety protocols need to be included for PWDs.

ADJOURNMENT

7.1 The Chairman thanked all present for attending.

7.2 The meeting was adjourned at 11:04 a.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

June 05, 2018

MINUTES OF THE 25TH MEETING OF THE JOINT SELECT COMMITTEE APPOINTED TO INQUIRE INTO AND REPORT ON LOCAL AUTHORITIES, SERVICE COMMISSIONS, STATUTORY AUTHORITIES (INCLUDING THE THA) HELD IN THE ANR ROBINSON ROOM (EAST) LEVEL 9 AND THE J.HAMILTON MAURICE ROOM, MEZZANINE FLOOR, OFFICE OF THE PARLIAMENT, TOWER D, 1A WRIGHTSON ROAD, PORT OF SPAIN ON MONDAY JUNE 11, 2018 AT 9:14 A.M.

PRESENT

Members

Mr. H. R. Ian Roach	Chairman
Mr. Nigel De Freitas	Member
Mr. Darryl Smith, MP	Member
Ms. Khadijah Ameen	Member

Secretariat

Mr. Julien Ogilvie	Secretary
Ms. Khisha Peterkin	Assistant Secretary
Ms. Simone Yallery	Legal Officer
Ms. Terriann Baker	Graduate Research Assistant

ABSENT/ EXCUSED

Ms. Ramona Ramdial, MP	Vice-Chairman (Excused)
Mrs. Jennifer Baptiste-Primus	Member (Excused)
Mr. Esmond Forde, MP	Member
Dr. Lovell Francis, MP	Member

THE FOLLOWING PERSONS WERE ALSO PRESENT:

The Occupational Safety and Health Authority and Agency

Dr. Surendra Dhanraj	Deputy Chairman
Mrs. Carolyn Sancho	Executive Director
Mrs. Pettal John-Beerens	Deputy Director Legal
Mr. Corey Harrison	Human Resource Manager
Mrs. Indira Mc Farlane-Lee	Secretary to the Board
Ms. Annastasia Marchan	Research Planning Development Manager
Mr. Franz Brisbane	Chief Inspector (Ag.)

Mr. Farzan Ali Member

The Ministry of Labour and Small Enterprise Development

Ms. Natalie Willis	Permanent Secretary (Ag.)
Mr. Jerome Andre Laveau	Deputy Permanent Secretary (Ag.)
Ms. Sangeeta Boondoo	Senior Legal Officer
Ms. Shanmatee Singh Ng Sang	Director, Research & Planning

The Ministry of Health

Mr. Richard Madray	Permanent Secretary
Dr. Brian Amour	Chief Medical Officer (Ag.)
Dr. Mark Allen	Occupational Health Analyst, Ministry of Health
Dr. Ishta Rampersad	Occupational Medical Specialist, NWRHA

CALL TO ORDER

1.3 The Chairman called the meeting to order *(in camera)* at 9:54 a.m.

1.4 The Chairman informed Members that Ms. R. Ramdial and Mrs. J. Baptiste-Primus asked to be excused from the meeting.

CONSIDERATION OF THE MINUTES OF THE 24TH MEETING HELD ON MAY 23, 2018

2.1 The Chairman asked Members to examine, the Minutes page-by-page.

2.2 The Minutes were confirmed on a motion moved by Mr. H. R. Roach and seconded by Mr. N. De Freitas.

MATTERS ARISING FROM THE MINUTES

3.1 The following matters were raised:

- **With reference to Item 4.6**: Mr. Douglas Mendes, SC was invited to attend the public hearing but he indicated that he would be unable to attend due to a Matter in the Court of Appeal**.**

- Mr. Mendes, SC inquired whether it was possible for him to meet with the Committee on another date. He was then invited by the Secretary to make a written submission if he was unable to make an appearance. No further feedback was received by Mr. Mendes, SC as at Friday June 08, 2018.

- The Chairman sought the approval of members to have Mr. Imran Ali, an Attorney-at-Law with significant experience in industrial relations law, attend the meeting to provide the Committee with a legal perspective on this matter.

- Members agreed to the Chairman's proposal.

- The Chairman advised that Mr. Ali's participation in the day's proceedings was tentative.

PRE-HEARING DISCUSSIONS

4.1 The Chairman reminded Members that at the previous meeting held on May 23, 2018 the Committee met with Non-governmental stakeholders relative to its inquiry into OSH compliance in the public service, including the trade unions and the Consortium of Persons with Disabilities (CODO).

4.2 He also advised that the following entities will be appearing before the Committee:

i. the Occupational Health and Safety Authority and its Agency;
ii. its Line Ministry - The Ministry of Labour and Small Enterprise Development;
iii. the Ministry of Health.

4.3 The Chairman informed Members that copies of the pre-hearing submissions of the OSH Authority, the Ministry of Labour and Small Enterprise Development and the Ministry of Health were forwarded to members via email. The hard copies of the Issues Papers and all documents received were packaged and circulated to Members.

4.4 The Chairman reminded the Committee of the inquiry objectives and a brief discussion ensured on the approach to beadopted for the hearing.

OTHER BUSINESS

5.1 ***The Date and Agenda of the Next Meeting***

The Committee agreed that the next meeting (in-camera) will be held on Wednesday June 27, 2018.

The meeting was suspended at 10:04 a.m.

PUBLIC HEARING WITH OFFICIALS

6.1 The Chairman reconvened the meeting *(in public)* at 10:18 p.m.

6.2 Introductions were made.

6.3 The Chairman highlighted the objectives of the inquiry.

6.4 The Chairman then invited the officials to each make a brief opening statement:

v. The **Permanent Secretary of the Ministry of Labour and Small Enterprise Development Ms. Natalie Willis,** stated the following –

a) The Ministry has placed greater focus on national development relative to the adoption of the Sustainable Development Goals, especially in relation to Goal No. 8 that promotes inclusive and sustainable economic growth, employment and decent work for all.

b) The phrase 'decent work' refers to a job environment that is safe, productive, delivers a fair income and upholds the rights of the workers.

c) That the Government has placed as high priority the health and safety of workers as identified in the National Development Strategy, Vision 2030.

d) A key objective of the Ministry's strategic plan (2017-2020) is to create a safe, healthy and congenial work atmosphere to facilitate improved overall working conditions and enhanced productivity.

e) The Ministry has recognized the need to review and amend the OSH Act to address its deficiencies. Feedback on the OSH Act was received from stakeholders and via consultations held by the Ministry.

f) Areas of priority which concern the operations of the Authority and its Agency that the Ministry is planning to treat with include – accommodation and staffing.

vi. The **PS of the Ministry of Health, Mr. Richard Madray** reaffirmed the Ministry's commitment to compliance and the implementation of the OSH Act.

vii. The **Deputy Chairman of the OSH Authority** stated the following:

a) that the intention of the Act was to - prevent or reduce injuries caused by accidents or incidents in the workplace; regulate the safety, health and welfare of workers.

b) Healthy work environments do not only benefit employees, but also the employers as this may contribute to higher productivity and profitability thereby creating increased national economic activity.

6.5 The following are the main issues highlighted during discussions with the **OSH Authority and its Agency** *(for further details, please see the Verbatim Notes)*:

i. The ineffectiveness of the Act has affected the Authority's ability to achieve its mandate;
ii. The OSH Authority has engaged in consultations with stakeholders on the deficiencies of the Act;
iii. Currently there are 87 vacancies in the OSH Agency out of 152 positions. 32 of these vacancies are in the position of Safety Inspector I.
iv. Financial constraints have stymied the OSH Agency's ability to increase its staff complement and has propelled existing internal deficiencies;
v. The required funding to fill these vacancies is $48M, however for fiscal 2017/2018, the Authority received a total allocation of $21M of which $18.8M was released. During the period of October 2016 to March 2018, the OSH Agency received 2497 complaints: 81 complaints were from the public sector and 2416 complaints from the private sector;
vi. The vacancies in the position of Safety Inspector I and II are due to financial constraints. Additional, the accommodation available to houses addition inspectors is inadequate.
vii. The Agency is awaiting a response from the Chief Personnel Officer on a proposed 3% increase in the remuneration packages for Safety Inspectors
viii. There are currently 16 Safety Inspectors, 14 are situated in Trinidad and 2 are in Tobago;
ix. Refusing to work is permitted in accordance with Sections 14 to 21 of the Act. However, this course of action can only be initiated after internal investigations by the organisation and its Safety and Health Committee have taken place in order to legitimise claims. This was stated in reference to Teachers within the education system;

x. Some of the actions initiated by the Public Service Association (PSA) to cease work at some public sector establishments were not in keeping with the provisions of the OSH Act.

xi. In order to make a determination on whether a situation poses an 'imminent danger', the Agency would conduct a risk assessment;

xii. The Agency has suggested that Safety and Health Committees should comprise all levels of staff to ensure a diverse composition;

xiii. The OSH Agency can only determine the extent to which an establishment is compliant following inspections;

xiv. The OSH Authority has prosecuted persons for failing to report accidents at the workplace, from 2015 to present 200 matters were prosecuted;

xv. The OSH Authority has adopted a reactive approach to complaints due to staff shortages;

xvi. Some recurrent OSH risks within Ministries are:

- Electrical Issues;
- Lack of maintenance of the physical infrastructure;
- Lack of maintenance of machinery;
- Inaccurate storage practices;
- Leaking roofs;
- The generation of mold; and
- Trip, slips and falls;

xvii. The OSH Authority issues a Prohibition Notice after investigations have been conducted and proposed solutions have been offered to the establishment. If these are not implemented and there is evidence of 'imminent danger' the Authority issues a Prohibition Notice.

xviii. The Agency has implemented a hotline system to receive complaints.

xix. The OSH Authority indicated that Section 98 of the Act is outdated;

xx. The OSH Agency has highlighted ten (10) Regulations that the Agency has drafted policies for. Six (6) have been approved by the OSH Authority for possible amendment to the Act;

xxi. Through the consultations held with stakeholders, the OSH Agency identified the following areas that require attention:

- Increase in fines for breaches of the Act;
- Structure of the OSH Authority and Agency should be clarified or revised;
- OSHA should be made autonomous, akin to the EMA;
- OSHA should be authorised to charge fees for its function;

- Power of the OSH Authority to prosecute;
- Subsidiary legislation should be amended;
- Definitions should be included and updated;
- Certificates required under the Act should be revised and include expiration dates;
- Timeframes for reporting accidents;
- Guidelines for risk assessments;
- The burden on an Inspector should be reduced;
- Extent of exclusion of residential areas;
- Does not outline the duty of the employer to outline policies prior to engagement in employment;
- Procedure for safety and health offenses should be clarified; and
- An independent Commission should be created to treat with offenses.

xxii. Refusal to Work (RTW) action was effected at the Point Fortin and Roxborough Fire Stations;

xxiii. The Authority is considering recommendations for Persons with Disabilities to be included in the Act;

xxiv. The land allocated for the OSH Authority's new office is being reviewed by the Commissioner of State lands;

xxv. The OSH Authority is compiling a list of high risk agencies in order to prioritise inspection visits;

xxvi. The Safety Inspector I has a monthly target of 10 inspections and the Safety Inspector II has a target of 4.

xxvii. The Agency admitted that primary and secondary schools do not have Health and Safety Committees. As such they are currently in discussions with the Ministry of Education to resolve this matter.

6.7 The following are the main issues highlighted during discussions with the **Ministry of Labour and Small Enterprise Development** *(for further details, please see the Verbatim Notes)* :

i. The MLSED is seeking to increase the amount of funds that are allocated to the OSH Authority to assist it in improving its operational efficiency;

ii. The Ministry is reviewing the legislative amendments submitted by the OSH Authority; and

iii. The Ministry's view is that the OSH Authority should not be an independent body due to its contract employment arrangement.

6.7 The following are the main issues highlighted during discussions with the **Ministry of Health** *(for further details, please see the Verbatim Notes)*:

i. The role of the MOH in supporting the execution of the provisions of the OSH Act.

ii. A Health and Safety Committee was created within the Ministry of Health;
iii. The Ministry intends to provide members of its Health and Safety Committee and sub-committees with Training;
iv. The hiring of Occupational Safety and Health staff has increased the Ministry's ability to be compliant with the Act;
v. The composition of these Health and Safety Committees are not specified in the Act;
vi. The MOH noted that it is the only Ministry that has an Occupational Health Analyst;
vii. In some Ministries persons who serve in Facilities Management Units often have overlapping roles with Occupational Safety and Health Specialists;
viii. The cost associated with hiring a Health and Safety professional has posed a challenge to many Ministries;
ix. Reports of industrial injuries are to be submitted to the Chief Medical Officer for investigations to be conducted;
x. The MOH committed to strengthening the reporting requirements for occupational diseases; and
xi. Training has to be conducted to strengthen the capacity of frontline physician staff.

ADJOURNMENT

7.1 The Chairman thanked all present for attending.

7.2 The meeting was adjourned at 11:54 a.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

June 25, 2018

Appendix VIII

Verbatim Notes

VERBATIM NOTES OF THE 24TH MEETING OF THE JOINT SELECT COMMITTEE APPOINTED TO INQUIRE INTO AND REPORT ON LOCAL AUTHORITIES, SERVICE COMMISSIONS AND STATUTORY AUTHORITIES (INCLUDING THE THA), HELD IN THE J. HAMILTON MAURICE ROOM, MEZZANINE FLOOR (IN PUBLIC), TOWER D, INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON WEDNESDAY, MAY 23, 2018 AT 10:13 A.M.

PRESENT

Mr. H.R. Ian Roach	Chairman
Ms. Ramona Ramdial	Vice-Chairman
Ms. Khadijah Ameen	Member
Mrs. Jennifer Baptiste-Primus	Member
Ms. Khisha Peterkin	Assistant Secretary
Ms. Simone Yallery	Legal Officer
Ms. Terriann Baker	Graduate Research Assistant

ABSENT

Mr. Nigel De Freitas	Member [*Excused*]
Dr. Lovell Francis	Member [*Excused*]
Mr. Esmond Forde	Member [*Excused*]
Mr. Darryl Smith	Member

10.46 a.m.: *Meeting resumed.*

PUBLIC SERVICE ASSOCIATION (PSA)

Mr. Watson Duke	President
Mr. Christopher Joefield	2nd Vice-President
Mr. Ian Murray	2nd Vice-President

NATIONAL UNION OF GOVERNMENT & FEDERATED WORKERS (NUGFW)

Mr. Clifton Simpson	2nd Dep. President General
Mr. Patrick Rousseau	Director, Industrial Relations

THE CONSORTIUM OF DISABILITY ORGANISATIONS (CODO)

Mr. Bhawani Persad	Vice President

THE JOINT TRADE UNION MOVEMENT (JTUM)

Mr. Chandrasain Ramsingh	Treasurer, O W T U
Mr. Kimball Austin	Deputy Secretary General, CWU
Mr. Alva Allen	Education Officer, BIGWU

Mr. Chairman: Good morning Ladies and Gentlemen. Thank you for coming. I would like to welcome the viewing and listening audience to the 24th meeting of the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities including the Tobago House of Assembly. This morning the Committee will meet the representatives of the Public Services Association, PSA; the National Union of Government and Federated Workers, NUGFW; the Joint Trade Union Movement, JTUM; the Consortium of Disability Organizations, CODO.

Members of the listening and viewing audience are invited to post or send their comments via the Parliament's various social media platforms; Facebook, YouTube and Twitter.

My name is H.R. Ian Roach, I am the Chairman of this Committee and I will invite other members to announce themselves.

[*Introductions made*]

Mr. Chairman: Just to remind the listening members of the public and those who are present, the objective of this enquiry this morning is: To assess the level of compliance of public bodies, in particular Ministries, with the provisions of the OSHA Act; to examine the efficiency and effectiveness of the operations of the OSHA Authority and its agency; and to assess the adequacy of existing OSHA legislation policies and guidelines.

This morning we are a bit late in starting, because we had to do a bit of housekeeping that went beyond our control. I do apologize to the members of the public and to you all present, and hopefully this will be a very fruitful, and productive, and constructive engagement this morning. It is not a hearing as such, that ought to take on any other complexion other than one of great information. As you all are members of the unions in particular, as stakeholders in this particular capacity of dealing, interacting with the use and the implementation of the OSHA Act, we are pleased to have you and believe that you can be of great assistance in helping us to assess the efficacy of what has gone on so far, in terms of the implementation of OSHA.

With that I would like to invite members to make a very brief opening statement, no more than five minutes and then we can proceed from there on. So, I will call upon JTUM's Chairman, Mr. Ramsingh, to make an opening statement—the Treasurer.

Mr. Ramsingh: Thank you, Mr. Chairman, members of the Committee, members of fellow trade unions. I just want to preface the discussion with respect to this enquiry by saying, notwithstanding the passage of the OSHA Act 1 of 2004, Amended by 3 of 2006, the operations of the OSH Agency from 2007, JTUM would like to categorically state that the OSH Act is ineffective at this point in time. There is insufficient protection of workers and the OSH Agency is under-resourced in order to efficiently, effectively and competently undertake the necessary tasks to do the highest level of OSH compliance necessary in Trinidad and Tobago.

The OSH agency is presently under-staffed with a total of 26 inspectors, with a mere 23 inspectors who are available for performing inspections and conduct a mere 14 inspections per month. It should be noted that the amount of accidents has increased by some 124 per cent over the 2015-16 and 2016-17 period. Thank you.

Mr. Chairman: Thank you very much. I would like to invite Mr. Watson Duke, to make also a brief opening statement.

Mr. Duke: Mr. Chairman I thank you for this opportunity to invite the PSA and other

fellow trade unions, to state our view on the way the Occupational Health and Safety Authority has effected the lives of the worker. We will want to say at this point that, the Occupational Health and Safety Authority has failed the nation, and specifically has failed the Public Services, or Public Sector I would say, workers.

They have failed from many points of view. They have been established by an Act of Parliament since 2004 and the Act has been amended in 2006. There are regulations, there are stringent laws in place but, they have failed to enact and to police those laws.

What they have done is engage in big-time politics. Now, we are hoping that this Joint Select Committee would be able to glean from us as trade unions, thoughts and ideas that would somewhat curb that level of politicking and that level of placing human lives at risk to their whims and fancies.

We totally believe that they have failed, and failed 100 per cent at everything they would have done from the time 2004 to present.

Mr. Chairman: Thank you. When you are finished speaking could you take off your mike. I would like to invite, Mr. Clifton Simpson, to do likewise and make a brief statement.

Mr. Simpson: Good morning members of the Committee, and other members present and my fellow trade union comrades. I am Clifton Simpson, Second Deputy President General of the NUGFW. Mr. Chairman, before I make any comment, I just wanted to crave your indulgence for—it is a matter of efficacy in terms of the records from here on. Your correspondence to the union dated April 30, makes reference to the enquiry, but in the wording of the correspondence one can get confused as to whether you are addressing public officers or the union that represents daily-rated workers.

If you—at a cursory glance you will see it makes reference to daily-paid and for the record, we will want to advise the Committee that we represent— [*Chairman confers with the Secretary*]

Mr. Chairman: Okay.

Mr. Simpson:—weekly, daily and hourly-rated workers. We are not daily-paid. I know that sometimes we use the term loosely. But, we are weekly, hourly, and daily-rated workers.

Mr. Chairman: Okay, noted that, thank you.

Mr. Simpson: And you will see that at some points, you make reference to "association" and "public officers" in our correspondence. We are not, in accordance with the laws, as daily-rated employees, considered public officers and information may be misconstrued to get the impression that we are public officers. And I say this, because there are other legal issues that come up in the context of the negotiations that may infringe on that interpretation. So, for the Committee's advice I just wanted to bring that to your associates.

Mr. Chairman: And we appreciate that.

10.55 a.m.

Mr. Simpson: And where it makes reference to "association", we are a trade union, a national trade union, and when you make reference to "association" one may get the impression that it is another organization that you are speaking of.

Mr. Chairman: Okay.

Mr. Simpson: Thank you, Mr. Chairman. On behalf of the President General, we would want to thank the Committee for inviting us here today and we look forward to a fruitful and productive session with you where we would be able to exchange or share information with you that will assist in the amendments, if any, to come in the forthcoming future. Thank you, Mr Chairman.

Mr. Chairman: Thank you also. Mr. Keith Sirju? Can somebody assist him?

Mr. Persad: Sorry. Good morning, Mr. Chairman. I was just a bit puzzled, because I did not hear my name. I thought I heard another name. But be that as it may, I, today, represent the Consortium of Disability Organisations (CODO). This is an umbrella organization of organizations involved in work of, and for persons with disabilities.

We view this as a very good opportunity for us, since over the last couple years we, the community of persons with disabilities, have been focusing on inclusion because we are part of this society, the society is not a part of us. We believe strongly, although we are not a union, a trade union to represent workers, because many persons or those who are fortunate enough to be employed in the public service, in particular, have been employed to do special tasks, but some of them are represented by various trade unions sitting around the table today.

There are very few organizations that provide sheltered workshops for persons with disabilities, and even with those there are issues when it comes to OSHA. I refer to places like the Blind Welfare Association which comes to mind, and I know that there have been issues at that association over time, and I thank God that some of these have been solved. Maybe, I do not know, I do not work there but, you know, issues always go on a continuous basis from time to time. But we consider this a partnership in progress working as a consortium with the trade union movement and with the authorities to ensure levelling the playing field for persons with disabilities.

We got some questions from the Committee, I take it, and some of these we could not answer. As I said before, we are not a trade union, but we encourage our members to send any information to us, and we continue to encourage them to do that. But, as I say, some of their agencies are working with their respective trade union representatives to ensure that persons with disabilities employed within their fold are taken care off in the correct manner. And we also say that when we are doing things, accessibility and lighting becomes crucially important to persons with disabilities, particularly to those with visual impairment.

As you the Chairman will know, that there are many buildings which you, perhaps, cannot still enter. So we know that there was a building code in the works and was launched sometime in 2015, just before the Government changed hands, a product of the Bureau of Standards and the Consortium of Disability Organisations and, to date, we have

heard nothing more, but yet we continue to see buildings being built without due consideration. Even places where persons with disabilities are supposed to frequent more often than other, but still we have some shortcomings and challenges there too. Thank you, Sir.

Mr. Chairman: Thank you very much. Gentlemen, I would like to put out to you—the first thing I would like to ask this morning, which seems to be the common thread coming from the responses from those of you—thanking you as well for the written submissions who were able to do that. Nevertheless, the common position I am getting from you is that the OSHA, the Occupational Safety and Health Act, Chap. 88:08, seemed to be lacking in a number of ways. So I would like to get your brief comments, each of you, in turn, and we can start with the PSA, because I know, Mr. Duke, you have had cause over the years to have highlighted a number of government agencies that seemed to have been ill in terms of occupational health and health requirements. So, gentlemen, your comments on it would be appreciated, starting with you, Mr. Duke.

Mr. Duke: Thank you again, Mr. Chairman. The PSA has responded to over 3,000 calls.

Mr. Chairman: Sorry?

Mr. Duke: Three thousand calls, and those are calls regarding complaints regarding the Occupational Health and Safety Act. Frankly, a close look at the Act, you will see a document that is good, well balanced. It deals with health, safety issues and welfare issues, from drinking water to air quality to the worker having the right to remove himself if he senses danger.

However, the weakness of the Act is this. The Act does not provide for action to be taken against inspectors who would maliciously prosecute people, and I think a lot of inspectors have been prosecuting establishments maliciously and under the guise of being independent and they cannot be charged in their own right. And I think also to from our experience, a lot of the inspectors need to be made permanent, and the Act does not provide for these workers to be permanent. It provides for the establishment to be an independent

one, but not for the jobs to be permanent.

And as long as you have persons who are not permanent, they will be fickle and they will become pawns in the hands of the political directorate. We have lived through three different types of governance or head of the Executive—we had Patrick Manning; we had the hon. Kamla Persad-Bissessar; Dr. Keith Rowley, currently now. And what we have seen is that each of them will use the Occupational Health and Safety Act and the inspectors as if they were lapdogs, dogs to do their bidding and not to do the work of the workers.

Our members are seriously challenged in that they believe they have nowhere to turn to because these persons are not operating in accordance with the Act. So the Act is good; again, the Act is good, save and except, there should be some place in the Act where these inspectors or anyone who acts maliciously, can be charged in their personal capacity.

Mr. Chairman: Mr. Duke, I do appreciate what you are saying, and it is quite eye opening for me, and I am sure probably other members here, where the inspectors are concerned, but I want to remain as objective as possible in terms of dealing with whatever former administration in terms of the various heads that you just named there. Right? I think we need to look—what I am looking at is the legislation, and I do not think that the legislation will allow more Executive intervention in that way. I do appreciate where you say if people are not secure in their jobs and the organization ought to be independent, that is almost, I mean, it is obvious. You cannot really fully execute that level of independence. There is always the suspicion, even if they were not even being—the fear of doing something that may bring the wrath on them, I do understand that.

So I want to take on board what you are saying. We appreciate it, but I do not thing necessarily we need to deal with the Executive getting involved at that level. We need to deal with the legislation, how we can tighten it up and, certainly, as you said, you have had 3,000 complaints, in the period of what? The three administrations or this is per year or what?

Mr. Duke: That is the three administrations, over 3,000.

Mr. Chairman: Wow! That is significant. Okay, sorry. Ms. Ameen?

Ms. Ameen: Chairman, if I could be allowed, I think from the very opening comments, the representatives of JTUM as well as Mr. Duke indicated that the OSH authority, you find it ineffective. What is part of the role of a joint select committee is to make recommendations for legislative changes. So I think I want us to get clearly on record whether you see the ineffectiveness of the authority, whether that is due to legislative shortfalls and, if so, you may have some recommendations to put forward. For instance, Mr. Duke made a suggestion about the opportunity to appeal or to have the decision of inspectors re-examined and so on. Is it as a result of improper implementation of the Act as stated or is it due to the authority being under resourced? And I got from your submission about the number of cases to be investigated and the number of inspectors that it is under-resourced. So with these three points, if you have recommendations under each of these that we could look at as a joint select committee to make recommendations to the Parliament.

Mr. Chairman: Mr. Ramsingh, would you want to respond to that?

Mr. Ramsingh: Thank you, Mr. Chairman. I just want to say the question asked is rather direct, and there are a number of things that contribute to the position that we find ourselves as a country in today. Not only the legislation as it is, but the structures to ensure that the legislation is implemented in the proper way, and by not doing that we find ourselves in the position we are. We had given a written submission, though not complete, the fact is, it also deals with structure.

Mr. Chairman: No, but sorry. Mr. Ramsingh, just to continue in the vein in which Mr. Duke started off, the question posed was whether or not the legislation—the shortcomings of the legislation at this point in time—and Mr. Duke identified in one instance, he said the legislation, it seems comprehensive on the face of it. It is actually the implementation, and he outlined some of the shortcomings of the inspectorate. So, I want you to continue

on that basis. We will get into the others actually. I just want to deal with the legislation as it is right now. There is a lot to cover, so if you can clinically, I just want to get different perspectives from you all because you all would be representing different interest groups but, basically, would have different experiences, some may be very common. So that is where I want you to go with me.

Mr. Ramsingh: Thank you, Chair, again, and for correcting that. The thing about it is one, is inspectors, the inadequacy of the number of inspectors that we presently have and the workload associated with Trinidad and Tobago which is an economy growing, and we have different workplaces as when the Act was first implemented in 2007. Right? So that is one.

Two, the security of tenure continues to be a hindrance because of the mere fact that these people are not sure where they are and there is low morale in the inspectorate at this point in time with respect to people, even their remunerations. They have people not being paid their gratuity for, my understanding, it is over three periods. So all those things contribute to it.

The other thing is with respect to the agency. There are a number of deficiencies that still exist in the agency with respect to—the Hygiene Unit is not up and running as far as I know properly. There is still lacking a research department. The statistical unit is something that you need in a country like Trinidad and Tobago.

Mr. Chairman: It is provided for in the legislation, but it is not implemented?

Mr. Ramsingh: Yes.

Mr. Chairman: Okay.

Mr. Ramsingh: In addition to that, the Act up to now does not cover domestics. We still have challenges with respect to contractors and service providers providing service for homes and so on, and if something should happen there. There are things lacking there. There is also the issue of trainees at the workplace, which is still a grey line with respect to how we treat with that. So I do not know if—I think I add some value to it at this point

in time.

Ms. Ameen: And you spoke in your submission about infrastructure?

Mr. Chairman: Ms. Ameen, just now. We just wanted to clarify something he just said there concerning the trainees. Just elucidate on that a bit. What do you actually mean? With the training aspect, could you just—

Mr. Ramsingh: What I am saying to you, the Act, there is a grey line right now with respect to the Act covering trainees at the workplace.

Mr. Chairman: Meaning that they are not covered under the Act?

Mr. Ramsingh: As I say, there is a grey line. I am not sure at this point in time, because we have had no experiences basically with trainees at the workplace and what happens in case something should happen to them.

Mr. Chairman: Okay. Mr. Simpson, you want to continue in answering?

Mr. Simpson: In responding to your question?

Mr. Chairman: Yes. I just want to get everybody to give me—

Mr. Simpson: Well, Mr. Chairman, respectfully, I recognize that your correspondence to us had spoken specifically to government agencies.

Mr. Chairman: Yes.

Mr. Simpson: We do have challenges external to the public sector that would arise on a number of occasions, but I would try to confine my comments strictly to the public sector and what it relates to there.

In the first instance, there is a lack of training, there is a lack of a proper association to how workers would be treated with respect to their pay should an accident occur in the public sector, and you have to close down the area, because that is what would usually happen if an investigation has to take place, depending on the severity of the accident

Mr. Chairman: So you are saying the legislation does not cover this?

Mr. Simpson: It does not speak to it and a lot of our collective agreements, I dare say, may not really speak to it, given that in some instances it may not have arisen in an area

that a trade union body represents the worker.

The other area is the Act requires that a committee be formed in all workplaces, which is a joint committee. There is very little compliance in most of the Ministries or public Ministries with respect to that part, 25(e) of the Act, with respect to that specific part of the legislation.

What we have is that some Ministries may appoint a health and safety—I would use the term—focal-point person, and they are usually treated with not much respect in terms of what is required of them, and where there are committees, those committees are imbalanced in terms of the representation on those committees.

I would also draw to your attention that when workers or persons serve on those committees, the duties that they performed on those committees are in addition to their normal day-to-day functions, because the committees are not really full time, but if you are person who has health and safety responsibility in a workplace, it takes up a significant amount of your thinking process and physical presence from time to time. So, therefore, the Act does not speak to how those persons will be compensated, in particular, in environments where the trade union is not there to negotiate an additional package for them.

There are instances where reference is made to the Workmen's Compensation Act, and how persons would be treated should an accident take place. The Act seeks not to really interfere with what the workmen compensation says in totality, but it restricts claims even from the protection of the persons who are responsible for administration in the public service on how they treat with and process those claims in terms of accidents in the work place, and how workers will be compensated, and that is a general being.

Mr. Chairman, in terms of policy on how workplaces are to function on a day-to-day basis, I think in the absence of having a committee and in having a focal point person to address health and safety issues, a number of the Ministries are deficient on how they will treat with health and safety issues that come up on a daily basis. They see health and

safety only in the context of providing protective gear and equipment, and not in the day-to-day operation and process of how workers are to function on a daily basis. I would pause there, Mr. Chairman.

Mr. Chairman: Okay thank you. Just for clarification, you said in terms of compensation under the OSHA, you are saying there is a difficulty with the workmen compensation?

Mr. Simpson: In that sense?

Mr. Chairman: Yes. Could you clarify what you are saying? I did not understand.

Mr. Simpson: What we have found—it has been our experience that in a number of instances in the public service, that if a worker should be injured, our members have had challenges with getting paid. If a doctor should say—if there is a medical reason for them to be off the job as a consequence of the injury, they have had challenges in getting compensation, compensated in terms of their normal pay as the workmen compensation says, and the workmen compensation is linked to the Occupational Health and Safety Act, the OSH Act. They have had challenges because people just are not trained to deal with those issues and, so therefore, a normal working class blue collar worker, suffers a loss of income during the period of time that it takes for somebody to find out who knows and how to process the claim, and it is because there has not been any training in that area.

Mr. Chairman: So it is not that the Act does not provide for something like that?

Mr. Simpson: Well the Act itself does not speak to it, it just says—well it does not speak to it. The Workmen's Compensation Act speaks to it, but the OSH Act itself does not speak to workers being compensated should in case action has to be taken.

Mr. Chairman: Okay, thank you. We are speaking of the inadequacy of the legislation or the gaps that you all have identified as it affects—

Mr. Persad: Okay, let me start by saying, firstly, that this document, the OSH Act, is a voluminous document—it is a pretty big document—and I am not sure that many persons with disabilities are too okay with it, because it is big too, one, and we do not have it in accessible formats, like braille, large print, or even audio production. And, secondly, as I

said before because many persons with disabilities who are in the world of employment in the public service in particular, some of them would be directly represented by some of the trade unions sitting around the table.

In addition, well I just want to make a recommendation because we come from a different perspective in terms of we do not represent persons who are employed. But, I think one of the basic areas that we can look at in going forward, is that whole education campaign. When a person takes a job, what does he know about—well not the requirements—but the terms—apart from the terms and conditions, like the OSH Act, the workmen's compensation injury benefits Act, there should be a joint education programme with the employers and the employees and the trade unions so that everybody goes to the same page at the same time because some workers when they get injured, they do not know who to turn to, where to turn to, and they could be exploited in that regard. So, my recommendation is for continuous education programmes between all parties to ensure that everybody is on the same page.

Mr. Chairman: I thank you. And I would add to what you have just said there. I think where differently-abled persons are concerned, I think the Act is silent on that. There is nothing specifically here dealing with that, and so that is a big lacuna that needs to be addressed urgently. Ms. Ameen?

Ms. Ameen: I just wanted to ask if CODO has a working relationship with the authority, the OSH authority or if you have any sort of representation on the board?

Mr. Persad: No. We have no representation on the board and we do not have a working relationship. But it is not too late to start something.

Ms. Ramdial: Thank you very much, and anyone can answer this question. In your submission, you stated that the fire service, prison service, health services and laboratories should be removed from the list of exempted from the right of refusal and removal. Could you care to clarify on that?

Mr. Ramsingh: Thank you. Under, I think it is section 15 of the Act, they have the right

to refuse dangerous work. The thing about it is, notwithstanding the inherent danger that these jobs, these individuals are exposed to, there are other conditions of work in those workplaces other than emergencies, where you have health and safety issues. These people who work in these conditions, they are under the Act, they are not allowed to do that. But these very same people are human beings also. The thing about it is, there has to be some sort of legislation to cover even if you are limited, to cover these people under the Act.

Ms. Ramdial: Do you have any recommendations moving forward in terms of an amendment to the Act?

Mr. Ramsingh: Well the first thing that we have to do is—I agree that they are supposed to be removed from the Act and make the necessary arrangements with people who represent those organizations in order to come up with a mutually accepted thing for both parties. Thank you.

Mr. Chairman: Mr. Duke, what I would like to ask you, being the most visible person in the promotion of the OSH Act in recent times: What would you say is the most or are the most common breaches of violation of the OSH Act in the public service?

Mr. Duke: Thank you again, Mr. Chairman. The most common type of violation—and I want to be a little bit philosophical about this one, but strange—is when we have persons who are empowered by the OSH Act to visit a site where a complaint has been made by an employee, the union, whatever, they ought to come within 24 hours. They come way after 24 hours; that is one violation.

Two, the second violation is where these persons who are to police the Act, they ought to carry out inspections with those who have made the complaint, or members of the union on the health and safety committee, and they often times leave out the union representatives, at least, for the PSA, I would say. They are left out.

Mr. Chairman: That seems to be a common feature from the other submissions made.

11.25 a.m.

Mr. Duke: Thirdly, whenever reports are done, it is shrouded in secrecy. It is given to the management and not even to the person who made the complaint, or the union who is representing the complainants, as the case may be.

Mr. Chairman: And it is also a common feature from the other person, so it seems to be a serious issue.

Mr. Duke: So, apart from those physically, insofar as health and safety are affecting the employees, the most serious one is the air quality. The air quality inside a building is equal to the air quality outside of the building, and in that air quality inside the building, the amount of air turnover is not measured on a regular basis. As a result of that, we have over 150 employees who are currently nursing injuries and health conditions that would have been developed on the job.

Mr. Chairman: As a result of poor quality air?

Mr. Duke: Well, poor air quality. All right.

Mr. Chairman: Yeah. Let me ask you something, do you involve the EMA where that is concerned? Do you get them to test?

Mr. Duke: No. What would happen normally when the PSA visits a site, we would raise the concern to the employer or person who is acting on behalf of the employer, citing the need for an air quality test. Now, an air quality test should be done, once things are of good standard, perhaps once a year, all right, but we have situations here where some special agencies, as CARIRI, and others would come in and they would test. They will find fiberglass in the air, a high build-up of carbon monoxide in the air, dangerous fumes in the air, temperature, humidity; a number of things within the air, spores. Sometimes when they do a swab they would find dangerous bacteria as Stachybotrys bacteria which is responsible for creating bleeding, internal bleeding in the lungs and eventually killing people; these can be found here. And when they find this, the employer smiles, and here comes in OSHA saying, the building is safe and workers should go back to work. I have met persons in one of the most beautiful, pristine buildings in this country. It is called the

Service Commission building around Picton Street, blue glass and steel. The ground is scrupulously clean. The tiles are perfectly white. They have found, some years ago in 2010, Stachybotrys bacteria in the building. And there was one lady there who had respiratory problems, she went to her personal doctor—because they are not paying, eh. They do not pay for a cent when workers are sick. And while she was doing this procedure where they put the camera down through her nose and into her lungs to see what it is, her lungs were punctured, all right. And there are many other persons I have met, recently in—maybe 2012, 2013, around there, we had the situation with the Board of Inland Revenue, Trinidad House, where the Permanent Secretary sought to send all of the workers on the recommendation of the PSA to an industrial medical exam. I could tell you, over 50 persons have come back with the pulmonary exams, failing. There had been fiberglass in that building also. There is no aftercare for these members. So the air quality, I say, is most important, followed by structural integrity of the building. Most of these buildings are extremely old, for example Port of Spain General Hospital. PAHO did a test and then an assessment of that hospital, and the others, and they found the building in particular, that houses all of the patients and the doctors, that building where, we call the ward building that has about five or six floors, that building should be totally demolished. The foundations are cracked, and, I mean, several parts of the building itself is falling apart, and today they are working there, while they leave the Children's Hospital unoccupied and want to charge big money. So the State has to take responsibility for ensuring that workers who come to work under the State, in accordance with section 6 of the Act, are protected, that their health, welfare and their safety, are protected on the job. I say to you again, Mr. Chairman, a lot of our workers are damaged on the job and then they are forced to take sick leave; not injury leave, because injury leave is not a feature in the Public Service Commission regulations. What they have is sick leave, 14 days sick leave, but they have no feature as injury leave. When you are injured on the job it ought to be injury leave and nothing to do with your sick leave. They force them to take sick leave; they

force them to take workmen's compensation, which is less than your salary—it is not equal to your salary—and they force them to deal with the burden of sick health, mental stress to their family life.

Mr. Chairman: Okay. So is that something you would recommend, that the legislation should be amended to reflect in terms of classification of leave specifically for matters arising under OSHA?

Mr. Duke: Yes, it needs to address that, definitely.

Ms. Ramdial: Mr. Duke, since you identified some of the institutions and buildings within the public service, about how many in total are noncompliant?

Mr. Duke: There are over 500 Government buildings in Trinidad and Tobago, over 500 buildings that the Government occupies in this country, all right. And I could tell you, none of them in Tobago are compliant, none of them in Trinidad are compliant, not even the new Government Campus; none of them are compliant. But then again we have OSHA, and I ask myself sometimes who is the Minister supervising OSHA, you know, because OSHA ought to be going out as police, and enforce the law, but instead they go out and they simply allow people to break the law. And I am saying that openly on the record, somebody needs to police OSHA because OSHA is operating outside of the law.

Mr. Chairman: So, what will be your recommendation where that specifically is concerned? How best—what do you do to get your situation, that you have just identified, those situations redressed? What do you do? And how effective is it? New actions, I should say.

Mr. Duke: Right. Insofar as OSHA is concerned, again I say, the legislation should speak about permanent employment. That is one of the departments where performance appraisals must be done on time and must be done accurately to ensure whether persons are performing or not. I could give you a classic example, Mr. Chairman, under the law, under section 26€ of the Act, it speaks of any building having 20 or more persons on the ground floor, or 10 or more on the first floor ought to have a valid fire certificate, and that

valid fire certificate needs to be there around the clock. Anytime you do not have it the occupier of the building—not even the owner, the occupier of the building—commits an offence and is liable to a fine and prison. When the OSH authorities come to do an inspection they will find a building without a fire certificate and they will say, you can continue to work, and that to me is one of the most gross violations. That is why I say somewhere in the Act you must be able to find a part where persons could bring actions against OSHA for malpractice and malicious persecution.

Mr. Chairman: "Yeah". Thank you. Sorry, Mr. Simpson, you wanted to say something, add something?

Mr. Simpson: Yes, Mr. Chairman. And I really want to thank my brother colleague here for raising the issue because I neglected to do it earlier on. In addition to what he said, one of the challenges that—having sat on a committee in one of the, what I would call the authorities, one of the challenges that Ministries encounter is that there are so many Government Ministries that are leasing buildings that are not Government owned, and there is a legal challenge to having the landlord make the building compliant as opposed to the Ministry itself, because of what the lease arrangement is. And the Ministries, I know, in some instances their hands are tied because they have to get permission, and when you have to go to—what is the thing you do when you are putting it out for tender?

Member: Tendering board.

Mr. Simpson:—the tendering board, there are restrictions on them. Insofar as when issues like what my brother raised earlier on, the "sick-building" syndrome comes up, you are crossed between two things, it is either the workers stay home or you find a reasonable alternative building to put them in, or you leave them in that building, and more often than not workers are made to be left in the building because we have all these issues of productivity, and all of that coming up. And the public perception is given, that workers just do not want to work or they are lazy, when in truth and in fact, by staying in the building you are making them more sick and less productive. We need to find a

mechanism to allow the Ministries or the department responsible to move away from that work environment into another environment in an emergency case where that is more compliant, and until the landlord either fixes it or the proper mechanism is put in place where the Ministry can fix it itself and therefore have the people occupy the building in a productive way, right?

Ms. Ameen: Mr. Chairman, I just wanted to find out something, I just wanted to touch a bit on the weekly, hourly and daily-rated workers, commonly called daily paid workers, many of them fall under, for example, Regional Corporations, and so on, that do manual labour, and therefore they would require protective gear. We have had some reports of—well, cutbacks in funding, and I want to ask you, how is that affecting your members receiving protective wear, especially those who are out doing those types of jobs?

Mr. Simpson: I want to thank the Senator for asking that question, the member for asking that question; it is not that I did not anticipate it may come. The Act says that the employer must perform some of its functions as far as is reasonably practicable. We do have challenges, and in some instances those challenges go beyond what the norm is, and in those instances we have advised our members not to participate in that particular work activity because it is injurious, not only to their life, their health and safety, but when they go into those types of environments they take those diseases home to their family, which by itself presents another issue in terms of the national public good. There are local bodies that have been complaining about shortage of funds, and I would want to respectfully submit that issues such as the provision of protective gear should not be placed in a budget combined with other issues that have to be dealt with in—well, in the instance of local government with the burgesses, and wages and salaries. They should be allocated separate and apart on a national scale so that funds should, in my respectful view, funds should be drawn down so that workers will get their protective gear and equipment in the quickest possible time, when needed.

Ms. Ramdial: In your submissions you stated that when accidents occur the OSH agency

gives the all clear to start up operations before the internal investigations are completed, is this the case for every single accident? Mr. Duke.

Mr. Duke: I will say that accidents in the public service could be different from accidents for the daily paid, weekly paid worker, we operate within the office, and the Act says the scene ought to be preserved and it ought to be recorded in a book. You can search any single Ministry and there is no record of it. I could say to you now, we have had a number of calls as recent as last week where a ceiling fell on a nurse in Mount Hope; a ceiling fell. There is no record of that in any book. We have where the elevator in the Twin Towers, Financial Towers has dropped on several occasions, one time damaging a person who is permanently damaged, there is no record of that anywhere. There are many—even instances in the Customs building, that new building across there, Government Campus Plaza, where the elevator dropped again, damaging people. So these things happen and it is "water on duck back", no OSHA really ever show up. They just brush if off, and I ask myself again, who is policing the OSH authority? They are a law unto themselves, and in my book they are more corrupt than the police service. It is just my view, a trade union view. That is my humble view.

Mr. Chairman: Mr. Duke, or any one of the other members here can answer, in a submission read, they said there is culture existing among employers where they refuse to treat with the trade unions—I think JTUM said so—is there not a penalty for that where employers refuse to treat with the trade unions concerning matters of this, "yeah"?

Mr. Ramsingh: Well, Chairman, that had been the experience in some areas, not all, I might say. But the thing about it is where that happens, we would like to recommend that some legislative reform take place in that area to ensure where they are recognized majority union, that the employer is forced to treat with issues dealing with health and safety issues at the workplace.

Mr. Chairman: "Yeah". So what I am understanding from Mr. Duke at this point in time in dealing with the responsiveness, or the lack of responsiveness from the agency,

the OSHA agency, is that even though the law provides for certain activities to take place in certain—by and large it seems to be, is being not done—they are not efficiently doing that, and there seem to be no consequences under the Act for their errors or their omissions.

Mr. Duke: Mr. Chairman, if you will allow me, let me just give you a vivid example. We would have had cause to—in fact, let me restate that, every single action by OSHA agency to close a building has always been done by workers forcing and taking risks to shut it down themselves. We have placed workers in that danger zone. You have to be in a position where you are willing to die for your rights, literally die for you rights, than to live in an environment that kills you. We have a situation where the Immigration, the passport office was shut down some years ago, and we pointed out to OSHA that there is no fire escape downstairs in the building where there are hundreds of people at any one point in time, because the public would come in for their passports along with workers. There was no escape, one way in, one way out. Some days after there was an electrical problem, well OSHA came, they saw it and said, no problem, people ought to work. Some days after T&TEC came to fix an electrical problem, one particular person from T&TEC got burnt up in the building, he could not escape, subsequently he died. You know, the building continues to operate today, that is about over three years ago, without a fire escape still, downstairs, no exit door, but the OSHA is happy. They are happy. They are comfortable with that.

Mr. Chairman: So, Mr. Duke, I mean, what you are raising here, they are quite serious issues. As a matter of fact, as you are raising them I am also thinking of Mr. Persad's organization—

Mr. Duke: Yes. It is worse for him.

Mr. Chairman:—which I could very well easily identify with. If able-bodied persons are not being adequately provided for in those—you stand a good chance of escaping; a reasonable chance, I should say, in escaping, what would happen where you have persons from the public who are differently-abled, attending to those buildings, what would be

their case in the case of an emergency? So, I mean, I am glad that this is being highlighted. I mean, this is quite a grave concern that needs to be addressed urgently. I want to ask any of you, what are your experiences in the court when you are dealing with actions where the employees are allowed to leave the buildings because the building is deemed—either the existence of hazardous conditions or due to imminent danger? Now, I find imminent danger is quite a significant or onerous type of danger. Imminent means almost immediate. What is the interpretation the court has been given on this? Does this pose a problem to implement or not?

Mr. Persad: Mr. Chairman, before you go there I just want to back up a little bit because I can also say, based on what I have heard coming out, a few years ago there was an incident at the San Fernando Blind Welfare Association. The management was called, they said, well, you know, you all stay put and whatever, but I say that to say that sometimes management of these organizations, they want to defend their track record and they do not really care about the health and safety of the persons who are employed there. Because in a case like the Blind Welfare Association, the majority of persons employed are blind and/or visually impaired as handicraft workers, as members of staff, and the management, some of whom, surprising enough, are in the same position because they are blind and/or visually impaired—but, you know, sometimes when you step up from one step of the ladder to another you see yourself in a different light, but I believe that when a complaint is made by an individual about a situation, that individual, along with the management team, along with the OSHA team must all be in agreement. Do not just tell the manager what you want to tell the manager, and the manager goes and tells the employees what they want to tell the employees, because the management might say, "well, look, de building good yes, allyuh go back to work", but this time the building is not, and there has to be a cohesive approach to dealing with some of these problems.

Mr. Chairman: Okay, thank you. Somebody was answering—continuing. Mr. Duke, you were continuing?

Mr. Duke: Mr. Chair, could you just repeat the question just for clarity?

Mr. Chairman: I had asked whether or not—

Mr. Duke: Experience is in court.

Mr. Chairman:—in terms in court, in terms of dealing with the interpretation of imminent danger, has that acted more as a hindrance to getting workers to be taken away from a potentially dangerous situation?

Mr. Duke: Mr. Chairman, you have asked a very sound question, the PSA have had numerous experiences. I was once hauled before the court and charged with contempt of court because an injunction was placed on the same Immigration workers I spoke of, that had refused to work in a building that had comprised their health, their safety and their welfare, and the injunction was given that these workers should not protest, as if they were protesting, and the workers continued to remove themselves from the environment because there is no injunction in this land that could stop a person from exercising his right under health and safety. And so, the workers choose to exercise their right under health and safety, but though they did that they got no help or support from the OSHA. I recall the Chief Inspector sitting in the witness box, and though he agreed that the carbon dioxide levels were way above normal, he was saying the building is quite good and safe to work in. I further recall a matter with the Sugar Industry Labour Welfare Committee, SILWC in Couva, where these workers refused to work because they were occupying a house that is used as a Government building, and there is no drinking-water there. When you look at the tanks it has moss within it. The electricity keeps fluctuating because these buildings were wired for home use and not for all that computer and heavy lighting, et cetera. And when they moved out the OSHA department said that they are refusing to work without imminent danger, and we went to court to decide it and the court said, "aye", there was no imminent danger there, go back to work.

Mr. Chairman: The court decided there was no imminent danger?

Mr. Duke: And when they went back to work, about three days after, the building caught

a fire on its own, electrical.

Mr. Chairman: What I am trying to get at, is it that the term used in the legislation being, imminent danger, is posing to be more of a disadvantage as opposed to enabling assistance in rendering some sort of an immediate or temporary solution to a problem that may exist, that is real, you know? What is your experience in the court interpreting imminent danger to be? Has there been a pronouncement on that?

Mr. Duke: The court interprets imminent danger to be something that is about to happen.

Mr. Chairman: Right. Literally—

Mr. Duke: —as if it is virtual, like the sky is about to fall. But that nurse who got damaged last week while operating her normal duties in the Eric Williams Medical Sciences Complex, right, Mount Hope in particular, she did not see the roof falling down, all right? We want to go further and say, when the OSH authorities come to a building they do not do an air quality test, they do not know about respiratory illnesses, they do not do a pulmonary exam, they do not check the electrical to see if it is working, they do not check the structural integrity, they do not check anything. They just look around and say, okay, you have a report, you have this, okay, and even if there is no fire certificate and that building should be shut down, they encourage the person to continue breaking the law. So, I do not know what "imminent danger" is, and perhaps that is one of the things that needs to be deciphered and written down in the Act, but it must be done so with proper consultation because we know the Government, we know the politicians.

Ms. Ameen: Chairman, hearing the responses, we speak mostly of the reactive, what happens after an incident and how it is treated with. There is room and there is space for consultation between employer and management and the representative union in fixing the problems before the danger comes. So, for example, Mr. Simpson and his members could meet with the chairmen and boards of the Regional Corporations who often have OSHA committees so they can identify what are the issues and put effort into fixing them before problems arise and workers are endangered. I want to get a sense from you if your unions

have been engaged with the relevant authorities, relevant persons to take measures in terms of a constructive participation to prevent matters from coming up.

Mr. Simpson: Well, let me correct you, not all of the authorities have, as far as I am aware, health and safety committees functioning, and you would recall in my earlier discourse I did say that, in compliance with what the law says, there are no joint health and safety committees. You may have a focal point person or you may have a committee made up of people that you appoint personally, but a joint health and safety committee that requires that a trade union representative or workers representatives in equal status to the employer representatives be present, it does not exist in the way people may think it does. And to compel them—to answer the other question that the Chairman asked earlier—the Act speaks to meeting and treating in good faith, but that is only when you have a registered majority union. If I am not a registered majority union and I have a concern about some issue that comes up—even in the public service where none of us may have recognition status, the person who is in charge or the people who are in charge are not compelled to meet with us you know, because the first thing they are telling you, "well, you doh ha no recognized majority status", and it means now that the OSH authority has to step in. More often than not, they would write a letter giving them a week to comply or a two weeks to comply, and what not, but sometimes that compliance requires that the OSHA goes out of the authority itself and seek expert advice as the Act requires, which they do not always do on those occasions.

Mr. Chairman: Based on what you are saying, do you know if all the Ministries have a committee set up?

Mr. Simpson: Not all. There are committees set up in some local government, in corporations. There are committees in two of the RHA's, as far as I am concerned; none that exist in the eastern, and in some Ministries there are committees, but not all of them are joint committees. Because we have—for instance, my brother there, they are public officers and they are daily rated employees, those committees are either lopsided or there

is an absence of trade union representatives on the committees. The PS, or whoever is in charge may say, well, look, we need to have a health and safety committee, we have a focal point person, and you three people who are here in the management sector, you all are responsible for health and safety; and that is what they call a committee.

Mr. Chairman: Mr. Simpson, sorry, I do not mean to stop you, but I just want to give way to Mr. Allen, because he had been putting his hand up there and he is kind of lost in the back, like he has something to say based on what you are saying.

Mr. Allen: No. No. No. I wanted to assist on that particular point of the existence or nonexistence of joint health and safety committees in the Ministries. I know for a fact that are none in the nation's schools and there are none in the Ministry of Education.

Mr. Chairman: None in the Ministry of Education—

Mr. Allen: And none in the nation's schools, and that is something that is worth looking into. I think that—not that we expect the Minister of Education to micromanage, but there is a need for him to ensure that the PS and others get that information down to the principals, and so on, so that they could establish these joint safety committees at the schools.

Mr. Chairman: Thank you. Thank you very much for that.

11.55 a.m.

Mr. Duke: I would like to answer that because we represent 80,000 persons, and I can say to you, there is a malpractice taking place where health and safety is concerned, where these committees are concerned. If there is a head of an organization, let us say we are dealing with the Board of Inland Revenue, they may want—the management will try to impose upon workers who the PSA rep should be, and they select a group of people from the head office. And while there may be offices as far as Sangre Grande, Toco wherever, these persons are unrepresented, all right, insofar as health and safety is concerned. And the Act is clear, once you have over 20 or more persons working in a building, you should have a health and safety committee.

And so we are calling not just for a committee to look after 5,000 people or may be more or less as the case may be, but you need a committee to look after a building sometimes based on the amount of persons working in a building. So that is one of the areas that the law needs to adjust a bit. Rather than just saying, 20 people in an organization, we need to look at the different sub-organizations, subunits of that organization that may have more than one person that may not have anyone within that building from the safety and health committee.

Mr. Chairman: Okay. Thank you for that.

Ms. Ameen: You see, Chairman, a lot of times we hear about the unions when they are advocating for pay increase. They are involved in talks, we hear about industrial action and work to rule, but we do not hear about efforts to fix the problem. We do not hear about constructive participation. And nothing prevents a union from writing to the head of organization such as in a regional corporation, for example, and offering to be part of an OSH committee if they have one, or suggesting that one be established where they do not have one. And to me, I think, that is something the public would want to see. I mean, it may not be as sensational, but I just want to get an idea if you have engaged in that, apart from your own invitation, if you have been able to take the initiative to ask bodies to set up these committees where there are none?

Mr. Simpson: Through you, Mr. Chairman, yes, as far as the NUGFW is concerned, and I know that a couple of my brothers here have been engaging and taking the proactive approach to engage the authorities in the different areas to start committees. One of the greatest challenges that we have is that persons who are responsible for initiating the committee feel that they are, and I am using the words "tin gods", and that they are under no obligation to make the time to treat with the trade unions as how they are supposed to. Every single time that you ask for a meeting, the meetings that they have in Port of Spain, whether it is at the head office or at the Ministry or with staff or whoever, becomes more of a priority than to meet with the trade unions. And this is what contributes in a lot of

instances to workers taking a particular action or the union adopting a particular posture in getting the message out there so that the thing could be done.

Mr. Chairman: I believe that this could be attended to through some amendments in the legislation by requiring a compulsory meeting and a timeline for doing something like that?

Mr. Simpson: Yes. I would say so.

Mr. Chairman: That would be in the regulations, and the regulations is supposed to be coming on board, eh?

Mr. Simpson: Well I would hope so, Mr. Chairman, because there are some things that even the ILO would have catered for that we have not sufficiently begun to practice here in Trinidad and Tobago with respect to health and safety including recognizing some areas of illness that are part of the workplace related in illnesses and whatnot.

Mr. Chairman: Take off your thing for now, thanks. That has my concern, listening to the number of inaction on the part of the agency when called upon to intervene in situations of workers' concerns of the environment for health and safety purposes. You know all the time there is the remedy of judicial review. Right? Have you all as Ministries ever sought to engage that against the agency in any significant or blatant omission for them or lack of impetus to act? Anyone has who has had the experience of that.

Mr. Duke: We would have had cause to write OSH on several occasions through our lawyers demanding OSH reports; they have refused to. And at best when you read the Act, OSH is an independent body and you really cannot take them to court and win. Yes, there is judicial review, but we do not want to be the first to go and try to pilot a lawsuit against OSH to find and spend big money and then, you never know, pay for their cost. It is not something that we should be should be fighting OSH to do, OSH should want to do their work.

As a matter of fact, let me hasten to say this, Mr. Chairman, nowhere in Trinidad and Tobago should any single employee take up a lawyer to go and sue any organization

for damages. It is OSH's responsibility to act as the worker's lawyer and to defend the worker against an environment that is unsafe for his life, limb and his welfare. But OSH is not doing that, they are hiding behind the cloak.

Mr. Chairman: No. I do agree with you fully, eh, but in the instance where, I mean, as I am saying, being a member of the public looking on at what is going on in our society, and I saw a movie last few years, the number of times that I would have seen the PSA taking action to close down a building or not, right, taking all the politics out of it, if that is, in fact a situation that exists that these buildings are not fit for employees to be working in that environment and they are injuring their health, that is not something to be playing with. Right? And therefore, if the agency is falling, is dropping the ball, I mean, as unions probably collectively under the umbrella of JTUM or FITUN or whatever the organization, NATUC, if the individual union cannot do it itself, I think you all should take a position where you all could collaborate and do a test case, because it is a serious thing and it is really affecting your membership. Right?

Mr. Duke: Mr. Chair, I want to say to you, I am happy to come here today because I know the power of the Joint Select Committee insofar as gleaning views and reporting back to Parliament. And I know for a fact one thing is patently clear here today is the distrust that exist between the union and the OSH authorities. And another thing that is clear is the fact that the OSH authorities are not operating within the law to protect and promote the health and welfare of workers.

Ms. Ameen: Yes. Mr. Chairman, I know prior to the sitting the Committee would have sent a list of some questions to the unions. I just want to get an idea or if you have to submit it in writing in terms of the number of untreated complaints you have with the authority at this time?

Mr. Duke: We can submit something in writing, but I will say from the time we would have occupied office which is in 2009 to present, almost 10 years, the OSH authorities have failed to treat. They have not treated with one issue raised by the PSA.

There is a building next to the Unit Trust building and the Treasury that has been demolished called the CSO building. Workers took the risk of refusing to enter that building. That building was structurally unsound even before I became president and the law was in existence. Workers took it upon themselves and they literally stayed out of the building running the risk of being dismissed or being called all types of names, and it was only upon their perpetual refusal to enter the building and do work, the OSH authority then came and shut the building the down and demanded that they clear out of the building. Today, the building is totally removed from the area by implosion. There are many other buildings like that, that workers had to literally choose to refuse at the risk of losing their jobs.

Mr. Chairman: Mr. Rousseau, I think you wanted to assist us with something?

Mr. Rousseau: Yes, Chairman. I just wanted to make an observation, eh. I think fundamental for the success of the OSH authority is the ability of the government departments and all of them, whether it is, to identify the hazards and the risks, and to implement controls to reduce these distress.

Secondly, I want to say that the principles governing the approach in becoming OSH compliant must be constantly kept under review and must be articulated with a view to ensuring that whatever your nuisances or whatever dangers you pose are abated in a timely and efficient manner. I was listening to him, but I think it is important that we identify those things and certainly those things must be identified in the context of section 25E and 25F of the Occupation Health and Safety Act. I think it will do a lot to bring us up to speed of where we should be relative to this piece of legislation.

Mr. Chairman: Thank you very much, Mr. Rousseau. So is it accurate for me to say from what I am hearing is that—which is one of the questions we were supposed to pose to you, I think somebody answered it without me raising it with you. Is it that the relationship between the unions and the OSH agency is not healthy one itself?

Mr. Duke: Affirmative. The answer is affirmative on that one. It is not a healthy one.

Mr. Chairman: And this is not just the PSA, this is across to board?

Mr. Ramsingh: There is actually no real relationship unless you have issues. OSH would not flag something to the union; they will quicker talk the employer.

Mr. Chairman: So in other words, you are getting the impression of a lack of impartiality.

Mr. Ramsingh: Yes.

Mr. Chairman: Yes. Mr. Rousseau.

Mr. Rousseau: I think, Mr. Chairman, that is there to be synergies and a symbiotic relationship between the OSH agency and the trade union movement. There is that lack, there is a space, there is a gap, and we have to look at why it is.

Mr. Chairman: So would amending the legislation assist that or there might be a different approach?

Mr. Rousseau: I think there is the need for a different approach. The legislation is there, and I think that that, if we do a gap analysis and look at why we are not—that gap is existing. We may be able to breach it.

Mr. Chairman: Yes. Can anyone—sorry.

Mr. Simpson: I do not want to loosely speaking like that. The Act provides for the OSH to communicate with the employer. It provides for the unions to communicate with the OSH when we have an issue, but it does not provide for the OSH—what is done, the constant communication that the OSH provides to the union really and truly comes from common law practice, as you may be familiar with, but the Act itself does not compel them to treat with the unions. It only compels the OSH to treat with the employer.

Mr. Chairman: Right.

Mr. Simpson: So therefore, when information has to be shared, there are instances, we would hear, "listen, ah sharing this with yuh, but"—

Mr. Chairman: I am not supposed to do that.

Mr. Simpson: "Ah not supposed to." But you would write the employer and the

employer would get the response and the union now would have to write the employer and say, "Well what is the result of this study?" and the employer may say, "For purposes of trade and secrecy and whatnot, and whatnot, we are not compelled to share it with you immediately or in the form that we got it, but we are doing what we are supposed to." And that is some of the things that you sometimes find the challenge with.

Mr. Chairman: Yes. So therefore everybody would not be on the same page, enlightened at the same time.

Mr. Simpson: But I wanted to jump on what my brother there raised earlier on, and I want to invite the Committee, just downstairs there, across in the old post office building, there are daily-rated workers there who do all the surveying for Trinidad and Tobago. They have nowhere else to turn. And if you go into that building you would see ceilings dropping out on people's head, and you would find even in the air quality, you would see that there are challenges there. And those workers are made to work there, and it is not for want of the union trying to get them out, you know, but promises have been made again and again, and we cannot get them out of there, and that is under the Lands and Survey.

Mr. Chairman: So is it, again, accurate to say, from what you all have been representing to us that, apart from—some of the lack of responsiveness in a timely manner has to do with the inefficient capacity of the organization, in terms that there are not sufficient qualified staff members to undertake the numerous complaints that may be brought to their attention? Is that fairly accurate to say that?

Mr. Simpson: Yes.

Mr. Chairman: Yeah. And what would you say will be, I mean, the complement, I know what is the complement of the agency; it is a hundred and something? How many—what is the number of staff members there?—about?—below 50 per cent. So there is a need to ramp up that. Yes? And there is a need, based on what you all are saying, that these employees of OSHA should be made permanent employees as well. That seems to quite

obvious.

Mr. Duke: Well I just want to say, not the employees, the jobs should be made permanent. Some of those employees should be fired, clearly, they are malicious. But the jobs should be made permanent. That is what we want to say. The jobs should be made permanent.

Mr. Chairman, let me just, without your invitation, let me just plough ahead to say, not only is OSH Authority culpable, also the fire services of Trinidad and Tobago, they are culpable. They have been doing a slipshod job. As a matter fact, I could say to you without the fear of contradiction, they have produced many fraudulent fire certificates. I can say that for a fact. All the fire certificates at the Civil Aviation Authority are fraudulent. They have produced them and those certificates are fraudulent. In order to give—let me qualify. In order to provide a fire certificate of building there must be a fire drill, and they have produced about four fire certificates for four buildings without a single fire drill. That, to me, is fraud.

Mr. Chairman: All right. Mr. Duke, enlightening as it, right, I mean, when we make allegations of fraud, you know that is a serious allegation to be made. Right?

Mr. Duke: Yes.

Mr. Chairman: Yeah. So would you have taken steps to bring that notice to the appropriate authorities?—that this has been, in fact, noticed and you recommend that this be investigated?

Mr. Duke: I was waiting for a moment like this, Mr. Chairman, a moment when I have parliamentary protection to say it. So, I prefer a more type of a non-aggressive dialogue rather than to bring it and then the light gets shone on someone, you know what I mean? I would not really blame these people, these people are operating under—

Mr. Chairman: Exactly.

Mr. Duke:—bad vibes. But when I bring it here now and I point out why— even at WASA there are several fire certificates there that are simply fraudulent. Many fire officers now are doing it from some kitchen, some car, just write it up and say it is good.

They are not complying, because to have a fire certificate, based on section 26 of the Act, there are a number of prerequisites, and when we drill down a lot of those things are missing. And we can challenge that.

Mr. Chairman: Well, Mr. Duke, we appreciate this information, and I guess the Committee in our deliberations will reflect upon it, and where we can write to the various authorities to have that either verified or explained to us, I think it is important that the appropriate action then will be taken to remedy that, because if you are alleging that certificates are given without the proper inspections being done, that certainly is a major allegation that one cannot just put under the bridge. Right? So, we will be taking that on board.

And as you said, I do agree with what you are saying here, eh, that we need to engage in a dialogue, not in a confrontational manner, but in a manner that will enlighten us, empower us, because knowledge is power that we can do what needs to be done. Because at the time, we are all on the same side, eh?—the side of the public of Trinidad and Tobago, and all its employees, you see.

And if we can get more man-hours in a qualitative way in an environment that people are comfortable and feel protected, I guess productivity can rise. Right? So that is where we are going. This is what I am hoping to—at the end of this discussion that we would have had a lot of information from you all, a lot of insight that we can reflect upon and make an appropriate report that will be taken to be put in action.

So far, I think I am very much enlightened by what has been going on here, and the way it has been conducted, so in advance I am telling you thank you very much for being here and the type of information you have been sharing with us. Mr. Rousseau, you are putting up your hand as though you are in class.

Mr. Allen: Mr. Allen.

Mr. Chairman: Mr. Allen, sorry.

Mr. Allen: Yes. Just two contributions I wanted to add.

Mr. Chairman: And then Mr. Persad.

Mr. Allen: Just two quick contributions I wanted to add.

Mr. Chairman: Sure.

Mr. Allen: Firstly, in terms of amendments to the legislation. The Act gives the workers the right to seek redress before the Industrial Court. The Act does not give the union the unfettered right to do likewise.

Mr. Chairman: So that is something that needs to be attended to.

Mr. Allen: The union ought to have the legislative right to bring any matter before the Industrial Court that affects adversely the health, safety and well-being of the worker at the workplace. And it is something that we have been asking for before the Act was even passed. There was not one mention of the word "union" in the Act, but you have us summoned here.

Secondly, on the question of protection of the worker. The Act makes it an offence for an employer to prejudice the employment of a worker.

Mr. Chairman: Yes, I am aware of that section, yes.

Mr. Allen: Yes. And in that regard, if the employer is guilty, he will be punished in accordance with the provisions set out. But the Act does not say, as in the case of the Industrial Relations Act that the court can order, will order reinstatement, removal of suspension, et cetera, et cetera, and I think that that ought to be specifically stated in the Act in the same way that it is set out in the Industrial Relations Act.

Mr. Chairman: Thank you. It is something we will also note as well. If I can say now, that we are intending to write to the Law Association. I know that the president of the Law Association, Mr. Douglas Mendes, is an eminent industrial law practitioner in Trinidad and in the Caribbean, and I think we will invite them, hopefully he will be able to make an appearance, to assist us when are reviewing the agency with the Ministry of Labour and Small and Micro Enterprise Development as well on the next occasion, which will be on the 11th of June, 2018.

Some of what you have raised here, or all of what you have raised here, where it is legislative, and dealing with the interrelation with the Industrial Court and so forth, certainly will give us an opportunity to put that to somebody who I believe will be able to assist us and give us the benefit of his experience and the benefits of his knowledge in this regard. I am looking forward to that, and I certainly am telegraphing to you all that what you have said here will inform a lot of what we will be able to do on the next occasion.

Mr. Allen was saying why, you know, they are not mentioned in the Act, but you are here this morning. You are here precisely because you are the person who encounter most, the legislation, that uses it, and we believe it appropriate to start with you first to give us a good understanding of what is expected. The legislation says X, Y and Z, what actually is the real experience that you all face when you try to use the legislation in securing the interest of the employees, and what you have done this morning, is exactly what we have expected you to have done, in a very cordial, in a very responsible way, and I am thanking you in advance for that again.

And whatever you may think of at the end of this session that has not been raised here, because we cannot raise everything and we are running just short of time, not through you, I must say, but we will appreciate you writing to us. Right? And we certainly will like to, whatever can be written, whatever you think about before we reach the next session, which will be on the 11th of June, we will appreciate that. It would help us to be more relevant, and to be more proactive in getting to where we can feel comfortable that the OSHA is serving the purpose for which it is intended. Yes? Member, you had something you wanted to say? No? Mr. Persad. Sorry.

Mr. Persad: Yeah. Mr. Chairman, very quickly, there are some—it has been brought to my attention that there are some workers who are currently in no-man's land because the delay by the Registration, Recognition and Certification Board to certify a union to represent them, and we hope that whatever happens, that the time span for recognition of any, you know, union, should be shorter than, you know, just delayed, and the workers are

caught in no-man's land, so they do not know who to turn to, where to turn to.

Secondly, as you quite rightly pointed out, there is nothing in the Act on disability or for persons with disabilities, and CODO stands ready to work with the Committee and with whoever in ensuring that the playing field is level for all. Thank you.

Mr. Chairman: And I endorse that to very much. Thank you very much.

Ms. Ameen: I just want to ask very quickly, Mr. Persad, if your organization is in a position to make submissions or recommendations as to some—written submissions—as to what could be included in the Act to cover persons with disabilities.

Mr. Persad: Well it is something we could look at, and we can circulate to our membership and get feedback and then get back to you.

Mr. Chairman: I appreciate that. At this time, members, as well as members of the trade unions, I will thank you for your participation, and I will start by inviting Mr. Ramsingh to make a short closing remark for our benefit this morning.

Mr. Ramsingh: Thank you very much, Chairman, and members. I just want to say in closing that we accept your invitation with respect to sending further recommendations to the Committee, probably a little more clearly, with a little more time we have on our hands now, and also to consult with some of our other unions.

And in addition to that, I just want to say that occupational health and safety supposed to be, we are supposed to take a tripartite approach to it, in that, the fact that when parties work together and they come up with whatever that solution is to the challenges that we have bind from parties, and it is in the best interest of all, and it is more acceptable. So, I just want to thank you, again, for this opportunity on behalf of JTUM, to give this presentation to this august body. Thank you.

Mr. Chairman: Thank you very much for participation as well. Mr. Duke, would you also make a closing comment?

Mr. Duke: Mr. Chairman, indeed I am happy for this occasion. I think much has been said. We have gotten a lot off our chests. We are feeling lighter, and we do hope that

given the fact that the Minister, under whose charge is OSH is here, that the appropriate steps would be taken to hold the OSH Authority accountable for the safety, health and welfare of all of Trinidad and Tobago's employees. Every single employee must be protected, and they must be vigorous in pursuing and enforcing the law. Thank you.

Mr. Chairman: Thank you very much, Mr. Duke. Mr. Simpson.

Mr. Simpson: Thank you, Mr. Chairman. On behalf of the president general and the members of the executive of the National Union of Government and Federated Workers, we want to thank the Committee, again, for inviting us here.

Hopefully protocol will allow for us—the trade union bodies that are here today—to have verbatim notes of these proceedings, should in case we may have to raise it again in the future. And we look forward to most, if not all of our recommendations that came out of today's proceedings to be placed before the drafters of the legislation to allow it to progress.

We are very committed to Trinidad and Tobago and also to having a productive society, and we believe that with proper health and safety legislation, our trade union, as well as our brothers and sisters trade unions and fellow comrades, will also be able to put our foot forward in bringing this society, as in working class society, to make this country a better and more productive one. Thank you Mr. Chairman.

Mr. Chairman: I thank you very much. Mr. Persad, would you like to make any closing remarks?

Mr. Persad: All that is left for me to say again on behalf of the consortium of disability organizations, a big thanks to those who have invited us. We stand ready to work with all agencies for the empowerment and enrichment of all, including persons with disabilities as we work hand in hand, because we are part of society. We recognize that the UN Convention on the Rights of Persons with Disabilities speaks on a number of issues pertaining to employment, health, education, et cetera, and so we have to carry the mantle forward, in ensuring that all of us are included in whatever decisions, in whatever

programmes, plans and futuristic activities are taking place in and around our country, for together we aspire, together we will achieve. Thank you very much.

Mr. Chairman: I could not say it better than that, and I thank you very much for that. So in closing, I would like to thank you, again, for your participation. I mean, this was very enlightening, it was a very positive environment, and it could not have been achieved without your participation in the mature and objective way in which you did. And, you know, unions are seen sometimes in a combative way, and it is quite enlightening. I hope that the public will see that there is a constructive, engaging and sincere part to unions, that they play a critical role in our society, and we are all on the same bus, so to speak, and that what we want to achieve from this and any other Joint Select Committee that involves public entities in scrutinizing the activities and their efficiency, is only to create a better environment for us to prosper in.

And with that, I thank you, I thank the listening public, and just to remind you all that the next hearing of OSHA, which will continue with the Ministry and the agency itself, will be held on the 11th of June, 2017—2018, I am saying 2017. I am going back in time; 2018, and at that time we hope to take this to its conclusion. Thank you very much, and good afternoon.

12.25 p.m.: *Meeting adjourned*.

VERBATIM NOTES OF THE 25TH MEETING OF THE JOINT SELECT COMMITTEE APPOINTED TO INQUIRE INTO AND REPORT ON LOCAL AUTHORITIES, SERVICE COMMISSIONS AND STATUTORY AUTHORITIES (INCLUDING THE THA), HELD IN THE J. HAMILTON MAURICE MEETING ROOM, MEZZANINE FLOOR, TOWER D, INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON WEDNESDAY, JUNE 11, 2018

PRESENT

Mr. H. R. Ian Roach	Chairman
Mr. Nigel De Freitas	Member
Mr. Darryl Smith	Member
Ms. Khadijah Ameen	Member
Mr. Julien Ogilvie	Secretary
Ms. Khisha Peterkin	Assistant Secretary
Ms. Simone Yallery	Legal Officer
Ms. Terri Ann Baker	Graduate Research Assistant

ABSENT

Ms. Ramona Ramdial	Vice-Chairman [*Excused*]
Mrs. Jennifer Baptiste-Primus	Member [*Excused*]
Mr. Esmond Forde	Member
Dr. Lovell Francis	Member

OFFICIALS OF THE MINISTRY OF LABOUR AND SMALL ENTERPRISE DEVELOPMENT

Ms. Natalie Willis	Permanent Secretary (Ag.)
Mr. Andre Laveau	Deputy Permanent Secretary (Ag.)
Ms. Sangeeta Boondoo	Senior Legal Officer

Ms. Shanmattee Singh Ng Sang Director, Research & Planning

Ms. Willis: Good morning, Chair and members. Thank you for the opportunity to meet with this Committee on the enquiry into OSH compliance in the public service. The Ministry of Labour and Small Enterprise Development plays a strategic role in creating growth, promoting diversity and restoring confidence through its critical work in fulfilling Government's labour, employment and entrepreneurship commitments, which impact all sectors of the economy and all Ministries and agencies.

The work of the Ministry has been given greater prominence in national development, especially with the adoption of the Sustainable Development Goals in 2015, specifically goal eight, which speaks to promoting inclusive and sustainable economic growth, employment and decent work for all.

Decent work refers to work that is safe, productive, delivers a fair income and upholds the rights of workers. One of the targets in the achievement of goal eight is the protection of labour rights and the promotion of safe and secure working environments for all workers.

The health and safety of workers is of high priority to the Government, which has been articulated in the Government's official policy framework and the National Development Strategy, Vision 2030.

To fulfil these mandates, one of the objectives of the Ministry's new strategic plan 2017 to 2020 relates to the creation of a safe, healthy and congenial atmosphere to facilitate improved overall work conditions and enhanced productivity. The Ministry's strategic plan 2017 to 2020, as approved by Cabinet is centred on a vision of decent work, industrial peace and opportunity for all.

In realizing its vision, the Ministry has identified one of its core functions as the improvement of the quality of life through the promotion of occupational safety and health awareness in the workplace and enforcement of OSH standards.

The Ministry recognizes that although we have made great strides in improving the

framework for the management of safety and health in the workplace and the enactment of the Occupational Safety and Health Act, there is much more to do.

The time has come for us to review the OSH Act to address its deficiencies as we have heard from stakeholders that this Joint Select Committee, as well as from our consultative process, which we would have engaged in, in Trinidad in March 2017, and in Tobago in July 2017.

Further, in an effort to obtain feedback from specific stakeholders, sectoral consultations were also held in July 2017, and a draft interim report and a policy position paper were developed coming out of these consultations, which is currently being reviewed at the Ministry

The amendment of the OSH Act, together with addressing some of the challenges facing the OSH Agency such as accommodation and staffing are priorities for the Ministry of Labour and Small Enterprise Development.

In closing, Mr. Chairman, I wish to emphasize that the Ministry of Labour and Small Enterprise Development is committed to working with the OSH Authority to strengthen the agency, to improve its function in the implementation and enforcement of the OSH Act.

We totally embrace the feedback received from stakeholders through this Joint Select Committee, as well as other fora, in strengthening the framework for occupational safety and health compliance in Trinidad and Tobago and in promoting a culture of safety and health in all work places.

Once again, thank you for being able to contribute to this enquiry and I look forward to fruitful discussions.

Mr. Chairman: Thank you very much Mrs. Willis, but I forgot to mention that once you go over your time by a minute, there is a $1,000 penalty. [*Laughter*] So, I think you went over by two. I am just saying, I mean, the others coming after you will have the benefit of not being able to contain their pockets, but I hope you would have walked with your

money to dispense your charge before leaving.

So I will now turn to Mr. Richard Madray, Permanent Secretary in the Ministry of Health and you were advised. You heard my commentary about the two minutes and the penalty, so you are aware of the penalty now, eh.

Mr. Madray: Thank you, Mr. Chairman, good morning, and good morning also to members of the Committee. Not having that kind of money to spend, I will keep my comments very, very brief indeed.

I take this opportunity to reaffirm the commitment of the Ministry of Health to complying with and implementing the provisions of the Occupational Safety and Health Act.

In this regard, on November 07, 2017, a Memorandum of Understanding was signed with the OSH Agency to strengthen our partnership in compliance with the Act. It is envisaged that today's proceedings will be insightful towards promoting occupational health and safety throughout the system. Thank you.

Mr. Chairman: Marvelous, thank you very much. There is also a prize, for all those who finish within the time, of a $5,000 loan. [*Laughter*] Now it is your turn, Mr. Deputy Chairman.

Mr. Dhanraj: So, good morning, Chairman, the hon. Sen. Ian Roach and other hon. members of this Joint Select Committee. The Occupational Safety and Health Authority and Agency thanks the Committee for this opportunity to be of assistance in its enquiry into the occupational safety and health compliance within the public service.

OSH, in its preface to its written responses, has attempted to provide the Committee with a background of OSH, as well at its operations, challenges and achievements. The proclamation of the Occupational Safety and Health Act, marked a watershed moment in the recognition of the rights of workers in Trinidad and Tobago to a safe and healthy work environment. It is intended to prevent or reduce injuries to ill-health as a result of accidents and incidents in the workplace.

Additionally, the Act provides for the regulation of the safety, health and welfare of persons at work. OSH is of the firm belief, that safety and healthy work spaces benefit not only workers and those who depend on them but also employees through higher productivity and profitability. This will ultimately contribute to increased economic activity across the national landscape. OSH is firmly committed to its mandate and welcomes any assistance and guidance from the Committee in achieving its goals. Thank you.

Mr. Chairman: Thank you very much. Marvelous. I would now invite the Ministry of Labour and Small Enterprise Development to introduce the other members of your team.

Ms. Willis: Thank you. To my immediate left, I would ask—

Mr. Chairman: They can introduce themselves, yeah.

[*Introductions made*]

Mr. Chairman: Ministry of Health.

Mr. Madray: Good morning, I will ask the members of my team to introduce themselves, starting with the Chief Medical Officer.

[*Introductions made*]

OFFICIALS OF THE MINISTRY OF HEALTH

Mr. Richard Madray	Permanent Secretary
Dr. Brian Amour	Chief Medical Officer (Ag.)
Dr. Mark Allen	Occupation Health Analyst
Dr. Ishta Rampersad	Occupational Medicine Specialist NWRHA

Mr. Chairman: OSHA Authority.

[*Introductions made*]

OFFICIALS OF OSHA

Dr. Surendra Dhanraj	Deputy Chairman
Mrs. Pettal John-Beerens	Deputy Director Legal
Mrs. Carolyn Sancho	Executive Director

Mr. Corey Harrison	Human Resource Manager
Mrs. Indira Mc Farlane-Lee	Secretary to the Board
Ms. Annastasia Marchan	Research Planning Development Mgr
Mr. Franz Brisbane	Chief Inspector (Ag)
Mr. Farzan Ali	Member Board OSH Authority

Dr. Dhanraj: Chairman, similarly, I will start with our Executive Director on the right.

Mr. Chairman: That is it? Thank you very much. I would just like to remind members, when you are speaking, you will activate your microphone and when you are finished speaking just deactivate it, so it can be recorded and not interfere when you are not speaking.

The proceedings this morning will go along on the basis that we will ask you some questions and require your answer, your assistance, as best as it can be. What you say in these proceedings, you know your rights. You are protected. You have the same privileges as parliamentarians, while you are giving evidence or assistance to the Committee. So fear no evil. Okay? There are no consequences to come from it, once you are truthful. Okay? So we will start off by asking some questions.

I would like to ask the first question. You know, on the last occasion we met with the unions and we met with members of the disability committee on the last occasion. We had a very good representation and it was a very informative interaction and I saw the benefits. In reviewing the Minutes of that meeting, I saw the benefit of taking it in the order in which we did, having them come before as members who would have interacted with the Act itself and the Authority and the Ministries.

So we were enlightened as to some of the clear, I think deficiencies, and some of the areas of concern, which we would hope that, at the end of today's proceedings you would be able to have it clarified or enlighten us further. Yes?

So the first question I want coming from that, is that, this came from JTUM, the umbrella union, the joint trade unionists, and they did ask the question. They said that

although the OSH Act was passed in 2004, amended in 2006, and the agency established in 2007, to date, the Act has been ineffective. Now, I would like to ask the OSHA to begin with, what is your reaction to that? Is that a true, a really accurate statement or inaccurate? If not so, could you enlighten us as to the effectiveness of the Act?

Mr. Dhanraj: Chairman, in response to that question, there are some challenges definitely that have been experienced by the OSH Authority and Agency. During its relatively brief span of about 10 years, some of the issues that I would want to list:

- vacancies in key leadership positions and operational positions as well; that would have hampered the ability of the inspectorate to deliver.
- finding of permanent offices;
- lack of policies and procedures;
- a lack of funding and training opportunities for the inspectors;
- outstanding salary negotiations and payments of gratuity to employees.

Those stand out as some of the major challenges that would stymie its ability to deliver.

However, since the establishment of the current Occupational Safety and Health Authority, which was in May 2016, it has focused on coordination and collaboration with stakeholders including the ILO; filling key leadership and operational vacancies, thereby strengthening the agency; strengthening the corporate governance structure through critical human resource policies and procedures; increasing human and the IT resource of the inspectorate; improving inspections and increasing enforcements, which you know, always high on the list; prosecution of occupational safety and health offences. I think in that area we probably made the biggest improvement.

If I can go on to give some figures. With respect to enforcement activity by the inspectorate, there were 47 and 53 improvement notices issued in fiscal 2016 and 2017. This represents a 262 per cent and a 212 per cent increase relatively over the preceding year. So, a definite increase there.

There were 1,490 inspections conducted for the year prior, which again represents

about a 42.4 per cent increase over the previous year. The health and safety inspector inspections, we usually have a metric where we look at 10 inspections per inspector, that is a Health and Safety Inspector I, and five for a Health and Safety Inspector II. The average for the preceding year was 9.5 for the Is, and five for the Inspector IIs. So, definitely, we are pretty close to our targets there. I mean, put another way, that is about 154 inspections for the agency per month; a huge increase from the past.

10.35 a.m.

Mr. Chairman: Dr. Dhanraj, let me just ask you a question again. The basis of the OSH Authority and its agency is to do what? What is its objective? What is its sole objective?

Dr. Dhanraj: To enforce as stated in the Occupational Safety and Health Act.

Mr. Chairman: To make work environments safe. Right? And, therefore, you are giving me some critical information in terms of the breakdown to assess its efficacy, its effectiveness. So would you, in answering the question that I asked, would you say it has been ineffective or has it not been effective and if you have to grade it out of 100 per cent, what would you give it? A passing grade, a failing grade?

Dr. Dhanraj: I think of recent we have a passing grade, not 100 per cent.

Mrs. Sancho: Chair, Carolyn Sancho, Executive Director of OSHA. The Act, as you know, it was proclaimed in terms of 2007 and it has been ongoing. However, we have noticed that although there are some areas that are effective, for instance, refusal to work, employer's responsibilities, those areas have been effective, but in enforcing the Act, we have recognized—because it was the first time the Act was actually used, so now we are using it for the first time to see how it works.

There are deficiencies. As a result of that, we have embarked on amending the Act and this took place—well the first set of constitutions for that took place last year. Based on feedback from the view holders in terms of how they see the Act and the deficiencies they have identified, we are using that information to now improve the Act.

So, in terms of effectiveness, I would say 50 to 60 per cent in terms of how effective

the Act has been to allow us to enforce, but we are working towards getting it higher than that based on what is happening in industrial establishments now and also the feedback coming from the people against which we enforce. So we work collaboratively with.

Mr. Chairman: Thank you very much for that. Ms. Ameen?

Miss Ameen: My question is to the Chairman of the OSH Board. You indicated improvements in terms of filling vacant positions, improving your human and IT resource. So either you or your Human Resource Manager, if you could indicate to the Committee, the number of vacant positions you still have within the Authority and what is required to fill those?

Mr. Chairman: Just for clarification purposes for the benefit of the public, in answering member Ameen's question, there is a distinction between the authority and the agency. So I want to believe that member Ameen wants to know: what is the agency's deficiencies as opposed to the board, the authority? Yes?

Mr. Harrison: Currently we have 87 vacancies in the agency out of 152. So we are currently operating at about 40-something per cent. The constraint is finances. So that is about it.

Ms. Ameen: Are these positions contract positions?

Mr. Harrison: All our positions are contract positions.

Mr. Chairman: All are? What is the budget of the authority?

Mrs. Sancho: The budget of the authority for—?

Mr. Chairman: Of the agency?

Mrs. Sancho: For employment?

Mr. Chairman: Do you all have an overall budget for implementation for the fiscal year? Do you have a fiscal budget?

Mrs. Sancho: Well, every year it varies. This last period for the recurrent, I think we had just over $21 million budget for recurrent expenses.

Mr. Chairman: For recurrent expenditure.

Mrs. Sancho: Yes. And then we have $2 million for PSIP expenses.

Mr. Chairman: For what?

Mrs. Sancho: Two million for PSIP expenses; developmental projects.

Mr. Chairman: Right? And $21 million has been found to be inefficient?

Mrs. Sancho: It is inadequate yeah.

Mr. Chairman: It is inadequate by how much? By what? What would be the adequate requirement to have you all up and running at 100 per cent or a certain higher level than 47 per cent? What would be the budgetary requirements?

Mrs. Sancho: As the HR Manager said, we have 152 positions that have been approved, and over time I think, just for contract employment alone, off the top of my head it is about $48 million it would need for recruiting the personnel that we would need. What we got for this particular period was $14.250 million for recruitment, so that would keep us with the 65 people we currently have, and there was a $250,000 excess on that budget so we could not really bring anybody on. So it is really under-resourced in terms of our contract employment.

Mr. Chairman: Yes, Ms. Willis. Sorry?

Ms. Willis: Chair, permit me to add that the Ministry recognizing the constraints that the agency is facing, we recently sought to move money from within our other votes in the Ministry to put towards the agency's vote for their contract employment—

Mr. Chairman: Like what? Could you give a figure?

Ms. Willis:—so that they could essentially bring on approximately three to four more Inspectors.

Mr. Chairman: So that is like what, $2 to $3 million or $1 million?

Ms. Willis: Approximately I think it was $500,000.

Mr. Chairman: So, that is only a drop.

Ms. Willis: Yes.

Mr. Chairman: The thing is, the question I was going to ask, I mean is almost self-

evidentiary that the agency cannot be proactive. If it is you are operating so much under an efficiency level, I would see and I expect an agency of this nature to be proactive as opposed to be just reactionary in terms of responding to complaints in terms of inspecting and seeing how much compliance and so forth. That is almost impossible. Am I right? You cannot shake your head. You have to tell me yes or not for it to be recorded.

Mrs. Sancho: Yes, you are correct.

Mr. Chairman: It is. It is very unfortunate. The Ministry, I mean, as the line Ministry, have you all ever made any approaches to the Government, to the Cabinet, to improve this budget?

Ms. Willis: Yes Chair, but as you recognize, we are operating right now within certain fiscal constraints. While the upcoming budget for the next fiscal, we would have sought to treat with this issue in terms of increasing the allocation to the agency.

Mr. Chairman: So what will you all be asking for, if you can project what is the amount you are going to be asking for. I mean, what the member said just know is that you were looking at $48 million to make it efficient.

Ms. Willis: I do not believe we would be looking at that figure, but certainly more than what they are currently allocated which is approximately $18.8 million.

Mr. Chairman: Member Smith, you wanted to ask a question?

Mr. Smith: Yeah. Thank you, Chairman. In your submission you stated that a total of 2,497 complaints have been received by the OSH agency. I would like two answers for that: what period was that figure for and how much of that was split up between the public sector and/or public bodies and private bodies?

Mr. Brisbane: It was from October 2006 to March 2018 and of the figures to total it off for you, it would be 81 for public, 81.

Mr. Smith: Eighty-one is from public bodies and the rest is from the private.

Mr. Brisbane: Yes, from the private.

Mr. Smith: All right. Thanks.

Mr. De Freitas: Thank you, Mr. Chairman. This question to the OSH agency. You just indicated that you have 87 vacancies in the agency and in the breakdown that was given, out of 30 positions varying between one vacancy and six vacancies, there is one that stands out with 32 vacancies that is Safety and Health Inspector I. Why is that particular position that seems to me to be key, have so many vacancies in it? Is there something wrong with the job description or the remuneration?

Mrs. Sancho: Well the job descriptions are approved job descriptions from CPO, so that is what we use. It has not proven to be an issue in terms of the reasons for not having enough Safety and Health Inspectors. Most of the reasons, in terms of why we do not have them, stems from lack of funding to employ them. The last funding we got we employed seven last year July. We brought seven Inspector Is on and one Inspector II, but based on funding, we then bring people on.

Mr. De Freitas: But how key is that role to the agency in executing its work?

Mrs. Sancho: It is very key, because those are the Inspectors who are on the ground that go out and do the inspections. They do a reactive inspection and if we had more of them we would be able to do proactive inspections as well. So they are the ones that visit the industrial establishments, bring back the data and enforce the Act on the ground.

Mr. De Freitas: So then would a priority not be put on that particular post to ensure that you have enough? Because like I said, there are 30 posts outline here varying in terms of vacancies from one to six, but in terms of managing the finances that are given, would there not be a higher priority put on the Safety and Health Inspector I given that key role?

Mrs. Sancho: Yes, and we did put priority on it in terms of the positions we intend to bring on first in terms of when we would need them. However, as I mentioned before, the funding is a problem and also space in terms of where they would sit when they come in, because we are also constrained by accommodation.

Mr. De Freitas: Okay.

Mr. Chairman: Just to pick from what member De Freitas was asking, the remuneration

for the contract workers, is it based on a priority of the public service? Is it the private sector or public service?

Mrs. Sancho: It is public. We got those from CPO.

Mr. Chairman: From the CPO.

Mrs. Sancho: Yes.

Mr. Chairman: And is that posing a problem to attract? Apart from it not having the necessary resources, is it also a deterrent of attracting the right type of people to be able to be—

Mrs. Sancho: Yes, Sir.

Mr. Chairman:—report on board as well.

Mrs. Sancho: Yes, Sir. It is also a factor.

Mr. Chairman: Has the agency or the board considered what would have been a more attractive package so as to attract the quality of individuals you would like? Do you have such an assessment done?

Mrs. Sancho: Yes, we had that assessment done. When that terms and conditions expired in 2012, we had to put a submission towards CPO recommending what salary should be based on the industrial rates and rates around the world for similarly-typed positions. So we would have put that forward to CPO since November 2016 I believe.

Mr. Chairman: And what has been their response?

Mrs. Sancho: The response—well the first response we got from the CPO was they were offering a 0 per cent rise for the period 2012 to 2015 and a 3 per cent rise for the period 2015 to 2018. We were then asked to resubmit justifications as to why we would be asking for such a rise, and we had provided that in March 2017, but we have not had any response from them officially. The Ministry has been liaising with them as well in terms of getting a response to that submission.

Mr. Chairman: Wow! Wow! That is a predicament. Sorry?

Ms. Ameen: Mr. Chairman, my concern is now the agency's ability to investigate

complaints, because we did have a public hearing with other agencies including unions, and one of their main complaints is that when they make complaints they are not addressed, they are not investigated in a timely manner or not investigated at all. So my question to you is, is it that your human resource shortage is affecting your ability to investigate the complaints you receive or are their other impediments?

Mrs. Sancho: The agency does investigate the complaints. We have the statistics to demonstrate that. The complaints come via—we have a hotline and they come through that medium and people also send in complaints via other means. When we get the complaints, the complaints are prioritized. We have set some time frames as to when we should investigates them, depending on the severity. Some of them, we make initial phone calls to find out more information and then the Inspectors would then investigate them based on urgency. So we do investigate the complaints. However, because of the shortage of staff, we have an issue because we are supposed to have 48 Inspectors based on what was approved—48 Inspectors Is—we only have 16. So based on that we have to really prioritize these.

We have introduced a system where some of the complaints, depending on how severe they are, we sometimes close them off via telephone. So we have managed to do that as well to bring down the number of complaints. We had a backlog of 906 complaints last year, now it is down to 110 based on the fact that we have introduced a system to deal with them, so that we could fulfil our duties to those people who do complain.

Mr. Chairman: Could we hear from the Chief Inspector? What is your reaction to this? How are you able to function with these shortages as being highlighted here?

Mr. Brisbane: Thank you, Mr. Chairman.

Mr. Chairman: What are your greatest challenges at this point in time?

Mr. Brisbane: Our greatest challenge in this case will be human resource and finances. At the end of it, with 16 Inspectors with 14 in Trinidad and two in Tobago.

Mr. Chairman: Are you the Chief Inspector?

Mr. Brisbane: Yes, Sir.

Mr. Chairman: Okay.

Mr. Brisbane: So with 14 Inspectors in Trinidad and two in Tobago, I think was February or November last year, we had 210 recorded accidents that came in to the agency. As far as we are concerned that is our priority when it comes in to the agency. With regard to complaints and so forth, we try to prioritize based on our resources. So based on our assessing of the risk level of these complaints and accidents is how we will allocate our resources.

Mr. Chairman: This seems like a major challenge, because if member Ameen was just speaking about the promptness in reacting to complaints being made, this was a very common complain coming out from our hearing prior to you all. I mean how effective this could really be? I mean, this has an immediate effect in terms of work productivity, because if it is that a complaint is made, for instance, in a school by teachers that there is an imminent danger—I would like you all to explain before you leave exactly how you all interpret what is "imminent danger" because it is a very blur area in terms of even from my experience dealing with issues like this from a legal perspective, that will allow persons to be able to leave their workplace and not be subject to be victimized, and I have to challenge it in court during the issue being resolved. How do you deal with that? I mean, how that is dealt with?

Mr. Brisbane: Again, like I mentioned before, it is all based on a risk assessment. Now, when you are dealing with teachers wanting to remove themselves from the premises, then we are looking at a refusal to work scenario and that in itself—from section 14 to 21 I believe in the Act—deals with refusal to work and that carries a specific criteria in itself. In that essence, they need to bring whatever their concerns are to the relevant authorities within that school scenario, if you are looking at that, where their safety and health committee together with themselves are to investigate the matter to legitimize their claims. Upon that, if it is that they are unhappy or unsatisfied or that their matters were not

addressed then the agency will get involved. That is the process for refusal to work.

Mr. Chairman: But how do you check on the compliance of schools having these safety committees established? What is the status of that? How compliant are the schools in terms of setting up their safety committees? Are all schools compliant where that is concerned?

Mr. Brisbane: As far as to my understanding, no.

Mr. Chairman: No? So what does the agency do about that?

Mrs. Sancho: We met with the Ministry of Education recently to formulate a way forward, because we found that a lot of the complaints are coming out of the schools because of the infrastructural problems the schools have. But our aim is really to try not to close down the schools, but to find a way to fix the issue without having to disrupt schools unless it is imminently dangerous. So, again—

Mr. Chairman: Sorry. So what do you mean by imminently dangerous? Is there a unified understanding apart from what the dictionary meaning may mean? It means something about to happen right now. Is that how you all would look at it?

Mrs. Sancho: We look at it that way, but we based it on risk and calculating risk in terms of frequency by severity. There is a table, a five by five matrix that you would use to then determine from a numerical perspective how imminent this issue is going to be. That table has a red, yellow and green in terms of how it is defined, red being the worst and green being it is okay. So based on that risk assessment and using that numerical value, we will determine how imminent this danger is going to be and then take action from there. Ms. Ameen, you wanted to ask a question again?

Ms. Ameen: I want to ask the Ministry, I mean, you have a policy, you have a law and then you have the agency's ability to implement. What plans do you have considering your strategic development plans that you have outlined in your opening remarks to ensure that the agency is brought at least up to a functional capacity to fit in with the plans that you have for labour and development of human resource in our country?

Ms. Willis: Thank you member. As indicated earlier, the Ministry recognizing that the need for the agency to increase its number of inspections and to be proactive has decided that incrementally, we would provide the funding to bring on more Inspectors. So we would have provided funding for this fiscal to bring on at least up to three to four Inspectors more.

Ms. Ameen: So, can I ask, when do you in your plan foresee that you will at least reach 80 per cent capacity in terms of staffing human resource at the agency?

Ms. Willis: I cannot give that information.

Ms. Ameen: I know you said you had a time frame and you intend to do it incrementally, so I expect that by this year you want to improve via a certain amount and you will have milestones for every year.

Ms. Willis: Yes, we do.

Ms. Ameen: If you do not have it that is okay.

Ms. Willis: But I do not have it at the moment.

Ms. Ameen: Can you send it to the Committee?

Ms. Willis: Sure.

Mr. Chairman: All right. Thank you. So we look forward to your response in writing. Now, Just to develop further from the—I asked you specifically about the schools, but what about the Ministries, the various ministries compliance with setting up these committees? I have a list that was provided in terms of an answer and there were at least 22 Ministries identified. I do not know if that is the entire complement of Ministries in the public service, but from the 22, I have seen that nine are not compliant—the Ministry and the departments—and some of them, for instance, the Service Commission is not compliant; the Ministry of Social Development and Family Services, not compliant; the Office of the Prime Minister Tobago Affairs, Central Administrative Services Tobago, not compliant; the Ministry of Health who is before us, which I would hope to hear something from them with that, not compliant; the Ministry of National Security Probation Services,

not compliant; the General Administration—not compliant—the Trinidad and Tobago Defence Force, not compliant; the Trinidad and Tobago Cadet Force, not compliant and the Office of Disaster Preparedness and Management, not compliant. I mean, really and truly? So the Ministry of Health is here. So first, let me hear why the Ministry of Health is not compliant when the Ministry of Health has a significant role to play under this OSH Act.

Mr. Madray: In respect of the—well, just as the situation would have been at the Ministry of Labour and Small Enterprise Development, it was important for us to fill relevant positions. As Dr. Allen has indicated in his opening remarks. He has been working with the Ministry for the past couple months. Fortunately, we can say that we have recently come into compliance with respect to the establishment of the Committee and there has been a meeting of that committee.

We put our attention to ensuring that we had the requisite capabilities in the Ministry to ensure that we could move forward and we are, therefore, very thankful that we now have a person occupying the position of occupational safety and health. Dr. Allen chaired the first meeting of the committee.

Mr. Chairman: For the benefit of the listening public, in particular, and the viewing public, could you tell us what is the requirement of a safety committee? What is the composition of it that makes it so difficult it seems to establish?

Mr. Madray: All right. I would ask Dr. Allen to respond, please.

Mr. Chairman: Dr. Allen, welcome. Good morning.

Dr. Allen: Good morning, Chair. The safety committee would be comprised of members of management and also worker representatives. The intention is that there would be open, honest discourse between the workers who are on the shop floor experiencing the hazards as they see it, and management to get a full appreciation of what is being experienced by the workers and a meeting of the minds to ensure that these matters are addressed as quickly as possible. So it is a mix of worker representatives and management.

At the Ministry we have across the RHAs—all of the RHAs have health and safety committees, all of them, and also at the Ministry of Health we have a health and safety committee that is called a steering committee that would receive reports, information, from these various committees. So that we have oversight of all of what is happening within the Ministry.

Mr. Chairman: Is there a number that it may comprised of? In this mixture, is there a minimum or a maximum number?

Dr. Allen: The Act requires that once you have 25 or more employees that a committee is supposed to be established, which we definitely have exceeded, but what the arrangement is, is that each facility or division where work is happening where there are peculiar risks or issues that there is a committee there. So there would be subcommittees throughout and information, as I mentioned, would be fed into the steering committees.

Mr. Chairman: Subcommittees?

Dr. Allen: Yes.

Mr. Chairman: But is there a requirement that somebody—there must be a specialist in health and safety to be on that committee or not, somebody with some knowledge of what the Act or what is required in terms of the provisions of the Act.

Dr. Allen: Yes, there would be and this is where I would function to provide that technical—this is where I would provide that technical guidance and direction to the committee, but the committee members would also be in receipt of training.

Mr. Chairman: I am speaking about throughout the Ministries, all the Ministries. All of them have these committees set up? That is what I am speaking about, not just the Ministry of Health.

Dr. Allen: Okay.

Mr. Chairman: All the Ministries where committees are supposed to be set up under the Act, what is the composition? What is the nature? Are there specific qualifications to be on that committee? So I have a committee in roaches and flying whatever it is association.

I have 25 persons. Do I have a minimum of five persons being on a committee and one of those committees must be somebody who is versed in health issues or a legal person? What is it?

11.05 a.m.

Mr. Brisbane: Mr. Chairman, if I may be permitted, again, Chief Inspector from the Occupational Health and Safety Agency. There is no specified number as outline in the Act, however, we do act—

Mr. Chairman: Section 25E we are speaking about here, right? Section 25E we are speaking about of the Act?

Mr. Brisbane: "Yeah". What it speaks about is once you have 25 or more employees, but the composition itself is not specified in the Act. However, what we suggest in our guidance notes and stuff that we out when we are doing public sensitization, we give an example of a homogenous sample where you have both management and worker representatives.

And what we tend to also suggest is that you have persons from various aspects of the operation, so you literally get a view from every component of your operation a representative including employees, their representatives, management and upper management, so that you can all come together and express your views and come to a reasonable conclusion where there are any deficiencies within the organization.

Mr. Chairman: Member De Freitas would like to ask a question.

Mr. De Freitas: Thanks, again, Mr. Chairman. Just piggy-backing off what the line of questioning that the Chairman is going down. I remember outside in other jurisdictions in sort of Canada and in the United States, one of the things they do is that they have an OSH officer attached to the particular institution who is responsible for ensuring that the institution remains compliant with whatever OSH Act that they have in that particular country. And what I am hearing so far is that there is no specification

in our Act, this is Trinidad and Tobago, for an OSH officer somebody trained because this is a field of study. So that Ministries or private institutions do not have an OSH officer, but you have a health and safety committee made up of staff members and management so that the discussion, when complaints happen, could happen at that level. But you believe that they should have an OSH officer in every single Ministry and in every single work place once you go above 25 employees to make sure that compliance is there all the time in relation to the OSH Act?

Mr. Brisbane: Sorry about that. It is stated in the OSH Act under section 6 where it speaks to that once you have more than 25 employees, you are to hire a safety and health professional to advise, and that is one of the components of the health and safety committee as well.

Mr. De Freitas: But that is what the Chairman was asking, if there is someone who is trained in occupational health and safety that is a member of the committee who can help guide each institution in relation to being compliant with the Act? So that if that is the case, so then the next question is: Why is it that we have so many Ministries and so many institutions not compliant by way to their health and safety committee? So if there is someone there in the institution who is responsible, whose responsibility it is to ensure that you are compliant with the Act, then why are all these institutions not having their health and safety committee being set up?

Mr. Chairman: Nobody can answer?

Mr. Madray: Well this is an exploration. I do not know that I have an answer, but I can say that having been in a few Ministries this is the first one that I can clearly recall or know that there is a specific position of occupational health and safety analysts, but in other Ministries we would have tried to address the OSH requirements by placing it—by trying to pull together a combination of skill sets utilizing the human resource management division, and also the facilities and general administration divisions in

particular.

So, I am uncertain whether the OSH Act requires that there be specialists in the field or whether the function can be performed by persons who acquire relevant knowledge, but whose core function may have been facilities management, HR or otherwise. I can say see that for some small organizations it might be challenging to create positions, and expensive to create positions of a dedicated occupational safety and health analyst.

Mr. Chairman: You know, just a follow up from what the line—we are going to come back to Mr. De Freitas just now. But on the last occasion Mr. Watson Duke was here and he was quite informative and constructive in his contributions, which I appreciated, and one of the issues he raised which is in line with what we are saying here and I will read. Right?

> He also highlighted the fact that although there is legislation in place, there is no oversight by the agency to ensure the laws are implemented.

Would that be an accurate statement?

Mrs. Sancho: Well that would be an inaccurate statement, Sir, because a lot of the things that Mr. Duke said were inaccurate. When we inspect these organizations, it is during these inspections that we would see whether or not if people are compliant. Because of the fact that we have this shortage of staff, we tend to do reactive inspections based on the complaints that we get, but we also have in terms of the organizations or industrial establishments that are of higher risks like the oil and gas sector, we have a unit specially dedicated to them so we can have oversight over them even, whether they complain or they do not complain, we still have oversight over those higher risk by nature establishments.

Mr. Chairman: So how to you react to this?

That there has been an increase in accidents of 124 per cent during the period

2014 to 2015, to 2016 to 2017 demonstrating the agency's inability to ensure OSH compliance in Trinidad and Tobago?

Is that an accurate statement?

Mr. Brisbane: No, Sir, that is an inaccurate statement. The reason for that being, as of 2016 the agency has embarked on prosecution for falling to report an accident, and as a result of that, we have been prosecuting persons for that offence, and as a result of that we have an influx of accidents coming into the agency, and that is why the number have increased so drastically.

Mr. Chairman: Okay. So the percentage is correct, but the reason is inaccurate.

Mrs. Sancho: The numbers have increased. Yes. Because when the new board came in they placed an advert into the newspapers reminding the duty holders of their duty to report accidents, because accidents were being underreported, and they also placed in the newspapers the penalty for not reporting. Based on that we had 124 per cent increase in people reporting accidents to us, and therefore, we then had to step up what we were doing in terms of looking at the accidents, and also our prosecution rate increased as well over that period of time based on what the board put out. So we did get more because people were reminded of their duty to report.

But we then put a procedure in place that the board approved for looking at accidents, again, in that prioritizing way of serious accidents as opposed to not so serious ones, so we have a three-tried system, priority ones, twos and threes where we would then look at the accidents and then farm them in terms of how serious they are and how soon we go and look at it. So, we had to put a system in place to deal with that influx coming in.

Mr. Chairman: Okay. Thank you. Mr. De Freitas.

Mr. De Freitas: Thanks, again, just a follow up question to the Chairman. How many people have been prosecuted or how many institutions have been prosecuted? You said

there was a bump, it went up. Do you know the number?

Mrs. Sancho: Legal director could answer that question or you.

Mrs. John-Beerens: Hello, again. Mr. Chair, members, to date we have had approximately 200 prosecutions from 2015 to date, whereas before that it was less than 10.

Mr. De Freitas: Okay. One of the things I wanted to find out because I am starting see from a holistic standpoint certain correlations, so let me just ask a general question that anyone can answer. What relationship to you think there is between OSH compliance and general productivity in Trinidad and Tobago?

Mrs. Sancho: There is empirically a relationship between those two. If employers would recognize that OSH compliance would increase productivity, then we would have more compliance, I believe, but I think there needs to be that understanding that if you have health care work places and healthier employees, then you would have more work done, but we need to help them make that connection.

Mr. De Freitas: And then that is why I asked that question in relation to the specialists, the OSH specialists because there was a sentiment that the cost of certain companies or Ministries or institutions to hire an OSH specialist to drive that compliance, there may be a deterrence because of the cost, it is a specialist industry so obviously the remuneration might be high, but when you weigh that against productivity which is tied to profits, you realize then that no cost may be too high, obviously, with the economics, but you realize that it is really important to have a specialist in every single institution to drive compliance so that your productivity goes up, and subsequently where this comes into play, your profit goes up. So, you know, there is not much more that can be said in that, I think that is just really important to be stated.

Mr. Chairman: Could you switch off your mike for me, please? Now, we also had a complaint of the lack of compliance in particular with dealing with section 26 of the

Act which deals with the means of escape in case of fire. Can anybody throw some light on the accuracy of that?

Mr. Brisbane: The fire authority or the Trinidad and Tobago Fire Services is the authority on fire in Trinidad and Tobago however, the OSH agency is basically the enforcer of that piece of legislation. So at the end of it, a certificate which is a requirement under section 26, it does not necessarily mean that it poses a great danger or a risk to the environment. The environment or the hazards have to be of such a nature that will cause a situation to make it imminent that can cause individuals to leave a building, but other than that there is no real great danger with regard to a fire certificate because all it clearly identifies as an institution, is required for your building.

Mr. Chairman: No. No. What section 26 deals with, right, the means of escape in case of fire, having fire escapes, right?

Mr. Brisbane: "Yeah."

Mr. Chairman: So is that, by and large, complied with in many of these buildings?

Mr. Brisbane: In most industrial establishments, yes.

Mr. Chairman: Do you all carry out specific investigations to deal with that requirement?

Mr. Brisbane: On every visit that we go to, Sir.

Mr. Chairman: Is this building compliant?

Mr. Brisbane: Well, Sir, until we have done an exercise on this building then we will be able to answer that question, Sir.

Mr. Chairman: So how do you prioritize dealing with the specific public entities that you are going to determine whether or not they are compliant or not? Do you have a list or something like that?

Mr. Brisbane: Again, Sir, it is based on our prioritization system and based on our hierarchy of risk. Most of our public agencies are not classified as high risk.

Mr. Chairman: What will you classify as a high risk?

Mr. Brisbane: Any organization that we are looking at where we can have multiple fatalities or multi-critical injuries.

Mr. Chairman: So it has nothing to do with the stories, how high a building is or anything like that?

Mr. Brisbane: No, Sir.

Mr. Chairman: Well I think that will be a criteria.

Mr. Brisbane: Not necessarily because you could have—let us say for this building we have 15 stories, but once you have met the criteria and you have been issued a fire certificate and so forth that outlines the criteria: you have a means of escape; you have means of against protection from a fire and so forth; you have your individuals your wardens and stuff set out as outlined in a fire certificate.

Mr. Chairman: So what you are saying basically, a fire escape is just one element—

Mr. Brisbane: One, just one.

Mr. Chairman:—just one thing with that. You want to ask a question?

Mr. Smith: Chair, what we should ask is: What are the common types of risks, because we are only hearing about fire and certain things. What are the common risks that you all see in particular?

Mr. Brisbane: In most of the buildings we look at leaking roofs and so forth where we have exposure to some form of biological agents where we have mould-like substances, as we like to call it, that are formulated. We have basic trips, slips and falls, electrical issues as well, some of these places have not be certified by the Government Electrical Inspectorate which is now mandated at for every five years. Most of the stuff is basic institutions, lack of maintenance of machinery, lack of maintenance of your place of work, sometimes it is just storage, how you store, I can speak for some public and government agencies, storage is an issue, so they store stuff

according to where they find a space and sometimes that in itself hinders your access and egress.

Mr. Chairman: One of the complaints that came before us was, I think, was from, if my memory serves me right, from the President of the PSA because he was very active in the last year or two in terms engaging with OSHA, the Government and his membership in terms of closing down buildings, I know the Immigration department was one, the BIR was one. And what he was saying is that in some instances you have fraudulent fire certificates were being issued. Do you get an official complaint and did you all look into to it?

Mrs. Sancho: We have not had that as an official complaint. The fire certificates would tend to come from the fire authority, they are responsible for doing that, but we have not had that as an official complaint. The process that Mr. Duke used for vacating buildings was the wrong one, it did not follow the process that you would use if you were trying to close a building down. As a matter of fact, Mr. Duke's headquarters right now is not compliant and we have filed that in court in March for both his number 89 and 91 buildings, those two buildings are before the Industrial Court for non-compliance as of March. So, yes.

Mr. Chairman: But what will promote the agency to close down an agency for non-compliance? How severe, what is your criteria? How severe it must be before you issue a closing down certificate or something like that?—or mandate—

Mr. Brisbane: Again, that will fall—for us to issue a prohibition issue notice, it would be for two reason and two reasons only. If it is that we had previously visited the premises and we had given you a time frame in which to rectify these issues, and upon a re-inspection we recognised that it was not complied with, we may issue a prohibition notice in that regard, or it is that what we classify as imminent danger where life of limb of an individual is threatened, then we will issue a prohibition notice to that effect.

Mr. Chairman: Thank you. Ms. Ameen.

Ms. Ameen: Mr. Chairman, very often in the public domain we hear different unions make complaints or threats to shut down buildings because they are not compliant with the OSH regulations. We have issues such as old buildings, storage of old documents, sick building and mould, and well reports that the employees would have gotten ill, respiratory illnesses, medically examined. What is your response to those complaints? And I also wanted to get from you, what role does the Ministry of Health play in making a determination where this is concerned?

Mr. Brisbane: To date, we have had zero occupational diseases reported.

Mr. Madray: I will ask our Acting Chief Medical Officer to also make a contribution at this point in terms of what the Ministry is planning to do to ensure that we enhance the reporting requirements regarding the OSH Act.

Dr. Amour: In terms of reporting requirements with the OSH Act, we had have discussions, very recently, with the OSH agency, and we have given a commitment in order to look at the strengthening of the reporting requirements. Prior efforts were made as recent as last year, the Chief Medical Officer would have written County Medical Officers of Health that are the stewards of public health throughout the country to remind those officers in terms of ensuring that diseases are occupational incidents/accidents or injuries are reported through the health system up to the Chief Medical Officer and to then be forward, those reports, to the occupational safety and health agency.

So plans are being reenergized in collaboration with the OSH agency to ensure that our physicians are, one, trained to increase their level of clinical suspicion, and in that regard we do have internal resources in terms of occupational health physicians/specialists, so that is one plan.

In terms of internal training and sensitization to the frontline physician/staff

whether there be an accident and emergencies or health centres. And then, of course, part of that training will ensure the greater compliance in terms of reporting through our internal chains up to the Ministry of Health and for which we said before, Dr. Mark Allen as the occupational specialist is also going to be part of that solution. So that is what we do intend to do within recent discussions and also too, within the framework of the recent MOU that was signed between the Ministry and the OSH agency last year.

Mr. Chairman: Thank you. In responding, this is the Ministry of Health again, eh, in responding to our submission you stated in your submissions that, the Ministry plays a central role in the administration of the OSH implementation. Could you identify and elaborate on what actually the Ministry has done to fulfilling this critical role and what the critical role has been so far?

Dr. Amour: Chairman, and members, the role of the Ministry of Health as per the OSH Act and even within our own strategic objectives are several fold. One, is the Ministry of Health in and of itself as a government Ministry complying with the OSH Act in and of itself. So as I said before, within our regional health authorities we do have occupational health units and occupational specialists and managers in OSH that seek with the health and welfare of the employees within the health sector whether they be in Regional Health Authorities or the Ministry of Health.

The other key role as envisioned in the Act in several portions of the Act are to deal with industrial establishments in general and the role that when they would have acquired an accident or injury or illness by nature of coming to health institutions for treatment that is the reactive phase, those sorts of reports would come through the Chief Medical Officer for reporting to the OSH authority, as well as in the Act, it defines, if the Chief Inspector through the OSH agency, has a serious accident or injury to report to the Chief Medical Officer for investigation.

And on the more proactive side, as I said, apart from the training to increase the

level of clinical suspicion among physicians or persons who present, there also is a requirement in the Act for the relevant industrial establishments to employ, bearing their own cost, to have medical practitioners be involved in ensuring the health and welfare of their employees in terms of doing proactive medical examinations, all of that is within the purview of the Ministry of Health in terms of an oversight. So persons both in the public and private medical fields that is the summary of the roles of the Ministry of Health.

Mr. Chairman: Okay. Thank you very much. Let me just get straight to a matter that is close to my heart. Does the Ministry plan to include persons with disabilities as stakeholders on the committees?

Dr. Amour: In terms of persons with disabilities to be members of the committee, once persons are willing or eligible to serve, the Ministry as far as I am aware has no objection to such an undertaking. So as far as I am aware there is no particular barrier or hindrance on that basis to serve in any capacity with respect to occupational safety and health.

Mr. Chairman: Now in terms of the deficiencies or the improvement in the legislation, what, if any, has been suggested to the relevant Ministry, probably the Ministry of Legal Affairs or the line Ministry in improving the legislation that, so far, has been proclaimed or activated?

Mrs. John-Beerens: If I may, through the Chair? We have had a series of consultations, public consultations and from those consultations there have been a few areas that we have identified for particular focus. For instance, we have regulations pursuant to the Factories Ordinance by virtue of section 98 of the OSH Act, however, these regulations are quite outdated because they were based on the 1948 Ordinance, so we in process of having those reviewed, replaced if necessary, we have also outlined approximately 10 pieces of regulations that we are in the process of doing policies for.

We have done six thus far in draft, the authority has approved four. Also, from the consultation I would read from my notes some of the areas in particular.

Mr. Chairman: Sure.

Mrs. John-Beerens: So it was agreed that there should be an overall increase in fines. The structure of the OSH authority and agency should be clarified or even revised; there should be an increase in OSHA's autonomy, for instance, something more akin to a regional health authority or the EMA; OSHA should be authorized to charge fees for certain functions; the power to prosecute under the Act should be clarified because as it is stated the inspector has that power whereas in practice it is normally done by counsel from the agency. We had one judgment, it was a Green Dot judgment that was raised and it was decided that the action could be brought in the name of the authority and therefore, any of the lawful representatives could prosecute, but this is something that we to have need clarify or simply stated.

As you mentioned before, the subsidiary legislation should be amended. Definitions, this is also a very key area as you had alluded to it before, the imminent danger. There are several key definitions that are not included, for instance, not even the term "accident" is defined in the Act. The critical injury definition as well should be expanded and updated. Certificates required under the Act should be revised in terms of their duration, so far as it stands now, it is just a requirement to have certificates for certain things, but it was proposed that perhaps a time frame for expiration should be incorporated.

Review, reporting requirements for notification of accidents in terms of time frames and requirements. We have seen, we have had several views expressed that the time frames may be a little onerous. Also, it was suggested that it is not clear in terms of what needs to be reported, again, going back to definitions, there is no definition of "medical attention" which is one of the requirements for reporting.

Going forward, guidelines for risk assessment should also be provided. The burden of proving the delaying of an inspector should be lessened. As it stands now under the Act it must be proven that there is wilful delay in the provision of information to an inspector for an investigation, and we are saying that is fairly onerous because you will have to get, I "doh" know, statements from persons willing to come forward to prove that this is some sort of deliberate act from their employers.

Mr. Chairman: As opposed to a being neglect.

Mrs. John-Beerens: Yes. Also, the extent of the exclusion of residential premises should be clarified. As it stands here in our Act also in the UK, residential premises are not covered by the Act. However, this is not to say, for instance, building contractors performing work at a residence, it does not preclude or exclude the duty of the employer to make sure that certain policies and procedures are put in place prior to actually performing work on the premises.

Mr. Chairman: Well not to stem your flow, but let me ask something that jumped out at me, I "doh" want to forget it, is that how do you deal with removing yourself in terms of workers, well if they are considered workers, who are in essential service, members like the prisons, the police officers? How do you deal with issues of OSHA with those types of employees?

Mrs. John-Beerens: It is only under the "refusal to work" mechanism that those persons are excluded, they are not allowed to activate that procedure however, they are still covered under the Act as a whole. I do not know if that answers your question.

Mr. Chairman: Well, how does that operate? I mean, enlighten us. If there is an imminent situation or imminent health risk for them, how to you deal with that?—and there is a report to the agency. How do you all deal with that?—and it is imminent. How do you deal with that? Have you ever had an issue like that?

Mr. Brisbane: When you look at it, if it is—

Mr. Chairman: First of all, Chief Inspector, have you ever had an issue like that to be dealt with?—the police or the prison officers.

Mr. Brisbane: I think there is the Roxborough Fire Station and there was the Point Fortin Fire Station.

Mr. Chairman: And how was it dealt with?

Mr. Brisbane: Well the Point Fortin Fire Station prohibit notice was issued for the Point Fortin Fire Station, and they have subsequently been removed from that station and housed elsewhere.

Mr. Chairman: And that was determined on the basis of being imminent danger?

Mr. Brisbane: Yes, Sir.

Mr. Chairman: But what was the danger there in that instance?

Mr. Brisbane: Well as far as I am aware, the flooring and structural integrity of the building was compromised.

Mr. Chairman: In the recommendations of improving the Act, is anything being proposed to deal with that type of issue in a more comprehensive way, in a more effective way? It is creating any challenges for the agency to implement?—where you have issues like that to deal with, essential service, I mean, by its very nature the essential services are exempted under the Industrial Relations Act from strike and so forth. Right? So how is this being dealt with?

11.35 a.m.

Mrs. John-Beerens: It is one of the areas that we propose to examine, but we are looking at other, perhaps what is done in other jurisdictions, but we have not actually put forward any position as yet. But we are—

Mr. Chairman: Okay. So, you all are looking into it.

Mrs. John-Beerens: Yes, we are.

Mr. Chairman: You wanted to add something? Sorry, I did not mean to, were you

finished with what you were saying before?

Mrs. John-Beerens: I was just about—I am almost to the end. I think the last two points, two bullets: The procedure for prosecution of health and safety offences should be outlined and clarified. Also it was proposed that a commission should be established to deal with all prosecutions under the Act. As it is now, there is some ambiguity based on the definition of court under the Act. Part of it, court is a Summary Court, which is a Magistrate's Court, then you have the Industrial Court. So, the Act speaks to safety and health offences which are prosecuted in the Industrial Court, and then it also speaks to summary offences, which are basically criminal. But there is a general position by the courts that they are all criminal offences to be heard before the Industrial Court.

Mr. Chairman: Before the Industrial Court?

Mrs. John-Beerens: Yes.

Mr. Chairman: Sorry, before the Industrial Court.

Mrs. Beerens: Yes.

Mr. Chairman: And your proposal is to do what?

Mrs. John-Beerens: To establish an independent commission to treat with all matters and outline procedures, specifically in relation to safety and health under the Act.

Mr. Chairman: But, when you have a matter that may be like criminal, you will the authority [*Inaudible*] and to deal with it, or you will want it to go in the Magistrate Court? What is the other jurisdictions experience or position on that?

Mrs. John-Beerens: Well, in the UK for instance, it is specifically stated that it is a criminal matter. Our jurisdiction is it not quite clear in terms of the nature of that.

Mr. Chairman: But, should we make it criminal?

Mrs. John-Beerens: "Hmm." I do not know sure what the view of the agency and authority is, but I am not suggesting—

Mr. Chairman: I am not trying to put you on the spot, eh, but just in terms of experience and experience locally, and what you are gleaning from, from the experiences

internationally, best practice, "nah". Just from that perspective.

Mrs. John-Beerens: Best practice, jurisdictionally, these offences are deemed criminal offences.

Mr. Chairman: Should you, criminal. I mean, at the end of the day, health and safety issues are serious issues, have been affecting, as one of the members asked about productivity, and if the agency could be properly resourced I think it can assist in achieving productivity, definitely so, you know. Member.

Ms.Ameen: Mr. Chairman, I wanted to follow up, and I want to express appreciation to Mrs. John—

Mrs. John-Beerens: Beerens.

Ms. Ameen: Beerens, thank you—for you recommendations, and I wanted to ask—the Chairman asked a question earlier about the inclusion of differently-abled persons on the committee, but what I wanted to ask, is you had any recommendation for improvement to the Act and the procedures with regard to differently-abled when it comes to access, their safety, in case of an emergency, evacuation and so on, do you have any recommendations specifically to provide for persons who are differently-abled?

Mrs. John-Beerens: Well, the Act as it stands now treats with all persons, and there is also that requirement for proper access and egress, which can also apply in situations such as for disabled persons. But it is something that recently we did decide to explore further in terms of our recommendations for amendment.

Mr. Chairman: Because just to piggyback on that very critical intervention by member Ameen, which I do appreciate very much, and it would have been remiss of me not to raise that. So I thank you very much for raising that. The fact is that the Act, at its present state, cater for all persons. When you are dealing with a differently abled there must be specific type of requirements to deal with that. I can tell you practically from it, because most times I go into a building I am very concerned how I am getting out in terms of emergency.

Because the best of us are trained to do this and do that in case of emergency, but self-preservation always kicks in most times, and people would exit for themselves. So, why come into this building and say if there is an emergency what do I do? Do I fly wings as on my way out of a window or something like that? You know, so it is a serious concern, and I do concern myself in any building I go into, where do you get out of it? Because, no one knows exactly when a fire or an emergency will take place, and we have seen what has gone on in England, First World country, that we take precedence from in many instances, where there was an inferno with a structure, and how many lives were lost. So, we want to be proactive and pre-emptive in preserving and protecting innocent lives, and vulnerable lives.

So, I think that is something that needs to be dealt with urgently, because in terms of emergency you may already have ways how people could get out here in terms of getting out of a building for an abled-body person. You could slide down. First thing they tell you, not to use an elevator in times of a fire. What happens to a person who is in a wheelchair? What happens to a person who is blind, or any of those instances? What are the specific requirements? So, those are serious issues I would like you, when you are making your recommendations, that we can take on board to help amplify or to certainly have addressed in any amendments to take place. Yeah?

Mrs. John-Beerens: Thank you for your suggestion.

Mr. De Freitas: Thank you, Mr. Chairman. I just wanted to ask in relation to the amendments, are they ready for submission to the Parliament to amend the Act?

Mrs. John-Beerens: As the PS indicated, they are actually now being reviewed by the Ministry of Labour—produce a policy document, also after that, has to go to the Chief Parliamentary Counsel. So, no.

Mr. Chairman: I am know I am just coming to the end of us this. This has been very informative. Again, I mean there has been qualitative in terms the exchanges that has been taking place this morning, for which I appreciate, because I think that a lot has been

clarified in terms of following from our last enquiry. But, what is the relationship, do you think the agency—I think you may have hinted—one of you may have hinted to it. Having the agency under the immediate supervision of the Ministry of Labour and Small Enterprise Development, is that a kind of himself looking upon himself kind of thing? I mean, do you all have a—is it a healthy relationship? Is it one that could be better strengthened by having a more separate existence? You are also housed in the Ministry of Health, not so? Is that not so? Or you were once housed in the Ministry of Labour? Not the Ministry of Health, but the Ministry of Labour?

Mrs. Sancho: Some of us are housed in the Ministry of Labour's building on Duke Street and some of us are over at Alexandra Street.

Mr. Chairman: I mean, what of that relationship, how is it managed?

Mrs. Sancho: We report to the Ministry of Labour on a monthly basis on activities, and also on our finances.

Mr. Chairman: But the Ministry of Labour is also under your supervision, eh.

Mrs. Sancho: Yes, as well.

Mr. Chairman: It seem to kind of?

Mrs. Sancho: Yes.

Mr. Chairman: So, Madam PS, I mean, what do you think? Is it better done by they being moved completely away from your stewardship, and given a more independent existence to more effective? Because, I mean, they are at some point in time policing you. That was a hard question, eh?

Ms. Willis: [*Laughs*] It is. It is. But it is one that is worth considering. But, given the current structure and functioning of the agency, I cannot see that happening at this time, in terms the status of their employees being on contract.

Mr. Chairman: Yeah. Because, I have a situation where the agency carries out an inspection based on a complaint from a worker or something of the Ministry of—any of the Ministries, the Ministry of Labour as the case may be—

Ms. Willis: Yes, and we would seek to comply with whatever.

Mr. Chairman: And it is an imminent thing to close it down. I mean, you giving me my funds, they say he who controls, or she who controls the purse controls the say. As they say, "how da go look?"

Ms. Willis: But that should not prevent them from doing what they are required to do.

Mrs. Sancho: Chairman, we actually did that before. We had closed down the Duncan Street office under the Ministry of Labour. We were inhabiting the building, but we had actually served the Ministry of Labour with the relevant documents to close it down.

Mr. Chairman: I understood on the last occasion, or from one of the stakeholders, that there is a possibility or there was an initiative to have your own building acquired, or some land, could you update us on what is the status? Have you all acquired the land?

Mrs. Sancho: Well, we were allocated land in Balmain, Couva, two acres, for building of a headquarters. We are now talking to the land management—

Ms. Willis: Commissioner of State Lands.

Mrs. Sancho: —the Commissioner of State Lands, so that they could vest the land with OSHA, and that is the process that is currently ongoing. It is taking a while to—

Mr. Chairman: If PS has something to add, like she knows a little more. No?

Ms. Willis: Actually it is the same information that the Executive Director would have shared.

Mr. Chairman: All right, yes. Yes, sorry, Ms. Ameen.

Ms. Ameen: Thank you, Mr. Chairman. Earlier you indicated that the agency has held some consultations, tripartite, and sectoral consultation with a view to putting forward recommendations to amend the Act, and I wanted to ask if you have out of those consultations submission received or the recommendations you have so far, and if you could supply the Committee with those?

Mrs. Sancho: The list that Beerens had read out came out of those consultations. We could provide the information.

Ms. Ameen: Yes, if you could send it in writing. And my other question was, most of your investigations are triggered by complaints, but certainly before you reach to the stage of having any accident or complaint, you do encourage your employers to be compliant upfront. Do you have a separate department that deals with inspection for this purpose, to certify them or to indicate that they are complaint, they are OSHA complaint, even before a complaint takes place? You would have a list of requirements and so on?

Mrs. Sancho: We have a list of requirements, but we do not a separate unit. The same unit that deals with complaints, accidents, the same 16 inspectors, and we have seven Inspector II's as well, they are the same people that would tend to prioritize these.

Ms. Ameen: So, what is your rate of inspection? You go to agencies, agencies interested in being compliant, they would have to get a visit, and then you tell them where they are falling short, and then you give them some time to put those things in place. Take a second visit, in terms of the number of inspections you have pending, and the rate of investigation.

Dr. Dhanraj: Currently, we have a target of 10 inspections per inspector per month, and we have a target of four inspections per inspector too per month, which bring us to around 154 per month of inspections that we do coming out of those complaints. We have a plan in place to start doing proactive inspections. So, we are currently developing a list of the high-risk agencies and industrial establishments, so that we could determine where we go first, second, third, just so that we could use the resources more effectively. So, that is in train at the moment.

Ms.Ameen: So, with your current shortage of inspectors, have you been able to touch those?

Mrs. Sancho: Not really. Because of the fact that we had put out this advertisement telling people to report more, our work has increased exponentially. So, we have to deal with this influx, but we have a duty first to those who report rather than going to look for new work. So, that has really swamped us a bit in terms of the influx that has now started coming in.

Mr. Chairman: Thank you very much. At this time I would like to thank—I think we reached—this has been a very informative session, which I appreciate very much. I want to thank all persons who participated in this hearing this morning. I hope that the listening and viewing public have been enlightened by what has been exchanged between the Committee and you members, stakeholders. The stakeholders also would have benefited from what you would have clarified, enlightened and informed.

My take on what I perceive as the critical situation with this organization, is a lack of resources in every aspect of it, in terms of the monetizing the organization, in terms of the human capital required to do it, the sheer volume, in terms even in the physical structure, in terms of having a house, being housed, a headquarters. And these are serious impediments. Our reports certainly will reflect, yes, in our deliberations, and I would like to thank the agency and the authority for your level of efficiency of achieving whatever, 47 per cent, you said, at this point in time. But with such limited and challenged resources, I think you are doing a sufficiently encouraging execution of your mandates, and I hope that coming from this we would be able to add our voice, add some sort of impetus in bringing it closer to a level of efficiency and resource that would make this be able to execute what is a critical area for this organization being in our society, in which, certainly would help in the productivity and reduce the loss of man hours through these issue.

So, in closing, I would like to ask the acting PS to give her closing remark. I am not going to stick you to two minutes, you can take three minutes, and then I would ask, again, Mr. Madray, and Dr. Dhanraj as well. So, please, PS.

Ms. Willis: Thank you, Chair, and members. In closing, I would just like to say thank you for the opportunity presented this morning in terms of providing the information and providing that clarification which the Committee sought. We at the Ministry, we recognized the impediments, which you would have outlined, facing the agency, and were committed to addressing those in the shortest possible time. As I indicated, we would look to seek to increase the number of inspectors on the establishment of the agency so they

can effectively address the implementation of the OSH Act. Again, thank you.

Mr. Chairman: You are welcome. Thank you very much. You are pardoned with the $2,000, eh. [*Laughter*] The Ministry of Health.

Mr. Madray: The Ministry of Health will continue to work with the OSH agency to ensure that we meet our obligations, and that we fully support the agency in its obligations. Thank you very much.

Mr. Chairman: You were keenly efficient. Thank you very much, Deputy PS.

Mr. De Freitas: He could be presiding officer.

Mr. Chairman: Sorry?

Mr. De Freitas: He could be the presiding officer.

Mr. Chairman: Yes, he could be the presiding officer. [*Laughter*] Deputy presiding officer.

Mr. Madray: No thank you.

Mr. Chairman: Yes?

Dr. Dhanraj: As a relatively young agency, the OSH agency and authority are still experiencing some growing pains, how we are giving the commitment that we will work steadfastly to really try to close the gaps to make us a world class health and safety organization. And, I just cannot underscore it enough, it is only through stakeholder engagement across Trinidad and Tobago that we could really develop a safety culture that will move us forward into the coming decades, and the only other point is, I mean, it is clear, the data shows that fortune 500 companies, they have a very strong health and safety culture, and we should really try to model that, and adopt learnings from those entities. So, thank you for this opportunity.

Mr. Chairman: Thank you all. In closing, I have a few announcements that I would like to make. The public is advised that the Committee's report on its enquiry into the efficiency and the effectiveness of the Statutory Authorities Service Commission was recently presented to the Houses of Parliament, and will be available for review on the

Parliament's website, that is www.ttparliament.org. Some of the issues addressed in the report are as follows:

1. The relevance of the Statutory Authorities Service Commission;
2. The archaic record management systems that are being utilized by the Commission;
3. the vacancies within the municipal police service;
4. the delays in the reporting of disciplinary matters involving staff assigned to the Children's Homes;
5. the ability of the commission to exercise effective oversight of entities such as the NLCB and the Children's Homes.

Again, I would like to thank you for your active participation and enlightenment for the public and for our purposes in helping to make this a more productive and efficient society. You know, we all have a role to play, and if we all do our tasks, certainly when it is put together, I believe it will bear fruits for us, and we will live in a much more productive, healthy and safe working environment in the country. This session was dealt with the public service. I guess at another time we would probably look into the private enterprise. All right? And, again, thank you very much. And this session is now adjourned. Thank you.

11.54 a.m.: *Meeting adjourned*.