

Leave of Absence

Tuesday, December 14, 2004

SENATE

Tuesday, December 14, 2004

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence to Sen. Parvatee Anmolsingh-Mahabir from today's sitting.

**ASSOCIATION OF CARIBBEAN STATES
(HEADQUARTERS) BILL**

Bill to provide for the implementation by the Government of Trinidad and Tobago of certain of the provisions of the agreement between the Government of the Republic of Trinidad and Tobago and the Association of Caribbean States on the Headquarters of the Association of Caribbean States and its privileges and immunities, brought from the House of Representatives [*The Minister of Foreign Affairs*]; read the first time.

**CARIBBEAN COMMUNITY (CARICOM)
COSTA RICA FREE TRADE BILL**

Bill to give effect to the Free Trade Agreement between the Caribbean Community and the Government of Costa Rica, brought from the House of Representatives [*The Minister of Foreign Affairs*]; read the first time.

CARIBBEAN COMMUNITY (REMOVAL OF RESTRICTIONS) BILL

Bill to amend certain laws to facilitate the implementation of the Revised Treaty of Chaguaramas Establishing the Caribbean Community, including the Caricom Single Market and Economy, brought from the House of Representatives [*The Minister of Foreign Affairs*]; read the first time.

Motion made, That the next stage be taken at a later stage of the proceedings. [*Hon. K. Gift*]

Sen. Mark: Madam President, may I indicate from the outset that we received this Bill a short while ago. Under Standing Order 48(1), we want the full 15 days to allow the Senate to deliberate on this matter. [*Pause*]

Madam President: Hon. Senators, this Bill went out together with the Order Paper, et cetera. Sen. Mark, if you look at Standing Order 48(2), it says that with the leave of the Senate, a day and time for the next stage of the Bill can be taken at any time once it is approved by the Senate.

Question proposed.

Sen. Mark: We want a division.

Madam President: Fair enough, division.

The Senate divided: Ayes 14 Noes 14

AYES

Saith, Hon. Dr. L.

Yuille-Williams, Hon. J.

Jeremie, Hon. J.

Joseph, Hon. M.

Montano, Hon. D.

Enill, Hon. C.

Gift, Hon. K.

Manning, Hon. H.

Dumas, Hon. R.

Titus, R.

Abdul-Hamid, Hon. M.

Kangaloo, Hon. C.

Sahadeo, Hon. C.

Ramroop, Hon. S.

NOES

Mark, W.

Baksh, S.

Kernahan, Dr. J.

Montano, R.

Seepersad-Bachan, Mrs. C.

Augustus, R.

McKenzie, Dr. E.

Ramchand, Prof. K.

Deosaran, Prof. R.

King, Mrs. M.

Quamina Dr. D.

Seetahal, Miss. D.

Khan, Bro. N.

Ali, B.

Sen. Dr. Saith: Madam President, before you make your ruling, last week Tuesday, I indicated to this honourable Senate that we would want to debate this Bill. I am wondering if there is some confusion. I spoke to the Clerk of the Senate, and I have a letter dated December 08, 2004, which states that the Bill was circulated to all Members of the Senate. I also pointed out that the Bills were interrelated. Is there some confusion with respect to the Bill that we are talking about?

Madam President: I am not too sure, but everyone seems to be uncertain. I am looking around at the Senators' faces. Maybe what we should do is take a 10-minute suspension and let Senators verify whether they are talking the same language, or if they are talking about the same thing. We will be back in 10 minutes' time.

1.40 p.m.: *Sitting suspended.*

1.50 p.m.: *Sitting resumed.*

Madam President: Sen. Dr. Saith, can you tell me whether there was any discussion on the matter?

Sen. Dr. Saith: Madam President, yes. I must confess that the number of Bills that were circulated with the word "Caribbean" in them led to some confusion about exactly what Bill we were debating.

Sen. R. Montano: There was absolutely no confusion.

Madam President: Please let him finish.

Sen. Dr. Saith: There was confusion in some Senators' minds, and I could understand that. I have since had discussions, and last week Tuesday I indicated that this particular Bill is the one that we would like to debate. In fact, the Clerk sent out the Bill on Wednesday. In light of that, I will like to propose, with the

Caricom (Removal of Restrictions) Bill
[SEN. THE HON. DR. L. SAITH]

Tuesday, December 14, 2004

concurrence of Senators on the other side, that we agree to debate the Bill because we need to take them together. We will debate the Bill until a reasonable hour, and then we will continue the debate tomorrow in order to complete the Bills. That is my proposal.

Sen. Mark: Madam President, a vote was taken on this matter. Whilst we will want to engage in discussions, we feel that the parliamentary procedure and practice demands of your good office that you come down one way or the other, and let us settle this matter. At this time, I do not want us to engage in futuristic matters. What we are very clear on is that we are not debating these Bills conjointly. These Bills are too weighty; they are too heavy; and they have very serious and far-reaching consequences for the people of this Republic. We are not prepared to deal with these two Bills conjointly. [*Desk thumping*] We want to follow the pattern of the House of Representatives and deal with these Bills separately.

Madam President: I understand that.

Sen. Mark: We will like you to vote on this matter, and let us deal with this matter once and for all.

Madam President: Dr. McKenzie?

Sen. Dr. McKenzie: Madam President, chatting with my Members on this side, we know that the Senator did say that this week we will be doing the Bill. We also received a note that this particular Bill would be taken through all its stages. We also recognize that there are very serious matters to be discussed, and we cannot envisage that today we would carry the Bill through all its stages. The opinion of most of the Members here is that we go to a reasonable hour this evening and return next week Tuesday and complete the Bill. We do not care how long we stay next week Tuesday. We feel that tomorrow is pretty close. Some Senators are still looking at the amendments since we only received them a short while ago. The main thing here is that we do not think that we could finish these Bills today.

Madam President: Are you saying that the Independent Benches are changing their votes?

Sen. Dr. McKenzie: No.

Madam President: Are you still voting against the Bill?

Sen. Dr. McKenzie: Well, I do not know. I cannot speak for other Senators because we do not caucus on that kind of matter.

Madam President: Do you agree to debate the Bill?

Sen. Dr. McKenzie: We agree to start the debate on the Bill, but we are saying that if the Bill is not finished today—

Madam President: On what? I am not too sure that I understand what the Senator is saying. I have to cast a vote because the result is 14/14. Are you saying that you are prepared to debate the Bill that has been put forward? This will change the whole picture. [*Interruption*]

Sen. Mark: Madam President, there is one Bill before this Senate and that is the Bill that we are prepared to debate.

Madam President: The Bill is the Caribbean Community (Removal of Restrictions) Bill. Maybe Senators were not listening. When the Minister of Foreign Affairs got up that was the Bill he read. He said:

“Madam President, I beg to move that the next stage of the Bill, the Caribbean Community (Removal of Restrictions) Bill, be taken later in the proceedings.”

And before I put it to the vote, you objected. Is that the Bill that you are objecting to?

Sen. Mark: Yes. We are saying that we are not going to deal with that Bill today; we will deal with that Bill next week.

Madam President: Dr. McKenzie, are you saying that you are having second thoughts on this matter?

Sen. Dr. McKenzie: Madam President, no. This is not a matter of having second thoughts.

Sen. Dr. Saith: Madam President, perhaps I could find a way out of this. I would like to suggest that we start the debate on the Bill that is on the Order Paper, and that is the Association of Caribbean States (Headquarters) Bill. I would like to indicate that on next week Tuesday—we are still within the 15 days—I am going to ask the Senate to approve that we deal with the other Bills as a continuation of the debate next week Tuesday, if we do not finish the Bill today. I think that will give everyone enough time. There is a Bill that we can debate right now and that is the Association of Caribbean States (Headquarters) Bill. We would have preferred to debate the Bills together because they are interrelated, but if there is a difficulty, we are going to deal with the Bills separately. We are going to deal with the Association of Caribbean States (Headquarters) Bill today,

Caricom (Removal of Restrictions) Bill
[SEN. THE HON. DR. L. SAITH]

Tuesday, December 14, 2004

and we are asking the Senate to agree on that matter. In addition to that Bill, if it is not completed, we will also deal with the second Bill next week Tuesday.

Sen. Mark: I am trying to get some clarification here. Madam President, the Bill that is on the Order Paper, apart from the one that was read by the Minister of Foreign Affairs is the Bill to give effect to the Revised Treaty of Chaguaramas including the Caricom Single Market and Economy. The Association of Caribbean States (Headquarters) Bill was only introduced a few minutes ago. The Bill that is before us on the Order Paper and the Bill that we were told that we were going to debate is the Bill that I have just read out. Now, if Sen. The Hon. Dr. Saith is saying that he is prepared to debate this Bill today until the conclusion of it tonight or next week, and then he will start a new Bill, we are fine with that. We are not prepared to be engaged in conjoint debates on these very weighty, far-reaching and very dangerous legislation. We believe that we need to have the time to study this matter properly.

Sen. Dr. Saith: Madam President, that is exactly what I was saying. I recognize the Senator's distaste for "conjointedness" and I am suggesting exactly that.

Madam President: Hon. Senators, before I left the Chamber a vote was taken, and to maintain the high principles of this Senate, it would be my duty to vote with the noes. So that meant that what you have already agreed to, in any case, is that this Bill cannot be debated today.

Question negatived.

PAPERS LAID

1. Audited financial statements of the Trinidad and Tobago Electricity Commission for the financial year ended December 31, 2002. [*The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill)*]
2. Audited financial statements of the Trinidad and Tobago Electricity Commission for the financial year ended December 31, 2003. [*Sen. The Hon. C. Enill*]
3. Audited financial statements of the Tobago Regional Health Authority for the financial year ended September 30, 1999. [*Sen. The Hon. C. Enill*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on a Value for Money Study of the operations of the Central Planning Unit of the Ministry of Works and Transport. [*Sen. The Hon. C. Enill*]
5. The Privileges and Immunities [Caribbean Court of Justice (CCJ), Regional Judicial and Legal Services Commission (RJLSC) and the

Caribbean Court of Justice Trust Fund] Order, 2004. [*The Minister of Foreign Affairs (Sen. The Hon. Knowlson Gift)*]

ORAL ANSWERS TO QUESTIONS

**Ministry of Community Development, Culture and Gender Affairs
(Cost of Advertisements for)**

15. Sen. Wade Mark asked the hon. Minister of Community Development, Culture and Gender Affairs:

Could the Minister provide a detailed account of the cost of all advertisements utilized by her Ministry for public relations purposes in the various print and electronic media for the period January, 2002 to March, 2004?

The Minister of Community Development, Culture and Gender Affairs (Sen. The Hon. Joan Yuille-Williams): Madam President, I have conferred with the Senator and asked that this question be deferred for one week. I think I had an agreement with him.

Question, by leave, deferred.

Sen. Dr. Saith: Madam President, I am advised that answers to questions Nos. 16, 17, 39 and 40 are not yet ready, and I would seek leave of the Senate to have these questions deferred for one week.

The following questions stood on the Order Paper in the name of Sen. Wade Mark:

**Point Lisas Port Development Corporation
(Acquisition of Fantuzzi Crane)**

16. Could the hon. Minister of Trade and Industry provide a copy of the internal audit report which investigated all the circumstances surrounding the acquisition of the Fantuzzi Crane by Point Lisas Port Development Corporation (PLIPDECO)?

**Point Lisas Port Development Corporation
(Forensic Audit for Fantuzzi Crane)**

17. Could the hon. Minister of Energy and Energy Industries indicate whether the Government of Trinidad and Tobago is prepared to conduct a forensic audit independent to the PLIPDECO Board's audit to determine all facts surrounding the purchase of a Fantuzzi Crane?

Questions, by leave, deferred.

The following questions stood on the Order Paper in the name of Sen. Sadiq Baksh:

**General Hospitals
(Contracts Awarded for)**

- 39.** A. Could the hon. Minister of Health inform the Senate whether the contract/contracts for the new Scarborough Hospital and the San Fernando General Hospital upgrade were awarded by way of public tender?
- B. If the answer to (A) is in the affirmative, could the Minister provide:
- (i) the full names and addresses of all companies that submitted tenders;
 - (ii) the countries of incorporation of these companies; and
 - (iii) the amount of the bid submitted by each company?
- C. Could the Minister also identify the company/companies to which contract/contracts were awarded in each case?
- D. Could the Minister advise whether at the date of the award of the contract/contracts:
- (i) any money was owed to any of the company/companies or associate companies that submitted tenders by the Ministry of Health; and
 - (ii) if the answer to (i) is in the affirmative, what was the total sum owed?

**Piarco Airport Project
(Commission of Enquiry into)**

- 40.** Could the hon. Prime Minister provide this House with the total cost of the Commission of Enquiry into the Piarco Airport Project, giving a detailed breakdown of each item of expenditure including amounts paid to commissioners, witnesses, experts, advisors and staff?

Questions, by leave, deferred.

Sen. Mark: Madam President, before we move on, may I seek your indulgence as it relates to Questions for Written Answers? You will notice that in the Appendix dealing with Questions for Written Answers, I have questions Nos.

3 and 6 since October 21, 2004. Could you instruct the Attorney General accordingly to have these answers submitted to this Senate no later than next week Tuesday?

Madam President: Yes. Hon. Senator, could we have some of these Questions for Written Answers, please? These Questions for Written Answers are in fact long overdue. Let us move on to question No. 41.

**National Housing Authority
(Details of Construction sites)**

41. Sen. Sadiq Baksh asked the hon. Minister of Housing:

- A. Could the Minister inform the Senate of all sites chosen by the National Housing Authority (NHA), the Government or any government agency, or partner of the Government or the NHA for the construction of housing units?
- B. Could the Minister indicate whether the selection of companies to develop sites and/or construct houses was done by way of public tender and if not, could he advise what was the system used for selecting the companies?
- C. Could the Minister further indicate whether more than one company submitted tenders for the contract/contracts and if so, could the Minister provide details of:
 - (i) the names of the companies that submitted tenders;
 - (ii) the amounts tendered for; and
 - (iii) the name/names of the company/companies to which contract/contracts were awarded?

The Minister of Housing (Hon. Dr. Keith Rowley): Madam President, the sites chosen for the construction of housing units by the Urban Development Corporation of Trinidad and Tobago Limited (UDeCOTT) are as follows:

1. "A River Runs Through It", Bye Pass Road, Arima
2. Canaan Place, La Romain
3. Champs Fleurs, Upper Mendez Drive
4. El Dorado Road, Tunapuna
5. Green Street, Tunapuna

Oral Answers to Questions
[HON. DR. K. ROWLEY]

Tuesday, December 14, 2004

6. Lady Young Road, Morvant
7. Carib Gardens, Arima
8. Victory Gardens, Arima
9. Coconut Grove, Mayaro
10. Olera Heights, Circular Road, San Fernando
11. Oropune Phase 2, Arouca
12. Blenheim Housing Development, Tobago
13. Castara Housing Development, Tobago
14. Roxborough Housing Development, Tobago

The sites chosen for the construction of housing units by the National Housing Authority (NHA) are as follows:

North

1. River Estate, Diego Martin
2. Sixth Avenue Extension, Barataria
3. Barataria South
4. Breeeze Avenue, Mount Hope
5. Pioneer Drive, Mount Hope
6. Boys Lane, D'Abadie
7. Malabar Phase III, IV and La Croix Avenue
8. Bon Air West
9. Graham Trace, Sangre Grande
10. Valencia—La Platta and New Valencia
11. Sam Boucaud, Santa Cruz
12. Mount Lambert Extension
13. Four Roads, Diego Martin
14. Debe, Long Circular
15. Fort George, St. James

16. Macoya South

17. Wallerfield

Central

1. Caroni Village (Ibis Gardens)

2. Dyette Estate

3. Charlieville

4. Edinburgh 500

5. Couva North

6. La Paille

7. Carlsen Field

8. Bates Avenue, St. Augustine

Madam President, that is an error there, Bates Avenue, St. Augustine, should really be in north Trinidad.

9. Goya Road, Tacarigua

10. Caura Royal Road, Tacarigua

11. Dyette Estate, Extension

South

1. Harmony Hall—East & West

2. Delhi Road, Fyzabad

3. Union Hall

4. La Fortune, Point Fortin

5. Tarouba

6. Sydney Street, Rio Claro

7. Pleasantville

8. Rushworth Street, San Fernando

Oral Answers to Questions
[HON. DR. K. ROWLEY]

Tuesday, December 14, 2004

9. Corinth
10. Bien Venue, La Romain
11. Wellington Road, Debe
12. Golconda, San Fernando
13. Buen Intento, Princes Town
14. Wilson Road, Palo Seco
15. Retrench, San Fernando
16. Bushe, Mowll & Hickling Villages, Fyzabad
17. El Guayanapo Estate, Rio Claro
18. Plaisance
19. Strikers Village, Point Fortin
20. Warden Road, Point Fortin
21. Greig Estate, Cedros

The Urban Development Corporation of Trinidad and Tobago (UDeCOTT) utilized three approaches for selecting the companies to which contracts were awarded and these are as follows:

(a) Public Tender:

Advertisements were published in the daily newspapers during the period August 20, 2003 to August 31, 2003, inviting contractors to pre-qualify for construction works in various price ranges. Companies' prequalification questionnaires were evaluated by an evaluation team established by the Board of UDeCOTT, which reports to the Ministry of Planning and Development.

Pre-qualified contractors were invited to tender in competition. Tenders were opened publicly. After tenders were evaluated, the board of directors awarded a contract for each project.

(b) Joint Venture (i):

A request for proposals for joint ventures with UDeCOTT was published in the daily newspapers in March 2002. Proposals were evaluated by an evaluation team established by the board of directors. Under this arrangement, proponents were required to identify parcels of land in their proposal, which were suitable for development for housing purposes. Viable proposals were accepted by the Board of UDeCOTT and joint venture agreements were entered into.

Joint Venture (ii):

Unsolicited proposals in which parcels of land were identified for residential development were submitted to UDeCOTT. Such proposals were evaluated by an evaluation team established by the Board of UDeCOTT. Viable proposals were accepted by the Board of UDeCOTT and joint venture agreements were entered into.

(c) Request for Proposals:

Request for proposals for the design and construction of single family residential units, apartments and townhouses were published in the daily newspapers in August 2003. Proposals were evaluated by an evaluation team established by the board of directors and contracts have been awarded to various contractors.

Madam President, the approaches used by the National Housing Authority (NHA) are:

The Infill Programme:

This programme focuses on the use of small contractors.

1. Advertisements were placed in all the daily newspapers in 2003 and 2004 inviting small contractors to register for the Infill Programme.
2. A database of pre-qualified small contractors was established.
3. Available lots of lands were identified within existing housing developments.
4. Six house types were designed and Bills of Quantities were prepared for each type.
5. Registered contractors were then selected from the database and, in the first instance, were invited to tender. As the programme progressed,

contractors were selected from the database and invited to construct a mix of the housing types at a given price for each unit as stated in the Bills of Quantities.

6. The mix of contractors was determined by the beneficiaries of the lots and the exact number of units given to each contractor was determined by the availability of lots within the development at the time.

Joint Venture Programme:

This programme focuses on the use of larger developers/contractors.

In April 2002, the authority placed advertisements in the daily newspapers inviting contractors/developers to register and pre-qualify for the housing programme.

Ninety-two contractors/developers responded to the 2002 advertisement. The criteria used for the prequalification of these contractors are as follows:

- general background;
- financial record capacity;
- track record;
- manpower; and
- equipment

Based on the evaluation by the authority's technical officers, contractors/developers were selected to proceed further for the 2003 to 2004 programme by submitting specific proposals for the various sites.

For the 2004 to 2005 programme, in August and September 2003, advertisements were placed in the daily newspapers inviting request for proposals for joint venture, from developers to participate in the authority's 2004 Housing Programme for the delivery of affordable housing.

The advertisements attracted national, regional and international participation.

An evaluation committee comprising the technical officers of the authority reviewed the proposals submitted. The evaluation was based on the following criteria.

- preliminary methods statement;
- conceptual plan;

- time frame;
- technical profile of the firm;
- bank reference;
- preliminary cost; and
- track record

For the 2005 to 2006 programme, in October 2004, advertisements were again placed in all three daily newspapers inviting request for proposals for joint venture, from developers to participate in the authority's 2005 Housing Programme for the delivery of housing units.

Responses are presently being received to be evaluated.

Madam President, the names of the companies that submitted tenders, the amounts tendered for and the name or names of the company or companies to which the contract or contracts were awarded with respect to Urban Development Corporation of Trinidad and Tobago Limited (UDeCOTT) are:

Project Name	Amounts Tendered \$
" A River Runs Through It", Bye Pass Road, Arima	
i. Home Construction Limited	7,582,833.89 VAT Inclusive
ii. Lutchmeesingh Transport Limited	5,987,340.22 VAT Inclusive
iii. Professional Technologies Trinidad and Tobago Limited	14,933,039.33 VAT Inclusive
iv. Universal Projects Limited	8,912,251.54 VAT Inclusive

The contract was awarded to Lutchmeesingh Transport Contractors Limited, the lowest bidder.

Project Name	Amounts Tendered \$
Champs Fleurs, Upper Mendez Drive:	
i. China Jiangsu Corporation	19,000,000.00 plus VAT
ii. Hafeez Karamath Limited	28,421,545.40 plus VAT

Oral Answers to Questions
[HON. DR. K. ROWLEY]

Tuesday, December 14, 2004

iii. Rahunathsingh & Company. Limited 29,210,484.41 plus VAT

iv. Professional Technologies Limited 30,913,411.07 plus VAT

The contract was awarded to China Jiangsu Corporation, the lowest bidder.

Project Name	Amounts Tendered \$
--------------	---------------------

Lady Young Road, Morvant
—construction of Garden
Apartments and associated
infrastructure:

Rahunathsingh & Company Limited	78,369,692.09 VAT Inclusive
---------------------------------	-----------------------------

Hafeez Karamath Limited	113,495,605.20 VAT Inclusive
-------------------------	------------------------------

China Jiangsu Limited	67,620,000.00 VAT Inclusive
-----------------------	-----------------------------

The contract was awarded to China Jiangsu Corporation Limited, the lowest bidder.

Project Name	Amounts Tendered \$
--------------	---------------------

Castara Housing Development:

Warner's Construction Limited	9,106,580.80
-------------------------------	--------------

Rahunathsingh & Company Limited	9,045,865.10
---------------------------------	--------------

P.R. Contracting Limited	12,849,861.78
--------------------------	---------------

General Earthmovers Limited	16,939,867.24
-----------------------------	---------------

Martineau's Transport Construction Limited	8,855,923.40
--	--------------

Haniff Mohammed & Son Limited	17,779,824.84
-------------------------------	---------------

Seereram Brothers Limited	12,151,632.06
---------------------------	---------------

Trinidad Contractors Limited	11,141,462.20
------------------------------	---------------

Swirl Engineering & Construction (Tobago) Limited	12,324,382.53
--	---------------

The contract was awarded to Martineau's Transport Construction Limited, the lowest bidder.

Project Name	Amounts Tendered \$
--------------	---------------------

Blenheim Housing Development,
Tobago:

*Oral Answers to Questions**Tuesday, December 14, 2004*

Warner's Construction Limited	10,877,338.51
Raghunathsingh & Company Limited	11,193,444.72
P.R. Contracting Limited	12,775,747.96
General Earthmovers Limited	47,087,589.92
Martineau's Transport Construction Limited	11,394,137.09
Haniff Mohammed & Son Limited	23,046,317.62
Seereram Brothers Limited	11,654,098.39
Trinidad Contractors Limited	14,673,722.97
Swirl Engineering & Construction (Tobago) Limited	10,941,664.16

The contract was awarded to Warner's Construction Limited, the lowest bidder.

Project Name	Amounts Tendered \$
Roxborough Housing Development, Tobago:	
Seereram Brothers Limited	7,903,645.84
Swirl Engineering & Construction (Tobago) Limited	7,004,919.48
Martineau's Transport Construction Limited	7,192,684.06

The contract was awarded to Swirl Engineering & Construction (Tobago) Limited, the lowest bidder.

Project Name	Amounts Tendered \$
El Dorado Road:	
Moosai Development Construction (Caribbean) Limited	9,518,179.82
S & M Construction Limited	10,775,805.96
H Lewis Construction Limited	10,799,435.13

Oral Answers to Questions
[HON. DR. K. ROWLEY]

Tuesday, December 14, 2004

Andrew Manwaring & Son Limited	12,403,031.00
Contractors & Decorators	11,290,954.15
Green Street:	
Moosai Development Construction Limited	6,305,127.25
S & M Construction Limited	6,796,844.72
H Lewis Construction Limited	6,917,059.91
Andrew Manwaring & Son Limited	8,507,552.30
Contractors & Decorators	8,343,106.27

The contracts for El Dorado Road and Green Street, Tunapuna were awarded as a package to S & M Construction Limited.

The contracts with S & M Construction Limited were terminated in November 2003 for lack of performance. In an effort to save these projects, China Jiangsu Corporation Limited was then selected due to their competitive bids at Champs Fleurs, Upper Mendez Drive and Lady Young Road, Morvant, and their successful track record. Contracts were negotiated with China Jiangsu Corporation Limited for completion of the works at El Dorado Road at a cost of \$7,115,620.42 and Green Street, Tunapuna at a cost of \$4,953,888.25.

Project Name	Amounts Tendered \$
Joint Venture (i):	
Carib Gardens, Arima:	
Malabar Farms	9,408,964.00
Joint Venture (ii)	
Canaan Place, La Romain:	
Co-Petrol	4,606,155.61
Victory Gardens, Arima:	
Malabar Farms	8,175,776.00
Coconut Grove, Mayaro:	
Bynoe Rowe Wiltshire Partnership	12.62 Mn.
Olera Heights, San Fernando:	
Hafeez Karamath Limited.	55,360,000.00

*Oral Answers to Questions**Tuesday, December 14, 2004*

Request for proposals

Oropune Gardens Phase II, Arouca:

Thermal Impac Affordable Homes Co. Ltd.	3,785,400.00
Terra Forma Ltd.	4 Mn.
Western Atlantic Co. Ltd.	4,080,000.00
Kamus Ltd.	1,261,080.00

With respect to the National Housing Authority (NHA), parts (i) and (ii) are not applicable since the NHA does not utilize traditional public tender for its Accelerated Housing Programme as indicated in my earlier part of the answer.

The names of the companies to which NHA awarded contracts are follows:

Infill Housing Programme:

Edinburgh 500

Alico Company Limited	\$2,575,418.10
Seventh Level Consultants	\$2,266,051.80
Pro Engineering Services Limited	\$2,001,812.50
Budget Homes (2004) Limited	\$1,108,973.75
Eugene Construction Company	\$2,444,959.80
Pical Services Limited	\$1,155,337.15
Winmar Construction Company Limited	\$1,286,766.05
Central Marketing Limited	\$1,186,075.50
Construction & Environment Services Company Limited	\$1,681,282.75
JNCO Enterprises	\$1,258,422.00
C&C Enterprises	\$1,130,823.75
Donawa Construction	\$1,186,075.50
Central Marketing Limited	\$1,286,766.05

Oral Answers to Questions
[HON. DR. K. ROWLEY]

Tuesday, December 14, 2004

Winmar Construction Company Limited	\$861,009.60
North Coast Construction Company	\$1,025,463.05
Fairways Construction Company Limited	\$4,788,973.75
Couva North Phase III	
L.C.B. Contractors Limited	\$3,100,017.28
Adjoha Singh Construction	\$1,768,740.02
C.W.R. Construction Services	\$1,606,279.75
Excelsior International Limited	\$1,168,434.50
H.S.Builders	\$ 726,425.10
Ramsawak Sooklal Construction	\$1,137,289.05
S.L Limited	\$1,681,282.75
Dyette Estate	
Maharaj & Associates Contracting Agency	\$2,774,824.19
Cunupia	
Choons Construction Company Limited	\$2,249,624.25
Malabar Phase III	
Beede's Construction Company Limited	\$1,283,426.40
Base Construction Company Limited	\$1,639,834.22
D&B Engineering Company Limited	\$1,286,123.20
Nardel Company Limited	\$2,444,716.00

*Oral Answers to Questions**Tuesday, December 14, 2004*

Malabar Phase IV/1

Mitchelli's Construction Company Limited	\$1,172,309.99.00
Paharry Hardware & Construction	\$1,483,983.00
Glexel Construction & Beautification Company	\$ 924,108.95

2.25 p.m.

Buen Intento

Carl King Company Limited	\$684,431.70
Douglas Contractors	\$3,061,285.80
J. E. Daughters Limited	\$2,365,434.54
Teejai Enterprises Limited	\$888,784.40
K.J.S. Enterprises Company Limited	\$908,665.60
Goodbil Construction Company Limited	\$914,095.90

Union Hall

Ashana Civil Mechanical Contractors Limited	\$1,272,795.83
Oilfield and Marine Sales & Services Limited	\$1,144,725.99
Komas Company Limited	\$2,905,336.77
Kabel Limited	\$2,099,950.78
CP's Plumbing & Hardware Limited	\$913,552.64
Ian Fook Building Contractor	\$1,772,018.67
Francis Bobb General Contractors(Partnership)	\$628,687.75
Carl King Company Limited	\$3,980,736.50

Oral Answers to Questions
[HON. DR. K. ROWLEY]

Tuesday, December 14, 2004

Caroni Village

Tripple Bique Company
Limited \$3,415,812.80

Cardil Construction Company
Limited \$2,279,316.68

Advance Construction Limited \$2,842,377.96

HYPE Construction Services
Limited \$8,235,236.25

Nardel Company Limited \$5,239,984.20

R2K Engineering Limited \$3,415,812.80

Couva North Phase 11

S.L. Limited \$1,681,282.75

Central Pavers & Maintenance
Construction Co. Ltd. \$720,549.75

Boys' Lane, D'Abadie

Equator Limited \$1,047,098.00

Burlyn Enterprises Limited \$1,499,749.50

Bon Air West

Accel Financial Group Limited \$1,414,643.15

King Company Enterprises \$441,750.65

Graham Trace, Sangre Grande

Starblock Limited \$1,149,956.38

Zion Construction & General
Services Ltd. \$1,335,274.20

Wayne Martin Construction \$669,983.10

Pleasantville

(Geranium Crescent

Flamingo Crescent)

Trinity Pre-Fab Homes Limited \$12,680,000.00

Union Hall

Edwards & Associates	\$1,197,591.95
On-Site Construction Service	\$1,197,591.95
Allahhu Enterprises Limited	\$1,197,591.95

Harmony Hall

OLAB Construction Limited	\$1,643,575.40
Cyril Fook General Contractors	\$661,172.95

Plaisance/Mayaro

N.R. Construction Limited	\$292,841.75
---------------------------	--------------

Charlieville

Shacon Limited	\$720,549.75
----------------	--------------

Valencia

Wayne Martin Construction	\$380,006.00
---------------------------	--------------

El Guayanapo, Rio Claro

INT-TER-TRAD Company Limited	\$ 3,002,674.15
------------------------------	-----------------

Cedros

Links Limited	\$ 520,889.63
---------------	---------------

Sam Boucaud,
Santa Cruz

Albert & Norbert Dominique Construction Co. Ltd.	\$ 1,890,937.53
Bartholomew's Quarry Limited	\$ 915,969.42
Compjwel Contractors	\$ 1,304,785.40
C&B Enterprises Company Limited	\$ 371,243.00
Ansel Lewis General Construction Co. Ltd.	\$ 1,388,421.45

Oral Answers to Questions
[HON. DR. K. ROWLEY]

Tuesday, December 14, 2004

Accel Financial Group Limited	\$ 763,433.25
YASA Maintenance & Construction Limited	
Strikers Village, Point Fortin	
O'Brian Alexander General Contractor	\$ 400,893.45
Bien Venue	
Ultimate Construction Services Company Limited	\$ 691,750.70
Andrew Manwaring & Sons Limited	\$260,549.75
Southern Gardens, Point Fortin	
Pace Construction Services	\$ 7,707,756.55
Bramco Enterprises Limited	\$ 2,033,816.40
Carl King Company Limited	\$ 4,863,032.60
Patrick Gordon	\$ 4,863,032.60
Mowll Village, Fyzabad	
Sharoz Enterprise Limited	
Hickling Village, Fyzabad	
J. H. Reveiero	\$ 1,337,570.50
Bushe Village, Fyzabad	
L&L Contractors	\$ 1,098,475.40

La Paille Village,
Caroni

Kareem Maintenance & Construction Company Limited \$ 665,384.25

NHA'S Joint Venture Programme

Site	Contractor	Contract Sum
Rive Estate, Diego Martin	Colonial Homes & Commercial Properties Limited	\$23,490,000.00
Couva North	Hanover Construction Company Limited	\$151,901,504.51

2003-2004

Pleasantville	Pace Construction Services Limited	\$11,350,000.00
	Trinity Housing	\$21,656,010.00
	Doc's Engineering	\$15,472,946.42
	Rainbow Construction	\$14,580,000.00
	Trinity Pre-Fab	\$14,582,000.00
El Guayanapo (Rio Claro)	Mattzack Company Limited	\$ 3,781,738.00
Wilson Road, Palo Seco	Gasco Limited	\$ 2,346,852.00
Plaisance, Mayaro	Central Project Management Limited	\$ 1,638,150.00
La Croix Avenue Malabar	Basco Hardware	\$ 4,999,000.00
Boys Lane, D'Abadie	P.R Contracting Limited	\$ 5,033,235.00
Sixth Ave Ext., Barataria	Thermal Impac	\$15,600,000.00
Farm Grove, Curepe	Winchester Industries Limited	\$87,000,000.00

Oral Answers to Questions
[HON. DR. K. ROWLEY]

Tuesday, December 14, 2004

Site	Contractor	Contract Sum
Tarouba North	NH International	\$85,000,000.00
Carlsen Field East	H Lewis Construction Company	\$51,336,000.00
Ojoe Road, Sangre Grande	Basco Hardware	\$ 3,222,875.00
Breeze Avenue Mount Hope	Rainbow Construction Company Limited	\$ 29,950,050.93
2004-2005		
Pioneer Drive, Mount Hope	C.G Construction Services Limited	\$13,584,280.00
	Port & Maritime Services Limited	\$8,919,229.00
Bates Avenue, St. Augustine	Uniform Building Construction Limited	\$58,928,852.40
Valencia, La Platta	Mootilal Ramhit	\$14,975,813.80
Goya Road	Home Construction Limited	Contract price still being negotiated
Caura Royal Road,	Building Concepts & Construction Company Limited	do
Retrench	Super Industrial Services Limited Gasco Limited	do
Golconda	TN Ramnauth Company Limited	do
	Central Project Management Limited	do
Corinth	Pace Construction Services Limited	do

	Trinity Housing Ltd	do
	Rainbow Construction Company Limited	do
Wellington Road, Debe	Agostini Marketing	do
La Horquetta South	ICP Pascal	do
Harmony Hall	Atlas Engineering	do
Edinburgh South	H Lewis Construction Company Limited Carillion (Caribbean Limited)	do
Carlsen Field West	Bolt Trinidad Limited Harricrete/Ashtrm	do

Thank you, Madam President.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Madam President, I beg to move that the Senate proceed to deal with the Motion under “Committee Business” before proceeding with “Bills Second Reading”.

Agreed to.

JOINT SELECT COMMITTEE REPORT (PUBLIC BROADCAST OF DEBATES)

The Minister of Social Development (Sen. The Hon. Mustapha Abdul-Hamid): Madam President, I beg to move,

Be it resolved that this Senate adopt the Report of the Joint Select Committee appointed to consider and report on the Public Broadcast of Debates and Business of both Houses.

I beg to move.

Question proposed.

Sen. Prof. Ramesh Deosaran: Madam President, I feel obliged to do three things in response to the Minister’s presentation. The first thing is to extend, as a matter of duty and to put on the record, our deep appreciation to the Chairman of

that committee, Hon. Dr. Rowley, and the Members, in particular, those who came from this Senate, given the diligence with which they performed their task—Mr. Danny Montano, Mrs. Christine Kangaloo, Mr. Abdul-Hamid, Mr. R. Montano, Mrs. Carolyn Seepersad-Bachan and Mrs. Mary King.

The second point is that we should have taken note of a moment in our parliamentary life, which was truly historical in the sense of deepening the connection between the citizens and the work of our Parliament. For example, to quote the instant case, it would have been quite exhilarating for the public to witness the exchanges that took place in determining which bills should have been discussed. I believe that, in itself, would have been a lesson in civics and in the way the Parliament manages its affairs. It was a pity that we did not have a full broadcast of such an event.

More particularly, it would have been equally exhilarating to see what happened when there was a tie and the particular dilemma posed, in the Presiding Officer's case, and the manner in which she extricated herself from that dilemma by relying on the high principles of parliamentary protocol. It was quite cleverly done. The public would have been quite happy to witness such a spectacle, if only we had the full broadcast of Parliament in action. I think the press would also have found it quite useful, in terms of what they would have missed and could always pick up later on by witnessing the full broadcast. I also wish to extend our commendation to the members of the press who supported and cooperated with the committee to bring this exercise to fruition.

The other point is that in the Motion there are two words "discreetly edited"; given the genesis of the Motion I think I ought to provide a brief assurance as to what this really means. I think the committee, itself, has properly noted the intention of these two words. "Discreetly edited" does not mean bias editing. It does not mean excluding proper viewing; it merely means, from my point of view, that if there are certain happenings in the Senate, like movements, shuffling and so on, those things are not necessary for broadcast, because they have no content. That is what the words "discreetly edited" means.

Finally, the Motion says that transmission should begin before the end of the year 2004 and I will be happy if the Leader of Government Business can, perhaps, give us some guidance, because I know there are some practical issues to deal with. I will be happy if either the mover of the Motion or the Leader of Government Business will outline for us what the plans are in terms of keeping to the intention of the Motion.

Finally, this is a watershed moment in the life of our Parliament. I thank the Government and Opposition sides and my colleague on the Independent Bench, Sen. King, for bringing this Motion to fruition and we look forward to the Government's implementation and the life of Parliament to be strengthened in that regard. Thank you, Madam President.

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Madam President, I rise merely to respond that I, too, have read the report and there are a number of proposals as to how this should occur. One would be if the Parliament, itself, should take responsibility for its own transmission; the other would be to use the media owned by the Government; the third one, of course, is the private sector media. I put a little team together to see which of these is most feasible in the short-term and the long-term. I, like the hon. Senator, would like to see some of what we do broadcast; I enjoy comedy sometimes. I think in this Senate you get comedy, tragedy and serious business. I think the population has a right to come to its own judgment on how the nation's business is conducted. I will do all in my power to see how fast we can implement the recommendations of that report.

The Minister of Social Development (Sen. The Hon. Mustapha Abdul-Hamid): Madam President, may I just thank Sen. Prof. Deosaran for having brought the Motion, in the first place, under "Private Business". I also thank him for his comments here today.

I beg to move.

Question put and agreed to.

Resolved:

That this Senate adopt the Report of the Joint Select Committee appointed to consider and report on the Public Broadcast of Debates and Business of both Houses.

PUBLIC ACCOUNTS COMMITTEE REPORT

The Minister in the Office of the Prime Minister (Social Services Delivery) (Sen. The Hon. Christine Kangaloo): Madam President, I beg to move,

Be it resolved that this Senate adopt the first Report of the Public Accounts Committee of the Parliament of the Republic of Trinidad and Tobago.

Question proposed.

The Minister in the Office of the Prime Minister (Social Services Delivery) (Sen. The Hon. Christine Kangaloo): Madam President, I beg to move.

Question put and agreed to.

Resolved:

That this Senate adopt the first Report of the Public Accounts Committee of the Parliament of the Republic of Trinidad and Tobago.

CARIBBEAN COMMUNITY BILL

Order for second reading read.

The Minister of Foreign Affairs (Sen. The Hon. Knowlson Gift): Madam President, I beg to move,

That a Bill to give effect to the Revised Treaty of Chaguaramas including the CARICOM Single Market and Economy and for matters relating thereto, be read a second time.

The intent of the Bill is to give domestic legal effect to the Revised Treaty of Chaguaramas. The Revised Treaty was signed on behalf of the Government of the Republic of Trinidad and Tobago on July 05, 2001 during the 22nd meeting of the Heads of Government Conference of the Caribbean Community in the Bahamas during the period July 03 to July 06, 2001. The signatory on behalf of the Government of Trinidad and Tobago, at that time, was Mr. Basdeo Panday, the then Prime Minister.

Trinidad and Tobago ratified the Treaty on July 03, 2003 during the 24th meeting of the Conference of Heads of Government of the Caribbean Community, in Montego Bay, Jamaica. The ratification of the Revised Treaty signified the willingness of Trinidad and Tobago to be bound by the provisions of the Revised Treaty of Chaguaramas. The Revised Treaty reflects the intention of the member States of the Caribbean Community to progress from a common market with elements of functional cooperation, to a single market and single economy. This is an ambitious task. The idea for the creation of the Caricom Single Market and Economy (CSME) was first mooted at the Heads of Government meeting in Grand Anse in Grenada in 1989. The head of our delegation was none other than the then Prime Minister of Trinidad and Tobago, Mr. Robinson.

A single market is a space within which goods and services, people, capital and technology freely circulate. The CSME will create a larger integrated market

that will better enable the region to negotiate with other trading blocs, such as the North American Free Trade Agreement (NAFTA) and Mercosur, as well as the Free Trade Area of the Americas (FTAA) gathering. I should add that the CSME is a necessary step to compete in the global marketplace. The Caribbean Community is moving forward on the creation of the CSME. The CSME will result in the complete removal of all barriers to trade within the region in goods and services; the free movement of capital for investment between and among the member States; the right of establishment and the integration of the production facilities of all member States of Caricom. The main objective is to stimulate economic activity within the region and to position it as an entity, a competitive player in the international arena.

The Revised Treaty contains 240 articles, five annexes and five Schedules. The 240 articles are divided into 10 chapters dealing with the following subjects:

- a. Principles
- b. Institutional arrangements
- c. Establishment, services, capital and movement of community nationals
- d. Policies for sectoral development
- e. Trade policy
- f. Transport policy
- g. Disadvantaged countries, regions and sectors
- h. Competition policy and consumer protection
- i. Dispute settlement
- j. General and financial provisions.

The Revised Treaty incorporates the following nine protocols which were negotiated by member States over several years in the creation of the CSME. Those protocols were started during the term of office of the last administration. The protocols are:

1. Organs, functions and procedures
2. Right of establishment, provision of services and the movement of capital
3. Industrial policy
4. Trade policy

Caribbean Community Bill
[SEN. THE HON. K. GIFT]

Tuesday, December 14, 2004

5. Agricultural policy
6. Transport policy
7. Disadvantaged countries, regions and sectors
8. Competition policy, consumer protection, dumping and subsidies
9. Dispute settlement.

The Caricom Single Market and Economy is not only concerned with trade, but impinges as well on economic, financial and legal administrative issues in the member States and within the community, as a whole. All these issues have a bearing on Trinidad and Tobago's political relations with other member States of the community. The Caribbean Community has agreed that the CSME is the vehicle by which enhanced development in the region will be achieved. The rights set out in Chapter 3 of the Revised Treaty, namely: the right of establishment; the right to provide services; the right to move capital in the community; and the right of movement of community nationals, constitute the essential building blocks in the creation of the CSME.

The enactment of this piece of legislation will remove the restrictions now hindering the enjoyment of Treaty rights in Trinidad and Tobago by other Caricom nationals. It will as well facilitate deeper integration of the markets and economies of member States of the community and the eventual fashioning of a single market and economy throughout the region.

The Caribbean Court of Justice which will be headquartered in Trinidad and Tobago and inaugurated in March 2005, has been invested with an original jurisdiction in respect of the interpretation and application of the Treaty of Chaguaramas, as revised by the recently completed nine protocols that will create the single market and economy.

In the provisions of the Bill, clause 2 defines the terms, "Caricom Single Market and Economy"; it also defines "Community"; "Minister" and the word "Treaty" as used in the Bill. Clause 3 provides that:

"Subject to the Act, the Treaty, the text of which is set out in the Schedule, shall have the force of law in Trinidad and Tobago.

(2) The Community shall have full juridical personality."

Madam President, clause 4 provides that:

"The Minister may by Regulations make provision for the purpose of—

- (a) implementing any Community obligation of Trinidad and Tobago or enabling any such obligation to be implemented;
- (b) enabling any rights enjoyed or to be enjoyed by Trinidad and Tobago under or by virtue of the Treaty, to be exercised; or
- (c) dealing with matters arising out of or related to any such obligation or rights.”

Madam President, clause 5 provides that:

“...any question concerning the interpretation or application of the Treaty or concerning the validity, meaning or application of instruments made under the Treaty shall be treated as a question of law to be referred to the Caribbean Court of Justice where a court or tribunal seized of an issue considers that a decision on the question is necessary for it to deliver judgment.”

Madam President, clause 5 also provides for the receipt into evidence of a copy certified as a true copy by the Secretary-General of any instrument issued by an organ of the community or of any judgment or order of the Caribbean Court of Justice or of any document in the custody of the Secretariat of the Community, or any entry or extract from such a document. Similarly it states:

“Where any instrument issued by the Community is in the custody of a Department of Government, evidence of such an instrument may also be given in any legal proceedings by production of a copy certified as a true copy by an officer of the Department of Government concerned generally or specifically authorized so to do...”

Clause 6 will permit the Minister by Order to amend the Schedule where the Treaty is amended in accordance with Article 236. An Order so made:

“...(1) may contain such consequential, supplemental or ancillary provisions (including provisions amending this Act) as appear to the Minister to be necessary or expedient for the purpose of giving due effect to the amendment of the Treaty.”

Clause 7 provides that:

- “(1) All sums required to be paid by the Government for the purpose of meeting the obligations of Trinidad and Tobago under the Treaty shall be a charge on the Consolidated Fund.
- (2) All sums received by the Government under or by virtue of the Treaty shall be paid into the Consolidated Fund.”

Caribbean Community Bill
[SEN. THE HON. K. GIFT]

Tuesday, December 14, 2004

Clause 8 stipulates that:

“In the event of any inconsistencies between the provisions of this Act and the operation of any other law, the provisions of this Act shall prevail to the extent of the inconsistency.”

Madam President, I would like to touch now on the special importance of the Caribbean Community to Trinidad and Tobago. Successive governments in Trinidad and Tobago have actively promoted the deepening of the integration movement in the Caribbean Community. It was a PNM administration that took Trinidad and Tobago into Carifta in 1968 and then Caricom in 1973. The initiative for the elaboration of the Revised Treaty and the new element in the CSME started under an NAR administration which played a leading role in the elaboration of the Grand Anse Declaration, which gave birth to the CSME.

The previous UNC administration, 1995—2001, participated actively in the work of the Inter-Governmental Task Force that elaborated the nine Protocols which expanded the original Treaty. That administration signed all nine protocols which have now been consolidated into the Revised Treaty. It also signed the consolidated Revised Treaty in the Bahamas on July 05, 2001. The current administration ratified the Revised Treaty in Montego Bay, Jamaica on July 03, 2003. The policy of deepening the integration movement in this region is not new. It has not been the preserve of any one administration. It is based on a realization that as small States in a globalized world our effectiveness and our ability to improve the socio-economic well-being of the peoples of the region will be considerably enhanced if we faced the outside world as one market and one economy rather than 15.

I shall now turn to some of the objectives of the community. Article 6 of the Revised Treaty enumerates the Community as:

- (a) improved standards of living and work;
- (b) full employment of labour and other factors of production;
- (c) accelerated, co-ordinated and sustained economic development and convergence;
- (d) expansion of trade and economic relations with third States;
- (e) enhanced level of international competitiveness;
- (f) organization for increased production and productivity;

- (g) the achievement of a greater measure of economic leverage and effectiveness of member States in dealing with third States, group of States and entities of any description;
- (h) enhanced co-ordination of member States' foreign and economic policies; and
- (i) enhanced functional co-operation, including more efficient operation of common services and activities for the benefit of our peoples; accelerated promotion of greater understanding among its peoples and the advancement of their social, cultural and technological development, as well as intensified activities in areas such as health, education, transportation, telecommunications.

Article 7 deals with non-discrimination; it provides that within the scope of the application of this Treaty and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality only shall be prohibited. Article 8 deals with the question of the most-favoured nation treatment and provides that subject to the provisions of this Treaty, each member State shall, with respect to any rights covered by this Treaty, accord to another member State treatment no less favourable than that accorded to:

- (a) a third member State; or
- (b) third States.

In Article 29, dealing with general undertaking on implementation, member States are enjoined to take all appropriate measures, whether general or particular, to ensure the carrying out of obligations arising out of this Treaty or resulting from the decisions taken by the organs and bodies of the community. They shall facilitate the achievement of the objectives of the community and shall abstain from any measures which can jeopardize the attainment of the objectives of the treaty.

Despite the length of the Schedule, this Bill is a simple one. It gives the force of law in Trinidad and Tobago to the provisions of the Revised Treaty, including those provisions contained in Chapter Three (Articles 30 to 50 inclusive) that are indispensable in the operation of a truly single market and economy.

I shall now touch on certain special important provisions of the Revised Treaty. In addition to the freedom to trade in goods, the CSME confers on member States and their nationals rights and freedoms hitherto not enjoyed in the Caribbean Community. These rights are: establishment and provision of services;

Caribbean Community Bill
[SEN. THE HON. K. GIFT]

Tuesday, December 14, 2004

movement of capital and movement of persons. These rights and freedoms are to be implemented in accordance with the overarching principles of non-discrimination and most-favoured nation treatment.

In a single market, insofar as the fundamental rights and freedoms are concerned, there is a complete removal of physical, technical and fiscal frontiers. For example, moving goods or services, capital or people from Trinidad and Tobago to Barbados will be no different from moving them across Trinidad and Tobago, itself. In the same way that there can be no restrictions or discrimination between residents of San Fernando and Port of Spain, within the single market of Trinidad and Tobago, there can be no restrictions or discrimination between nationals of Trinidad and Tobago and nationals of, say, Guyana within the Caricom Single Market and Economy in respect of the rights and freedoms spelt out in the Revised Treaty. Member States are, therefore, required to remove existing restrictions in their laws to enjoyment by other nationals of the member States of the Community, to the rights and freedoms enumerated in Chapter Three of the Revised Treaty.

Among Caricom member States, Trinidad and Tobago has the fewest number of restrictions to remove from its laws. The removal of these restrictions from existing legislation will be the subject of a separate piece of legislation which will be brought to this Senate next Tuesday.

The provisions and subsidies and countervailing duties in the Treaty were adopted, with minor modifications, from the provisions in the World Trade Organization (WTO) agreements. All member States of Caricom are signatories to these agreements. Any dispute, therefore, arising between member States for which the WTO would normally have competence, will now be settled through Caricom organs.

The rationale for the decision of the Community on the free movement of skilled persons, as is reflected in Articles 45 and 46 of the Revised Treaty, lies in the acceptance of the fact that in order to achieve the objective of the CSME, that is, closer integration of the markets of the member States of the Community and the eventual fashioning of a single market in the region, those factors of production, susceptible of movement, must be allowed to move within the Community in order to achieve an optimal allocation of scarce resources within the single market. This requirement applies equally as well to labour as it does to capital.

The decision regarding the free movement of skilled persons represents a balancing, on the one hand, of the economic imperatives flowing from the

creation of the CSME and, on the other hand, a recognition that economic and social dislocations could arise from unrestricted movement at this stage of development of the economies of the region.

I will now say a few words on the question of free movement. Article 45 of the Revised Treaty of Chaguaramas provides that:

“Member States commit themselves to the goal of free movement of their nationals within the Community.”

Article 46 provides further, that:

“Without prejudice to the rights recognized and agreed to be accorded by Member States in Articles 32, 33, 37, 38 and 40 among themselves and to Community nationals, Member States have agreed, and undertaken as a first step towards achieving the goal set out in Article 45, to accord to the following categories of Community nationals the right to seek employment in their jurisdictions:

- (a) University graduates;
- (b) Media workers;
- (c) Sports persons;
- (d) Artistes; and
- (e) Musicians.”

These must be recognized, as such, by the competent authorities of the receiving Member States.

The objective of the Treaty commitment contained in Article 45 is to permit labour to move as freely as the other factors of production. The rationale for the policy lies in the certain knowledge that labour must be allowed to move as freely as the other factors of production susceptible of movement, if optimum allocation of resources within the Caricom Single Market and Economy is to be achieved.

The categories identified in Article 46 represent a first step in the goal of free movement of labour within the CSME. In paragraph 4 of Article 46, the conference is mandated to keep the provisions of the Article under review in order to, *inter alia*:

“enlarge, as appropriate, the classes of persons entitled to move and work freely within the Community.”

Caribbean Community Bill
[SEN. THE HON. K. GIFT]

Tuesday, December 14, 2004

So we can see from this provision that we are not, really, talking about a free-for-all, rather than a form of control; that is absolutely not so.

It is clear that the object of the provisions of free movement in the Revised Treaty is to facilitate the movement of labour, because it is recognized that the economic potential of the Community will not be fully realized if, as important a factor of production as labour is, it is not allowed to move to those parts of the Community where there may be a demand for particular skills and services. The provisions on free movement in the Revised Treaty are not designed to be a liberalized work permit regime. The purpose of these provisions is to make it easier for particular categories of persons to move. The provisions on free movement of skilled persons are intended to be facilitatory.

Paragraph 4 of Article 36 of the Revised Treaty of Chaguaramas, dealing with the prohibition of new restrictions on the provision of services, provides that:

“For the purposes of this Chapter, ‘services’ means services provided against remuneration other than wages in any approved sector and the ‘provision of services’ means the supply of services:

- (a) from the territory of one Member State into the territory of another Member State;
- (b) in the territory of one Member State to the service consumer of another Member State;
- (c) by a service supplier of one Member State through commercial presence in the territory of another Member State; and
- (d) by a service supplier of one Member State through the presence of natural persons of a Member State in the territory of another Member State.”

This definition of the cross-border provision of services or cross-border trade in services is almost identical to the provision found in Article 1213, paragraph 2 of the North American Free Trade Agreement (NAFTA). It is apparent from paragraph 4 of Article 36 of the Revised Treaty that it is possible to provide cross-border services without actually having to move to the territory of the member State in which the services are to be consumed. Only in the case of paragraph 4(c), is it required that the service provider actually be physically present in the member State in which he intends to provide services.

In examining the issue of the implementation of the obligation on the provision of services, it is important to take appropriate notice of the fact that

movement of persons within the CSME is a right conferred by the Revised Treaty. There is no right to move by virtue of being a Caricom national. Therefore, in order to come within the ambit of the Revised Treaty, movement must relate to some purpose of the Treaty. In order to enjoy the benefits of the Revised Treaty, a person must demonstrate that he satisfies the conditions precedent, expressed or implied, for the enjoyment of those benefits.

As in the case of university graduates, media workers, artistes, sports persons or musicians, anyone moving for the purpose of providing a service or, indeed, establishing a business must, of necessity, satisfy the authorities at the port of entry of their bona fides. That person will need to satisfy the authorities at the port of entry that he or she has the ability and the means to provide the service or establish the business for which entry is being sought. If, in the case of those other categories of persons enjoying free movement, the decision whether to admit is not left within the sole discretion of the immigration officer, there is no rational basis why in the case of service providers the sole responsibility should or could reasonably rest on the immigration officer.

The right to move is expressly made contingent in this case on the intention to provide a service. The issue becomes how is that intention to be made manifest to the immigration officer at the port of entry. Since the Revised Treaty confers no general freedom of movement on Caricom nationals, a determination would have to be made by the immigration officer whether or not to admit a person who is seeking entry, ostensibly, to provide a service. [*Interruption*]

Sen. R. Montano: Would you mind giving way, just on a point of clarification? I did not understand, Madam President. Did I hear the Minister right, that the right of movement is contingent upon the ability to give a service? If that is what I heard, would the Minister kindly explain? I do not understand exactly what he meant by that.

Sen. The Hon. K. Gift: Madam President, I did indicate in my presentation that there is no right of movement, per se, outside of the intention to provide a particular service as a result of that movement. It does not confer the right on anyone to move freely as though he was hopping about the Caribbean in search of something he is unable to identify. Perhaps, if I were to continue the Senator would get a clearer picture as I move towards the end of my presentation.

Sen. R. Montano: Perhaps, not.

Madam President, there will be need for clear guidelines to inform the immigration officer in the execution of his task. In addition to facilitating proper

Caribbean Community Bill
[SEN. R. MONTANO]

Tuesday, December 14, 2004

administrative decision-making, in furtherance of the realization of the objectives of the Revised Treaty, these guidelines will have the salutary effect of reducing the incidence of charges of irrational, arbitrary or oppressive decision-making by persons denied entry. In the absence of the necessary work on this matter by the Caricom Secretariat, the Government of Trinidad and Tobago may have to develop its own guidelines and criteria in order to ensure that the movement of service providers is done in a transparent and non-discriminatory manner.

I now turn to the benefits to Trinidad and Tobago of the CSME. Policies and programmes that strengthen the CSME will redound to the benefit of Trinidad and Tobago and the community, as a whole. Trinidad and Tobago is a leading proponent of the establishment of the single market. Caricom is now second only to the United States of America as the preferred destination for this country's domestic exports. During the period January to December, 2002, 20 per cent of total domestic exports were consigned to Caricom markets, while 46 per cent went to the United States of America. The next most important extra-regional domestic export markets for the period January to December 2002, were Puerto Rico and Spain, accounting for 3.7 per cent and 2.5 per cent respectively, of the total domestic exports. Jamaica alone, with a market of some 2.6 million consumers and a GDP of approximately US \$6.7 billion, accounted for 37 per cent of the total domestic exports to Caricom countries.

Madam President, economic development in the region is therefore of vital importance to the continued health and vitality of this country's manufacturing sector. The Community has agreed that the CSME is the vehicle by which enhanced development in the region will be achieved. Freedom of movement of skilled persons, the right of establishment, the right to provide services and the movement of capital are essential building blocks, therefore, in the creation of the CSME.

As a member possessing one of the most industrialized and diversified economies in the region, Trinidad and Tobago is in a position to benefit economically, politically and diplomatically from acting as host for the headquarters of the Association of Caribbean States (ACS). I thought that I should inject that thought into my delivery, considering that the ACS is now celebrating its 10th anniversary conference in Port of Spain. The maximization of those benefits is, of course, dependent on the extent to which members of the Association— *[Interruption]*

Sen. R. Montano: On a point of clarification, again. *[Sen. Montano stands]*

Sen. The Hon. K. Gift: —achieve the goal of cooperation and integration, which underpins the foundation of this Association.

Madam President: Senators! Mr. Minister, are you giving way?

Sen. The Hon. K. Gift: No, I am nearly through. The Senator has all the time after that.

The new reality of globalization of the international economy, widening and deepening of integration movements and the progressive liberalization of regional and international trade, are propelling us in but one direction, that is, closer cooperation and deepening of the integration movement within the region.

Trinidad and Tobago was at the forefront of the creation of the Caribbean Community when the Treaty of Chaguaramas was signed in 1973. This country remains a principal beneficiary of the regional integration movement. We are conscious that the dynamics of the international economic environment requires us to deepen the integration movement with some dispatch. The Government of Trinidad and Tobago accordingly submits this Bill for consideration by this honourable Senate, which is intended to provide the legal framework in Trinidad and Tobago for the deepening and consolidation of the regional integration, which we all agree is needed now more than ever.

This Bill is intended to move forward the process of economic integration which began with Carifta in 1968 and progressed to Caricom in 1973. Successive governments in different administrations have all supported the policy that undergirds the Revised Treaty. With the consistency of policy or constancy of position, spanning both time and governments, being a matter of public record, I, therefore, unhesitatingly recommend that the hon. Members of the Senate support this Bill to give effect to the Revised Treaty of Chaguaramas, including the Caricom Single Market and Economy and for matters relating thereto.

Work continues in Trinidad and Tobago and the rest of the region on removing restrictions within member States so as to give effect to Protocol II, which deals with the right of establishment, movement of capital and the provision of services. I am advised that Trinidad and Tobago has the fewest remaining restrictions to remove. The CSME, which is established in the Ministry of Foreign Affairs, as the Ministry with responsibility for Caricom affairs, advises that this country is, at this time, 85 per cent ready to assume its obligations under the Revised Treaty. The Prime Minister of Trinidad and Tobago has given an undertaking that we will be ready by January 01, 2005.

I beg to move. [*Desk thumping*]

Sen. R. Montano: Before the Minister sits, I wonder if he could explain a couple of things, because I did not understand. He said that the policies will redound to the benefit of Trinidad and Tobago. How? If he can kindly tell us, it will help us in our consideration of the Bill. The Minister brought the Association of Caribbean States into the thing and I did not understand how the ACS came into this. Can you, please, explain, Mr. Minister?

Sen. The Hon. K. Gift: Madam President, I intend to take copious notes as the questions are entered and I will make sure to do that in the wrapping up session.

Sen. R. Montano: If I can beg the Minister, because it will help us now, rather than have him say something at the end and nobody is able to comment. The Minister wants us to support the Bill, he should tell us how so we can make our comments with intelligence; otherwise we have to deal with the statement that sits in the air, "the policies will redound to the benefit of Trinidad and Tobago", great. How? I am not a rubber stamp.

Madam President: Okay Senators. Mr. Minister, do you want to say something before I put the question?

Sen. Dumas: I was just hoping that our proceedings were not being disrupted by the goodly Senator. [*Laughter*]

Sen. R. Montano: How?

Madam President: Mr. Minister of Foreign Affairs, did you want to add anything before I put the question?

Sen. The Hon. K. Gift: Madam President, I prefer to deal with this matter with some latitude later on. I believe that this honourable Senate will benefit at that time, more fully, when the response is due.

Sen. Seetahal: Madam President, I understand what the Minister is saying, but I, myself, noted that he said this Treaty would redound to the benefit of Trinidad and Tobago and then he went into the fact that Caricom is second to the US as a market, and 20 per cent as distinct from 25 goes there and so on. Then he said that we will benefit economically, politically and something else, which are descriptive; it does not say exactly how. I agree entirely with what Sen. R. Montano said. If we are now to make our contributions, I would like to know specifically. I have several pieces of literature here, which talk about some benefits, but in your eyes, Madam President, and the eyes of the Minister I want to know exactly what. Is it that we are going to have a better quality media, for

instance, if we have foreign journalists, as we now have here? I do not know. To say that we will benefit at the end, will not help us. I think we should get a list of benefits, as it were, now, to assist us in determining how we proceed.

Sen. The Hon. K. Gift: Madam President, we are here at this stage of the debate to put into effect a treaty—and a revised version of a treaty signed—which was signed and negotiated by the other side. I would have hoped that when they did that, they would have seen what they were talking about when they talked about advantages redounding to Trinidad and Tobago. Is it that they proceeded with this only as a matter of an academic exercise? They would have had to analyze that during their six years in office; it took some time to get to this stage. [*Desk thumping*] So for them to be arguing now that we have to explain—as a matter of fact, I would say that the explanation should be coming from that side, since we are inheriting what was.

I repeat, however, that this is a laudable initiative, as in the case of the Caribbean Court of Justice and the Free Trade Area of the Americas. These were all initiatives started by the other side and we applaud them. That is why we, having inherited them, are going the full distance to see that they redound to the full benefit of Trinidad and Tobago. [*Interruption*]

Sen. Dr. Saith: Madam President, in a sense this Bill sets the framework policy for the Bill that we could not debate at the same time. It fleshes out some of what this would do. I am sure, at that time, we will go into much more detail about the individual, because it talks about why we are going to let people come in. In a sense, it is a pity that we are at this point. I suggest that we debate this; if there are questions raised and some answers are needed, there are other Senators on this side who will speak and then we have another debate on Tuesday, which will go into some of the details of what it is. The Treaty, obviously, as the Minister indicated is a broad policy document. May I commend the UNC and the then Prime Minister, Mr. B. Panday, who signed the document in the Bahamas, for moving the process forward.

3.25 p.m.

Sen. R. Montano: Madam President, before you move it, let me put it this way. The Minister is effectively dodging the question and we are the Senate of the Republic of Trinidad, we are the Parliament—

Sen. Dumas: Madam President, he is imputing improper motives here.

Madam President: The three of us are on our feet now. I think if we go into the debate, most probably some of your concerns will be answered. So Senators, I am going to propose the question.

Question proposed.

Sen. Wade Mark: Madam President, it has been said that the road to hell is paved with good intentions. Today, we are called upon to debate a measure which half of this population or even more—I would say close to 80—90 per cent of the population—are not fully aware of in terms of its implications, repercussions and ramifications. But this is how we have done business in Trinidad and Tobago under a model that has failed not only the country, but the region as a whole, and I refer to the Westminster model of governance in our Republic.

Madam President, one would have expected that in the normal course of business, when such far-reaching measures are being contemplated that some respect would have been shown towards the Parliament, because after all, we are the ones who would decide at the end of the day whether this law will be effected. We will decide at the end of the day whether this treaty which was signed by the UNC in 2001, ought not to have been ratified by the Parliament of this Republic rather than a Cabinet.

So we are now dealing with enabling legislation, and for the first time we are seeing a very voluminous document containing about 240 Articles and some 288 pages of material including annexes and schedules. What is even more interesting is that housed in the legislation are provisions that are yet to be determined by this Parliament. We have not given any support to the Caribbean Court of Justice (CCJ), no bill has been debated in this Parliament on the Caribbean Court of Justice, yet we are called upon today to give passage to legislation that refers to the CCJ even though the Parliament has not taken any decision and no law has been passed giving effect to it. What kind of short-hand, surreptitious, underhand approach is being taken by this very brutal administration at this time in our development?

Madam President, why are we being called upon to give approval to a measure that we have not supported, or the Parliament has not deliberated upon? The Government does not have its house in order and the Prime Minister, who goes about the place as a Caribbean Santa Claus has given a commitment to the region that come January 01, 2005 he is going to ensure that the Caribbean Single Market and Economy (CSME) and the Revised Treaty of Chaguaramas will become law and he has a bunch of puppets in the Parliament of this Republic who will give him support because the “emperor” says so. That is why we are being bullied and cajoled into rushing through legislation that the ordinary man and woman in this country are not aware of.

What is the Caricom Single Market and Economy? What does that mean to the ordinary family from Penal, Toco, or Woodbrook at this time? When people's

homes have been crushed by landslides in this country, over 300,000 persons are living under the poverty line, and they do not know where their next meal is going to come from and we have a Caribbean godfather in the person of the Prime Minister going about the region handing out our moneys without any sense of accountability and transparency.

He is boasting that he is going to commit to the Caribbean over US \$1 billion. Do you think that is the Prime Minister's money? Who gave him the authority to go into our Treasury and make that kind of commitment when people in this country are suffering and dying every day because they do not have basic requirements for their everyday existence? But we are being told today that we must give effect to the Revised Treaty of Chaguaramas including the Caricom Single Market and Economy.

Madam President, Caricom does not have its house in order, and this Parliament must not be used as a rubber stamp to do so. I want to refer you to an article dated Tuesday, November 09, 2004 in the *Trinidad Express* entitled "Arthur: no CSME in 2005" and I want to share with you what the Prime Minister, hon. Owen Arthur, had to say about the CSME which we are being told must be passed today.

The Minister of Foreign Affairs says it is critical to our development in the Caribbean. Well, if that is critical for our development and we still have 300,000 persons living in stark poverty in Trinidad and Tobago today, then I do not know what is important. In a population of 1.3 million, over 300,000 are living in desperate poverty and squalor and we are saying that we must rush this piece of legislation to satisfy the new Caribbean Santa Claus, who is using our resources without any accountability or transparency and he is giving away money as if it is his. If he had a business it would have crashed already, but, it is coming out of our pockets.

Madam President, this is what the Prime Minister of Barbados had to say:

"Barbados Prime Minister Owen Arthur said last night that the proposed Caricom Single Market and Economy (CSME) will not become reality as was scheduled by next year.

Arthur told a news conference at the Hilton Trinidad that instead efforts will be made by Caricom member states to establish a Caricom Single Market by the end of next year and the Single Economy will be dealt with subsequently."

Caribbean Community Bill
[SEN. MARK]

Tuesday, December 14, 2004

Madam President, we are being told to give effect through passage to the Revised Treaty of Chaguaramas including the Caricom Single Market and Economy, but the main mover, the man who is in charge of the Caricom Single Market and Economy told the entire region and the world that the Caricom Single Market and Economy is a pipe dream, and he is now dichotomizing the Caricom market from the Caricom economy. Yet we are being told today to pass this piece of legislation with the accompanying treaty to give effect to the Caricom Single Market and Economy, when the Barbadian Prime Minister is saying that it is not on target.

What the Prime Minister was indicating is that they are now phasing in the CSME. They are now going to deal with the single market which will deal with the movement of goods, the provision of services, the free flow of capital, the right of establishment and then as an afterthought, they will deal with the free movement of labour.

So Madam President, this is a hoax that we are engaged in here today, because there is no Caricom Single Market and Economy but we are being told that there is, and we are being told to pass this piece of legislation in order to give effect to something that does not exist.

A single economy would imply, among other things, coordination of macroeconomic policies among countries that form Caricom. It would mean the harmonization of fiscal policies among Caricom countries that form the CSME or the Caribbean Community. It would mean a single currency so when I go to Barbados, I can use my Caricom dollar. Right now my dollar is worth nothing in Barbados, it is worth nothing in Guyana, and it is worth nothing in Jamaica.

Where is our common external trade policy? That is what a single economy is supposed to mean. So when you tell me forget the single economy, let us just deal with the movement of goods and services, the right of establishment, and the unimpeded flow of capital and at the same time tell us we must pass this measure—In fact, without your help today, we would have been in trouble and I must compliment you, Madam President, for making the correct decision on the matter.

The Government wanted us to deal with these two Bills conjointly because they are in a rush to satisfy whom? Not the population of this country, not the workers and their trade unions. There is another hidden agenda which I shall expose very shortly in terms of where this Prime Minister is trying to lead us. He is leading us down a path that is dangerous and I will tell you why in a short while.

Madam President, how does CCJ have any jurisdiction over the Republic of Trinidad and Tobago? Barbados can pass it, Jamaica can pass it, and Guyana can pass it. It will not have any effect over decisions in this country and the earlier the Government of Trinidad and Tobago can understand that, it would not bring a piece of legislation to Parliament that incorporates the Caribbean Court of Justice even though we have not taken a decision on that matter formally.

Madam President, we must do what is right and proper. We must do what we have to do, but do it properly and decently. We must not come with any short-hand approaches in order to hoodwink the Opposition.

Madam President, I am alarmed and I refer you to clause 8 of the Bill. Hear what this clause says:

“8. In the event of any inconsistencies between the provisions of this Act and the operation of any other law, the provisions of this Act shall prevail to the extent of the inconsistency.”

Madam President, can the hon. Attorney General of this country or the Minister of Foreign Affairs indicate to this Parliament, what does that mean? We have a law, we have a Constitution—

Sen. Jeremie: The normal rule in international law when a treaty is signed, the rule of construction is that you would construe your domestic law consistent with your international law obligations and that is merely a codification of that general principle, and that is the first general answer which I would offer.

The second general answer I would offer is that it is part of the spirit of your international law of commitments, that you would amend your domestic law by reference to the domestic enactment of the international obligations to make the domestic law compliant with the international law of obligation.

Sen. W. Mark: Madam President, I think that the Attorney General has now confirmed in my mind why this Bill should require a special majority because if, for instance, clause 8 is to be interpreted in the manner that my colleague has just referred to, then I would like to suggest that this Bill does not require a simple majority, it requires a special majority because what this provision is saying is that any law in this country that is inconsistent with the Treaty, that law goes under and the Treaty goes over. In those circumstances, we suggest that the Government considers this Bill not as one that requires a simple majority, but one that requires a special majority.

[The Attorney General stands]

Caribbean Community Bill
[SEN. MARK]

Tuesday, December 14, 2004

I want you to take your points down; I am not giving way because at the end of the day I will lose time. I need almost two hours for this debate, so I am sorry my dear colleague, maybe we will speak during tea time.

Sen. Jeremie: But you asked for help.

Sen. W. Mark: Madam President, let me return to my very important contribution. As far as we on this side are concerned, there are a number of provisions in the legislation and in the treaty that require serious clarification and I hope the Attorney General will join this debate at the appropriate time and provide clarification to us and not interrupt me.

Madam President, under Article 26 of this Treaty we are addressing, there is something called the consultative process. Where is the consultation? This Treaty was signed in 2001; it was ratified according to the Minister, in July 2003. We are now coming to the end of 2004, what consultation have we had with the people of this land?

I want to tell the hon. Minister of Foreign Affairs that yes, we signed it. *[Interruption]* The question here is the PNM is in office and it forms the Government and it ratified this document. Did the PNM consult with the masses of people? Did it consult with labour? Did it consult with the NGOs? Did it consult with the business community, or the Opposition on this matter? I am afraid not. They have not done any consultation and, therefore, as far as we are concerned, this measure that we are deliberating today holds a lot of negative implications for the citizenry of this land.

Who can argue for greater economic space? That has always been the rationale. It is almost like the dominant rationale for economic integration in the region. The argument has always been to pool our markets and resources; let us seek greater efficiency in production and trade; let us enhance cost effectiveness in the provision of common services. These have been the arguments.

Madam President, in 1958 there was something called Federation, that collapsed as you are all aware, then we went to something called Carifta, that disappeared and it was replaced by Caricom through the Treaty of Chaguaramas in 1973 and, as the Minister pointed out, in 1989 we had the agreement in Grand Anse, Grenada where the decision was taken by Heads of Government to provide and work towards a common Caricom Single Market and Economy.

Fifteen years later, where are we with the CSME? We are being told, and the Minister has not told this Parliament what it will cost you and I, and the citizens of this country. We are told in clause 7(1):

“7(1) All sums required to be paid by the Government for the purpose of meeting the obligations of Trinidad and Tobago under the Treaty shall be a charge on the Consolidated Fund.”

(2) All sums received by the Government under or by virtue of the Treaty shall be paid into the Consolidated Fund.”

Madam President, we have not been told by the hon. Minister of Foreign Affairs what it will cost the population to give effect to this CSME. What has it cost the Republic of Trinidad and Tobago, to date, to keep Caricom afloat, and what projections have been made over the next 10 to 15 years as it relates to this CSME that we are deliberating on today? We do not know, but the population is being called upon to support the measure and we do not have the facts before us.

Madam President, when there is free movement of people which I have no difficulty with, you have to put your house in order. According to the Prime Minister of Barbados, 800 persons left Trinidad and are now working in Barbados, 400 have left Barbados and are now working in the Republic of Trinidad and Tobago. When we move from media personnel, musicians, artistes, sportsmen, university graduates, and we now open the market to the movement of unskilled labour or semiskilled labour, what provisions would the Government put in place to ensure that the infrastructure is in place to ensure that when people move in their numbers to Trinidad and Tobago there are sufficient facilities available whether it is educational, medical, road, or transport facilities? We do not know, and these are questions which the Minister would need to provide some clarification for us, because the region, as you know, is still characterized as we speak by mass unemployment and underemployment.

Many Caribbean countries are faced with severe fiscal difficulties. There are recurring external imbalances in the region today, major distortion in the distribution of resources, not to mention the perpetuation and persistence of poverty in this region, the drug culture, and of course, the HIV/AIDS pandemic that is gripping this region at this time.

How are we preparing to address these challenges we have in the region? How is the Caricom Single Market and Economy going to address these questions? How is Trinidad and Tobago preparing itself to face this spectre? We have not been told by the Minister of Foreign Affairs.

3.55 p.m.

Sen. Dr. Saith: Madam President, on a point of order. I am really having

Caribbean Community Bill
[SEN. THE HON. DR. SAITH]

Tuesday, December 14, 2004

some difficulty following this argument. We have before us a treaty which sets out the obligations of this country in respect of a number of things. The treaty says: you should have a common market and economy; you should have a Caribbean Court of Justice; you should have “A, B, C, D and E”, and that is what we are debating. That is a treaty that had been signed by a legitimate government in the country, unless you want to repudiate it. Now the points that the hon. Senator is raising as to how exactly you are going to implement it, is this Bill, which talks about how you are going to amend the Immigration Act and how you are going to do this and that.

Sen. W. Mark: You are misled. You keep making that point—

Sen. Dr. Saith: My point is, are we being not only irrelevant, but are we debating a Bill to come, at this time, or should we restrict our debate to whether we are prepared to ratify a treaty signed by the Government and which, in normal courses of events, one would not repudiate? And when we come to the second part, having signed the treaty, then there would be legislation for the CCJ, for the CSME, for the immigration, and at that time we will debate how and if—

Sen. W. Mark: We should not have signed this, you know. They really do not understand the Bill.

Madam President: I disagree with you, Senator. I think the Minister is making sense.

Sen. W. Mark: Did you read this thing, Madam President?

Madam President: Yes, I read it.

Sen. W. Mark: I think this is a Bill that I am very relevant—

Madam President: I think if we decided today that we are not debating the other Bill, then we should stick to the one that we have before us.

Sen. W. Mark: That Bill is relevant to me right now. Sen. Dr. Saith does not understand what is happening, you know; he really does not understand.

Madam President: Senator, I was just going through both. As you were speaking, I went through both Bills, so let us see if we could stick to the—

Sen. W. Mark: But I am sticking to the Bill.

Madam President: Continue. I will see. I will listen.

Sen. W. Mark: Madam President, we are dealing with the Caribbean Single Market and Economy. That is a broad and sweeping process that we are talking

about here. We are talking about the movement of goods, the movement of services; we are talking about the unimpeded flow of capital; we are talking about the right of establishment; we are talking about the movement of people. Does the Government not understand this? You bring a Bill before this Parliament and you do not understand what you have brought, and you are saying that I am being irrelevant? What nonsense! This is a very serious matter. This is Caricom Single Market and Economy! It is revised and there are 240 articles in this treaty here.

Sen. Dr. Saith: That is what you signed.

Sen. W. Mark: Forget what I signed. I am dealing with it right now. I recognize that. You do not have to remind me of that. I know my duty, you know.

All I am advancing is that we have in this legislation—and the Minister referred repeatedly in his contribution to the principles. He talked about the various provisions, about the chapters, about the policy for sectoral development in the region. He referred to trade and transport policy. He talked about how small countries could be disadvantaged, the competition policy, consumer rights, dispute settlements. All these things were mentioned. He spoke about fundamental freedoms and rights. In this treaty he also mentioned discrimination—non-discrimination, as he called it.

This treaty focuses more on the movement of capital than on the movement of people and labour. We are told by the hon. Prime Minister of Barbados that to give effect to the CSME we would need to establish a regional economic development fund. I would like the hon. Minister to share with us, what is going to be the value; what is going to be our contribution to this so-called regional economic development fund. He said so, Madam President.

We would like to know that when it comes to the courts of this country, whether the CCJ is going to have precedent over the local courts of this land, because in the treaty that is before us there are sections that deal with court matters and, therefore, the Minister would have to provide us with clarification on these matters. I did not see in the treaty—even though the Government has ratified it—any provision on accountability, on the principles of proper governance. We did not see anything like that. I would like the Minister to tell us why these articles were not considered subsequent to our signing.

We also recognize, according to the hon. Prime Minister of Barbados, that there is need to develop a social development fund for the training of workers, because you are talking about the movement of people under this particular CSME. We are talking about the movement of workers. Are we preparing our workers to

Caribbean Community Bill
[SEN. MARK]

Tuesday, December 14, 2004

face the rigours of the CSME? Jamaica is preparing its workforce to face the rigours of the CSME. What can the Minister of Foreign Affairs tell us we are doing in Trinidad and Tobago to address this question of training our workforce for this competitive environment that is upon us? I would like him to tell us exactly what is being done to address these matters.

We talk about, for instance, in this treaty, human resource development, under Article 63. What are we doing in this country to ensure that this provision is effected in the interest of the people of this Republic? I notice that there is an absence of telecommunications in the treaty, and I hope that the Minister could provide us with some explanation for this development.

If you go to clause 5 of the Bill—again, I want to make reference to the following. In clause 5(2) there is another disturbing provision there that we would need some clarification on. It reads as follows:

“Evidence of any instrument issued by an organ of the Community or of any judgment or order of the Caribbean Court of Justice or of any document in the custody of the Secretariat of the Community, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by the Secretary General of the Community; and any document purporting to be such a copy shall be received in evidence without proof of the official position or handwriting of the person signing the certificate.”

Is this a new approach that we are taking? We would like to have clarification that you could tender a document in evidence without proof of the official position or handwriting of the person signing the certificate. We want to know if that is the new approach that we are taking under this arrangement.

If you go to clause 6, it states:

“Where the Treaty is amended in accordance with Article 236, the Minister shall, by Order, amend, the Schedule accordingly.”

Let us go to this particular article in the treaty. You would see under Article 236 what they are referring to. It states:

- “1. This Treaty may be amended by the unanimous decision of the Parties.
2. An amendment shall enter into force one month after the date on which the last instrument of ratification is deposited...”

The Minister of Foreign Affairs should, at all times, refer matters of this nature to

the Parliament of this Republic and, therefore, we are suggesting that we amend clause 6(1) to make it mandatory, where the treaty is amended in accordance with Article 236, the Minister shall, by Order, amend the schedule accordingly, but subject to an affirmative resolution of the Parliament. We want to ensure that the Minister is accountable to the Parliament of this Republic and, therefore, we are proposing that an amendment be made to that effect.

You know, our Prime Minister has been going all over the place speaking to, what I would like to refer to in an article in the *Sunday Guardian* of November 14, 2004, entitled, “Building bridges with Trinidad and Tobago oil dollars”. It was in this article that the Prime Minister of this Republic made his famous statement to the effect that there is need for closer political integration—words to that effect—among the southern Caribbean states.

Madam President: Hon. Senators, the speaking time of the Senator has expired.

Motion made, That the hon. Senator’s speaking time be extended by 15 minutes. [*Sen. S. Baksh*]

Question put and agreed to.

Sen. W. Mark: Madam President, the Prime Minister of the Republic of Trinidad and Tobago was addressing the 10th special meeting of the conference of Heads of Government of Caricom, held in Port of Spain, November 08 and 09, 2004. The Prime Minister referred to political union; that is what he was referring to, essentially.

I have the manifesto of the PNM for the last election and nowhere in this document that I have looked through is there any reference to a political union between St. Vincent and the Grenadines, Grenada and Trinidad and Tobago. Nowhere, as we speak to the issue of the Revised Treaty of Chaguaramas and the CSME, is there any reference in the PNM manifesto to a political union, yet you have the Prime Minister without a mandate from the Parliament and from the people—there is a link, and I told you that we have to unmask this particular development. I would like the hon. Minister of Foreign Affairs to tell this Parliament, when the Prime Minister spoke to the issue of a political union involving St. Vincent and the Grenadines, Grenada and the Republic of Trinidad and Tobago, where did the Prime Minister derive that mandate from? All the political pundits are asking the question: On behalf of whom is the Prime Minister speaking? The Prime Minister does not have a mandate, [*Desk thumping*] and I give him the assurance that if he goes to the polls with that as a major plank, we

Caribbean Community Bill
[SEN. MARK]

Tuesday, December 14, 2004

will eat him raw! But he would not do that. So surreptitiously, he introduces this idea.

What is even more amazing, he gets the Prime Minister of St. Vincent and the Grenadines, a former colleague of mine, who has shifted to the right, coming to Trinidad and Tobago to tell us how we must conduct our affairs, and I see the Minister of Foreign Affairs remains remarkably silent on a matter like this.

Madam President, you do not have to go to your Standing Orders, I am quoting for you. Listen to what I want to tell you in terms of what the gentlemen is saying. I am quoting from the *Sunday Express*, November 14, 2004 and it is written by Dr. Selwyn Ryan. He says:

“Indians in Trinidad and Tobago are unlikely to be persuaded by the view of Prime Minister Gonsalves that they will be ‘principal beneficiaries’ of a political union of Trinidad and Tobago, Grenada and St. Vincent and the Grenadines since the people of the latter two islands are not afflicted by the ‘incubus of ethnicity’ as are the people of Trinidad and are thus not likely to vote along ethnic lines.”

This is a statement coming from Dr. Ryan.

We have to ask the question: Who gave the hon. Prime Minister of St. Vincent and the Grenadines the authority to speak on behalf of the people of this country? Do you know what he said? He got the all-clear from Mr. Manning, the Prime Minister of Trinidad and Tobago. So the Prime Minister of the Republic of this country is encouraging another Prime Minister from another country to come and interfere in our internal affairs in this country!

Sen. Dumas: Madam President, on a point of order. That is not quotable from that article and he is imputing improper motives to the Prime Minister and he is being derogatory. In fact, he is misleading the House, because that is not written on that paper.

Sen. W. Mark: Madam President, may I quote? Because before you rule, I must quote. May I refer you to the *Sunday Express*, November 14, 2004? It is entitled: “Political union, let the people decide.” This is an article by Andy Johnson. It says:

“Gonsalves reintroduced the matter two weeks ago while addressing Vincentian students at the St. Augustine campus of the University of the West Indies. He said he had Manning's permission ‘to bell the cat’ on the issue of this new three-state political union.”

It is here in black and white! So do not tell me that I am misleading the House.

Sen. Dumas: I was just saying that he is suggesting to us that the Prime Minister said that he had permission to interfere in our business.

Madam President: I have been listening to your contribution. As you said, you saw me going for my Standing Orders and there have been instances in which you have, very closely, contravened Standing Order 35(8) and even 4. I hesitated to get up because I was waiting to see in what direction you were going. I think you can make your contribution without directly imputing improper motives to the Prime Minister of this country or the Prime Minister of any other country.

Sen. W. Mark: Madam President, if I did impute improper motives, it was not meant. I was just saying the facts, but I am guided by your good ruling.

Madam President: Thank you.

Sen. W. Mark: The reality is that we are dealing with the Revised Treaty of Chaguaramas; we are dealing with the Caricom Single Market and Economy and at the same time we are examining some of the nuances informing this process. This is why I had to make reference to this development.

We talk about human rights and fundamental freedoms. I think that the time has come for us to have a human rights Act in this land.

Words expunged.

Sen. Dumas: Madam President, on a point of order.

Sen. W. Mark: On what basis? I am saying, I was told—

Madam President: Wait. Who is saying what?

Sen. W. Mark: This is what I was told! They said so!

Words expunged.

Madam President: How do you have the—

Sen. W. Mark: That is what I am saying. I was told so.

Madam President: Right. So you did not even hear it. So, please, Senator, let us not argue. Continue your contribution and leave that out of it.

Words expunged.

Sen. Jeremie: Madam President, I have been invited to get up to say that it is untrue. I can say that it is categorically untrue.

Words expunged.

Madam President: Sen. Mark, you have four minutes. I suggest you continue.

Words expunged.

Sen. D. Montano: Madam President, on a point of order. Where does he think he is going with this thing? Does he not understand?

Madam President: Senator, I think you asked the Attorney General whether it was true or not and he said no.

Sen. W. Mark: What?

Madam President: That they were not under siege.

Words expunged.

Sen. W. Mark: Madam President, if that is not so—

Madam President: Senator—

Sen. Jeremie: Why are you pointing at the President.

Sen. W. Mark: I want to point at you.

Madam President: Senator, please do not point at anybody.

Sen. Jeremie: Madam President, I thought I had made my position quite clear. I was invited to say that it was untrue and I responded to the invitation by saying that it very untrue that the Prime Minister had done any such thing. That was the allegation I was responding to.

Words expunged.

Madam President: Sen. Wade Mark.

Minister, you were standing on a point of order.

Words expunged.

Sen. R. Montano: Madam President, on a point of order—

Madam President: I am on my feet, Senator.

Sen. R. Montano: Well, may I please—

Madam President: May I answer that point of order first?

Sen. Mark, I agree that you have been imputing improper motives to the Ministers in general. You spoke of— [*Crosstalk*]

Words expunged.

Sen. Dr. Saith: Madam President, I would suggest, in fact, the last 10 minutes be expunged from the record. [*Desk thumping*]

Madam President: Yes.

Sen. W. Mark: That is what all “yuh” doing here, suppressing freedom. And you must not be party to that, eh, Madam.

Madam President: Senator, are you saying that I am suppressing your freedom?

Sen. W. Mark: I am saying that you are being intimidated by these Ministers on that side and I want to protect you.

Madam President: Senator, I want to assure you, I do not need your protection and I want to assure you that when I make my ruling I am making it on my own, and I want to let you know that your time is now up.

Sen. W. Mark: After you take all my time to rule, you tell me that I am—but that is unfair. I have about five more minutes to go. But, Madam, I would bow to your ruling again.

Sen. R. Montano: Madam President, as you have expunged what Sen. Mark has said, will you also expunge what Minister Saith has said?

Madam President: I think I already said that when I made the ruling.

Hon. Senators, I think we all need some tea, so we are going to take the tea break and we will come back at 5.00 p.m. I will give you five minutes more to cool down.

4.27 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. Mary King: Madam President, I think everybody here has already heard that we did not have this huge schedule a week ago and that it has 240 very important articles. Clause 3 of the Bill also says that:

“Subject to this Act, the Treaty, the text of which is set out in the Schedule, shall have the force of law in Trinidad and Tobago.”

We are the lawmakers of this country and though we do not draft the laws, at the very least we expect to get sufficient time to read the schedule properly, also time to discuss it with other learned colleagues, if only to educate ourselves.

Caribbean Community Bill
[SEN. KING]

Tuesday, December 14, 2004

Looking earlier at the public gallery, it was very obvious that the public were not aware that this very important Bill was before us today. It reminds me of the challenge put out by the famous Ralph Nader of the US. He offered a large reward to any US Senator who would sign an affidavit that he had read the text of the Uruguay Round of the World Trade Organization and publicly answer 10 simple questions. The gist of the matter is that there were no takers to that offer. The story went on that four months later a Senator did come forward. He had met the challenge; he had read the bill and the text of the Uruguay Round, and after having read the text, he came out in total opposition to it, decrying the threat that the wide-ranging terms therein posed democratic policy-making problems.

That is not to say that I am contending that the schedule before us is anything like the World Trade Organization, Uruguay Round. I note, however, that whatever the proposed CSME turns out to be, it has to be compatible with the Free Trade Area of the Americas and, naturally, it has to be compatible with the World Trade Organization as well. We know that much has already been written about both the FTAA and the World Trade Organization and the fact that they can discriminate against developing countries, and even blocs of such countries. Hence my first question to the hon. Minister is: How well the CSME ensures that as a group with the FTAA or within the World Trade Organization, we will get the special differential treatment that we want, we have asked for and that we deserve for a short term?

Since we have had so little time to study the schedule and since the Executive never saw it fit, through all the developments that have been taking place over the years, to bring this Bill or any part of it to discuss before the Parliament at any time before now—so given the time frame I have focused on specific articles, as well as listening to other commentators who have been discussing the CSME throughout the region.

Since the original Treaty of Chaguaramas, we have had some kind of a common market, which attempted to regulate, basically, trade among the members, as well as trade outside the community and, in principle, the common market attempted to remove the barriers of the market, but frontiers of individual countries remained as is. Now a single market, which we presume that the CSME intends to be, is a space within which goods, services, people, capital and technology freely circulates. When a single market is established, as far as market transactions go, there is a complete removal of physical and technical frontiers. Hence, moving goods,

services, capital or people, from Trinidad and Tobago to, say, Barbados, should be no different from moving the same capital or people from one county in Trinidad to another, or from one city in Trinidad to another city in Trinidad. There does not appear to be this fundamental idea in the Revised Treaty of Chaguaramas, this space without frontiers. For example, we have certain classes of people can move freely, but to do this, even they have to have a special frontier pass. So, in effect, the Revised Treaty maintains the frontiers of the original common market with the hope of furthering, liberalizing the conditions of access to the individual markets.

The schedule before us calls for unified economic and monetary policies and related legislation, related instruments and institutions. I think that the existence of a single currency is a very important instrument, as for example, just as the TT dollar is used throughout the counties of Trinidad and Tobago, how will this lack of a single currency affect us within the CSME?

If we look at the original idea of the CSME, it was, indeed, to set up a monetary union within the region. Certain fiscal and economic criteria were laid down for countries to meet so as to achieve the kind of financial stability, which is required for a common currency for a single market. These initial criteria that were laid down were, that the member had to have foreign exchange reserves equivalent to at least three months of import cover; the second criteria was exchange rate stability that allowed for no more than 1½ per cent range of movement over the contiguous period of the last year, and a foreign debt service ratio of less than 15 per cent of the value of goods and non-factor services.

So there were ideas for a common currency and certain stipulations laid down to effect it. Except for Trinidad and Tobago, the member countries with floating exchange rates have had great difficulty with the particular exchange rate criterion. Some had difficulty also meeting the debt service criterion because their governments, naturally, when they had a crisis had to spend funds and, therefore, they could not build the surpluses.

In spite of these difficulties, two additional supplementary criteria were then introduced, and these were the member countries were to have a fiscal deficit of no more than 3 per cent of their GDP and a target for inflation of 1.5 points above the median of inflation rates of any three countries which had the lowest positive rates in the previous year.

These economic and fiscal hurdles were also done when we looked at the history of the European Union single market, and it was done to ensure that there was a single market among peer countries. So that you are bringing people and countries who have the same economic levels and performance together and with

Caribbean Community Bill
[SEN. KING]

Tuesday, December 14, 2004

the understanding, of course, that it is virtually impossible to have such a market among countries which do not have somewhat similar economic performances.

Thus, because of the difficulties within the Caricom history, the Caricom Council for Finance and Planning, at its meeting in September 2002, noted the difficulties the countries were having with the initial three criteria and they requested that a committee of Central Bank governors should get together to consider alternative arrangements and measures that could be put in place to assist. These were to facilitate the creation of the CSME in the absence of a monetary union, which is the ideal.

The two alternatives considered were: A fixed exchange rate system and the old bugbear of dollarization. The first one will reduce the flexibility of a country in the face of external shocks, and the latter, which also has exchange rate controls, but has additional disadvantages. For example, our Central Bank would lose the ability to be the lender of last resort, because if you have gone to dollarization, it is not possible to simply create US dollars. Whereas, now, if we want to lend another country, another entity within Trinidad and Tobago, or the Government, we can actually create TT dollars.

Hence in March 2004, the COFAP concluded that if we were really to advance to the CSME, a monetary union, which we all know is the fundamental aspect of a single market, had got to be foregone at this time, obviously with the idea that this could come eventually, but certainly would not be in a short to medium, but most likely would be a long-term development.

There are some concerns within the current situation and one of those concerns is: How can a decree on how a country should perform economically; how can we force a country, say, that depends on the goodwill of the European Union, to purchase its sugar or its bananas at premium prices—how can we actually force a country such as this, to a certain level of economic performance? It seems a little unreal and impractical. So I ask how are we going to do it? It is a real question.

The schedule before us is actually silent on issues like this and it is also silent on the function of a monetary union. However, if we look at Article 44, it tells us that:

“Measures to Facilitate Establishment, Provision of Services and Movement of Capital”

The member states:

“shall, subject to the approval of the Conference, adopt appropriate measures for:

- (c) abolition of exchange controls in the Community, and free convertibility of the currencies of the Member States.”

At the moment, Trinidad and Tobago has a substantial balance of payments credit in trading with the rest of Caricom, hence, if Trinidad and Tobago's goods and services are paid for in regional currencies, we could be running an almost useless CSME currency reserve fund as regards its use for regional and international trade. And we can all recall the need to set up the multilateral clearing facility of the Caricom for just that same reason and we had to do the same when we were cross-listing our shares on the regional stock exchange. Even as we are now, without going to having regional currencies exchanged for goods and services, if you look at our present situation, it can present problems to the Central Bank, as we recently saw when Clico bought shares from owners who were outside of Trinidad and Tobago, but within the community. So we have to be very cautious as to how we are dealing with regional currencies and the stipulations that we are laying down in this schedule.

Article 44 also calls for measures of:

- “(e) convergence of macro-economic performance and policies through the coordination or harmonisation of monetary and fiscal policies, including...policies relating to interest rates, exchange rates, tax structures and national budgetary deficits.”

Having to put this statement into the schedule obviously alludes to the abject failure of the establishment of monetary union.

Article 169 talks about the objectives of a common competition policy, whose goal should be to ensure that the benefits expected from the common CSME are not frustrated by anti-competitive business conduct or business practices, hence, the Community shall pursue the objectives of, first of all, the promotion and maintenance of competition and the enhancement of economic efficiency, and also the prohibition of such conduct which prevents, restricts or disturbs competition or which constitutes the abuse of a dominant position in the market and to promote consumer welfare and protection of rights. I presume they mean here, consumer rights.

Other articles, 175—179 also attempt to define the tenets of a member's competition law. This does not mean that there is no need for us here in Trinidad and Tobago to develop a competition law and that the totality of business behaviour as defined in this schedule, we have to obviously do this as well. We are living in a global and liberalized world and we have to discuss the protection of intellectual property, which is mentioned in Article 66 of the schedule.

Caribbean Community Bill
[SEN. KING]

Tuesday, December 14, 2004

Intellectual property rights will be protected within the Community and we should also be interested in protecting our intellectual rights as a Community, but also our intellectual rights outside of the CSME, which are not mentioned in the schedule. We should be aware that the World Trade Organization has been able to intervene in some domestic and regional IP policies. For example, India had barred the patenting of seeds and medicines to make them more accessible to their consumers and their farmers, et cetera. We also had the case where America had actually patented its particular indigenous beans out of Mexico, and in those two particular cases, the World Trade Organization ruled against the patenting protection and, therefore, regional interest could be at stake if we allow these things to happen here. What will the CSME do about the patenting protection of our intellectual property rights and particularly our own rich flora within the region? Again, the schedule is silent on intellectual property protection for the region dealing with outside countries or governments.

In Article 66, it says that the treaty:

“shall promote the protection of intellectual property rights within the Community by, *inter alia*:

- (f) measures to prevent the abuse of rights by the rights-holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.”

Is this for the CSME alone, or is this also to be within our negotiations with the FTAA and the proposed World Trade Organization? If you look at trade, the fundamental entity in trade is the company. Hence for the harmonization of trade it would appear that the harmonization of company law across the region would be of importance and, again, the schedule is silent on this. We have not looked at the harmonization of laws and, therefore, we really are not planning for an effective common union, and that is a problem.

Another issue in which the schedule is silent is government procurement. We have before us as public today, the Green Paper on Government Procurement. It has not been addressed in the treaty and it is rather surprising, since it is included within the Free Trade Area of the Americas’ text and within the World Trade Organization’s planning text. What is of importance to me is that government procurement can be used very effectively to develop local industry in chosen areas, particular chosen strategic areas for development. However, the treaty in Article 99 addressed prohibited subsidies, which is of great concern.

One item of particular interest in that clause is item 2(a) where it states:

“(a) Subsidies contingent...whether solely or as one of several other conditions, upon the use of domestic over imported goods...”

are expressly prohibited.

That is of great concern to a region like ours. We must remember that this region is not made up of a set of developed countries or developed companies, and this kind of subsidy has been used in the past by several now developed countries, in areas which are today considered “tigers”. We have used this. Singapore is just one example. So I think we have to be very serious about the areas for development and which ones we would give strategic advantages to and, therefore, I would like that to be considered in the negotiations.

The other important matter in a single market appears to be the free movement of goods. So let us look at what is happening in our region today. Ninety-five per cent of our intra-regional trade is free of all barriers. However, 30 years after the existence of the community, intra-regional trade is still of the order of only 20 per cent of total regional exports. So we have a lot of development to do. Some 75 per cent of Trinidad and Tobago’s intra-regional exports are from the energy sector. There has been a very small increase in intra-regional trade and exports from Barbados. That of the Eastern Caribbean states has actually been in stagnation, and that of Jamaica has actually been in decline.

So it is the view of many that intra-regional trade is unlikely to rise to a significantly higher level without the transformation of the production structures of the region. In the treaty, besides talking of tourism, there is little about development, about development of human resource, about development of research. Even the talk of real agricultural development, there is nothing mentioned in the treaty.

The single most important crisis that faces every single entity in our region is the reconstruction of its economic infrastructure and its economy into one that would be sustainable in the globalized environments. There have been many decisions made in respect of forming the CSME group, going back to 1989 and little has been put into actual operation. We have been hearing over and over again that we need institution strengthening. Yes, we do, but even this cannot be brought into effect unless we also have political conviction, and there is little in this treaty that commits states to the essential values of a Caribbean community, and as we already mentioned, a single economy with a multiplicity of currencies is a real contradiction in terms. So we have problems with that.

Caribbean Community Bill
[SEN. KING]

Tuesday, December 14, 2004

Finally, the CSME has been defined, in some step-by-step way, of the present common market. If we look at the European Union on the other hand, when it commenced its single market planning in mid 1980s, it introduced the concept of the internal market that created an area without internal frontiers in which the free movement of goods, services, people and capital is ensured.

5.25 p.m.

I think that the Caribbean Community is yet to make the political transition that is necessary in order to create a single market and economy. The Caribbean economy intends to create a single market with each member state retaining its maximum national sovereignty. It intends to do so apparently through some mode of discretionary inter governmental cooperation. The method being used within the community appears to be the harmonization of the region's legislatures. As we are attempting to do today, let us try to get the Acts together. This may prove very difficult to achieve given our history.

The European Union got around this problem by the creation of a European Parliament which radically altered the legislative decision-making machinery. We do not appear to be ready for this. Not so long ago, in fact this week, Edward Seaga of Jamaica also seeing the unreadiness of the region is also against the introduction of the Caribbean Single Market and Economy at this time. Until we are ready we should satisfy ourselves with the Caribbean Common Market.

The only amendment I propose is that everywhere in the treaty that you see "European Single Market and Economy", delete it and replace it with "a common market".

Thank you.

Sen. Dana Seetahal: Madam President, the Bill before us essentially serves four purposes. The first is to make law the Revised Treaty of Chaguaramas. We cannot interfere as much as we would like to with that treaty that we have already signed. The Bill is saying that we are giving effect to this treaty. It does not matter how many ratifications we have, a treaty does not become law until we make it law. We are passing a Bill with the treaty as the Schedule in the same way we did with the Council of Legal Education Act. This is the first thing the Bill is supposed to achieve.

The second is to give jurisdiction to the Caribbean Court of Justice to resolve questions on the interpretation and application of this treaty. As Sen. Mark said before, since we do not have the court, this might be putting the cart before the horse.

The third is to provide that treaty obligations in Trinidad and Tobago are to be funded from the Consolidation Fund.

The fourth is the provision of this Bill prevails over other laws.

The two issues I will deal with are the question of the treaty becoming law, summarily and the second is the question of the jurisdiction of the Caribbean Court of Justice (CCJ) insofar as the original jurisdiction is concerned.

Sen. Mark said that about 90 per cent of the population may know little or nothing about this Caribbean Single Market and Economy. I think Sen. King alluded to it too. I must confess that when I heard the term Caribbean Single Market and Economy I thought a word was missing. I thought that it should be Caribbean Single Market and the Economy. I did not know what it meant because it sounded so wrong. Having had to look at it since, I became acquainted with the literature on the CCJ and I have a better idea of it.

The first thing that we should look at is the Preamble to the treaty. It gives us an idea of what the whole thing is about. This revised treaty follows the original treaty. In signing to this treaty members commit to deepening regional economic integration. It is accepted that we have some form of regional economic integration. We are deepening this through the establishment of the Caribbean Single Market and Economy in order to achieve sustained economic development based on international competitiveness; coordinated economic and foreign policies; functional cooperation and enhanced trade. That sounds like a bit of a mouthful to me.

I went to an article written by David Cox on the original jurisdiction of the Caribbean Court of Justice and its role in the successful implementation of the CSME. This is what he defined it as.

It is of course necessary to have at least a basic understanding of what we mean when we refer to a single market and economy. The underlying philosophy of the CSME rests upon the principle that the free movement of capital, people, services and enterprise between Caricom States will lead to a situation in which various actors in the economic process can maximize their talents and resources thereby leading to greater efficiency and increased profits and prosperity.

We are talking about the underlying principle of the free movement of capital, people, services and enterprise among 14 States that will lead to the situation of greater efficiency and increased profits. That sounds really good. If that were so, why would anybody object to the treaty and the Bill giving effect to it?

Caribbean Community Bill
[SEN. SEETAHAL]

Tuesday, December 14, 2004

We are talking about one single economic space and how we will benefit. If every one of these 14 countries is jostling to benefit from this CSME, I do not see how every person can benefit. It stands to logic. I hope we can be convinced otherwise. It is up to the Heads of Governments to try to convince the populace of each country that this is to the benefit of the region, as did the European Union when they embarked on their economic integration. They now have a European court, parliament and single currency.

When we are talking about a region, out of 14 only four countries are economically stable and have a fair economy. You are looking at 10 countries that hope to benefit from the Caribbean Single Market and Economy. We need to know what is in it for us. It sounds very selfish but everybody is asking that. That is what St. Lucia, St. Kitts/Nevis, Grenada, Haiti—I do not know if they are asking anything. St. Vincent is always asking and telling us what benefits they hope to reap. I will not call any names. What can we get from it?

David Cox says,

“This single economic space will create opportunities for investment previously unavailable. Companies in business would be able to establish themselves in more favourable conditions for their particular economic endeavour. The people, the key element in this equation will be in a position to move freely within the region in order to gain employment, in those countries and sectors in which whatever skills they possess are most needed.”

He gave examples as a soft drink manufacturer or a beer manufacturer. They can go to a country presumably with the raw materials as sugar and cane and set up there. If you talk about lawyers, one country might have too many and they can move to another country to provide that skill. That benefit can accrue to everyone. It is one side giving and another side accepting. Each actor or country will invest according to its needs in this Caribbean Single Market and Economy.

The problem is that many of our Caribbean brothers and sisters in Caricom will have the same needs. Some of them plant bananas and some are replacing it with marijuana which is another offset. We know this. Chiquita banana is taking over the world. Trinidad and Tobago has oil and petrochemicals but not many of the others have that. We may have an advantage. The others are trying to benefit. Can they? If 10 other countries are yearning for benefits, how can we benefit except to give something? That is the problem if we are to abolish quotas, licences, import and export duties that we are led toward when we have the Caribbean Single Market and Economy. The whole idea of the CSME is to get rid

of these things. If we get rid of these things, we think that we will have better markets across those other countries. They think that they will have better opportunities here. The less developed countries in the region have advantages in this treaty that we do not have. That is the first and biggest hurdle in the implementation of this treaty.

If this Bill is passed and the treaty becomes law, we have to be concerned about the implementation. Treaties have been passed. One of them is the Council of Legal Education which has become law and Trinidad and Tobago has breached that treaty. In 2001, a Bill was passed breaching that treaty. It is not only locally trained lawyers who can practise here. You can come from England to practise. It goes against the whole grain of what Caricom and Caricom education is about. What is to prevent us passing laws? We have a treaty and we say that we will do all these things. We are for Caribbean economic integration and think it is to our benefit.

It seems hypocritical to go with these treaties and know that we have laws that breach existing treaties. What are we about? We cannot be trusted in the region? We have had problems with a common position in respect of Haiti and the Shiprider Agreement. I remember the Prime Minister of Barbados was very hostile to another prime minister in the region who entered very willingly into agreements. There were other issues that deal with the United States and there was no common position.

If we pass this law and the CCJ can decide on the implementation and application of this treaty, will the CCJ decide on the dispute between Barbados and Trinidad and Tobago on the maritime issue? Anybody can answer that by looking at this. The CCJ will have exclusive jurisdiction to deliver advisory opinions on the interpretation and application of the treaty. They will have jurisdiction to interpret this treaty and answer questions concerning it. If the treaty does not deal with fishing rights, clearly, the CCJ cannot deal with fishing rights. I have looked and unless it is inside or one of those pages is missing, I have not seen any provision there. You may want to look at that when you revise this treaty.

That is all I planned to say about the treaty. Commentators have written—

Sen. Jeremie: Will the Senator give way? For clarification, the treaty does not speak to the limitation. The dispute with Barbados is a boundary dispute. It speaks to the limitation of the boundaries in the Caribbean Sea and the rest of the Atlantic. That limitation matter is outside the jurisdiction of the Caribbean Court. There is an international tribunal which is seeing about the matter.

Sen. D. Seetahal: Thank you. I understand that. I was mentioning that some people seem to feel that since fish has to deal with economic rights, it would fall there. I understood that it did not. Since we are talking about regional economic integration and issues, we need to look at that in the future.

This is the problem mentioned by Duke Pollard who is now a judge of the Caribbean Court of Justice in his article, "The Caribbean Court of Justice In Regional Economic Development". There is one intractable outstanding issue which relates to the question of other rights contingent of the right of establishment. He is talking about access to social infrastructure of post states, for instance, of children of persons exercising a right of establishment. This means that if you choose to set up your soft drink business in another country and you are benefiting from the CSME, whether you are entitled as of right to be accorded places in the schools of your choice, assuming that you have satisfied other conditions. It is these kinds of considerations with respect to health and other social services.

If someone from Barbados or Antigua came here to set up business, will their children be able to go to, I will say Bishop's Anstey High School since I went there, or some prestige school like that? Will they be able to access certain health services or free medicine that other people will be entitled to? This is not resolved in the treaty. We need to look at that.

The other point is in relation to the original jurisdiction of the CCJ which this Bill purports to give. It is not much of a point except to say that the Bill envisages that the Caribbean Court of Justice will determine all issues concerning implementation of the treaty. The treaty and the CCJ's documents emphasized that local courts will have no say in the interpretation of this treaty. International law will prevail in interpreting this treaty. That is very important. If we establish the Caribbean Court of Justice that will set us on the path of how we go about interpreting this treaty.

We do not want different courts as Jamaica court, Trinidad and Tobago court and Barbados court saying different things as to how we should interpret the provision of that treaty. If we took a dispute between Trinidad and Tobago and Jamaica to the Jamaican court, we expect that that court may be predisposed towards Jamaica. Someone sent me an email asking why I have not mentioned that there is no Jamaican in the Caribbean Court of Justice. I am now mentioning it, not that it means anything much to me. This and other issues will come up later on.

Thank you.

Sen. Basharat Ali: Madam President, mine is a very short intervention. I always seem to find some topic. Sen. Enill is looking at me. I want to address Schedule 4 which appears in the treaty. It says “protection of Guyanese petroleum products”. That starts by saying that special arrangements to facilitate the establishment of a petroleum refining industry in Guyana provided in this Schedule. I was taken aback by that because my first view was that this was quite contrary to what the treaty set out to do.

I went back to the Preamble which says,

“...where optimal production by economic enterprises in the community requires the structured integration of production in the region, particularly, the unrestricted movement of capital, labour and technology.”

This provision allowing the setting up of a refinery in Guyana seems to be quite against the spirit of the whole agreement.

The second paragraph refers to quantitative restrictions in Article 87 which is related to imports. It appears as though there is intent to protect Guyana from importation from the region of certain products. That is basically us. They exclude asphalt and road oil. The other products as gasoline and others would be under a certain kind of restriction which is in this clause.

I did not have the time and I could not do the research because I was not sure which chapter it referred to. Looking at refining in the Caricom area, I am aware that there are only two remaining refineries at the moment. The refineries in Barbados and Antigua are no longer in service. We are left with Jamaica that has a refinery which processes 26,000 barrels per day. That refinery uses reconstituted crude. It is aimed at satisfying some of that country’s petroleum demand. Our refinery has a capacity of 160,000 barrels per day. Our target markets are domestic, regional and international. During the budget debate we learnt that Petrotrin was in the process of executing a US \$320 million upgrade project to better meet gasoline product quality. Plans are afoot to further improve the refineries viability in the world market.

In the budget debate I made mention of this project from Petrotrin. I classified it as a survival project. This treaty might be encouraging a refinery in a country which has no petroleum resources per se.

Guyana has been doing exploration work for a number of years but has not found any petroleum oil or gas. Any facility in Guyana will be based on imported crude oil. From the way this is structured, they are looking at manufacturing products maybe for their benefit. I wonder if this is the way we should go. Small

Caribbean Community Bill
[SEN. ALI]

Tuesday, December 14, 2004

refineries in that configuration are not economic. We have a facility which has the capacity to fulfill not only all the Caricom requirements but also to go out in the international market to find a place and produce economically, refining products in an optimal fashion.

I had some difficulty in understanding how Schedule 4 came into being in this document. I spoke to the hon. Minister during the tea break and I am sure that he will respond to it.

I do not wish to speak on any other matter. I am a strong proponent of economic integration. I am a CSME person. I will want to support the signing of the treaty, but I would like an explanation of how this got into it.

Thank you.

ADJOURNMENT

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Madam President, before I move the adjournment of the Senate, I crave your indulgence to go back to the agenda item that deals with the Bill brought from the House of Representatives. The Caribbean Community (Removal of Restrictions) Bill was read for the first time. In accordance with Standing Order No. 48(2), I now seek leave of the Senate to move that the next stage of the Bill be taken at the next sitting of the Senate on Tuesday.

Sen. Mark: Sen. Dr. Saith, are you saying that after completing the debate on what we are dealing with now, we will then proceed?

Sen. Dr. Saith: That is what we are doing.

Question put and agreed to.

Sen. The Hon. Dr. L. Saith: I now move that the Senate be adjourned to Tuesday, December 21, 2004, at 10.00 a.m. We will have much work to do so I suggest that we meet at 10.00 a.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.53 p.m.