

**SENATE**

*Tuesday, June 14, 2016*

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. The Hon. Dennis Moses who is out of the country.

**SENATOR'S APPOINTMENT**

**Madam President:** Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona, S.C., O.R.T.T.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS CARMONA, O.R.T.T., S.C.,  
President and Commander-in-Chief of the  
Armed Forces of the Republic of Trinidad and  
Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.  
President.

TO: MR. IMRAN MOHAMMED

WHEREAS Senator The Hon. Dennis Moses is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

**UNREVISED**

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, IMRAN MOHAMMED, to be temporarily a member of the Senate, with effect from 14<sup>th</sup> June, 2016 and continuing during the absence from Trinidad and Tobago of the said Senator Moses.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 14<sup>th</sup> day of June, 2016."

### **VACANT SEAT**

**Madam President:** Hon. Senators:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS CARMONA, O.R.T.T., S.C., President and Commander-in-Chief of the Armed Forces of the Republic of Trinidad and Tobago.

TO: MR. HAFEEZ ALI

WHEREAS by the provisions of paragraph (e) of subsection (2) of section 43 of the Constitution of the Republic of Trinidad and Tobago, the President, in exercise of the power vested in him, and acting in accordance with the advice of the Prime Minister, is empowered to declare the seat of a Senator to be vacant:

**UNREVISED**

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by the said paragraph (e) of subsection (2) of section 43 of the Constitution of the Republic of Trinidad and Tobago, do hereby declare the seat of you, HAFEEZ ALI, to be vacant, with effect from 13<sup>th</sup> June, 2016.

Given under my Hand and the Seal of the  
President of the Republic of Trinidad and  
Tobago at the Office of the President, St.  
Ann's, this 14<sup>th</sup> day of June, 2016.”

### **SENATOR'S APPOINTMENT**

**Madam President:** Hon. Senators:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND  
TOBAGO

#### Appointment of a Senator

By His Excellency ANTHONY THOMAS  
AQUINAS CARMONA, O.R.T.T., S.C.,  
President and Commander-in-Chief of the  
Armed Forces of the Republic of Trinidad and  
Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.  
President.

TO: MR. ROHAN SINANAN

In exercise of the power vested in me by section 40(2)(a) of the Constitution of the Republic of Trinidad and Tobago, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, acting in accordance with the advice of the Prime Minister, do hereby appoint you,

**UNREVISED**

ROHAN SINANAN, a Senator, with effect from 14<sup>th</sup> June, 2016.

Given under my Hand and the Seal of the  
President of the Republic of Trinidad  
and Tobago at the Office of the  
President, St. Ann's, this 14<sup>th</sup> day of  
June, 2016."

### **OATH OF ALLEGIANCE**

*Senators Rohan Sinanan and Imran Mohammed took and subscribed the Oath of Allegiance as required by law.*

### **REMEDIES OF CREDITORS (AMDT.) BILL, 2016**

Bill to amend the Remedies of Creditors Act, Chap. 8:09, brought from the House of Representatives [*The Minister of Finance*]; read the first time.

### **FAMILY AND CHILDREN DIVISION BILL, 2016**

Bill to make jurisdiction for all family matters and children matters exercisable in a Division of the High Court to be called the Family and Children Division and to make provision for matters connected therewith, brought from the House of Representatives [*The Attorney General*]; read the first time.

### **PAPERS LAID**

1. Annual Audited Financial Statements of Lake Asphalt of Trinidad and Tobago (1978) Limited (LATT) for the year ended September 30, 2009. [*The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan)*]
2. Annual Audited Financial Statements of Lake Asphalt of Trinidad and Tobago (1978) Limited (LATT) for the year ended September 30, 2010. [*Sen. The Hon. F. Khan*]
3. Annual Audited Financial Statement of Caribbean New Media Group

4. Limited for the year ended December 31, 2014. [*Sen. The Hon. F. Khan*]
5. Consolidated Audited/Financial Statements of the Urban Development Corporation of Trinidad and Tobago Limited (UDeCOTT) for the financial year ended December 31, 2008. [*Sen. The Hon. F. Khan*]

### **URGENT QUESTION**

#### **Terrorist Financing in Trinidad and Tobago (Government Measures to Address Concerns)**

**Madam President:** Sen. Mark.

**Sen. Wade Mark:** Thank you very much, Madam President. To the hon. Attorney general: given the concerns of the Caribbean Financial Action Task Force that there are inadequate provisions to deal with terrorist financing in Trinidad and Tobago, what is the Government doing to address such concerns?

**The Attorney General (Hon. Faris Al-Rawi):** Thank you, Madam President. [*Desk thumping*] Madam President, on Friday, June 03, 2016, the Caribbean Financial Action Task Force published its Fourth Round Mutual Evaluation Report of Trinidad and Tobago. This evaluation assessed the anti-money laundering and combating of financing of terrorism systems in Trinidad and Tobago as at January, 2015. What the mutual evaluation tells us is that despite substantial improvements in technical compliance made by the PNM Government between 2009 and 2010, in particular, where landmark legislation which formed the backbone of our AML/CFT compliance was set down, the UNC-led administration failed to maintain that momentum.

The evaluation revealed significant gaps in our legal framework, with the country being rated as noncompliant with two recommendation areas; partially compliant with a further 13 of the 40 Financial Action Task Force recommendations. Further, we were rated moderate or low in terms of

effectiveness when assessed against FATF's 11 immediate outcomes.

Trinidad and Tobago now finds itself in enhanced follow-up by CFATF, as well as under review by what is known as the ICRG process, the International Co-operation Review Group of both CFATF and FATF. The major FATF recommendations in respect of terrorist financing, in which our country has been found deficient, are Recommendation 6, which is the targeted financial sanctions relating to terrorism and terrorist financing for which we were rated partially compliant, and Recommendation 8, which is in relation to non-profit organizations for which we have been rated as noncompliant.

These are tied to Immediate Outcome 9, that is terrorist financing investigation and prosecution, and Immediate Outcome 10 which is terrorist financing preventative measures and financial sanctions, both of which were rated as low. *[Interruption]*

**Madam President:** Hon. Attorney General, your time is up.

**Hon. F. Al-Rawi:** Sorry, Madam, I was told it was five minutes, I apologize.

**Sen. Mark:** May I ask the Attorney General whether, in his view, there is a thorough appreciation by the relevant authorities in T & T of the dangers of terrorist financing?

**Hon. F. Al-Rawi:** I thank you, hon. Member, for the supplemental question. In fact, there is; it is demonstrated by our published legislative agenda which closes the gaps on the immediate outcomes and answers, and also by the fact that we have established an anti-terrorism desk, and we have in fact designated terrorists and taken applications for property very seriously, and there are two others in the pipeline with the international listings being locked in. So we have taken the steps to activate, not only legislation but actual operationalization, coordination mechanisms, as it relates to proceeds of crime, terrorism, the designations, the

listings and the forfeiture of properties, which is a first for the country. [*Desk thumping*]

**Sen. Mark:** Madam President, could the hon. Attorney General indicate to us what is the time frame he has targeted to enhance and upgrade the various pieces of legislation that would have to be approved by the Parliament to deal with this very burning issue?

**Hon. F. Al-Rawi:** Thank you, hon. Member. As indicated in November when I put forward a public statement, we had to await CFATF's publication of the report, which only happened on the 5<sup>th</sup> or 6<sup>th</sup> of June, this month. After that, the plenary session, which I just chaired as chairman of CFATF in Jamaica last week, where we were put into enhanced follow-up in the ICRG processes in FATF and CFATF. Coming out of that it is now immediate that we can actually make these statements, and the time frame now meshes back with what I put on the legislative agenda which we published, which shows that we have in fact drafted and prepared the legislation already to close the gaps under the Proceeds of Crime Act, the Companies Act, the Anti-Terrorism Act, and the Board of Inland Revenue Act—the thrust legislation which we deal with.

The Immediate outcomes, 9 and 10, which are on the deck, are in fact expected to be completed before this calendar year, as we had that process to do. I should add that we have picked up the national risk assessment for Trinidad and Tobago which was languishing. It is now nearly completed, we accelerated the process, and that NRA forms a very significant background for our international review process.

**1.45 p.m.**

So we have done in the last six to eight months approximately five years' work, as our international reviewers have noticed. Trinidad and Tobago has come in for serious commendation for the amount of work that we have done. We have

also, in fact, 150 per cent supplemented the CFATF work programme by seconding up to 12 persons to work with CFATF. So our commitment as a nation is shown not only in the hard work which we have published, which we have done and which would be completed, the work we have done in court, but also by the international cooperation which we have given to CFATF, which again has come in for immense praise from the global community. [*Desk thumping*]

### ORAL ANSWERS TO QUESTIONS

**The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan):** Madam Vice-President, I am pleased to inform that the Government will be answering questions 60 and 62, and we kindly ask for a deferral of question 61 for two weeks.

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

#### **Retrenchment and Severance Benefits Act**

##### **(Amendments to)**

- 61.** Could the hon. Minister of Labour and Small Enterprise Development state: In view of the growing insecurity facing employees of the shutdown ArcelorMittal Steel Company, could the Minister state when the urgently required amendments to the Retrenchment and Severance Benefits Act will be brought to the Parliament, and whether it would be retroactive?

*Question, by leave, deferred.*

#### **Retirement Age**

##### **(Government's Intention to Increase)**

- 60. Sen. Wade Mark** asked the hon. Minister of Public Administration and Communications:



In light of the growing numbers of persons who are retiring from the Public Service, and the increased burden on the State toward the payment on gratuity and pensions, does the Government intend to increase the retirement age from 60 years to 65 years?

**The Minister of Public Administration and Communications (Hon. Maxie Cuffie):** Madam President, the idea of increasing the retirement age to 65 is a complex issue. It affects succession planning, career pathways, legitimate expectations and promotional opportunities. It must be studied carefully before any consideration can be given to this idea. Accordingly, the Government does not plan at this time to increase the retirement age.

**Sen. Mark:** Madam President, could I ask the hon. Minister whether there is going to be some study commissioned by the Government through his Ministry to look at this whole question of increasing the retirement age from 60 to 65?

**Hon. M. Cuffie:** Madam President, as I noted, the Government does not plan at this time to increase the retirement age, so we have no studies in train to do that.

**Sen. Mark:** Madam President, could the hon. Minister indicate whether he is aware of any studies that have been done thus far or that you would have met, that addressed this entire question of looking at the retirement age? Are there any studies that you are aware of?

**Hon. M. Cuffie:** I am not aware of any study.

### **Low-Crime Detection Rate**

#### **(Government's Measures to Address)**

**62. Sen. Wade Mark** asked the hon. Minister of National Security:

What immediate measures are being pursued by the Government to address the low crime detection rate in the country?

**The Minister of National Security (Hon. Brig. Gen. Edmund Dillon):** Thank

you very much, Madam President. The current crime detection rate continues to pose a serious challenge to the law enforcement agencies and to the safety and security of the country as a whole. In order to address the situation, the Ministry of National Security has implemented several initiatives which entail institutional strengthening, increased training, strengthening community partnership and deeper collaboration among law enforcement agencies.

These initiatives include the following: Under institutional strengthening, hon. Members are advised that intelligence gathering is a critical component in the national security apparatus of our country. To this end, the Government has restructured the Strategic Services Agency which now includes the National Operation Centre and the National Security Training Academy. The reconfiguration of this most important intelligence agency will facilitate enhanced intelligence gathering and dissemination to the relevant national security agencies when required.

Hon. Members, we are incrementally strengthening the operational capacity of law enforcement agencies as follows:

- The strengthening of a Cold Case Unit to conduct further investigations into homicide which occurred over the last 10 years and remained unsolved. In January this year the staffing of this unit was strengthened with additional investigative officers.
- A Criminal Case Management Unit has been established in each of the nine police divisions to assist in the management of criminal cases.
- The staffing of the Justice Protection Unit, commonly referred to as the Witness Protection Unit, has been increased.

- There has been an increase in the number of crime scene investigators.
- All existing databases within the Trinidad and Tobago Police Service have been expanded to allow for better monitoring of persons of interest.

The use of modern technology has been expanded to assist in the detection of crime. This includes the following:

- Digital recording of interviews: The Trinidad and Tobago Police Service is in the process of finalizing additional digital recording and videotaping interview suites for the purpose of improving the capture of admissions and confessions from suspects.
- The use of CCTV cameras: The Ministry of National Security has operationalized an additional 800 closed circuit television cameras across the country. The total number of CCTV cameras in operation now stands at 1,800. It is envisaged that the installation of these cameras will not only act as a deterrent to the commission of crime, but also provide vital information that would assist in boosting the detection rate.
- Global positioning satellite system: Most police vehicles are now equipped with GPS technology which allows for better deployment and monitoring.

The capacity of the Forensic Science Centre has been strengthened with enhanced computerization of its operation which will assist in the reduction in turnaround time of casework.

With respect to increased training, Madam President, hon. Members, police officers attached to specialized units are exposed to regular training to enhance the

efficiency and effectiveness in crime detection. These units include the Homicide Bureau of Investigation, Fraud Squad, Cybercrime and Organized Crime, Narcotics and Firearms Bureau. The training covers such areas as digital forensics, underground economy, cell phone forensics, source handling, gang investigations, advanced narcotics investigation and investigative interviewing.

Under strengthening community partnership, in addition to the measures outlined, the Trinidad and Tobago Police Service is continuing to engage the national community through several media, which include town meetings, use of social media such as facebook and Twitter, station council meetings, weekly press briefings and Crime Stoppers, to name a few. It is envisaged that such interaction with the public will facilitate greater trust in the police service, deeper collaboration and will facilitate more information gathering. Such interactions can only impact the detection rate in a positive manner.

Under increased collaboration—hon. Members, the Ministry of National Security understands too well that together we aspire, together we achieve and, therefore, collaboration among Ministries and divisions is encouraged and facilitated. This includes the following: Collaboration among the Trinidad and Tobago Police Service and the following agencies has been strengthened to enhance efficiency, effectiveness and intelligence gathering in the thrust to improve the detection of crime:

- The Strategic Services Agency;
- The Trinidad and Tobago Defence Force;
- The Customs and Excise Division;
- The Port Authority of Trinidad and Tobago;
- The Trinidad and Tobago Immigration Division;

- The Trinidad and Tobago Prison Service;
- The Forensic Science Centre; and
- The Financial Intelligence Unit.

**Sen. Mark:** Could the hon. Minister indicate, that given all those initiatives that he has outlined and given the high rate and speed at the same time of murders in the country, would you want to share with us how has these initiatives been able to assist you and the country in increasing or improving the crime detection rate, and could you give us a figure as to what is the current—

**Madam President:** Senator, one supplemental at a time.

**Hon. Brig. Gen. E. Dillon:** Madam President, these collective initiatives are assisting greatly with respect to the detection rate. As it is now, the national detection rate with respect to crime in general is about 22 per cent. With respect to homicide, it stands at 17 per cent.

**Sen. Mark:** Given all the initiatives that you have outlined, and seeing that they are working their way through the system, do you anticipate that by the end of this year or by the first quarter of next year the detection rate will move for homicide, for example, from 17 per cent to what? What are you envisioning as it relates to those initiatives to deal with increasing the crime detection rate, let us say for the next couple months?

**Hon. Brig. Gen. E. Dillon:** Madam President, one must understand that crime and the commitment of crime is not a fixed variable. It is not something that we can even guess what can happen today or tomorrow. What I can say, however, is that the initiatives taken would certainly lead to some improvement in the detection rate when done collectively, but it is difficult to determine as of now what would be the level of crime tomorrow or how the detection rate would be. What I can assure

you is that all the initiatives that we have put together would lead to some increase in the detection rate, and I definitely cannot put a timeline to that.

**Sen. Hadeed:** Would the hon. Minister give us an indication if the Government has intentions of opening any further forensic science centres throughout Trinidad and Tobago to assist in analysing and taking the burden out of the one we have in Port of Spain.

**Hon. Brig. Gen. E. Dillon:** Madam President, the Government has no intention of opening another forensic science centre at this point in time. However, the Government is committed to increasing and improving the capacity of the existing Forensic Science Centre.

**PRIVILEGES AND IMMUNITIES (DIPLOMATIC, CONSULAR AND  
 INTERNATIONAL ORGANISATIONS) ACT**

**The Attorney General (Hon. Faris Al-Rawi):** Thank you, Madam President.

I beg to move Motion No. (i) standing in my name:

*Whereas* it is provided by section 9 of the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act, Chap. 17:01 (hereinafter called “the Act”) that the President may by Order declare that any international or regional organisation or agency named or described in such Order shall, to such extent as specified in the Order, be accorded certain privileges and immunities;

*And whereas* it is also provided by section 9 of the Act that every Order made under that section shall be subject to affirmative resolution of the Parliament;

*And whereas* the President has on the 22nd day of April, 2016 made the Privileges and Immunities [CARICOM Implementation Agency for Crime and Security (IMPACS)] Order, 2016;

*And whereas* it is expedient that the Order now be affirmed:

*Be it resolved* that the Privileges and Immunities [CARICOM Implementation Agency for Crime and Security (IMPACS)] Order, 2016 be approved.

Madam President, I am tempted to ask you how long the speaking time is now, because I get confused between the House and the Senate under the new Standing Orders. Would you let me know?

**Madam President:** You have 45 minutes to make your presentation.

**Hon. F. Al-Rawi:** Much obliged, Madam President, thank you. Lest I run out of time as is my habit it seems.

I thank the hon. Members of the Senate for the opportunity to address what seems to be quite simple in purpose and simple in process, but important in effect, being this particular Order before the honourable Senate this afternoon.

For those listening through us, through you, Madam President, I will explain that we are not here debating a Bill as we normally do, we are in fact debating a Motion, and the Motion is for the adoption of an Order.

It is to perfect that which His Excellency The President has declared by direction of the Cabinet should be put into effect today. The rules of Parliament require that we consider this by way of affirmative resolution, which is different from the negative resolution approach. The affirmative resolution is that it must be brought to the positive attention of all Senators and Members of the House. It must not be left for a Member of the House or Senate to seek to negate it within 42 days of publication. But we must consider it collectively on a positive footing.

I bother to set out that process because what we are doing is something that is very important at law. We are, in effect, using what is referred to as a dualistic

system of law as opposed to a monistic system of law. We are obliged after the entry into any treaty or purpose, to make international law effective in our system of law; we are obliged to bring that law specifically to the Parliament and to incorporate it in our laws.

The monistic theory of law which other jurisdictions have, upon execution of an international instrument, simply becomes law by that mere fact of execution. So we must engage in this process because our law requires us to do that.

**2.00 p.m.**

The process is specifically provided for under Chap. 17:01, it is the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act. That is an Act of Parliament which has stood on our books since it was born as Act No. 23 of 1965 which has been amended on three occasions. That is a rather simple piece of law. It is comprised of six Parts and effectively it seeks to recognize diplomatic privileges and immunities for the basic Vienna Convention.

Secondly, the Consular Privileges and Immunities out of the Vienna Consular Convention—if I shorten the abbreviation term; thirdly, Privileges and Immunities for the various organs of the United Nations; fourthly, Privileges and Immunities for Specialized Agencies of the United Nations; and fifthly, privileges and immunities of other organizations such as the Caricom IMPACS organization.

When we give privileges and immunities, we are doing exactly that. We are creating judicial character, clothing it as a body corporate with all of the powers onto a body corporate as our Interpretation Act prescribes under section 37.

Secondly, we are providing for inviolability of property, papers and specifically persons associated with that entity.

The Order itself goes through the parameters of what we are doing. The



Order is comprised of 11 sections, 11 clauses. That provides for, firstly, a definition section; secondly, the juridical personality with grounds in the section 37 in the Interpretation Act; fourthly, the inviolability of the headquarters; fifthly, the immunity of assets and property; sixthly, the inviolability of the archives; seventhly, the treatment of official communication; eighthly, property not subject to certain taxes and duties; ninthly, the financial resources of IMPACS; tenthly, privileges and immunities of officials of IMPACS and experts on missions; and lastly the commencement as grounded at the 6<sup>th</sup> of July, 2006. So that is process. That is what we are doing as a matter of law. That is the inviolability.

The question now for the honourable Senate, and through you to the people of Trinidad and Tobago, Madam President, is: what is Caricom IMPACS all about? As its name implies, Caricom IMPACS is effectively an entity. It is an associative collection of the Caricom entities being 13 countries in structure, 10 by way of signatory where the Caricom heads came together, starting with the mechanism which they agreed to use in coming up with the ICC Cricket competition then, a collective agreement and approach was born where 10 of the states came together, executed an agreement establishing the Caricom Implementation Agency for Crime and Security in 2006 and there was born Caricom IMPACS.

It worked so successfully that the Heads of Government participating thought it prudent to keep this thing as a permanent entity, and therefore, the process of permanence began to be developed. And specifically, in 2009 the various governments agreed to execute and, in fact, executed an agreement between the Government of Trinidad and Tobago and the Caricom Implementation Agency for Crime and Security that is IMPACS, to facilitate the headquartering of

Caricom IMPACS and its privileges and immunities right here in Trinidad and Tobago. That, in fact, at 2009 resulted in a draft order being prepared by His Excellency The President under the then PNM administration, and just then in May 2010, of course, we had an election and regrettably that matter lapsed.

In the period 2010 to 2016 as we now stand, this matter has been left in abeyance. It did rear its head in 2011 when the last administration, in fact, brought to the Parliament, I believe it was in 2011, the Caricom IMPACS Order in terms that we have now. There was a debate in the House of Representatives. There was some trading of blows. There were commitments expressed on both side as to the importance of this legislation in the terms of it being an order under legislation, and there was agreement all around in the House of Representatives that this should, in fact, become law by way of the publication of the Order being affirmed by the Parliament. Unfortunately however, the matter was not pursued beyond the House of Representatives in 2011 and the matter was therefore left in abeyance for the next five years until it has now found itself on this parliamentary agenda.

I do not want today to engage in the he say/she say, who should have done, could have done, did not do or whatever else happened. The fact is, the reason for this particular piece of law is quite simple. The privileges and immunities, in particular the exemption for taxation, is a very solemn and necessary tool for the agency to operate with. And I will tell you that the privileges and immunities itself is not an uncommon thing, I wish to assure all Members of the Parliament. If one would look quickly at Act No.—Chap. 17:01 which is the parent legislation. In the list of index of subsidiary legislation you will see that there are, in fact, 17 pieces of subsidiary legislation being Orders of this type under the various category headings that I referred you to: the UN; consular corps; other agencies; specialist

agencies of the United Nations, all of which borrow similar type of terminology for the exemptions for taxation, et cetera, and in particular for the provisions of immunities and immunities.

In fact, one of them stands out to me as an excellent example and that is one done in 1994 which refers to the establishment of the Caribbean Financial Action Task Force, which as you know is something which we are talking about right now in Trinidad and Tobago and which we are going to have a lot more conversation about in the coming months because the work that is being done by Trinidad and Tobago in that forum is coming to bear and is very fruitful right now.

The taxation aspect is critical, and I wish to refer to that and the inviolability of records, et cetera, critical because this particular agency, if I deal with the latter point first, is an agency which very successfully coordinates typologies of crime, information sharing, significant outputs that the region itself uses. And permit me to give a few example of those.

This agency actually has given some very good work product when we look at customs; when we look at immigration; when we look at the sharing of information in criminal activity in particular in relation to narcotics, small arms and firearms and ammunition; when we look at the area of asset recovery; when we look at the trading of information in relation to trafficking in persons. This coordinating agency being a Caricom agency is able, firstly, amongst the Caricom territories, to have a direct association of Ministers of national security and law enforcement agencies actively involved in the pot which forms Caricom IMPACS.

Secondly, as a springboard and platform, they have had the ability to incorporate the agencies which are supporting our third party entities including the United Nations, the European Union, the Organization of American States—the

OAS—just to name a few. And why have I referred to that? Because crime and security is not localized to any one jurisdiction, in particular, Trinidad and Tobago. What we are looking at, Madam President, in this matrix is the fact that there is a global village. We cannot consider typologies or narcotics, of human trafficking, of murder, of the flow and tide without looking to what is happening in our neighbouring jurisdictions. We are after all, as a country, supposedly involved in the trafficking of certain ills, a transit point for certain ills. We know that there are source countries for certain ills, look at the cocaine trade, the drug trade. We know the statistics that come out of the South American basin, in particular what statistics come out of Colombia, that which passes through Venezuela. We looked to Suriname and Guyana also suffering from the similar position and the source countries then flow through the Caricom region in two forms. At the closest point, seven miles away from Venezuela, is Trinidad and Tobago. We can see Venezuela on an early morning. And what we have coming into our country where the maritime borders have not been protected for a considerable portion of the last six years, we have seen an uptick in criminality. We have seen the legacy of it left behind in the number of firearms, in the amount of drugs that have been left on the trail in Trinidad and Tobago, littered only by the severity of the body count and the blood that has washed this country.

And this is not a political thing. This is not a new thing. This is not new to one jurisdiction's experience, but any government has to look at that source, trafficking information and consequences and legacy items left behind and then you look to the destination countries and you understand, yes I have just identified the tragic elements left behind, but what about the other end of it which is trafficked through, which is money. There is profit in crime. There has to be a

trade. The money is what drives this whole product and this tragedy. And one is therefore obliged to follow the money and essentially to take the profit out of crime.

If you as a nation, if we as a nation follow not only product, but strangle and kill the flow of money and strangle and kill the opportunities for crime, that is when we are beginning to take a real bite at this. So it requires, as I was saying, a tiered approach. That is your international cooperative approach put upon the idiosyncrasies of the experience which we have as small-island economies because those who regulate us bring OECD standards which are approximately 25 years ahead of us on more sophisticated legal systems and operationalities, and then tell us to achieve these standards when our systems are not yet in place for that. So having a Caricom experience to speak with one voice is critical, lest we are obliged to receive a standard which is ill fit to our countries.

If you look at what is coming out of the Caribbean Financial Task Force which has an MOU and an associative agreement with the Caricom IMPACS, you would realise that the major issue of de-risking and correspondent banking and the elimination of the non-profit sectors in our countries are being closed in, and therefore, the revenue flows in our country when we try to stifle the profit of crime by regulating the flow of moneys affects our economies, money transfer services, Western Union, corresponding banking where you wish to pay a supplier abroad as a manufacturing entity. These things are being strangled necessarily, but the Caricom has an obligation to speak with one voice so that our micro-economies can be managed together as a whole. And that is where we get serious about fuelling the efficiency and ensuring the robustness of entities like Caricom IMPACS.

Let us look now to the need for this type of Order. When we give immunities and tax liabilities are being moved away by giving an immunity—why do we do that? Why we do that is because we recognize that the problem that we are facing amongst any of the international corporation entities is financing. Governments are called upon to finance institutions. Trinidad and Tobago, in fact, finances about 25 per cent of Caricom IMPACS, as it does 25 per cent of Caricom. As I said in an answer a short while ago, Trinidad and Tobago has now supplemented CFATF's workforce by approximately 120 or 150 per cent, giving them the aid that they need. Why? Because contributions in kind or foregoing of certain revenues equals to a lower operating cost for these entities and therefore, it shows the international entities which give us donor financing, that we are serious about helping ourselves. Because we cannot just stand with our cap in our hands and say, please give me, give me, give me some more where we ourselves would not step up to the plate and help ourselves.

**2.15 p.m.**

So that is some of the rationalization as to why a law of this type, an order of this type is necessary. I would think with that kind of explanation it would be obvious that Caricom IMPACS has the ability to significantly ameliorate the circumstances which we as a nation find ourselves in. And I wish to focus in particular upon some of the work products that come out of Caricom IMPACS. It was very useful to note, in the excursion to edify ourselves as to what Caricom IMPACS does, that the work product of Caricom IMPACS is extremely noticeable particularly because it is driven by a quasi Cabinet, and the quasi Cabinet is of course a small collection of the Ministers involved in the specific Caricom territories, and including the law enforcement agencies.

Currently, Trinidad and Tobago's Prime Minister, the hon. Dr. Keith Rowley, is the chair of that particular entity, and the Caricom agenda is being driven by Trinidad and Tobago's Prime Minister so that the voice of Caricom is now a collective position. Similarly, in the CFATF experience, as Attorney General for Trinidad and Tobago, I am the chair of CFATF for this year, and in fact I am very pleased to report, and this is no compliment to one person, this is a compliment to our country that we have come in for serious praise by our international partners for the valuable work that we have given to CFATF [*Desk thumping*] for the in-cash/in-kind contribution, and that is testimony to the agencies in national security, finance, Attorney General's office, the FIU, the Trinidad and Tobago Police Service in the Financial Investigations Branch, the Anti-Crime Investigation Unit, the Office of the DPP, the Judiciary of Trinidad and Tobago. You see, the very hard-working public servants in Trinidad and Tobago have been looking for a voice of advocacy, and have been looking for a drive for performance. And I think that is being manifest well enough that there is now an energy and enterprise to get the job done.

So that is the international picture. When we look locally now, there are some extremely useful work products that Caricom IMPACS is driving, and one of them—and I wish I could actually find the note that I saw it in—in particular deals with the issue of asset recovery, another one deals with trafficking in persons, another one deals with the tracking and flow of, as I said before, small arms and firearms and ammunition, another one deals with the coordination for terrorism, terrorist financing, another one deals specifically with anti-money laundering. And when we look to those issues, it now becomes obvious to Trinidad and Tobago that if we stand and drive a Caricom process as Trinidad and Tobago is doing right now

in CFATF, Caricom, Caricom IMPACS, three important entities, what is going to happen is that the shared experiences of the various jurisdictions flow in to Trinidad and Tobago, and therefore one does not need to reinvent the wheel.

Coming out of Caricom IMPACS was a most laudable project which I wish to encourage many in society, if not all, and especially again, hon. Senators, because I have referred to it once before, there is a draft piece of law coming out of the cooperation between improved access to justice in the Caribbean, of funding by the Government of Canada, by UWI, with cooperative assistance for Caricom IMPACS, and it is a draft model piece of law entitled, an Act to provide for the establishment of an Agency of Government to be known as the Major Organized Crime and Anti-Corruption Agency, to investigate and prosecute major organized crime, serious economic or financial crimes, acts of corruption, cybercrime and matters related thereto.

Now, why have I raised this? As a result of advocacy now at the helm of various institutions where Trinidad and Tobago is involved, these items have become critical agenda items. And I am pleased to say that most recently in Jamaica, whilst I was at the CFATF conference, Trinidad and Tobago had the opportunity to spend some considerably face-to-face time with the most eloquent and charming and vivacious Director of Public Prosecutions QC Llewellyn, in Jamaica, with the very competent head of INDECOM, which is the equivalent of our Police Complaints Authority, and very importantly with the—I think it is the Colonel who is in charge of what is referred to as MOCA, the Major Organised Crime and Anti-Corruption Agency of Jamaica. And much to my surprise, refreshing as it was, I found out that MOCA—I have just told you there is draft law for it—in Jamaica, which resembles very much what an anti-corruption agency



fashioned in a security services agency type model, which we have in Trinidad and Tobago—that MOCA in Jamaica is operationalized by the sole agreement between Opposition and Government. No legislation. None! Director hired by the Executive, potentially fired by the Executive, trading of information, interception of communication; everything done without an enabling piece of law.

And if you see the results, Madam President, and so facilitative was the cooperation that neither Jamaican Government nor Jamaican Opposition should stand in the way of dealing with the scourge of crime, that they agreed to operationalized all of this with no law, and are only now fashioning the law to clothe the enterprise. How far a perspective away from us that seems. And you know what, that is where understanding and reciprocity of the type that we see in Caricom IMPACS comes home. Because there is a degree of sobriety in saying, well, hold on. If your neighbours could talk seriously about grappling with crime, agreeing to literally feed the horse while the grass is growing, because it is almost like, as the head of MOCA put it to me, he said they are literally flying a plane whilst it is being built. And that was the imagery communicated to Trinidad and Tobago. And when I explained to them what we are discussing in Trinidad and Tobago, get it perfectly right before you start, whilst we have a scourge going down in this country, they were shocked. It was not an expressed shock, but one can certainly read by body language.

So, I took away from that, you know what, let me communicate this message as I have an opportunity again, in particular to this Senate, sometimes it is necessary for us to agree to fly the plane while it is being built. [*Desk thumping*] I am not saying it is perfect. Do not take away the words as that is the policy or structure, but what I am saying is, our country must become sober in its reflections

of how grave this situation is. And it is for that reason why we saw it necessary to bring the Caricom IMPACS Order back on to the table.

Today I do not intend to say who should have done what in the last five years to bring the thing to order. The entity was flying whilst the plane was being built. They have been in operation since 2006, they did not have certain privileges and immunities, and they did not have the benefit of certain taxation requirements, but you know what? We have the opportunity to complete that process today and just move along. That is what we have an opportunity to do. And I want to encourage all hon. Senators to reflect upon it in this fashion. To understand that there is a line of sight to all of this. The line of sight is legislative, nationally. It is international cooperation through legislation which is grounded dualistically, as I have just explained, as opposed to on a monist sort of approach, where we take in the benefit of laws which we have agreed to by international treaty, and we apply them. So, we can actually share and deal with information and give certain benefits and privileges to encourage people to work more assiduously and with certain safeguards and comforts which are normal in the international environment. That is internationally.

But very importantly, we are not, even though we are, proper in reflecting upon ourselves as an island in the Caribbean by ourselves. We are a transit port, we have to deal with the transit source and destination issues, we have to follow the money. You have to, as a Government, have the courage to publish an agenda, take licks for it, but the reason that you publish one with items like this on it, or with items like anti-terrorism, or follow the money, or civil asset forfeiture, so that you can measure it and be held accountable for it. Because no one Minister drafts the law without consultation inside of government Ministries or agencies, and

when you publish something you have the ability to remind the public service, time exists. I often joke, quite seriously, that Newton could have asked Einstein, if they in fact co-existed at the same time, which they did not, to do the theory of relativity of time as an exercise by judging Trinidad and Tobago. Because time does not seem to exist in certain sectors. It just does not exist, and that is why publication, measuring your tasks, or measuring how you do not perform task is so critical.

If it cannot be measured, it cannot be performed. And I say that because I have heard some rumblings about who do what in what time, and people talking about what agenda they had when it was never published. I do not want to talk about something that was not published. Let us talk courageously about what we published and what we measured. And the fact is, this step today, the affirmation of this Order, should the honourable Senate so agree, is a step in the right direction. There are serious work products to come out of this enterprise, there is no mischief, there is ample precedent for this approach, it has been long in the making. I would assume that the hon. Members of the Opposition, as they all are, would have support for this Order, because whence they dealt with the matter in 2011 in the House of Representatives, it was piloted by the now Opposition sitting then as Government, and it was unanimously supported by the Opposition and Government then.

So I do not think that there is much mischief across the two political parties here. It is, of course, open to the Members of the Independent Bench to ask any questions that they may have. Hopefully we will be able to satisfy the queries and concerns that you have, as a Government. We wish to assure you that this has been well thought out and long in the making, and that when one looks now to connecting the dots on what you do, that it is measures like this that fit into your

anti-crime plan. I have noticed this terrible anomaly in Trinidad and Tobago of talking about a crime plan. People say, where is your crime plan? The Government Trinidad and Tobago does not have a crime plan. We have an anti-crime plan; we have a security plan; and this fits in to the anti-crime plan which this Government has. When one connects the dots on our legislative agenda on the follow the money aspects, on the taking the profit out of crime aspects, it becomes pellucidly clear.

It is also associated with the improvements that we are engaging in to better and to transform the criminal justice system which is obvious again on the legislative agenda, and it is something that you are going to hear a lot about in specific details, because I am very pleased to say that we have made amazing success in the last eight months which we will unveil for Trinidad and Tobago. It is also about protecting your most vulnerable, including your children, and you see the hard work that has been engaged in on that perspective as well. It is about operationalizing at the same time, be it in small issues which have great impact such as the implementation of the speed limit, or your public procurement, what one refers to sometimes as the broken window theory, often advocated by the last Minister of National Security, Gary Griffith, or the second to last Minister of National Security. But, the point is, it is not an individual single perspective that you engage in. It has to be a whole perspective where you give a line of sight on that which you measure. And you will be held accountable to it.

So, Madam President, I think that I have laid the groundwork for this debate. I hope that I would be able to answer questions. I do hope that I will have, that the Government will have, that Trinidad and Tobago will have the support of all Members here today. And with that, Madam President, I beg to move. [*Desk*

*thumping]*

**2.30 p.m.**

**Sen. Wade Mark:** Thank you very much, Madam President. We would like to join this debate on this matter, this Order, via a Motion, that did not reach the Senate according to the Attorney General when it was first introduced in April 2011 or thereabout, sometime in 2011 and thereby this Order which required the approval of both Houses of Parliament fell through. And the same Order is now being introduced in 2016 to give effect to certain privileges and immunities to this intergovernmental organization known as IMPACS.

I would have thought that the Attorney General would have given us a status report on this organization and where it is at this time. Because not too long ago, this organization was involved in a lot of controversy. I recall sometime in 2011, I think it was the *Trinidad Express*, through Camini Marajh, had a very, very, serious article dealing with improprieties, fraud, misappropriation, misconduct, involving certain elements within the IMPACS operations. And I would have liked to ask the hon. Attorney General, based on a comprehensive forensic audit that was commissioned by the Caricom Secretariat into this particular organization, what were the findings?

Since Trinidad and Tobago, Madam President, is contributing 25 per cent of the overall budget to the IMPACS, I would have liked the Attorney General to tell this Parliament today, what is the size of the overall budget of IMPACS? We contribute 25 per cent. Are other Caricom Member States, up to mark or are they current, Madam President, in their contributions towards this organization? These are matters that we would like to or we would have like to hear from the Attorney General on, because we would also like to know, objectively, and not in broad

terms, what is IMPACS impact on crime and security in our region? Because Caricom is one of the most murderous regions in the world. I think they are the first, if not the second, in terms of homicides in the world.

So what is IMPACS doing in providing direction to the region in addressing this scourge and we know, Madam President, based on what the Attorney General had said, that the drug trade is the driving force behind the guns, behind the murder rate that we are experiencing in the region today, not to talk about Trinidad and Tobago where we have more murders in the year than the days of the year.

So far as I understand, Madam President, we are over 210 murders. So when the Attorney General said that this crime plan or this IMPACS and what it does fits into the Government's anti-crime plan, he did not really elaborate on what he meant by that, because we are not seeing the connection between the IMPACS crime and security plan and what is taking place in this country. So we really need to get some answers from the Attorney General as to, what is the status of this agency? What has it done in the last few years? It was born in 2006.

Prior to that, Madam President, we understand there was a regional task force on crime and security that was taken over by IMPACS in 2006 when we had as the Attorney General said, the World Cup Cricket Tournament in the region and it appears that Caricom was so impressed with the outcome of IMPACS during that World Cup experience that they decided to make it a permanent agency or body within the Caricom family. But the question of the integrity of IMPACS needs to be looked at and this is why I am asking the Attorney General to bring this Senate up to date with what has happened with the comprehensive forensic audit conducted by the director of internal audit of the Caricom Secretariat along with two other auditors back then. What is the status of that particular experience?

At that time a former executive director was dismissed from that particular agency because of improprieties, irregularities, misconduct, misappropriation, moneys missing. Because the same way, Madam President, we were arguing for mechanisms for the oversight and for proper accountability with the SSA, is the same way we do not have and maybe the Attorney General could share with us whether there are mechanisms in place for the accountability of finances given to IMPACS.

So we would like him to share with us information on what kind of accountability and oversight mechanisms are in place at IMPACS to reduce waste, inefficiency and illegal activities. Now, we know, Madam President, according to the Attorney General and it is a fact, cannot escape from it. We got an information brief from the Parliament which outlined, on page 3, that this organization called IMPACS, Caricom Implementation Agency for Crime and Security, is supposed to be:

“...the nerve centre of the region’s new multilateral crime and security management architecture.”

And it goes on to say:

“...specifically designed to administer a collective response to the crime and security priorities of member states...”

—according to this brief that we have before us.

But, Madam President, whether it is Jamaica, Guyana, Suriname, Trinidad and Tobago or even small Barbados, we have a situation where homicides seem to be a very challenging issue for us in the Caribbean as a whole. And we know that the basis for it, whether we like it or not, lies in the drug trade. I think the Attorney General mentioned sources of drugs that flow through the Caribbean to Europe, to

the United States, coming out of Colombia, being stored in Venezuela and coming across the border. And this is why the Attorney General will have to explain to us as we deal with crime and security involving this agency, this open porous border that we are talking about, what measures and steps are being taken to distinguish between genuine people who are coming from Venezuela because of the hunger and poverty and economic crisis that they are faced in Venezuela, and from those who may be coming in here as drug mules. What kind of system or apparatus do we have in place down at the port of Cedros to distinguish between genuine persons who are coming in, from those who are coming from Venezuela who may have other ambitions and other objective? I do not know.

But these are matters that we have to focus on because you would know that when we talk about crime and security in our region, what is driving crime, particularly murders, in the region and in Trinidad and Tobago is the drug trade. And you know, Madam President, we know when drugs come, guns come. And it is a link between drugs, guns and gangs.

Madam President, the average per capita in terms of murders in, let us say, the United States, is just about five per 100,000 inhabitants, 4.6 or about five. Trinidad and Tobago is over 30 I think, Madam President, and rising. We have one of the highest in the world or in the region and the reason for it is because of this trade that we have taking place through our porous borders. I am made to understand that there are 146 ports in this country, over 119 are not protected by the State. So we know it is a challenge to deal with the coastlines in our country. You can have how many OPVs, it is a very difficult task that we have to face in our Caribbean waters.



Madam President, when you look at the region as a whole and the square kilometres of the Caribbean region, it is almost the size of the whole of Europe. But you know we only have—in terms of sea plenty water, but in terms of land, we occupy less than 4 to 6 per cent.

**2.45 p.m.**

So we have a large coastal challenge. Plenty, plenty coastlines to protect but we do not have the capacity, we do not have the resources to do it, and this agency is supposed to be providing the kind of support for our region so that we can advance the well-being, the welfare and the interest of the people of Trinidad and Tobago.

Madam President, there is a report that was published entitled, “Crime, Violence and Development: Trends, Cost and Policy Options in the Caribbean”, some time ago, 2007, published by the UN Office on drugs and crime, and Latin America and the Caribbean Region of the World Bank. It was a joint report and it did not make good reading at all in terms of what is happening in our part of the world.

Madam President, before 2000, the literature is showing less than one-third of the persons in Trinidad and Tobago who were killed, who were murdered, firearms, guns would have been the preferred weapon of choice. That was before 2000. One-third of the persons who were murdered according to this report, they were victims. They died as a result of the use of the gun. Today, as we speak, it is between 80 and 85 per cent of the persons who are killed in this country, who are murdered in this country, the weapon of choice is the gun. So we have gone from one-third before 2000, and now—in fact, this report shows that between 2002 and 2006 in this country it rose from one-third, 33 per cent, to 70 per cent under the

Government led by the former Prime Minister Patrick Manning.

So what I am saying, the drug trade in this country seems to be overwhelming the capacity of the State, and the mere fact that people are dying—between 80 and 85 per cent are dying as a result of the firearms—it tells us that the country seems to be overwhelmed with drugs, and the underground economy, the dirty economy seems to be overwhelming the clean economy. I do not know what IMPACS has been doing about this. I do not know what advice they have been offering the Caribbean, and maybe the Attorney General in his new capacity as Chairman of CFATF might be able to share with us what is happening with this organization.

Madam President, just recently—in fact, I was shocked to learn but it is what came out of the newspapers. It was in the Sunday newspapers. I think it was on page 24. There was an article entitled: Killed with ease, impunity in T&T, on page 10 of the *Sunday Guardian*, and the hon. Minister of National Security was telling this country that in the last five years 2,000 firearms and 30,000 rounds of ammunition have been seized in Trinidad and Tobago—2,000 firearms and over 30,000 rounds of ammunition have been seized in this country over the last five years. And, Madam President, the Police Commissioner was at pains to tell us, only recently, that they have taken off the street, thus far, I think close to 300 firearms or 359 firearms within the first six months of this year.

So here it is we are going to give this organisation privileges, we are going to clothe them with immunities, they have all kinds of privileges which I have no problem with because it is an inter-governmental body, it is a Caricom body, we are part of Caricom. But am I getting value for my money? I do not know. I have not seen any effects. I have not seen benefits. What I have seen is a murderous

start to 2016 in our country. It is the worst that we have experienced. In fact, the massacre that took place in America recently, they say it is the deadliest in its history.

We have now gone through a period in this country where I believe is the worst experience we have had in the last few years in our country where citizens are dying by the dozens. Over 210 died, dead, and the majority of them have gone through gunfire, bullets. Where are these guns coming from? We know they are coming from porous borders. Who are bringing them in? We know the drug cartel and they are then filtering those things through what is called facilitators. They are both professionals and service providers, and they are facilitating. So the gangs are here. In fact, Madam President, we were told by the former Minister of National Security, some time ago, that there were some 85 gangs in this country, with over 500 to 600 members. That was some time ago. We do not know what the current state of affairs is as it relates to that.

So we are faced with a situation where we are asking Trinidad and Tobago to underwrite, to forego a lot of revenue as it relates to this particular agency that we are going to be giving privileges and immunities to, which is, as I said, we believe that if we have to give these privileges and immunities, we need to get answers, we need to get some kind of report. Because, Madam President, section 8 of this particular Order says that:

- “(1) IMPACS and its assets, property, operations and transactions shall be exempt from—
- (a) all direct taxes...”

So they are not going to be paying taxes according to the Order, which is normal once you have that status. So nobody can argue with that.

They are going to be exempt from:

“(b) all custom duties, prohibitions and restrictions on imports and exports in respect of articles intended for official use.”

These are some of the benefits that will be accruing and we will be conferring on this particular agency. They—

“9. (1) shall have right to—

(a) hold funds or currency of any kind and operate accounts in any currency; and”

they—

“have the right to—

(b) transfer funds in national or foreign currency to, for and within”—TT—“and to convert such assets freely into other currencies,

without being restricted by financial controls, regulation or moratoria of any kind.”

These are some of the benefits that this particular agency would be entitled to when this Order, through the Motion that is before us, is passed and becomes law. But we do not know how Trinidad and Tobago has been benefiting, Madam President, from this, and I am asking Attorney General, when he is winding up, could you convert that 25 per cent of our contribution into hard data? Give us value in terms of dollars and cents. When you convert that, is that \$2 million, \$10 million, \$15 million? What is the overall budget of this agency? We do not know. We need information.

Madam President, we ought to be advised by the Attorney General since the inception of this agency, how has this agency outside of cricket, 2007—I know

according to this document that we have before us, this agency is also responsible for a number of sub-agencies. There are a number of sub-agencies that this agency has under its control. They have something called a Joint Regional Communication Centre under their control, and there is something called fusion—  
[*Interruption*]

**Hon. Al-Rawi:** Yeah.

**Sen. W. Mark:** Right—under their control.

Madam President, if you go to page 4 of this document, we would see that there is regional Crime and Security Strategy Central Coordination Unit which provides critical technical support, advisory services and assistance to member states. This unit coordinates the various activities of the regional security groupings within Caricom, anticrime and security management framework. We have the Joint Regional Communications Centre, and we have the Regional Intelligence Fusion Centre.

Now, we are told in this document that the JRCC is a central clearing house for the advanced passenger information and acts on behalf of individual Caricom member states for the purpose of pre-screening passengers from air and sea carriers traversing the region. We have been advised that this same communication centre acts as a conduit to ensure effective communication among law enforcement personnel, which is necessary to enhance border control-related activities, but we have not had any concrete information being put before this Parliament so that we can support this Order.

What is the data like as it relates to pre-screening of passengers from air and sea carriers traversing the region over the last few years? Is it 55 million? It is 30 million? We do not know. The information of this nature could have been shared

so that we who are debating this Order, via a Motion, would have been better apprised so that we can justify, Madam President, why we would want to support this particular measure that is before this honourable Senate.

But we have not been provided with the information. Information has been very tight, coming from the lips of the hon. Attorney General on this matter.

**3.00 p.m.**

Then we also know that this centre is supposed to deal with persons, detect persons who are travelling with stolen, lost, fraudulent travel documents along with the identification of and monitoring the movement of persons of interest, including those who may be of a high security threat to the safety and security of our region.

This is a laudable thing, Madam President, but could we get some data on the efficacy, the effectiveness, the efficiency of the operations of this organization over the last few years, as it relates to how many people they have been able to link—our Caricom Member States—as it relates to they travelling or these people travelling with stolen, lost or fraudulent travel documents? How many people of interest, Madam President, of a national security nature have we been able to identify travelling through our region—10, 30, 40? We do not know, Madam President.

What we do know is that terrorism is on the rise in the region. What we do know, we have 100 ISIS fighters who are Trinidadians and Tobagonians and they are coming in and leaving Trinidad and Tobago when they want and when they like. What we do know is that we have an invasion, via migration out of Venezuela into Trinidad, through Cedros and other ports of entry at this time. We do not know who is terrorist, we do not know who is genuine, but they are coming through and we know bordering Venezuela is Colombia and they are the

manufacturers of drugs that they export to the United States, to Europe and we are the conduit and the transit point to get all the drugs to the United States and to Europe. So we do not know what is going on, Madam President. And that is why, Madam President, people are in a state of fear and panic when you see these things happening.

Madam President, a new style in this country—we do not know who is behind it; we do not know if it is the drug lords; we do not know if it is ISIS sympathizers; we do not know who they are—what we do know is that they are injecting fear into the population of this country. “So every day is a bomb threat, vacate Trincity Mall, leave this place, leave that place, schoolchildren writing exams, bomb threat.” What is going on here? Somebody is testing the State? We do not know. But these are serious developments. And, Madam President, a new phenomenon we are seeing appearing in Trinidad and Tobago, hand grenades. Where are they coming from? Where are they coming from? And we are talking about IMPACS? And we are saying that IMPACS is part of the Government's anti-crime strategy?

So, Madam President, we want answers to our questions. And I would like the Attorney General to tell us whether, for instance, the Government is implementing measures as advanced by IMPACS in order to deal with national security matters in Trinidad and Tobago at this time as we speak.

Madam President, the Attorney General spoke about asset recovery. He talked about trafficking of persons.

**Madam President:** Sen. Mark, you have five more minutes.

**Sen. W. Mark:** Yeah. He talked about trafficking in persons, trafficking in small arms and ammunition and terrorist activities, money laundering and he also made

mention of some draft model piece of legislation. All these things he mentioned in his contribution. He also talked about the good work of this organization, through Customs; well, I have given you some examples of that, immigration, narcotics. We do not know what is going on in that area. What we do know is that whenever, Madam President, you clamp down in one area, like in Trinidad and Tobago right now the army has occupied Laventille and the crime has now left Laventille and invaded central Trinidad and parts of south. And that is what happens, Madam President, when, for instance, you do not have an overall grip on national security in our country.

So these are matters, Madam President. We have raised the matter of crime and national security within the framework of IMPACS. We have sought to let you know that we want some answers to a number of issues that we have raised.

We want to also advise, Madam President, that when we talk about crime and security in our country and in our region, there is a link to development, there is a link to economic growth, there is a link to investment and trade, and whenever there is crime and there is insecurity, there is under-development, there is under-investment and there is an overall slowing-down of economic activity in our country.

In fact, in this report it is shown that if Jamaica, and I think Haiti, could have the kind of stability that we have in Costa Rica, they would immediately experience a growth rate of 5 per cent in GDP. So it tells you the link between crime and the poor under-performance of economies within our region, whether it is Trinidad and Tobago now or Jamaica or Guyana or Suriname. There is a link between crime and under-development in that arena.

So, Madam President, in principle, we have no difficulty in promoting



Caricom. We are part of Caricom. We support integration, and we support Caricom as an entity. We support the single market and economy, that drive for a single market and economy. *[Interruption]* No, we would talk about that behind closed doors. We cannot talk about that publicly right now.

So, Madam President, as far as we are concerned there are some areas of clarification we would like to have from the hon. Attorney General. I am sure he has answers to clear the air on a couple of these matters. And, in closing, if I may just indicate to him some of the areas that we would like him to clear for us. We want to know what has been the outcome of the comprehensive forensic audit into the operations of IMPACS. We want to know the budget of that organization. We want to know what our contribution of 25 per cent translates into. And we want the hon. Attorney General to at least provide this country and this Parliament with an appreciation of how we are benefiting from that organization, in terms of reducing crime and increasing security of the person and property in our country. I thank you very much, Madam President. *[Desk thumping]*

**Sen. Hugh Russell Ian Roach:** Thank you. Madam President, I thank you for the opportunity to join this pertinent debate in furtherance of our Caricom obligations as a Member State on the approval of the Privileges and Immunities [CARICOM Implementation Agency for Crime and Security (IMPACS)] Order, 2016.

As stated in the Legal Notice, this Order was made by the President under section 9(2) of the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act, Chap. 17:01, and is subject to affirmative resolution by this Parliament.

Madam President, I have read and considered the provisions of the Order and I find same unremarkable in the number and type of privileges and immunities

it seeks to confer on the Caricom Implementation Agency for Crime and Security, otherwise called IMPACS, which for all intents and purposes are caused with the typical international diplomatic protections extended to international and regional organizations and their personnel in order to carry out their mandate effectively and without domestic law restrictions.

Madam President, it is to be noted that *carte blanche* privileges and immunities are not something extended to persons who are either Trinidad citizens or residents and that too is in keeping with the international law protocol in the diplomatic community.

This treaty arrangement with Caricom on crime and security is vital as an instrument in the arsenal to combat the scourge of crime and that is rampant in our country and across regional borders, reaching as far as human contact is possible.

Our country as a whole is grappling with the unacceptable levels of runaway murders; and any competent effort, strategies, alliances and decisive actions aimed at rectifying the current crime wave will be supported and given life to. The agency's aim and objectives encompass not only Trinidad and Tobago but the wider Caricom. It is an obligation that brings us together as a region to fight a common enemy that has no regard for human lives or how they are affected by their criminal activities and total disregard for the rule of law.

Some issues raised by Sen. Wade Mark, I must say I find to be germane, in particular the status report on the agency. A status report on the agency could be given. It is interesting to know what exactly is the total budget of IMPACS, in terms of the 25 per cent and what our 25 per cent would amount to, and if at this stage since IMPACS has been in existence since 2006, what is in fact the impact of IMPACS on the crime? These are germane questions and I am sure the Attorney

General would be very minded to answer them.

A concern that I have, having had some experience with the diplomatic community on operations, is the one that concerns the employment of locals, of Trinidadian and Tobagonian citizens or residents, where the labour laws are concerned. Which laws would apply, in terms of any labour dispute with this agency? That is a question I thought is silent in the Order. But I would like to hear from the Attorney General, which could be explained.

The fact that the agency is headquartered in Trinidad and Tobago, I think it augurs well in helping to boost the whole presence of heightened awareness of enforcement presence in the country, and like any other international agency existing anywhere in the Caribbean, under this treaty, the privileges and immunities that are accorded would be accorded across the board. It is something I think that would be reciprocal. So there is nothing to be exaggerated in terms of the foregoing of taxes and so. They are insignificant in terms of what is expected of these types of arrangements. There is nothing unusual about it.

The Caricom signatories to this agreement include Antigua/Barbuda, Barbados, Dominica, Guyana, Jamaica, St. Lucia, St. Vincent and the Grenadines and Suriname.

### **3.15 p.m.**

Madam President, these are not insignificant members. They are significant members, and as Sen. Mark was saying, the fact that our borders are very close basically, in proximity, and crime is not localized to Trinidad and Tobago, IMPACS, I can see, certainly will play a vital role in helping to stem this type of easy access of transborder criminal activities and, therefore, should be supported.

Madam President, this Order consists of only 11 clauses. They are not

complicated. They are not unusual. They are quite self-explanatory. The comprehensive brief was given by Parliament to us. I found it very helpful. The Attorney General in his presentation also was quite informative, and apart from the questions that I have just alluded to, that I think were raised by Sen. Wade Mark, were germane. For my part, I will be fully supporting the affirmation of this thing, but I look forward to hearing from the Attorney General in his wrapping-up, what he will have to say, and with that, Madam President, I thank you. [*Desk thumping*]

**The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan):** [*Desk thumping*] Madam President, it is a pleasure for me to join this debate on the Privileges and Immunities (IMPACS) Order, which is actually subsidiary legislation made in accordance with section 92 of the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act, Chap. 17:01 of the laws of Trinidad and Tobago.

For the record, Madam President, IMPACS refers to the Caricom Implementation Agency for Crime and Security, a regional institution established in 2006, to advise on and implement the region's security agenda. It also has responsibility for the day-to-day administration and technical functions, required to fulfil its mandate.

Before I proceed with the body of my debate, Madam President, as Leader of Government Business in the Senate, I think it would be remiss of me if I do not take this opportunity to thank Sen. Hafeez Ali, for his contribution to this Senate, [*Desk thumping*] over the last nine months. He debated in the budget debate and I think on two other pieces of legislation, and as Leader of Government Business, I welcomed his contribution.

I just want to caution the society that we have a culture here where, for a single transgression, we condemn you for life. Mr. Ali is still a very young man.

He may have done something inappropriate, but I think he will work through his challenges, and we should all as former Members of this—of his colleagues in this Senate, and I am speaking now on behalf of the PNM, that we will give him all the support he needs to work through this challenge, and hope for the best for himself and his family. [*Desk thumping*]

The hon. Attorney General indicated that this Order was prepared and laid in the Parliament in April 2011. It was approved by the House of Representatives and subsequently passed to the Senate for debate. Parliament was prorogued in July 2011, and the Order was never re-tabled. I want to support the Attorney General as we are not in a blame game here today, but when things like these happen, Trinidad and Tobago looks bad. Simple legislation to pass, and it gets stuck in the system for some strange and unexplained reason, and this to me, is what defines underdevelopment. We just do not have our torchlight focused on what we should be doing. It is a sad thing to fathom here in this Parliament today, but it has happened, and I support the Attorney General; he is not here to cast blame on any administration or former administration, but we are going to put it right today, with the support of, I guess, with the Opposition and the Independent Bench.

Madam President, the issue of crime and security remains a top priority for the Government of Trinidad and Tobago. I want to go on record, the hon. Attorney General mentioned it en passant, but the hon. Prime Minister is also the lead head of Government, with responsibility for crime and security in the Caricom's quasi Cabinet.

I want to also inform this honourable House that at the 27<sup>th</sup> Inter-Sessional Meeting of the Conference of Heads of Government of Caricom, held in Belize

just in February of this year, February 16<sup>th</sup> and 17<sup>th</sup>, the hon. Prime Minister, Dr. Keith Rowley, proposed and the Conference adopted the Protocol amending the revised Treaty of Chaguaramas to:

1. Incorporate the Council of Ministers responsible for national security and law enforcement as an organ of Caricom; and
2. Have IMPACS instituted as an institution of Caricom.

These were two very, very fundamental decisions that were adopted at the meeting in Belize on February 16<sup>th</sup> and 17<sup>th</sup>.

Again, I do not want to repeat too much of what Attorney General said, but there is a historical antecedent to this whole piece of legislation. I just want to walk you through it very, very briefly. At the Caricom Heads in July 2001, which is 15 years ago, a regional task force on crime and security was implemented, and the fundamental tenets of this were to analyze the fundamental causes of crime and security in the region. In October 2001, the role of the task force was expanded to include overall threats to national security, and these included, and I quote here from a document, Madam President:

- Crime and violence, regional cooperation to interdict the illegal trafficking of drugs and firearms;
- The impact of deportees on crime and security in the region.

—a significant aspect of our crime and security agenda that, all of a sudden nobody seems to speaking out against, but it is still alive and very active in the region.

- Counterterrorist plans;
- Information and intelligence sharing; and
- The legal framework required to facilitate collaboration and cooperation among security forces within the region.

Then came the famous meeting in July 2005, where the Conference of Heads of Government of Caricom agreed to establish the framework for the management of crime and security in the region that included, inter alia, an implementing agency for crime and security called IMPACS. This went ahead to form an inter-government agreement, establishing the Caricom Implementation Agency for Crime and Security—IMPACS.

On July 06, 2006, at the 27<sup>th</sup> Regular Meeting held in St. Kitts/Nevis on July 3<sup>rd</sup>, it was adopted by Caricom Heads, including the Government of Trinidad and Tobago. Then this went on to form something called the inter-government agreement, established IMPACS, required the contracting parties, and then there was a headquarters agreement, and now this Order here to provide diplomatic immunity for the agency and its staff.

Just to recap, the structure is that IMPACS report to a council of security and law enforcement Ministers of Caricom, who in turn report to the Caricom Heads. So that is the hierarchy, and within IMPACS, was circulated in the Cabinet brief, and again, I want to join Sen. Mark and Sen. Roach in complimenting the Parliament for producing a very, very succinct and well- researched document here.

There are five subcommittees of IMPACS:

- The Standing Committee of Commissioners of Police;
- The Standing Committee of Military Heads;
- The Standing Committee of Chiefs of Immigration;
- The Standing Committee of Heads of Customs; and
- The Standing Committee of Heads of Intelligence and Financial Investigative Units.

Madam President, I want to deal with the issue very briefly of transnational crime, and I want to quote from and support what Sen. Mark said. This is a document called *Crime, Violence and Development: Trends, Costs, and Policy Options in the Caribbean*. It is a UN document coming out of United Nations Office on Drugs and Crime and the Latin America and the Caribbean Region of the World Bank. On page 9 it states as follows:

“A major factor contributing to the surge of guns-related criminality in the region is the trafficking of narcotics which has facilitated the availability of firearms. The firearms required for protection of the contraband during transportation are smuggled in along with the drugs.”

Sen. Mark expounded on this quite well, and basically this is at the core of the crime situation in the Caribbean.

Now, there was a famous meeting held in, I think it was in the Dominican Republic, where the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs of the United States, one William Brownfield, made some very pertinent remarks. He even mentioned the Dana Seetahal murder in that speech, but he says, Madam President:

“The Caribbean, in a sense, is a victim of its own geography...”

Let me repeat that:

“The Caribbean, in a sense, is a victim of its own geography...”

We did not ask to be in this geographic space, but we are now “strategically located”, and I say that in inverted commas, between the market and the producers.

And he goes on to say:

“The United States government calculates that the amount of cocaine that enters the United States through the Caribbean has increased in three years



from five per cent to 16 per cent.”

Sixteen per cent of the US market is a fairly large sum, eh? Okay?

He also coined a phrase, which I think is very applicable, and Sen. Mark alluded to it, without quoting it by its scientific name, when he said, “You lock down Laventille and de crime migrates to Central and ting”. It is called the “balloon effect”, yes. This is Assistant Secretary of State Brownfield. He said:

“The rising volume of drugs coming through the Caribbean is an example of what drug wonks call the ‘balloon effect’, the idea that increased pressure on one drug route produces a bulge elsewhere. Until recently...”

He went on to say:

“...the favoured”—route was through Honduras via airplanes.

And now because they have clamped down on that, it has to go. It is like water finds its own course, you know. Okay?

It is in that context we have to—this sore topic always comes up in this Parliament and, you know, it is a blame game and sometimes the Opposition gets vex for what we say, and vice versa, but the decision to cancel the OPVs was such a fundamental blunder, in terms of crime prevention and drug interdiction, that it has to pop up its head ever so often. It will be remiss of me not to mention it, because the balloon effect is that, that is why we had the long-range offshore patrol vessel, because if we had gone—and we still are with the UNC plan that you only protect our borders. You make our borders less porous, what will happen, is poor Grenada, St. Vincent and St. Lucia will pay the cake, you know. That was the rationale, apart from protecting our oil field assets off the east coast, and through the exclusive economic zone, which is 200 miles off the continental shelf. That was the rationale and the *raison d’être* for the long-range offshore patrol vessel that

could stay three months out at sea, okay? So it is not an easy exercise to say, who did what, and who did what?

Prime Minister Manning had always said that you should be—three matters and I think there is now joint select committees on that, that should be apolitical: national security policy, energy and foreign affairs. And I see the Parliament is gravitating to that model because there is now a joint select committee on energy. There is now a joint select committee on foreign affairs, and there is a joint select committee on national security. [*Desk thumping*] I compliment the Parliament for that because, forget the politics, you know. These are the three most fundamental aspects of this country, if you cannot protect your citizens, you have not started to govern; national security. Energy, the lifeblood of the economy, okay? And for heaven's sake, in terms of foreign policy, you do not embarrass the country as a Government, and blame an Opposition or an Opposition blaming a Government. We have to have, when we face the foreign theatre, we have to come as a united front, and that basically is the principle.

**3.30 p.m.**

We support the Parliament in that regard. On these Joint Select Committees you will see, Madam President, that even though there was some trepidation and a little opposition to certain Cabinet Ministers chairing some of those committees, in terms of the questioning to the state agency, the Government—and I pledge on the committees that I sit on and my colleagues—we are the most aggressive questioners to the state agency. Sen. Solomon could shake his head. We give them thunder—on land and infrastructure, in energy—Mr. Imbert and myself. We are taking the lead on that. So once we get the governance right, we will go a long way in getting the implementation process in making Trinidad and Tobago a better

society.

So I am glad to hear the signals that I am hearing from the Opposition and the Independents with regard to the support for this piece of legislation. I mean, it is simple legislation, just providing the immunities to the agency but, obviously, because you are providing the immunities for the agency, obviously the core function of the agency will come to the fore.

The other aspect that is plaguing the Caribbean is criminal deportees. It was on the radar a couple years ago and for some strange reason it has come off, but it is still a major challenge here in the Caribbean. There is a document I have here, which I would just like to crave your indulgence to read a short part of it. It speaks about one specific incident in Grenada and I quote, Madam President. It is from the *Associated Press* dated September 25, 2010—it is quite a while back—but it says:

“The crime was horrifying enough—a nightclub owner, hacked to death with a machete, was found buried in pieces. But what really outraged people was that the accused killer had been deported from the US to his native Grenada as a convicted felon.”

The article goes on to say that:

“At the heart of the problem is the disparity of wealth between the United States, where migrants often learn their criminal ways, and their poor homelands, where jobs are scarce and police resources are limited.”

So here you have—and the story has been told many times over—people leave the Caribbean as children, sometimes three years, four years and five years old as toddlers moving up with their parents. They learn their criminality, so to speak, in the United States, but they are immigrants. So they get a jail term for 10 years for

drug trafficking, attempted murder, shooting with intent, and the Americans passed this legislation that once you come out of prison, you are deported immediately.

Most of them do not have a place to stay. They have no more family or no relatives in their island state. They come in here, and Vision on Mission has been taking up some of them. Trinidad has some NGOs that are working with them, but a lot of the small islands do not have the capacity to do what we do. When Trinidad helps the Caricom nations, especially the OECS, it is because apart from the love for our Caribbean brothers and sisters, it is strategically to our advantage also.

When the Minister of Trade and Industry talks about the Caricom market, if the Caricom economies do not do well, our manufacturing sector falls. Check out the little incident that is happening in Jamaica now, where the Jamaicans, because of the immigration issue that was raised, are taking that as a trade war. The Prime Minister, luckily, has come back from Cuba and indicated that he will visit Jamaica, because the Caricom market is fundamental to us.

Again, today, I do not want to go to the UNC-PNM rhetoric, but that is why your former Prime Minister when she said “Trinidad and Tobago is not an ATM machine” was a fundamental diplomatic and trade error. [*Desk thumping*] Fundamental. You do not say these things when you are on an international stage, flippantly. So when we criticize, we are not criticizing because we do not like X or we do not like Y, but we understand on matters, as I said, national security and energy, you have to come to a consensus and you have to seek the national interest of Trinidad and Tobago. I hope I do not have the opportunity to say anything more on that, but it was an ill-advised statement.

And, thirdly, Madam President, the issue of money laundering, the Attorney

General was very articulate. He is the President or the Chairman of CFATF, and that is an agency that looks at all these issues of money laundering and the financing of terrorism and what have you. And, again, if you do not have institutional structures to protect yourself, you are a small island state, you are a victim of your own geography. I think that is such a classic statement. To me, that captures the essence of the challenges the Caribbean face. What we have to say now is reverse that geographic position and position ourselves as the gateway to Latin America with trade, with expanding our port, with being a transshipment point to service Latin America out of post-Panama issues.

We now have a committee which I am privileged to chair that will be dealing with the maritime sector in conjunction with the Minister of Trade and Industry. So we are on the right track. Our geography is hurting us in terms of the transshipment of drugs, but our geography is also our strategic advantage where we are placed at the doorsteps of one of the largest markets in the world outside of Southeast Asia. But, having said that, this is a *Daily Express* article, June 14, 2016: “7 Caribbean countries on USA’s Major Money Laundering List”

“Antigua and Barbuda, Bahamas, Belize, British Virgin Islands, Cayman Islands, Dominican Republic, Haiti have all made the list...”

And it goes on to say:

“A major money laundering country, according to the US is defined as one ‘whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking’ ...”

That is a powerful statement, and you hear the names of the countries, the countries that supposedly had these corporate banking havens. Look at what happened in Panama, and this whole protection of confidentiality of banks, and

you cannot give information. Because, at the end of the day, if you are in a state of war that matters most to mankind, you know.

During World War I and World War II, the only law was the laws of war and how you impact on the impact of the war. I was reading a book recently that the Borough of Point Fortin published to commemorate Borough Day this year. It was written by Ellis Lewis. He is a former Petrotrin worker in the human resource department, former national cricketer and former President of the Trinidad and Tobago Cricket Board, Point Fortin resident. It is a history that I am familiar with in the energy sector.

But when World War II was going on, and Trinidad and Tobago, the British Merchant Marine had just converted its fleet from coal to petroleum, and all the petroleum of the British empire was coming right here from Fyzabad—Sen. Creese—and Point Fortin and Palo Seco and Parrylands—there was a case with a driller—and something they forced a strike or a shutdown or something like that—and the magistrate ruled that their action was inimical to the war effort. That was the charge. It was not inimical to any local legislation, local law. It was inimical to the war effort because under no circumstance should you stop the transportation of crude oil back to the mother country to service the merchant marine fleet and to service the war efforts.

So the world is now fighting an international battle of counter-terrorism, money financing and the financing of terrorism. So this would obviously take precedence eventually over all the bank havens, because if terrorism is funded from these secretive institutions, obviously you would have to expose them. Some may be doing legitimate business, you know, but they must fall now under a jurisdiction of oversight and international legislation in putting forward a solution

to this.

I say all these things, Madam President, to say that even though IMPACS may have its limitation, it may have human resource limitation, it may have capacity limitation, because to run all these intelligence agencies, one of the most fundamental things you need is software, because you have to learn to mine data. You have to have a data capture scenario where you can get all this databases put together and start to look for trends. But even with all its limitation, it is the proper institutional arrangement for Caricom to deal with crime of this nature.

So, while Sen. Mark—and I hope the hon. Attorney General could answer your question as to what the 25 per cent means in terms of actual money, what happened with the forensic audit that was commissioned by Caricom some couple years ago and a status report on what IMPACS is actually doing and to quote Sen. Roach “what impact did IMPACS have on crime and security in the Caribbean”, all these are legitimate questions. They are useful questions, and I say I hope the Attorney General could put some context into it.

I would not delve too much in the exact immunities. The immunities are listed quite clearly in the Order here, so to say you are absolved from tax—Sen. Mark said that—the Attorney General said that already. So I would not go through the list, but I have put the crime scenario of the Caribbean in context, because we are not alone on this ship, and as bad as we are going as a country—financially, you know, we have our challenges—understand we are still significantly better resourced than most of our neighbours.

So we have to lend a helping hand in some form or fashion. And our support for IMPACS, our support for Caricom in its effort, Caricom themselves, sometimes they do not honour their part of the deal, but it is a territory that we

would have to continue to navigate. We cannot give up on Caricom. We have to support the Caricom agencies and the Caricom effect. So in that context, Madam President, I support this Motion, this Order, and I urge the Opposition and the Independents to do likewise. With those few words, Madam President, I thank you very much. [*Desk thumping*]

**Sen. Khadijah Ameen:** Thank you very much, Madam President. I want to thank you for this opportunity to join the debate on this Motion entitled Privileges and Immunities [CARICOM Implementation Agency for Crime and Security (IMPACS)] Order, 2016. Madam President, it is well-established by the speakers before me that this regional body is intended to be a sort of a nerve centre for multi-lateral crime and security management, a structure that is designed to administer a collective response to crime and security priorities of Member States.

Madam President, it is very clear that as technology evolves, the world is becoming a smaller and smaller place, but many of the challenges remain the same even though how they come into being may have changed.

**3.45 p.m.**

Madam President, for the purpose of this debate I want to take the opportunity to focus a bit on the crimes purported against, and the security surrounding, girls and women in the region. Madam President, there is no doubt that the number of violent crimes, particularly murder, is at unacceptable level in Trinidad and Tobago. The ability of the Government to treat with this situation internally clearly is meeting some challenges, and even though I know the Minister of National Security was here earlier, and he would have answered some questions on terrorist financing in Trinidad and Tobago, the fact is that as an opposition and as a population, we are still yet to see a direction, a strategic approach to crime



fighting from this Government. And any effort, whether it is internally or from a regional or international bodies, in my opinion, will be very welcomed as any life lost due to violence in Trinidad and Tobago is one life too many, and this Government has not shown that it has that firm control over crime and national security, and crime fighting, in general.

It is true that based on our location drugs, trafficking in guns and ammunition, as well as organized crime, does pose a particular challenge to Trinidad and Tobago. Madam President, we are in a very real situation where because of the challenge to get food by citizens in our neighbouring Venezuela, there is a trade, an illegal trade existing where guns, ammunition and drugs may be traded for food, and that, of course, has an impact on crime and violence in our country, and, particularly, against those who themselves are facing challenges here when it comes to employment opportunities, education and other opportunities. So in the face of our own economic challenges here it is important for us to note that if our population, our own population is deprived of opportunities then the opportunities presented illegally, based on the current situation with our neighbour, will have severe negative impact on us.

I believe, Madam President, that we are already seeing the effects of some of that based on the current rate of murders in this country, and violence, in general, and gang activity, as well as drug-related offences. It is true that the very stability of our society could be under threat, and that is not a situation that will affect our country alone. Of course, it does affect the region. Madam President, the impact of violence when it comes to, as mentioned by the speaker before me, Sen. the hon. Franklin Khan, the delivery of public services it really does take away from any good intent of any Government regardless of which political party.

The security, the economic development of communities are also affected. Madam President, I have spent all of my adult life working in communities and I can tell you that while many would speak about the very important impact internationally and regionally, I also want to introduce for thought by my colleagues, the impact of crime and our porous borders, the impact it has on communities. I know that, Madam President, when you have a community that has a lot of gang activity, or even a reputation of being an area with a lot of gangs or drugs, or guns, many of the state agencies end up refusing to go into those communities.

Madam President, just recently I had calls to keep an unofficial meeting with some of my neighbours, because I live in one of those communities that are considered at-risk, and the purpose of the meeting was to establish a working relationship with the Insect Vector Control Unit of the Ministry of Health, who had refused to come back into the community without police because they had been victims of armed robbery in the community, they had been working in the area when murders, and in some cases multiple murders were committed by guns, and they were literally fearful for their lives. This is one example but many other services such as basic sanitation, garbage collection, things we may take for granted could also be prevented when you have violence in communities. The economic impact on those communities, of course, one could imagine, that small businesses, even parlours, trucks would not even go to those parlours to take goods to them because they are just afraid of going into the community. So we must be mindful of the impact this would have on families in that community, small businesses, the opportunities, the possibilities for women and girls, and young people in general.

Madam President, internationally, over the past 30 years, or so, international organizations have recognized that violence against women, it is now considered a public health problem to the extent where it was also listed as a violation of human rights and a barrier to economic development, and the 1993 United Nations General Assembly formally recognized a woman's right to live free of violence in the Declaration on the Elimination of Violence Against Women. And while, if you take an academic approach to be able to define and measure violence in studies and research can be a bit difficult, even to compare country to country, because the way of measuring violence and defining violence is different from region to region. In this region we do have high incidents of domestic violence, and we do have a human trafficking issue that goes along with the drug trade, and goes along with the arms and ammunition trade that we should be mindful of when it comes to our regional implementation of security policies and strategies.

While in other regions there are issues with violence against women may be different in that, for instance, female genitalia mutilation, gang rapes, religious slavery, for want of a better term, those issues may not be as prevalent here. I say as prevalent because I want to leave the exception to gang rape, and rapes in general. In our society it is said that we have a culture of violence, and so how we treat with that cultural violence when it comes to the number of domestic violence cases, the number of violent crimes, the number of murders, as it relates to our relationship with other countries in this region, and how we allow people in general, but people who commit crimes to travel between one place and the other.

When we look at the number of persons migrating, the speaker before me also mentioned people who go to the US and commit crimes and their Government's approach to illegal immigrants committing crimes, because we are

in a Caribbean, in our region, there are many people who migrate, get better opportunities, who may not have legalized status but they are well-meaning citizens, and I say citizens meaning citizens of the Caribbean. But there are also people who come here for mischievous reasons, and with the migration of thousands of persons, irregularity of that migration, you also open up room for exploitation. People who migrate illegally they really enter a very shadowy world, and sometimes the migration route is very similar to the route of the drug trade and the guns trade. Some of those migrants may be involved as drug mules, and when they do come to your country, as Sen. Wade Mark before me indicated, you may not be able to tell whether they are here for their own survival, whether they are honestly trying to earn a dollar to take back to their family, or if they are here as part of a drug trade, and they themselves may be exploited and may need help.

When you go into that whole migration world, you put your hands, the migrant, put their lives in the hands of strangers who may be the very people responsible for the drug trade, and they pay dearly for their decision. Very often, in the case of women, and girls in particular, the welfare of their family is really at the forefront of their mind. While it is very prevalent, or we know a lot of situations where women become drug mules or are exploited in the drug trade between the Caribbean and the United States, or the Caribbean and the UK, we must also be mindful that even within our CARICOM countries the exploitation does exist. So women are particularly vulnerable, and I just want to share that out of that same report that was quoted earlier, the United Nations Office on Drugs and Crime, when they looked at organized crime in Central America and the Caribbean, it indicated that 20 per cent of the migrant pool in Central America and the Caribbean experience sexual exploitation as a result of the drug trade and the

organized crime.

Recently we have the emerging threat of terrorism, Madam President, and certainly we will be familiar with stories of the Middle East where women and girls are subjected to what is slavery, modern slavery, they are used as sex slaves, they are abused. Those who survive have very horrific stories to tell, and some of them are brave enough to go public and warn the world about what is taking place with the whole terrorism and violence in those regions, and violence against women. We must be mindful, there is a saying that when your neighbour house is on fire wet yours, and we must take lessons from what is happening there with terrorism—it is so prevalent—before it reaches to that stage in this country.

**4.00 p.m.**

I know that in previous debates it was mentioned the number of persons who were named as ISIS followers, who are citizens of this country and who, of course, based on their rights as citizens, may be able to travel freely between this country and those countries engaged in terrorism. But we must also be mindful of their wives and children who would be innocent victims when it comes to their own commitment to this cause that really is terrorism.

I want to mention that sometime ago there was a story that spoke about a family who migrated through Venezuela to the Middle East. It came to the public light when the father of the children made a public plea to get information on the whereabouts of his children and his former wife, because she had a new husband who it was suspected was engaged or involved in ISIS and involved in terrorism. He took the woman and the children to another country, and they then went on to some place in the Middle East. The gentleman was so fearful for the lives of his children, a boy and a girl, and the Single Fathers' Association came out and

supported him.

I do not quite know where that investigation went, but I am sure there may have been other instances where it really just disappears. These are issues and these are matters for our regional authorities to consider. So that apart from dealing with the drug trade and the narcotics and the guns, we also must deal with terrorism and deal with the trade, the illegal migration of women and children, and how it hurts our own communities here in Trinidad and Tobago.

I know that the Attorney General may be listening, or I know some of his colleagues may be taking note, but I hope that these are matters that he would give consideration to in winding up, and perhaps somehow indicate this Government's intention when it comes to dealing with serious crime— he would live long, he just walked into the Chamber—when it comes to this Government dealing with crime in a meaningful way, and giving the citizens some kind of hope, some kind of direction, because while we in this Chamber belong to political parties, many of our citizens, regardless of which party they voted for in the last election, are willing to play a role in the fight against crime. This Government owes it to the population to give that leadership, give a direction, give some sort of strategic approach that the citizens can participate in, when it comes to dealing with crime and the new threats of terrorism, but the existing threats of violence and murder and the narcotics trade and so on.

Madam President, with that I want to thank you for this opportunity to speak.

**Sen. Dr. Dhanayshar Mahabir:** Thank you very much, Madam President, I hope that I shall be brief. Much has been said before, but as the hon. Attorney General indicated, we do have an opportunity to influence the shape of the aircraft, as the

shape and structure of this organization is not yet finalized.

At the outset let me say that few in this country, few right-thinking people in this country, will question the need for there to be now a regional effort, and then subsequently an international effort, with respect to data gathering on crime fighting. So that it is an important agency and it is one that, of course, we should support. But it is really an agency of national security. It is true it straddles our external relations and our Ministry of Foreign Affairs, but the funds we spend on this agency, which is targeted at crime fighting and aimed at reducing crime within Trinidad and Tobago and then in the wider Caribbean, would really have to come from our national security budget. In economics I think that is where we would want to assign those figures and, therefore, the question that arises would be: out of our overall growing national security budget, how much now should Trinidad and Tobago pay with respect to the international aspects of crime fighting?

Sen. Mark did allude to the fact that we are committed to some 25 per cent of the cost of this agency, but it is very important I think for the hon. Attorney General in winding up to let us know, given that the agency is not yet finalized, we do not have an organizational structure, if we did I would have liked to see it. With respect to its staffing components, the overall cost of running the agency and how it is going to be administered in relation to its own internal functions, together with how it reports to the rest of the Caribbean countries, I would have liked to see some kind of structure to get an idea on the kind of cost that will be assigned to Trinidad and Tobago and the participating Caribbean countries, with respect to financing this agency. So we do need to know what the cost implications for Trinidad and Tobago are.

And then we need to be cognizant of a phenomenon which has not yet been

mentioned in the debate but which is a reality, and that is there are institutions in the Caribbean, with which I am familiar, which are supposed to be funded by Caricom governments, and sometimes they tend to be delinquent with respect to paying their dues and fees. They may seek to have a waiver because of economic difficulties that they are experiencing. In that situation, is Trinidad and Tobago prepared then on an annual basis to amend the costs which of course were not covered by these countries, so that the agency can continue to run? So we do need to look at the obligations in a wider sense, when we have, of course, the 25 per cent commitment, as indicated prior, and also the possibility that Caricom countries for whatever reason may not be able to support the agency on a timely basis. So that question, of course, I think is important, and also the issue which arose before in the debate is one of accountability. Accountability is critical.

In our own jurisdiction where we, of course, allocate funds on an annual basis through our Appropriation Bill to agencies of Government and arms of the State, every single arm is open to scrutiny: the Judiciary, the Parliament. All arms of the Executive are examined by the Public Accounts Committee, and then those which do not fall under the Public Accounts Committee will then be scrutinized by the joint select committees of the Parliament, in particular state agencies which may not fall within the ambit of the Auditor General's Office. It is therefore important for us to get some clarification from the hon. Attorney General on the structures for accountability, and to ensure that the funds so allocated are used for the purposes and, of course, are not abused. We do need to get that.

Although we understand the agreement, we understand the immunities that we are providing, this is not a typical embassy or an agency like that. This is one for which Trinidad and Tobago has a significant financial commitment. It is a



financial commitment paid for, to a large extent, by the taxpayers of Trinidad and Tobago. I think in the interest of transparency we need to be assured in the general population that while we want the agency to function, while we want it to be fully staffed, while we want it to be efficient, we do want the agency, like other agencies, to have a proper mechanism for accountability, so that we could be sure as legislators that we have put into place the necessary safeguards for the proper use of public funds.

Madam President, one of the clauses in the Order concerns me a bit—and I am sure the hon. Attorney General will address it—and that is clause 9, which says that:

“IMPACS shall have the right to—

- (a) hold funds or currency of any kind and operate accounts in any currency; and
- (b) transfer funds in national or foreign currency to, from and within Trinidad and Tobago and to convert such assets freely into other currencies,  
without being restricted by financial controls, regulation or moratoria of any kind.”

This is a significant freedom that the agency has, that agencies within Trinidad and Tobago do not have. Under 9(2) I see:

“In exercising its rights under subclause (1), IMPACS shall pay due regard to any representations made by the Government.”

Madam President, I need to be assured by the Attorney General that given the foreign exchange problems that the citizens of Trinidad and Tobago have been experiencing over the last six months or so, that given also the need for the agency

to operate within a foreign currency environment, that the Government of Trinidad and Tobago will, when it makes representations under 9(2) “In exercising its rights under subclause (1), IMPACS shall pay due regard to any representations made by the Government”, that it is not as if the agency would say, “Well okay, we have regard for and concern”, but there must be some compliance as well.

The reading of the Order in my mind does not compel the agency to take a directive from the Minister of Foreign Affairs, because I would imagine that the Minister of Foreign Affairs would be dealing with this agency. However, this agency will cross the Ministry of Foreign Affairs, because it is one of those external bodies operating within Trinidad and Tobago. It will, of course, have to interact with the Attorney General, but also the Minister of Finance and the central banking arrangement. This much is not clear.

The foreign currency of Trinidad and Tobago is now administered largely by the commercial banks. The Central Bank will add occasionally. If we say an agency is to be given the authority to hold funds or currency of any kind and operate accounts in any currency, then I would like to know and be given the assurance that this is going to be within reason, and that the claims on the foreign currency holdings of the commercial banks in Trinidad and Tobago or the reserves of the Central Bank of Trinidad and Tobago, will not in any way injure the interest of the Republic of Trinidad and Tobago to the benefit of this agency. So the nexus between their foreign currency accounts and what currently prevails in Trinidad and Tobago will have to be clarified.

As the aircraft is being developed, I want to influence it in a particular way, because given the experience I have had with a similar agency, which is the Caribbean Development Bank, another agency similar to what we are establishing

here but with a little bit more international representation, we have foreign governments also having a stake in the Caribbean Development Bank. There the employees who had the diplomatic immunities that we are speaking about for this IMPACS agency were also given the opportunity—that is way back in the '80s—to hold foreign currency accounts. So that a half of your salary was paid in Barbados dollars, because it was located in Barbados, but then the employee who was an employee of the Caribbean Development Bank was given the opportunity to hold an account in US dollars, and this was agreed to by the Government of Barbados and the Caribbean Development Bank.

That is an agency that I had some experience with, having been a country economist there. I am simply wondering whether in the current environment the employees of this agency who are domiciled elsewhere, but working in Trinidad and Tobago for a tour of duty, will be given the same opportunity. It is not clear, and I think this needs to be clarified, because we do understand that there are disturbances between moving from say Dominica to Trinidad and Tobago to work, and we would like to ensure that the employees of this agency do not experience the kind of problems to repatriate their savings to their home country, as we are experiencing as citizens now with respect to earning foreign currency for legitimate purposes.

**4.15 p.m.**

At the same time you want to give them that particular facility, we want to know that the foreign currency claims of this organization are going to be the claims which are reasonably necessary for the functioning of the agency. How that is to be determined, I am sure the hon. Attorney General will explain in his summing up.

Madam President, just out of curiosity in reading the law, I always see things that I think should not be there. Under clause 7 of the Order, I see that:

“In all matters relating to official communications, IMPACS shall enjoy, in Trinidad and Tobago, treatment no less favourable than that accorded by the Government to international organizations in respect of priorities, rates and taxes on mail, cables...”

Do we still send cables? I do not know. Do we still send cables? All right. So we do have—because I thought cables are passè, but it seems as though that we do have cables going on now.

But more substantially, Madam President, I want to look at clause 10(3) and in clause 10(3) we are providing certain benefits to employees of the organization. And I am simply wondering whether the Government of Trinidad and Tobago cannot be a little more generous with respect to the importation of an automobile. Because it says, and I am again relating to the earlier experience I had with another similar organization, it says that:

“...including one automobile for personal use, subject to import being made within six months of arrival to assume duties in Trinidad and Tobago, or within such period which, in the discretion of the Minister of Foreign Affairs, may be made available to the official for such importation.”

It does not say that this official, if he is in Trinidad and Tobago for say a period of seven years and he needs to replace his automobile whether he would be able to replace that automobile, purchasing one in Trinidad and Tobago free of duty. And, I think, from an experience I have had, what the hon. Attorney General may want to consider with of course a technical staff, is whether the employee coming from another Caricom territory with an automobile maybe two years old

would be given the opportunity in Trinidad and Tobago to purchase a new automobile that if his is over five years, then he can discard or dispose of that machine and obtain one in Trinidad and Tobago at a price that is free of the relevant duties, but that again is going to be up to government policy.

But in an agency that I had an experience with, Madam President, in Barbados, once every four years, from what I recall, you were given the opportunity to change an automobile at the same concessions. But my reading of 10(3) is that the official is given an opportunity to import only once. I do not know if in fact the Government has a view that there is going to be a time limitation, given the age of the machine, and they would be able to purchase one domestically in Trinidad and Tobago free of duty. And of course, you can put a limitation on the cc rating, that you cannot purchase a luxury vehicle, but if in fact you are a particular member, except the executive director, you should be able in my mind, coming from a foreign country having an older car in Trinidad to be given the opportunity by the Government of Trinidad and Tobago to purchase one maybe every five years so that you can get a mid-size car to replace the one that you have imported.

Finally, Madam President, there is a troubling issue that I think we need to address and that is, individuals with diplomatic immunity in jurisdictions outside Trinidad and Tobago have been known to commit infractions of the law. Some of those are minor, such as traffic violations, some of those are major which would be things like spouse abuse and grievous bodily harm. We have seen we simply looked at jurisdictions elsewhere and we would see that diplomats have, in fact—people with diplomatic immunity have, in fact, broken the law of the home territory. And I think we need to give some consideration to individuals who are

employees of this agency who may be in violation of Trinidad and Tobago law and who, Madam President, are going to be immune from prosecution. Do we have an existing agreement with the home country from which they have originated, that they would be prosecuted in their home country for a crime committed in Trinidad and Tobago? So that they are individuals who may be driving under the influence, they do harm to an individual in Trinidad and Tobago on the roads, a number of crimes. Is it that we already have the opportunity to prosecute these individuals in their country? We cannot prosecute them here, but should we give consideration to having agreements with the countries from which these citizens arise so that any crimes committed within Trinidad and Tobago will be prosecuted in their home country.

Apart from that, Madam President, I am in support of the agency. I am in support of the intent of this organization. We do need to recognize that crime is not confined to borders. We do need to understand that there is a need for a regional approach, but what we do want is to ensure that the agency is efficient, it is structured to discharge its functions and that the cost to the people of Trinidad and Tobago and any violation of diplomatic immunity are given due consideration. Madam President, I thank you. [*Desk thumping*]

**Sen. Rodger Samuel:** Madam President, I am thankful for the opportunity to speak on this the Privileges and Immunities [Caricom Implementation Agency for Crime and Security (IMPACS)] Order, 2016.

It is no secret, Madam President, that Caricom, as well as the rest of the world, is faced with a Herculean task with regard to dealing with crime, drug trafficking and all of its associated and related situations that the world faces today. The issue of crime and drug trafficking and kidnappings is nothing that is strange

to the region, but it is something that has impacted the world significantly. But as Senator and Minister Khan reiterated, our geographic location has been an advantage to us, but when it comes to crime and all the related situations it is to our own disadvantage.

The Caribbean it is said is comprised of some 700 islands, but it is just about 40 of these islands that are occupied. Leaving the territory open and the region open to any kind of illicit activities that would cause tremendous and wreak tremendous havoc on the security systems that attempt to deal with the crime situation and the drug trafficking and all of the other illicit trade that takes place in the region. A trade that has impacted on our societies not only in Trinidad and Tobago, but in the Caricom region, the Caribbean; a trade that has not only affected human life, but has affected the economics, the socioeconomics of the region. And it is no new or unearthed idea that if we are able to deal as region and as individual islands with the impact of crime and drug trafficking and all of its associated criminal attachments, then the economics and the economy of the region will rise significantly.

But, Madam President, it is important for us understand and I take note from a conference that was held by Caricom where Caricom leaders pulled together what was called then a faith-based conference to look at poverty and crime and all of its attachments in the region in 2014. And it was Prime Minister Gonsalves, as well as Prime Minister Spencer, and I want to quote from them, Madam President. He said that:

“In his address, Spencer said that he was recommending the establishment of regional mechanism operated by FBOs aimed at addressing the issues of the less fortunate in the region, including poverty.”—and crime, et cetera.

“The time has come for such an organization...”

So not just IMPACS, but he was actually saying that there was need for more input from the faith-based organizations to deal with it. He added:

“... that the suggestion is based on the fact that the largest social organisation besides political movements are inter-faith based organisations and, as such, you have a duty of care and policy formulation.”

If I were continue to read, Madam President, he was quite concerned as:

“He told the conference that...”—there is what is called a—“...‘Madison Avenue’ lifestyle attracting and distorting as well as corrupting impressionable minds.”—in the region.

Deep words. And that:

“Little thought is given to the difference between that socio economic structures, between the developing and the developed, between the poor and the metropolitan, he said, adding that Caricom’s imbalanced development and unequal resource endowment were characteristics that the founding fathers of the regional integration process understood and sought to address.”

But then later on, Madam President, he said that he was quite concerned that:

“...inter-faith organisations play a meaningful role in the...Regional Strategic Plan...”—to deal with the issues that tremendously affect—“...our children, our communities and ultimately the region’s image as a tranquil peaceful environment.”

Adding to his thought processes, Prime Minister Gonsalves then in 2014 was quite concerned as he spoke:



“...when he told the conference that Caribbean people are living in ‘dangerous times’. The Caribbean, for all its strength and potential, we live in a dangerous neighbourhood, and he said, making reference to the illegal importation of drugs, small arms, from...”—neighbouring areas that surround the Caribbean that are in close proximity.

But they thought it was necessary not just for heads of national security and heads of governments to get together, but because besides political strengths in the region, the faith-based strengths are the next thing and that they needed to get the views of the faith-based community to deal with the incidents and the upsurge of crime and drug trafficking and violence in the region and in the Caribbean.

Madam President, it is important for us to realize that the idea of IMPACS is a good one. All the questions put forward by those who spoke before by Sen. Mark with regard to accountability, with regard to the track record of IMPACS is relevant for us to understand the dynamics of what this organization’s remit is and what success stories they have. But the Attorney General, I happened to pull up the memorandum of understanding between the United Nations and IMPACS and—[*Interruption*]

**Madam President:** Sen. Samuel. Hon. Senators, at this time I think it is appropriate that we take the tea break. So we will suspend until 5.00p.m. Sen. Samuel, you have spoken for nine minutes already. So this sitting is suspended until 5.00 p.m.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

[MR. VICE-PRESIDENT *in the Chair*]

**Mr. Vice-President:** Sen. Samuel.

**Sen. R. Samuel:** Thank you, Mr. Vice-President. [*Desk thumping*] Before the tea break—

**Mr. Vice-President:** Sen. Samuel, hold on. Hold on for a second. We still do not have a quorum yet because the hon. Attorney General is not counted in the quorum. We now have 10, so Sen. Samuel you may go ahead.

**Sen. R. Samuel:** Thank you, Mr. Vice-President. [*Desk thumping*] Before the tea break we were talking about the impact on the region on crime, and violence, and the impact is a severe one. Mr. Vice-President, in a document called “A Caribbean Crime Wave” *The Economist*, the writer—this was published on March 20, 2008, it is way back then—talks about the vulnerability of the region, but he also talked about the fact that according to the report from the UN office on drugs—the UNSBC—on crime, around 216 tonnes of cocaine passed through the Caribbean in any given year, 216 tonnes of cocaine. That was in 2008. Could you imagine what is taking place even as we live today in 2016? As a matter of fact, that same report says that in 2006 the World Bank surveyed 39 per cent of business managers in the Caribbean said that they were less likely to expand their business because of crime, and while 37 per cent responded that crime had discouraged investments that would have improved their business productivity.

It is important for us to take note of that, that the region is affected. Tourism in the region is affected, and the work of IMPACS is far more crucial to the region. It is important to the region that they function effectively, and they achieve the things that they are designed and designated to achieve in the region. And the region must now see proof and must experience visible proof of their impact upon the region. And it is important for that because somebody asked what impact—I think it is Sen. Roach or Sen. Mark—IMPACS has had? And it is important for us

to understand the impact that they have had and how effective it has been in the region. Because, for many of the small island states tourism is one of its main earnings, and if that is affected through crime, and if that is affected through gang-related crimes, if that is affected through drug trafficking, then the region is going to be affected.

And I want to bring up something through you to the Attorney General, because with the possible opening up of trade to Cuba, if you read the statistics on crime in Cuba, major crimes that we suffer in our region are not associated with Cuba. And it means that there would be a good market, as the embargo is lifted, for people to shift from coming to our part of the world and then getting into Cuba, a loss of earnings for the region. Loss of earning means what? Loss of productivity. Loss of productivity means what? Crime rates would escalate. Everything would escalate, because people would find illegal means of survival. So, that is something that when we talk about IMPACS we have got to realize that their work is far more tedious, is harder, is far more serious than made to believe, or the average citizen ever understood what they were designated to do because of the seriousness of the time that were living in.

So, Mr. Vice-President, not only that, but I began talking about the idea of Caricom to bring together the faith-based organizations to look into, in a conference in 2014, and to find ways and means to help Caricom to deal with the issues of crime, and poverty, and all those things that are associated. And, that is so necessary in the region. Why? Because the second highest constituency in the region is the faith-based organizations. If you take a survey, besides the political parties, faith-based organizations are the strength numerically in a society. And if that is the case, politics alone cannot solve crime. It means that the idea of

Caricom to convene a conference with faith-based organizations to look at it was a wise one. I am not too sure what happened after the first one in 2014, but it should be continued. Because if you are to remove the work of faith-based organizations in our societies in the region, pull them out of the picture, none of us could exist in this region. None of us could live in the region.

As a matter of fact, if you move the social work, and the hon. Attorney General, through you, would recognize if you pull out the work of the faith-based organizations in the society, in the prisons, in the communities, then what you would find is a community and a society that none of us could live in. And you must strengthen that, and they must play an integral role in the region, in the local communities to now help deal with the incidences and the issues of crime and gang-related situations and drug trafficking in our society. It is important for us to know that. And IMPACS must use them, IMPACS must draw them, IMPACS must have some kind of collaboration with the second largest constituency in the region. It is important to know that. But, Mr. Vice-President, according to the Memorandum of Understanding between the United Nations and IMPACS, there was supposed to be in Article V, which is called Publicity, and Article V says in Publicity:

“When acting jointly in the execution of a project, the Parties will:

1. Coordinate public messages such as press releases and press communiqués regarding joint projects.”

Now, if you walk on the streets and you did a survey, and you ask the average citizen of Trinidad and Tobago if he knows anything about IMPACS, he would want to know, what on earth are you talking about? Because, we are trying to deal with it from a high level, but it is the information, and the communication

has not been filtering down to the different islands in the region, and then from that level down to the man who has to understand that there is something at Caricom level that is now dealing with the issues of crime and drug trafficking and all of its related situations.

No. 2 says that they will:

“2. Acknowledge the role and contribution of each of the Parties as appropriate in all public information...”

So, there was supposed to be some kind of public information and documentation relating to instances of cooperation. To this end, the parties will consult with each other concerning the manner and forms of such recognition and acknowledgement. So, there was supposed to be some kind of educating the society on the work of IMPACS, which we know nothing about. So, it is something that, through you, Mr. Vice-President, that the Attorney General needs as he is taking note of it, must realize in Article IV, there was supposed to be something called publicity for IMPACS, and IMPACS was supposed to be informing publicly the work, what is going on, what is happening, the approaches, where the collaborative efforts have been, and how effective it has been in the region, and what they have been able to achieve. That has not been happening.

So, it is important for us to see that. And for that not to happen, it means that they have not been achieving their aims and objectives. Because you would want the region to know, you would want people to know how effective—listen, this is not just a highly political situation with hierarchies of the region getting together to sit down and have some kind of tea and coffee to talk about crime. This is something that the region wants that should happen, and they should know how effective it has been happening over the years since its inception.

Furthermore, we in Trinidad and Tobago where the office is, know nothing about it. It is so close to us in Trinidad and Tobago, and still in Trinidad and Tobago we have little information of the impact of IMPACS, and it is something that we should consider.

Now, Mr. Vice-President, the issue of crime and all its related partners, as I call it, is not just a social issue, it is not just a moral issue, but it is a spiritual issue, and that is why it was wise to draw the faith-based organizations into the fight against crime. IMPACS must get them involved. Because in many instances, for political reasons people are afraid to do certain things to deal with crime. In many instances, politically, they act conveniently when it comes to crime, because the impact it will have in one way or the other, adverse or in favour of. And, it is because in the region we are afraid to abide by something that Solomon said and Solomon said something very wisely in Ecclesiastes, chapter 8:11.

**Hon. Senator:** Not this one.

**Sen. R. Samuel:** Solomon, he said—

**Sen. Solomon:** All of them smart.

**Sen. R. Samuel:**—because—

**Sen. Sturge:** But only one is blessed. [*Laughter*]

**Sen. R. Samuel:** I will continue.

**Sen. Sturge:** Apologies, what Solomon say?

**Sen. R. Samuel:** Solomon said, Mr. Vice-President, and I am saying that this is the real cause of the increase in the region because, in many instances, political parties and Governments are afraid to abide by this, and the system has to be put in place to abide by it:

“Because sentence against an evil work is not executed speedily, therefore

the heart of the sons of men is fully set in them to do evil.”

Because the sentencing for an evil work is not executed speedily, the sons of men are set in their heart to do evil.

**5.15 p.m.**

So in the region we are now dealing with people who are set to do evil and IMPACS must know that. IMPACS must know that it is not just a by chance society that we are dealing with who are committing things by chance, but IMPACS must know that we have a society that is set, criminals are set, drug lords are set, traffickers are set in their hearts to do evil because sentencing is not done swiftly. That is a fact. So IMPACS will have no impact if IMPACS does not understand that if you do not abide by this, the Wisdom of Solomon, IMPACS will be struggling along its journey.

So, Mr. Vice-President, that is why they must hear, they must collaborate with the faith-based organizations in the region. And I applaud the conference in 2014 and Caricom should continue to do it and IMPACS should continue to do it, to get the faith-based organizations involved in the fight against crime, in the fight against trafficking and all those entities so that we can deal with it together. But I want the Attorney General, through you as I wrap up, to take note of the fact of the “Publicity” as I mentioned before AG, the “Publicity” where they were supposed to:

“Coordinate public messages such as press releases and press communiqués regarding joint projects.”

That is Article IV of the Memorandum of Understanding between United Nations and IMPACS. And that at core:

“Acknowledge the role and contribution of each of the Parties as appropriate

in all public information and documentation relating to instances of cooperation. To this end, the Parties will consult with each other concerning the manner and form of such recognition and acknowledgement.”

Something that has not been done and as a result of that the average citizen is unaware of what IMPACS is all about and as a result of that IMPACS has really had no impact on our society and our nation based on how the citizens think about IMPACS.

Mr. Vice-President, I want to thank you.

**The Attorney General (Hon. Faris Al-Rawi):** Thank you, Mr. Vice-President. Mr. Vice-President, may I congratulate all Members who have contributed today on this very important exercise of confirming the Order of His Excellency The President, pursuant to section 9(1) of Chap. 17:01 the Privileges and Immunities legislation.

Sen. Mark raised some very important questions for consideration and answer as did Sen. Samuel, Sen. Roach and Sen. Dr. Mahabir. If you would permit me, Mr. Vice-President, to summarize the enquiries as I have recorded them and then to perhaps give an omnibus response without disaggregating them as to the particular contributors. Sen. Mark painted a very important reminder that Trinidad and Tobago like, its Caricom neighbours, is in a very significantly difficult position with respect to, as he put it, how murderous our societies are. Indeed with a ratio of 30:100,000 Trinidad and Tobago, Jamaica and Guyana stand in a very terrible situation, each, the three of us. In fact, St. Lucia has had a significant optic along its path. He did very commendably recognize that that is associated with the phenomenon of source and destination, narcotrafficking, and through our region and the legacies of crime that are left behind.



He asked quite importantly which was amplified by Sen. Dr. Mahabir and Sen. Roach as to the budget and the status of the agency and the report, particularly as to what was happening with the forensic report into the former director of IMPACS, the executive director. He asked, which was echoed by Sen. Dr. Mahabir, as to the accountability mechanisms which are in place and, of course, he lamented the position of our porous borders that there are 136 ports and as he put it that 119 of them were not protected.

Sen. Mark also raised the issue of the efficiency of the organization and asked a very important question for us to consider, what is the value for money to be derived out of this matrix? That was very properly echoed by Sen. Dr. Mahabir and by Sen. Roach and indeed by Sen. Samuel.

Permit me therefore, Mr. Vice-President, of course, recognizing the very capable contribution of my learned colleague, the Leader of Government Business here, the hon. Sen. Khan, to now give an omnibus response.

If I may inform, Mr. Vice-President, that in dealing with the Order as we have right now, the Order before us must be contemplated within the context of where it comes from and what we are permitted to do. This Order is essentially a hybrid product of the 2006 agreement establishing the Caricom implementation agency for crime and security, and also the agreement between the Government of the Republic of Trinidad and Tobago and the Caricom IMPACS relative to the headquarters of the implementation agency.

The first document that I referred to is a 2006 document, the second document is a 2009 document. It is from those two essential source documents that the privileges and immunities to be considered by His Excellency The President, pursuant to section 9 of the Privileges and Immunities legislation, Chap.

17:01, come, and therefore we are permitted to go only in so far as the specific textual agreement permits us in the two-source documents 2006, 2009 as filtered through the legislation itself.

Specifically, Sen. Mark's very excellent enquiries about budget, value for money and also the status of the forensic report, et cetera, I am able to report that I have, in fact, received information from Caricom IMPACS and I am told that indeed there was an enquiry pursuant to a newspaper report produced in 2011. It was not by Camini Marajh. I have since found it is by Akile Simon, oddly enough found himself incarcerated for other reasons. His is quite a tragic situation. I believe he is out on bail right now, but his report nonetheless was a very good report and it sparked an enquiry.

In fact, it was the last Government that undertook to pay for that report and there was a forensic report which was conducted by Ernst & Young in 2011. The Government of the Republic of Trinidad and Tobago paid US \$50,000 for that report and quite properly that report was not one which the Government of Trinidad could speak on, obviously, because pursuant to the two source documents, what we have to deal with is carrying that information back to the Council of Ministers. That was in fact taken back to the Council of Ministers as a result of which the executive director was dismissed without cause. And without cause means that you would pay the person who is leaving the institution and in fact payments were made and there was an amicable departure, suffice it to say. So that is to answer the forensic report.

That drives in, in fact, to the very structures of accountability which all three Senators, Sen. Dr. Mahabir, Sen. Mark and Sen. Samuel, raised. It was a very good enquiry. How can we be sure that IMPACS is being properly audited, what

is the budget that is permitted, are we getting value for money? Those are very real questions which we as a country particularly in this economic environment must ask ourselves. I am informed that the budget of IMPACS in US dollars is \$6.8 million per annum. That is the last budget. Of that Trinidad and Tobago has contributed US \$1.6 million, roughly 23.5 per cent of the budget.

The other nations have contributed US \$1.9 million, 27.9 per cent of the budget. That leaves roughly 49.5 per cent unfunded. And specifically to answer whether the organizational structure is in place, IMPACS has a full organizational structure and has had so since 2006. Obviously, with a near 50 per cent underfunding in terms of its operational capacity, not its projects, the operational capacity is the budget of 6.8. Projects are funded by donors and I will come to that in a moment. What has happened is that the full human resource complement has not been able to be hired.

So IMPACS is therefore forced to work with less than capacity. As a result of the inefficiency of contribution by Member States. Clearly Trinidad has done its part. And therefore one may ask, well, why is Trinidad and Tobago doing its part to this extent? Why fund 50 per cent of 50 per cent? That is essentially what we are doing. And that comes down to the very sensible enquiries by my learned colleagues in the Senate, what is our value for money? And that value for money can be factored in terms of the work product. And I would invite Members to consider, in particular, two very important work products that Caricom IMPACS produces and which, to use the expression coined, has a serious impact, because it is very significant in particular for us in Trinidad and Tobago, that is the Advance Passenger Information System and next on stream, by the third quarter of this year, the Advance Cargo Information System.

Now the Advance Passenger Information System has allowed us as a country, IMPACS has had a huge impact. So far for 2016 they have screened, scrubbed as they call it, 22 million passengers. By the end of this year they would have scrubbed 40million passengers. And by the third quarter of this year when the Advance Cargo Information System is brought in, thanks to a joint funding arrangement between the European Union and the United Nations, one of the subcommittees of the United Nations and just permit me to get it right, that is UNCTAD, what we will have then is the ability to scrub the cargo information coming in for all imports into Trinidad and Tobago.

[MADAM PRESIDENT *in the Chair*]

Now, that is of immense import to Trinidad and Tobago. Yes, that means all shipments coming into Trinidad and Tobago by any cargo, sea, plane is definitely going to be subjected to advance information, scrubbed through IMPACS, filtered to the revenue authorities in Trinidad and Tobago including Customs, VAT, et cetera, and that therefore allows not only the tracing of the cargo but the predictability of revenue for cargo. Because you no longer wait for cargo to land for it to, in fact, go through just the ASYCUDA system or ASYCUDA World plus as we have here, but you now have the ability to have the advance information coming and that allows for coordination not only for revenue collection, revenue management but for customs supervision. And as Sen. Hadeed quite sensibly puts out, for policing and law enforcement, because you can now coordinate the tracking that has an impact in precursor chemicals, an impact in weapons and ammunition in arms and the screening of import material into Trinidad and Tobago.

So that I dare say is a signal, those two products alone, leaving aside

typologies for crimes, leaving aside the regional work that is done in terms of the management of intelligence flows, be it on foreign terrorist fighters or terrorism, et cetera. Those two products alone I think are well worth Trinidad and Tobago's contribution of US \$1.6 million per annum because that means that we get to tighten our revenue, tighten the supervision, get a better understanding of where we go and close the gaps in the equation.

I cannot overstress the importance of what the advance passenger information has done for our country. The Advance Passenger Information System has effectively allowed us the opportunity to have screening of all individuals, not only locally but immediately with Interpol and with all articulating agencies. And that in fact is the very mechanism that we as a country and other countries have in tracing foreign terrorist fighters.

Sen. Mark noted a startling number of alleged foreign terrorist fighters. His figures are supported in fact by recent publications of the Financial Intelligence Unit where Trinidad and Tobago ranks at number 14 in the world in terms of per capita contribution of foreign terrorist fighters according to the information produced by the head of the FIU.

And that is no small phenomenon, and therefore, one understands the serious import and value for money to be gained from the works of Caricom IMPACS. That alone is something that is worth the US \$1.6 million per year, let alone the scrubbing to come on cargo information. So I thought it important to focus on those two items alone.

### **5.30 p.m.**

It is a fact obviously that they do so much more than that. Caricom IMPACS, as we know, is a headquarters agency. It has two subsets as Sen. Mark

put out to us. They are what is referred to in acronym, JRCC which is the Joint Regional Communication Centre, and the RIFC which is the Regional Intelligence Fusion Centre. Both work on a 24/7 basis. Twenty hours a day, seven days a week, under-resourced, under human power capacity, but have the benefit of doing what they do. Why? Because agencies such as this receive international donor funding. They are viewed to be apposite to the best interest of our society, and therefore, Thank God Almighty, they received donor funding, and the donor funding is no small sum.

The EU alone has committed to €7 million to €8 million this year. We received approximately TT \$60 million in revenue for projects, Caricom IMPACS. There are millions of US dollars, et cetera, and it is the very reason because we bother to coalesce as a Caricom unit to speak, as I said, in piloting this Order as one body, with one voice, that we are able to demonstrate that we are to be taken seriously. And from that purpose alone, I think that Caricom IMPACS has made significant impact and it is deserving not only of support into today's Order, but certainly of a public commendation from all of us. Because the fact is, 2009, 2010, straight up to 2016, they have borne the burden of us, as a country, not having put into law some of the benefits and provisions that we could have.

**Sen. Mark:** May I seek your time?

**Hon. F. Al-Rawi:** Of course.

**Sen. Mark:** Through you, Madam President. Hon. Attorney General, could you tell us even though Member States are not contributing as they ought to, they would still be recipients of the information like advanced passenger as well as what you are talking about in terms of cargo even though they are not contributing?

**Hon. F. Al-Rawi:** Yes, Sen. Mark, that is in fact correct and one may view that

with some degree of acknowledgement of subsidy. But the system is in fact not so far different from the University of the West Indies, or from Caricom, or any other of the regional entities that engage Trinidad and Tobago's support.

As a leader of Caricom, if I could say that Trinidad and Tobago is and proud to say so, I think it is that we must agree that there are some things that we just have to do and support. The work product out of the University of the West Indies, the work enterprise out of Caricom, all of these things I think our country has accepted is useful for us as a leader of Caricom because as the world shrinks in terms of globalization, so too does the pre-eminence of Caricom become even more important, because what we need to do is to recognize if we are splintered and fragmented in our approach, the big issues on de-risking, corresponding, banking, the impact to the non-profit organisations.

I mean, Sen. Samuel gave a very laudable commendation in recognizing that the ecclesiastic or non-profit centres, the religious-based enterprises are significant entities to drive our population and unplug them from the situation as he put forward, and you will see the collapse of many an institution, prisons, et cetera. What would we do without Vision on a Mission, or the Catholic Church, or the Pentecostal Church, or the Hindus, or the Muslims involved in many of our societies? So it is definitely a worthwhile point to note, that if we do not speak as a voice, de-risking non-profit organisations as the world now says in FATF, hits us hard, and therefore, the non-governmental organizational support that receives international funding automatically cripples the performance in our society.

So it is important for us to subsidize some of these arrangements, albeit quite openly as we do in Caricom IMPACS because there is a lot to be purchased from it. Indeed, it is certainly to be amplified that our Trinidad and Tobago

manufacturing sector, as we look for the strengthening in the Caricom market, obviously will be strengthened by approaches such as the Advanced Cargo Information System and the Advanced Passenger Information System.

All Senators that I have referred to, three, and of course, Sen. Khan referred to it as well, spoke about the need for budget. Well you know who guards the guards? Sen. Mark gave us that very good example of what had happened with the past executive director, since replaced, et cetera, and I think it is important, therefore, in answering that concern to point Members to the specifics of the 2006 and 2009 sourced documentation which we are essentially hybridizing under the Privileges and Immunities legislation, Chap. 17:01, to now give birth to this Order by way of affirmative resolution if I may be so presumptuous to say. It is important to note, relative to the issue of structures for accountability as Sen. Mahabir put it, paraphrasing what Sen. Mark, of course, had put.

It is the Council of Ministers under this arrangement, the Caricom IMPACS arrangement, that is responsible for the mind and management, and ultimate sanction and authority for this institution. That is to be found at Article 6.4 of the Agreement, the 2006 Agreement, and then that contemplates a structure where an executive director, which is established under Article 8, performs the roles, actually accounts and gives functional reporting to the council itself, and then it is subject to audit and accountability cycles that the Council of Ministers put together.

The budget is very specifically stated in Article 8 of the Agreement, and that budget goes through what must be done, what must be reported on, et cetera. And as we saw in the very case of the executive director as Sen. Mark brought to our attention, that was a case where had there not been this structure, an errant



executive director would have been free to go. What actually happened, quite responsibly, is that the audit by Ernst & Young was then taken to the council and then the council acted. So clearly there is evidence that this system is one that certainly can work and has worked.

Sen. Mahabir raised a very important question and that had to deal with the foreign currency and the adequacy, et cetera—those provisions. Now, I in fact raised this issue at LRC when the issue came up. If under section 37 of the Interpretation Act you are being created and incorporated as a body corporate, all powers of body corporates come unto you. Why would you therefore need to expressly state the power to borrow money, hold money, et cetera? There are no restrictions here in the larger sense of the word. Certain specific restrictions that banks may have as to foreign currency movement by way of declarations, et cetera, but we are an open economy in every sense. You can have accounts in euro, in Canadian, in US, in whatever currencies are traded in Trinidad and Tobago and can be held in bank accounts.

Indeed the answer given back was specific. Whilst it may appear to be superfluous insofar as a statutory entity created under section 37 of the Interpretation Act may already have these powers, and one may argue that Article 9 may therefore be superfluous, or section 9, the answer given is look to the treaty documents. Look at the Agreement, look at the headquarters Agreement and you will see that the states agreed as a matter of absolute essential requirement in law that Articles 10 to 15 inclusive, had to find their way into the expression of law. And specifically, when you look to the two documents you will see that there is an obligation, a positive obligation, to repeat the freedom to hold in this fashion. But I want to say that, in fact, I am warmed that there is safeguard to all of this because

the safeguard to be found in Article 12 has to be balanced by the fact that privileges and immunities—which is another point raised by several Senators—are not absolute under this.

The concept of absolute privileges and immunities is fettered openly in the sourced documentation. So that the member states may agree and direct through the council it is inappropriate to ask for the immunity. So if someone claimed an immunity which can only be an immunity in the course of your official function, it is not in the course of your official function to commit murder, it is not in the course of your official function to be coming from a party and drunk, it is not in the course of your official function to commit fraud.

So there are exceptions by the use of the phrase “official function”, but more particularly it is the council of the very Caricom states, of which we are a part and a major shareholder in, that gets to direct Caricom IMPACS and say, “Look, it is inappropriate for you to even wave the flag of waiver. We direct you to waive it specifically.” That is to be found in Article 16, Waiver of Immunities, Exceptions and Privileges, and that is in the 2006 Agreement, establishing the entity, and specifically, that the council— In Article 16 it says the “Executive Director may waive”, but it is a wonderful catch-all clause that says “in similar circumstances as under the same conditions”—meaning the Executive Director—“the Council may waive any immunity, exemption, or privilege in respect of the Executive Director or otherwise”.

Sen. Roach.

**Se. Roach:** Madam President, through you. Could you just tell me in the instance of the Executive Director, is there an agreement for it to be on a rotational basis, or that is not part of the perception?

**Hon. F. Al-Rawi:** I have not seen it in the sourced documentation, so I do not believe that it is there. Perhaps there is a tacit agreement at a Caricom level or otherwise, which can impliedly or expressly direct that position, but I will not be able to give you a definitive answer on it. But it certainly is not because I have traversed both Agreements. It is not to be found in the 2006 or the 2009 document.

Relative to the issue of taxation, our country has reserved, and the treaties, the two documents have reserved on to fact that the Trinidad and Tobago nationals are subject to taxation, et cetera. So they do not receive any exemption, and it is repeated such that the non-Trinidad and Tobago nationals who come from other Caricom states are entitled to be taxed from their emoluments as well. So the home territories have reserved their ability to levy their taxation. So if there is any flow back to foreign territory, and certainly for Trinidad and Tobago nationals, it is not an exemption. So I think that answered the issue of immunities, the concept of waiver that it is not an absolute privilege.

In fact, we are warmed that the mind and management is Caricom IMPACS itself, which is the council comprising the members themselves. There is a budget; there is an audit cycle; we have seen the proof of that; we have seen that yes, whilst Trinidad supports 25 per cent of the budget that is only in respect of operational cost. The donor financing comes to lend the assistance with the specific projects, and the immense value for money for Trinidad and Tobago in two major products are the Advanced Passenger Information System which does everything including scrubbing for visas, scrubbing for terrorists who may be on watch list, scrubbing for persons of interest that law enforcement agencies, or Interpol, or others may be looking at, and particularly making sure that there is secondary screening.

I am informed that so efficient is the system, by the time the flag goes up, at

the minute you scan in for a flight, that information receives the desk of destination and there is somebody waiting for you at the airport. Imagine that system now apply to cargo and what the effect of that will be in terms of our revenue potential. It in fact eliminates some of the types of discretion in our supervisory authorities that you may not want to have where people may turn their wilful or blind eye to certain cargo, custom duties, et cetera. When you match up the scrubbing for cargo, together with the ASYCUDA World+ system, you are going to catch more people by tightening the net because you are cross-referencing essentially.

The ASYCUDA World+ system used by Customs has been immensely successful insofar as you are now able to cross-reference sourced information. So when somebody comes and makes a declaration and says well I paid US \$20 for this, which is a clearly under invoiced situation, the cross-referencing done by ASYCUDA World plus system says, well in another matter for the same good, for the same type, under the same classification, “whap”, here is a copy of that invoice which shows that the cost price is really US \$100.

**5.45 p.m.**

And automatically Customs knows to go and exercise the warrant and then to receive the information and that helps with our revenue management and leakage situation. If we can track 22 million people as at today's date for 2016, with the figure going up to \$44 million, \$40 million by the end of this year, imagine what that would look like on cargo containers. So that is something, I think, we can be very happy to look forward to.

On the criminal justice side of the equation on anti-crime manoeuvres, that typology and that tightening and sharing of information is, of course, an immense

work product for trafficking in persons, for border management.

Sen. Mark raised a very good question: what is going on at the port in Cedros? I am very pleased to say that for the first time Trinidad and Tobago and Venezuela are in the process of conducting joint patrol exercises. [*Desk thumping*] That is no small event. If you have a source border coming across the Gulf of Paria and to the south at Galyan's Passage then you have to understand that joint patrols make for immense impact. Our borders have not been supervised since, for a very long time until 2015/2016, when we got the vessels.

We went through, as a country, the experience of watching the OPVs cancelled and other things happened. Suffice it to say, right now as a Government our obligation is to put into effect the supervision of Maritime borders and control mechanisms to protect our offshore assets and particularly to police that, and Customs and Immigration have moved in to the Port of Cedros, to San Fernando, to Chaguaramas, to a number of the ports. The vessels are patrolling on a constant basis, and we now have the ability to do certainly much better than was being done before.

Understand, under the United Nations Obligations, we have a mission, which is sacrosanct, to treat people that come as humanitarian refugees with a certain degree of dignity. The Prime Minister, I know, instructed that facilities be deployed to the major areas where Venezuelans, for instance, are coming in, so that basic conveniences like toilet facilities, places to stay, et cetera, actually happen so you do not have people sleeping in the square or having to relieve themselves in less than humane circumstances. That is what a country has an obligation to do and which is being done.

I can say, as a matter of fact, if I look to my own constituency of San

Fernando West, when I look at the manoeuvres and exercises that were conducted by the police, Customs, Immigration, Army and Coast Guard, with 225 people deployed unto a particular area in my constituency, it produced good results and that is working over and over again. It is on the sea. It is on the ground, but it is led by intelligence-driven activity, Caricom IMPACS being only one of those intelligence-driven activities, coordinating with the other entities that we now have in our arsenal as a Government.

I do not believe that there is much more to say in answer. Thank you, Sen. Samuel. Sen Samuel raised the issue of publicity. I undertake to carry forward that recommendation. The publicity requirement is not in the source documentation, unlike the United Nations Treaty Memorandum of Understanding. It is a very useful one. Certainly, any entity that wishes to receive more funding is going to do more advertisement as to its successes and track record. We hope that as the agency receives better funding certainly some of the better funding will come by the exemptions from liabilities for taxation, et cetera, which this will do.

Thank you, Sen. Roach. I forgot the point of labour. But certainly the publicity aspect will come forward. Sen. Roach has very kindly reminded me that I have not dealt with the issue of the labour law.

Technically, in the course of your duties is subject of immunity. That would mean, from my understanding of the position, that we would be obliged to actually apply the laws in our own country because it is not expressed. So that, you would have the ability to be taken before a court. You may have the flag waved as to having an immunity, but there is an expressed waiver position allowed here and, therefore, I would believe, where the law is silent, that we would be dealing with the *lex loci*, which is the laws of Trinidad and Tobago and that we would be

subjected to the jurisdiction of the courts. I could not see that the Council of Ministers, that the Council of IMPACS could ever intrude upon somebody's ventilation of a right before a court, which involves itself in due process. And from that standpoint, not having the necessary information, my own estimation is that it would be hard to escape a challenge that you could be subjected to the laws of Trinidad and Tobago as it relates to industrial relations or labour laws in our country. [*Interruption*] Please Senator.

**Sen. Roach:** The only reason I am asking for that clarification, Madam President, through you, is that IMPACS will be located in different regions, in different countries, and the labour laws in the different regions may be slightly different. So you may have one issue being dealt with in a more favourable or less favourable position as the case maybe. So I was wondering whether or not, in that agreement that was taken into consideration, that you would have uniformed labour laws applying to everybody employed, regardless to where they may be posted.

**Hon. F. Al-Rawi:** It is a very good question, Senator. From my review of the source documents, 2006 and 2009, it has not been canvassed. There would be, therefore, an implied application of the law on the *lex loci* principle. In any event, under the conflict of laws provision, either in public international law or private international law, one can rely upon the doctrine of *renvoi* or double *renvoi*, depending upon the circumstances, so that a judge sitting would be invited to view the laws as to whether they apply in Trinidad or within the home territory where they come from. But insofar as emoluments are taxed at source and source may be in Trinidad and Tobago, subject to Trinidad and Tobago laws, you can probably look at it from an ordinary resident's point of view within the interpretation of the Inland Revenue and how it is applied.

So, it is not an easy answer involving multiple areas of law, be they labour laws, be they private international laws, public international laws or conflict of laws provisions and, perhaps involving the good offices of the Caricom Members that have participated in Caricom IMPACS itself. I apologize that I cannot give you a more profound or explicit answer on it. Sen. Mahabir?

**Sen. Dr. Mahabir:** Thank you very much, Madam President, thank you very much AG for giving way. Hon. AG, I have two areas that I need clarification on. One I know you can clarify and one I hope you will be able to clarify.

The first is, with respect to a phenomenon internationally which has occurred amongst residents of a country transacting with diplomats, that is the non-payment of rent. I would simply like to get clarification from you on whether, under existing law, an employee of IMPACS who owes back rent to a landlord in Trinidad and Tobago will be compelled by the laws of Trinidad and Tobago to pay his rent if a landlord takes him to court within Trinidad and Tobago? I know you would be able to answer that one.

But the other, which I have and which I need clarification on is this: in the Order, it is stated that upon representation by the Government of Trinidad and Tobago, with respect to the foreign exchange holdings of the IMPACS, the IMPACS will give that due regard. I would like to know what does that mean? I do not understand due regard. Is it that they have to listen to what the Minister of Finance is telling them? Is it that they will consider it, or is it that they are free to do as they please, having given it due consideration with respect to our foreign exchange situation? Thank you.

**Madam President:** Hon. Attorney General, you have four minutes.

**Hon. F. Al-Rawi:** So I will rush fast. Number one, I do not know if you have a



conflict of interest to declare in respect to rental. I am just teasing. But certainly, if it is in the course of duty, there would be a potential defence that someone can give. I can hardly see that in the course of duty can apply there and in any event the council can certainly direct that it is inappropriate to seek that.

On the second limb, I would think that the persuasion is as it always is in international law, one of comity and that one would rely upon the good offices of the representation under the rules of comity to be applied and that a resolution could be found.

Perhaps, with two and a half minutes left then, hopefully having ventured just an answer to that, in that barest term, may I thank you, Madam President, for allowing me to address this Senate. May I thank the hon. Members for a very lively and intelligent contribution all and I do hope that this Order can receive the affirmation of this Senate and that we can do what has been long in the making, and I beg to move. [*Desk thumping*]

*Question put and agreed to.*

*Resolved:*

That the Privileges and Immunities [CARICOM Implementation Agency for Crime and Security (IMPACS)] Order, 2016 be approved.

### **ARRANGEMENT OF BUSINESS**

**Madam President:** Hon. Senators, with the leave of the Senate, I would like to revert to item four on the Order Paper.

### **FAMILY AND CHILDREN DIVISION BILL, 2016**

**The Attorney General (Hon. Faris Al-Rawi):** Madam President, in accordance with Standing Order 62(b), I beg to move that the next stage of the Bill be taken at a sitting of the Senate to be held on Tuesday, June 21, 2016.

*Question put and agreed to.*

### **ADJOURNMENT**

**The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan):** Madam President, I beg to move that this Senate do now adjourn to Tuesday 21 June, 2016, at 10.00a.m. We have already indicated that we will be debating the Family and Children Division Bill and, time permitting, we will also attempt to do at least one of the Motions under Committee Business, very likely the Joint Select Committee on Government Assurances.

As I am on the point of time permitting, Tuesday 21 June is the summer solstice. It is the longest day in the northern hemisphere, so we expect a long day in the Senate on Tuesday. I so move, Madam President.

### **Greetings**

#### **(Labour Day)**

**Madam President:** Hon. Senators, before I put the matter of the Adjournment, we will be celebrating Labour Day over the next few days, so I will invite Members to bring greetings.

**The Minister of Labour and Small Enterprise Development (Sen. The Hon. Jennifer Baptiste-Primus):** Thank you very much, Madam President. Hon. Government Senators, Independent Senators and Senators of the Opposition Bench, I am indeed gratified as Minister with responsibility for labour and small enterprise development to address you all this evening and to bring greetings to the Trade Union Movement as it prepares to observe the 79<sup>th</sup> anniversary of what is referred to as the Butler Oilfield Riots of 1937, and what many will argue was the defining moment that gave birth to the labour movement as we know it, in Trinidad and Tobago.

Madam President, every year, on June 19, we observe Labour Day. I

,myself, in my other incarnation, would have enjoyed many a Labour Day and would have made many a statement from the Labour Day platform. However, in 1973, the then Government declared it a public holiday, giving rise to thousands converging on Charlie King Junction to celebrate the forefathers of the labour movement who, in essence, carved a path for labour in Trinidad and Tobago, and by their contributions illustrated the definition of struggle, collectivism and solidarity to a cause in ways that are not always as clear through other lenses.

Madam President, we cannot deny the invaluable and unmeasured contributions of the Trade Union Movement to the social and economic development of Trinidad and Tobago.

And whilst the relationship between Government and the Trade Union Movement is not always a walk in the park, ladies and gentlemen, to thine own selves be true, that cannot be the expectation. And as in the words of that trade unionist, former Sen. Wade Mark's colleague, when he was at the banking union, the President of the Banking Insurance and General Workers Union, Vincent Cabrera, when he said that the Trade Union Movement is there to be a thorn in the side of Government.

### **6.00 p.m.**

So I dare say the relationship is not always rosy. No pun intended, Madam President, but that said, as the Minister of Labour and Small Enterprise Development, I have given each of the respective trade union umbrella organizations—that is, the Joint Trade Union Movement, the National Trade Union Centre and the Federation of Independent Trade Unions and Non-Governmental Organizations—the undertaking to meet with them regularly to discuss matters of critical import, as we seek to work together for the benefit of the citizenry of this twin-island Republic.

Madam President, I returned to Trinidad this morning, from the 105<sup>th</sup> Session of the International Labour Conference, and engaged in two back-to-back meetings with the hon. Prime Minister and the National Trade Union Centre at a little after 10 o'clock this morning, and thereafter the Joint Trade Union Movement, about 12 o'clock today; and those two meetings, I am happy to report, they were good, productive, very frank meetings. I am heartened by our discussions, and it augurs well for the relationship to date.

I know that as the trade unions prepare to embark on their celebrations they have announced that will indeed—well, at least, the Joint Trade Union Movement—that they will indeed be making an assessment of this Government's performance since coming into office.

Madam President, our country's present economic situation, the increasing rate of job loss, retrenchment and outstanding back pay and compensation, these are just some of the issues that this Government has had to grapple with, in the face of falling oil price, and looming economic uncertainty. It is far from a pretty picture, but it is our reality, and probably it is the trade unionist in me, but there was never a battle that I backed away from. This Government, therefore, is committed to navigating the uncertain course and dealing with the daily struggles; that is, the expectation from the electorate and we will deliver, Madam President.

Our trade unions have pioneered every sphere of development in Trinidad and Tobago. We have had social, economic and political pioneers, the likes of Elma Francois, Tubal Uriah "Buzz" Butler, who we refer to as the father of the trade union and labour movement. CLR James, Adrian Cola Rienzi, and not forgetting Basdeo Panday, the first Prime Minister to have come from labour, [*Desk thumping*] and the list goes on and on. Forgive me, but I cannot name them all at this point in time, but I want to recognize them all, and to express my

Government's appreciation for their collective contribution towards the growth and development of our beloved twin-island State.

Madam President, Senators, on behalf of the hon. Prime Minister and the Government of the Republic of Trinidad and Tobago, I wish the trade union movement every success in its upcoming celebrations. I pray for a safe and incident-free celebration, as they mark this most auspicious and signal occasion. And I would also like to advise that the Ministry of Labour and Small Enterprise Development will have a presence at Labour Day as we have had over the past few years, reminding workers, those unemployed, the level and increased services that are available to them, in preparing them for new pathways in life.

Madam President, may we always remember the contributions of the trade unionists past, and respect the contributions of trade unionists present, in the quest for decent work for all. And lest it be said that I forgot, Labour Day this year is being shared with another auspicious occasion, Father's Day. To all the fathers in Trinidad and Tobago and all those fathers present here in this august Chamber, I wish you all a very happy Father's Day on Sunday. Madam President, I thank you.  
 [*Desk thumping*]

**Sen. Wade Mark:** [*Desk thumping*] Thank you very much. Madam President, I wish to join with the hon. Minister of Labour, Small and—is Small and Micro?

**Sen. Baptiste-Primus:** No, no Micro—Small Enterprise Development.

**Sen. W. Mark:**—Small Enterprise Development, in extending, Madam President, from the very outset, Labour Day greetings to the working class, as we collectively celebrate the very important occasion of June 19, 2016, which would represent some 79 years since the major social and political uprising and virtual revolution of the working class, led by Tubal Uriah “Buzz” Butler, and his comrades like, Adrian Cola Rienzi and a number of other patriots, which resulted in fundamental

constitutional changes at that time, and which recorded major social advances for the working class and the working people.

Labour has made many tremendous strides in advancing both the living and working conditions of vast numbers of ordinary people in our land and in our nation. But given the recent economic downturn, which has gripped our country, combined with the worsening recession, the working people of our country, on the 79<sup>th</sup> anniversary of the founding of the modern trade movement, are faced with major challenges. For example, Madam President, growing unemployment and underemployment, rising income and wealth disparities, rising poverty levels, marginalization of the youth, social exclusion and isolation, poor social services among other areas.

But, Madam President, there is an urgent need for the Government—and I am sorry that my good friend did not mention it—to engage swiftly in comprehensively revising and amending and even introducing, new labour legislative measures, all aimed at advancing social protection, and safety of the working class and ordinary people.

I hasten to add, some of these labour measures that are critically needed, and I would only have liked measures to have been introduced, as we celebrate June 19<sup>th</sup>, Sunday coming—  
revision of the Industrial Relations Act, that should be done rapidly; revision of the Retrenchment and Severance Benefits Act, we could not get it faster; the Bankruptcy and Insolvency Act amendments; amendments to the Companies Act. And I know that the hon. Minister has spoken to basic conditions of work, that is a piece of law, that the hon. Minister has promised, which is almost the equivalent of a labour code, the Minister would tell you. So we on this side of the House, anxiously look forward to these revolutionary measures, and these momentous

changes in our labour legislation, in the interest of the working class.

So, we too join with my colleague across the aisle, in really recognizing our labour heroes that have gone, and those who are labouring in the vineyard as we speak. Once again, we would like to extend warmest greetings and solidarity with the labour movement in particular, and the people of Trinidad and Tobago in general, on the occasion of the 79<sup>th</sup> anniversary of the labour day movement, or Labour Day as we know it, 2016.

I also join the hon. Minister in extending Happy Father's Day greetings to all our fathers in our nation, and particularly all the fathers in this Chamber, on both sides and on all sides, wishing them Happy Father's Day. So to the working people of our land and the working people of Trinidad and Tobago, happy Labour Day 2016, and to all our fathers, Happy Father's Day. [*Desk thumping*]

**Sen. Dr. Dhanayshar Mahabir:** [*Desk thumping*] Thank you very much, Madam President. Sometimes I think life is a little bit unfair, because I must bring greetings on behalf of Labour Day, following two eminent labour leaders in this Chamber, but if I can say in my defence, over the last 30 years, I have worked extensively with the trade union movement. So I feel I have a little bit of moral authority, in bringing greetings on behalf of the bench.

As usual, when I contemplate on a national holiday, I look at its historic origins, and I recalled from the history books that the first time Trinidad and Tobago experienced what we now know as an industrial strike occurred in October 1919, when the seamen workers and the wharf workers of this country agitated for better working conditions, led by Captain Cipriani in 1919. We then saw the birth of a movement which resulted in my mind, two very productive strands in the history of Trinidad and Tobago. We saw Captain Cipriani, Albert Gomes, Rienzi, Butler, that particular line moving from the pure trade union movement into the politics of

Trinidad and Tobago, and contributing immeasurably to the type of legislative structure that we have today. The contribution of the labour movement to the decision-making process at the highest level, which continues today is something that, I think, has augured very well for the evolution of Trinidad and Tobago's society. [*Desk thumping*]

But second, Madam President, when I examined the history of the labour movement, the reason we celebrate Labour Day is that the riots of 1937, following upon the disturbances of the 1920s, they were riots which ended in the loss of life, simply because working people were agitating for better working conditions. In 1937, when we saw the birth of the two oldest trade unions in Trinidad and Tobago, All Trinidad Sugar and General Workers' Trade Union and the OWTU, Oilfields Workers' Trade Union, we observed the birth of an institution, an organization governed by structures and laws, collective bargaining, where the inevitable conflict between labour and capital will be resolved in the boardroom, via negotiation and not via violent physical confrontation.

The contribution of the labour movement through the structure of collective bargaining, in my mind, has led to a level of peace and stability, that would not have occurred if we had not ensured that the trade union movement had grown, so that workers in Trinidad and Tobago will find a number of mechanisms, so that their grievances could be aired.

### **6.15 p.m.**

In fact, when I look across the jurisdictions, I see Trinidad and Tobago as very advanced, one of the few countries to have had an Industrial Court, separate Industrial Court, for the longest while. I think we are pioneers in that area as well, and these institutions have done a remarkable job for ensuring that there is always peace and stability in the country.



As we celebrate Labour Day, Madam President, I think we need to recognize the contributions of all those pioneers in the past. Those who have made a contribution from labour and into politics, those who have continued to agitate for labour rights and then social rights as a consequence. These are individuals who form a vital component of the fabric of Trinidad and Tobago, and to them we pay homage.

There was, in fact, violent confrontation in the past. There is no longer the need for confrontation. We have seen labour leaders in the legislative arm of State. Now, we are in an environment where Trinidad and Tobago is in economic stagnation and in decline. Labour is not as powerful as it once was in obtaining the types of benefits that it wanted for its employees. But, at the same time, we need to recognize that capital is also not as powerful now. The rate of return on capital is declining.

There is a new paradigm now and a challenge for the labour movement. As I bring greetings, I would like the labour movement to consider that the association and the conflict between capital is something that we need to review. We have experiences from countries in the past where labour leaders such as Doug Fraser of the United Auto Workers Union, actually obtained a seat on the board of the Chrysler Corporation. When Chrysler was on the verge of bankruptcy, he obtained a seat on the board in exchange for wage concessions so that he could protect the jobs of workers. We are in an environment where we need to ensure employment stability. There are challenges for the labour movement.

As I bring greetings, I want to applaud the labour movement for the contributions they have made in the past, and I know they would rise to the challenges of the difficult economic environment we operate in. On behalf of the Independent Bench, I bring greetings and express gratitude to the entire institution

Greetings (Labour Day)  
Madam President (cont'd)

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of labour in Trinidad and Tobago. Thank you. [*Desk thumping*]

**Madam President:** Hon. Senators, like those who have spoken before me, I join in bringing greetings on the celebration of Labour Day in Trinidad and Tobago. This is a national holiday that we have now been celebrating as a country for over four decades. The celebration focus is not just on the pioneers on the labour movement, but on those now who are involved in the trade union movement who advocate for workers' rights and the celebration should also focus on the contributions that workers have made to the economic and social fabric of Trinidad and Tobago.

So let me join in wishing everyone, all those involved in the labour movement and the national community, let me join in wishing them a happy celebration of Labour Day 2016.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 6.18 p.m.*