

SENATE

Tuesday, February 20, 2024

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

**PAPERS LAID**

1. Annual Administrative Report of the InvestTT Limited for the financial year ended September 30, 2021. [*The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon)*]
2. Annual Administrative Report of the Trinidad and Tobago Bureau of Standards for the financial year ended September 30, 2021. [*Sen. The Hon. P. Gopee-Scoon*]
3. Ministerial Response of the Ministry of Trade and Industry to the Sixteenth Report of the Public Administration and Appropriations Committee on an examination of Food Security in Trinidad and Tobago in alignment with Sustainable Development Goal 2: Zero Hunger. [*Sen. The Hon. P. Gopee-Scoon*]
4. Annual Administrative Report of the National Helicopter Services Limited for the period 2018 to 2019. [*The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan)*]
5. Ministerial Response of the Ministry of Works and Transport to the Seventeenth Report of the Public Administration and Appropriations Committee on an Examination of the Management and Operations of the Secondary Road Rehabilitation and Improvement Company Limited. [*Sen. The Hon. R. Sinanan*]

6. Second Ministerial Response of the Ministry of Works and Transport to the Seventeenth Report of the Public Administration and Appropriations Committee on an Examination of the Management and Operations of the Secondary Road Rehabilitation and Improvement Company Limited. [*Sen. The Hon. R. Sinanan*]
7. Ministerial Response of the Ministry of Agriculture, Land and Fisheries to the Sixteenth Report of the Public Administration and Appropriations Committee on an examination of Food Security in Trinidad and Tobago in alignment with Sustainable Development Goal 2: Zero Hunger. [*The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Kazim Hosein)*]
8. Response of the Personnel Department to the Tenth Report of the Public Accounts (Enterprises) Committee on the examination of the Audited Financial Statements of the National Maintenance Training and Security Company Limited for the Financial Year 2018 and follow up on the Implementation of the Recommendations contained in the Committee's Eleventh Report from the 11th Parliament. [*The Minister of Public Administration (Sen. The Hon. Allyson West)*]
9. Annual Report of the Police Service Commission for the year 2021. [*The Vice-President (Sen. Dr. Muhammad Yunus Ibrahim)*]
10. Annual Report of the Police Service Commission for the year 2022. [*Sen. Dr. M. Y. Ibrahim*]
11. Annual Report of the Public Service Commission for the year 2021. [*Sen. Dr. M. Y. Ibrahim*]
12. Annual Report of the Teaching Service Commission for the year 2022. [*Sen. Dr. M. Y. Ibrahim*]

13. Annual Report of the Statutory Authorities Service Commission for the period October 2021 to December 2022. [*Sen Dr. M. Y. Ibrahim*]
14. Ministerial Response of the Ministry of Social Development and Family Services to the Tenth Report of the Public Accounts Committee on an Examination of the concerns raised in the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2021 with specific reference to the administering of government grants. [*The Minister of Social Development and Family Services (Sen. The Hon. Donna Cox)*]
15. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Children's Authority of Trinidad and Tobago for the financial year ended September 30, 2020. [*The Minister of Foreign Affairs (Sen. The Hon. Dr. Amery Browne)*]
16. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Trinidad and Tobago Racing Authority for the year ended July 31, 2015. [*Sen. The Hon. Dr. A. Browne*]
17. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Trinidad and Tobago Racing Authority for the year ended July 31, 2016. [*Sen. The Hon. Dr. A. Browne*]
18. Annual Administrative Report of the National Enterprises Limited for the 18-month period March 31, 2021 to September 30, 2022. [*Sen. The Hon. Dr. A. Browne*]
19. Annual Report Taurus Services Limited for the financial year ended September 30, 2022. [*Sen. The Hon. Dr. A. Browne*]

20. Annual Report of First Citizens Investment Services Limited and its Subsidiaries for the financial year ended September 30, 2022. [*Sen. The Hon. Dr. A. Browne*]
21. Annual Report of First Citizens Depository Services Limited (formerly First Citizens Asset Management Limited) for the financial year ended September 30, 2022. [*Sen. The Hon. Dr. A. Browne*]
22. Annual Report of First Citizens Group Financial Holdings Limited and its Subsidiaries for the financial year ended September 30, 2022. [*Sen. The Hon. Dr. A. Browne*]
23. Annual Administrative Report of the National Training Agency for the period 2018 to 2019. [*Sen. The Hon. Dr. A. Browne*]
24. Annual Report of the Registration, Recognition and Certification Board for the year ended December 2021. [*Sen. The Hon. Dr. A. Browne*]
25. Annual Audited Consolidated Financial Statements of exporTT Limited for the financial year ended September 30, 2018. [*Sen. The Hon. Dr. A. Browne*]
26. Annual Audited Financial Statements of the Water and Sewerage Authority for the financial year ended September 30, 2019. [*Sen. The Hon. Dr. A. Browne*]
27. Ministerial Response of the Ministry of Finance to the Fifteenth Report of the Public Administration and Appropriations Committee on a Follow-up inquiry on the maintenance of community swimming pools by the Ministry of Sport and Community Development. [*Sen. The Hon. Dr. A. Browne*]
28. Response of the Auditor General of the Republic of Trinidad and Tobago to the Eleventh Report of the Public Accounts Committee on an Examination of the Audited Financial Statements of the Children's Authority of Trinidad and Tobago for the financial years 2014 to 2018. [*Sen. The Hon. Dr. A. Browne*]

29. Ministerial Response of the Ministry of Health to the Sixteenth Report of the Public Administration and Appropriations Committee on an examination of Food Security in Trinidad and Tobago in alignment with Sustainable Development Goal 2: Zero Hunger. [*Sen. The Hon. Dr. A. Browne*]
30. Ministerial Response of the Ministry of Planning and Development to the Sixteenth Report of the Public Administration and Appropriations Committee on an examination of Food Security in Trinidad and Tobago in alignment with Sustainable Development Goal 2: Zero Hunger. [*Sen. The Hon. Dr. A. Browne*]
31. Ministerial Response of the Office of the Prime Minister (Gender and Child Affairs) to the Sixteenth Report of the Public Administration and Appropriations Committee on an examination of Food Security in Trinidad and Tobago in alignment with Sustainable Development Goal 2: Zero Hunger. [*Sen. The Hon. Dr. A. Browne*]
32. Ministerial Response of the Ministry of Finance to the Twelfth Report of the Public Accounts (Enterprises) Committee on the Examination of the National Infrastructure Development Company Limited (NIDCO) Audited Financial Statements for the financial years ended September 30, 2015 to 2017, including a follow-up examination on the implementation of the recommendations in the Committee's Omnibus Report, First Session, 11th Parliament and Second Report of the Joint Select Committee on State Enterprises on an inquiry into the operations of NIDCO including its compulsory land acquisition in relation to major projects. [*Sen. The Hon. Dr. A. Browne*]
33. Response of the Auditor General of the Republic of Trinidad and Tobago to the Thirteenth Report of the Public Accounts (Enterprises) Committee on a

Follow-up Examination on the Implementation of the Recommendations in the Fourth Report of the Committee on the Audited Accounts, Balance Sheet and other Financial Statements of the Community-Based Environmental Protection and Enhancement Programme for the financial years 2009 to 2014. [*Sen. The Hon. Dr. A. Browne*]

34. Ministerial Response of the Ministry of Public Utilities to the Tenth Report of the Public Accounts (Enterprises) Committee on the examination of the Audited Financial Statements of the National Maintenance Training and Security Company Limited for the Financial Year 2018 and follow up on the Implementation of the Recommendations contained in the Committee's Eleventh Report from the 11th Parliament. [*Sen. The Hon. Dr. A. Browne*]
35. Ministerial Response of the Ministry of Finance to the Tenth Report of the Public Accounts (Enterprises) Committee on the examination of the Audited Financial Statements of the National Maintenance Training and Security Company Limited for the Financial Year 2018 and follow up on the Implementation of the Recommendations contained in the Committee's Eleventh Report from the 11th Parliament. [*Sen. The Hon. Dr. A. Browne*]
36. Ministerial Response of the Ministry of Rural Development and Local Government to the Seventeenth Report of the Public Administration and Appropriations Committee on an Examination of the Management and Operations of the Secondary Road Rehabilitation and Improvement Company Limited. [*Sen. The Hon. Dr. A. Browne*]
37. Ministerial Response of the Ministry of Rural Development and Local Government to the Thirteenth Report of the Public Accounts (Enterprises) Committee on a Follow-up Examination on the Implementation of the Recommendations in the Fourth Report of the Committee on the Audited

Accounts, Balance Sheet and other Financial Statements of the Community-Based Environmental Protection and Enhancement Programme for the financial years 2009 to 2014. [*Sen. The Hon. Dr. A. Browne*]

38. Ministerial Response of the Ministry of Sport and Community Development to the Fifteenth Report of the Public Administration and Appropriations Committee on the Examination of a Follow-up inquiry on the maintenance of community swimming pools by the Ministry of Sport and Community Development. [*Sen. The Hon. Dr. A. Browne*]
39. One Hundred and Thirteenth Report of the Salaries Review Commission of the Republic of Trinidad and Tobago. [*Sen. The Hon. Dr. A. Browne*]
40. One Hundred and Seventeenth Report of the Salaries Review Commission of the Republic of Trinidad and Tobago. [*Sen. The Hon. Dr. A. Browne*]

1.40 p.m.

**JOINT SELECT COMMITTEE REPORT
(Presentation)**

**Human Rights, Equality and Diversity
(Inquiry into the Treatment of Migrants)**

Sen. Dr. Muhammad Yunus Ibrahim: Thank you, Mr. President. Mr. President, I have the honour to present the following report as listed on the Supplemental Order Paper in my name:

Sixth Report of the Joint Select Committee on Human Rights, Equality and Diversity, Fourth Session (2023/2024), Twelfth Parliament on a Follow-Up Inquiry into the Implementation of the Recommendations of the 18th Report, 11th Parliament on an Inquiry into the Treatment of Migrants with Specific Focus on the Right to Education, Employment and Protection from Sexual Exploitation.

URGENT QUESTIONS**Overtaken Tanker in Tobago****(Details of Items Found)**

Sen. Wade Mark: Thank you, Mr. President. To the Minister of National Security: Given the recent discovery of tactical gear, police uniforms and a “white powdery substance” near the overturned oil tanker in Tobago, can the Minister advise whether the origin and ownership of the items have been determined?

Mr. President: The Minister of National Security.

Hon. Senators: [*Desk thumping*]

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you very much, Mr. President. Mr. President, based on information freshly, recently received from the Trinidad and Tobago Police Service, in the area of what is known as Canoe Bay, a packet of a solid “cream-ish” substance was found. It has since been determined to be cocaine. That was found, according to the police, some 250 metres away from the wrecked, and yet unidentified vessel that has been spoken widely about within recent times that ran aground on a reef in that area of Tobago.

Mr. President, based on information from the police, on the balance of probabilities, it appears to them, thus far—and the matter is still under investigation—that that package that was found was not necessarily related to that vessel. Based on information from the police, no police uniforms or tactical gear was found along with that substance, which, as I said, was not powdery but a solid “cream-ish” substance.

Finally, as far as I know—I heard the Senator describe in his question this vessel as an oil tanker, as far as I know, that matter, along with many others, is yet to be determined. Investigations are underway. I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, can the Minister indicate whether he is aware that in an article in the *Express*, dated February 19, 2024, the police reported, based on an operation in Caparo, that they discovered tactical gear, police uniforms? We would like—

Hon. Senator: [*Inaudible*]

Sen. Mark: Listen—

Mr. President: Sen. Mark—

Sen. Mark: If you are not happy, just leave.

Mr. President: Sen. Mark. Sen. Mark. Sen. Mark.

Sen. Mark: [*Inaudible*]

Hon. Senator: [*Desk thumping*]

Mr. President: Sen. Mark, have a seat. Have a seat. Have a seat.

Sen. Mark: The Senate now start—[*Inaudible*]

Mr. President: Yes. Sen. Mark, that is all well and good. What I want to hear is the question to the Minister of National Security, which is supplemental to the answer given. I have not heard a question from you yet. Please ask the question.

Sen. Mark: Can the Minister confirm or deny, Mr. President, that tactical wears, or, I should say, tactical gear, police uniforms were discovered recently by police teams in the Caparo area? Can he confirm or deny this?

Mr. President: Sen. Mark, the question refers to tactical gears. It relates to what occurred in Tobago, you are asking a question in relation to Caparo, as such, that question does not arise from the supplemental. Next supplemental, Sen. Mark.

Sen. Mark: Can I ask—I am getting this humming—

Mr. President: Sen. Mark, focus on the question.

Sen. Mark: Mr. President, I would like to address you, can the Minister indicate to this honourable Senate whether the washing on the shoreline of this particular packet containing cocaine is another manifestation of the complete breakdown of the security apparatus in our country?

Hon. Senators: [*Desk thumping*]

Sen. Mark: Can I ask him to clarify that for us?

Mr. President: That question does not arise, Sen. Mark. Next question on the Order Paper.

Shooting Outside School in Belmont/Gonzales

(Safety/Well-being of Children/Teachers)

Sen. Wade Mark: To the hon. Minister of Education: In light of the shooting outside a school in the Belmont/Gonzales community this morning, can the Minister indicate what immediate measures are being taken to ensure the safety and well-being of the children and teachers of the school?

Mr. President: Minister of Education.

Hon. Senators: [*Desk thumping*]

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Mr. President. Mr. President, on behalf of the Ministry of Education, we would like to express our condolences to the family of the person that was killed. As a matter of fact, it is a close relative of one of our teachers of another primary school in that area, and so we express our condolences on this very unfortunate event. The event happened when school was already in session and it was in very close proximity to one of our schools, and, as is usual, when these things happen the police were involved, and in that particular case, because of the proximity, the teachers and students were dismissed early from the premises.

It is very likely that tomorrow they will not be out to school because we

wanted to ensure that the police have all access to continue their investigations. Once the school resumes, the members of the Student Support Services will be available to assist as necessary, our principal, our teachers, as well as our students.

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, hon. Minister, having regard to the trauma that this would have caused to the children and the teachers, could you tell this honourable Senate what steps have been taken to immediately mobilize social counselling services for both teachers and children to address that trauma, obviously, that they would have experienced?

Mr. President: Minister of Education.

Hon. Dr. N. Gadsby-Dolly: Thank you, Mr. President. Mr. President, as indicated, the first step that was taken was to remove the teachers and students and the principal from the immediate vicinity. So they were dismissed early so they have gone home to their families. When school resumes, the officers of the Student Support Services, who are staffed with the Ministry of Education, will go into the school and deal with the teachers and the parents, and so on, and the principal that need any of their counselling services. So they will be—and that is a usual function that takes place whenever traumatic incidents take place close to schools.

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, can I ask the hon. Minister, what steps have been taken, or are being taken to liaise with the Ministry of National Security to provide or to upgrade, or enhance the level of security in that particular community where that school is located? Can I ask through you, Mr. President, whether any kind of liaison has taken place to address this?

Mr. President: Minister of Education.

Hon. Dr. N. Gadsby-Dolly: Thank you, Mr. President. Mr. President, in all areas where crime is a reality, and a present reality, the Ministry of Education has a very close link with all the police stations, as well as the officers who are working there, so that if there is a reason for them to call, they answer, and they answer very promptly to our schools. So we do have and we maintain those close relationships with the TTPS, both—in all areas, but especially in the areas where we have concerns about crime and safety.

ANSWERS TO QUESTIONS

Mr. President: Leader of Government Business.

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Mr. President, thank you. I am pleased to indicate that the Government is prepared to respond with respect to Questions for Oral Answer, to respond to Question No. 16, Question No. 17, Question No. 18, Question No. 57, Question No. 59, and Question No. 60. With respect to questions for written response, two questions, No. 54 and 58, which constitutes 100 per cent of the questions on the Order Paper.

WRITTEN ANSWERS TO QUESTIONS

Status Update on Digital Transformation

(Ministries, Departments, and State Agencies)

- 54. Sen. Dr. Paul Richards** asked the hon. Minister of Digital Transformation: Can the Minister provide a status update on the digital transformation of Ministries, Departments, and State agencies, including the following:
- (i) the percentage completion of the digital transformation process;
 - (ii) details on the main areas of completion in various Ministries, Departments, and State agencies;

- (iii) the major phases of digital transformation that remain incomplete; and
- (iv) projected timelines for completion of the phases identified at (iii)?

Number of Persons on Bail 2018-2023

(Details of)

58. Sen. Dr. Paul Richards asked the hon. Minister of National Security:

Can the Minister provide the number of persons on bail for each year during the period 2018 – 2023, disaggregated by the categories of serious crimes?

Vide end of sitting for written answers.

ORAL ANSWERS TO QUESTIONS

Admission to Public School

(Repatriated Child)

16. Sen. Wade Mark asked the hon. Minister of Education:

Given public concerns over a young child who has been unable to gain admission to a public school since being repatriated with his mother to this country approximately seven (7) years ago, can the Minister indicate when will this matter be addressed?

Mr. President: The Minister of Education.

Hon. Senators: [*Desk thumping*]

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Mr. President. Mr. President, in 2023 a report in the media highlighted the case of eight-year-old Ismael Roberts who has repatriated from Syria with his mother, Marsha Roberts. If the newspaper story is accurate, it appears that Ismael was born in Syria and was one year old when the family was repatriated. Further, based on the media report, he is not a citizen of Trinidad and Tobago and reportedly has been unable to attend school.

It appears that Ismael falls into a category of persons who are described as being “without documents”. In fact, Ismael’s actual immigration status is unclear since no further details were given in the story. However, under our laws, foreign citizens must possess a minimum of a birth certification or passport, and an Immunization Card to apply for a student permit to gain access to local schools.

Principals have strict instructions to abide by the well-established and long-standing legal requirements for entry into schools in Trinidad and Tobago. These are birth certificate; in the case of a child who is a citizen by descent, a valid Trinidad and Tobago passport or certificate of immigration status, and an immunization record or schedule. The Ministry of Education empathizes with Ms. Roberts and understands her concerns about her son’s inability to access the school system, but the regularization of Ismael’s status must be pursued by his parents through the Ministry of National Security, Immigration Division, and/or the Ministry of the Attorney General.

The Ministry of Education will not knowingly or casually refuse admission to a child who is a citizen of this country, however, for the maintenance of order and the protection of all our schoolchildren, proper documentation is required by law for foreign citizens. In the case of Ismael, the Ministry of Education stands ready to assist in any way it can once his status is properly determined.

1.55 p.m.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Mark.

Sen. Mark: Through you, Mr. President, can I ask the hon. Minister, has the Government considered developing a policy to address this issue which involves not only this particular young student but maybe scores of others? Can—through you, Mr. President—the hon. Minister advise, to treat with this issue, whether the

Government, working in conjunction with the Ministry of Education and National Security, has formulated or has begun to examine formulating a policy to address this issue of children who are stateless?

Mr. President: Minister of Education.

Hon. Dr. N. Gadsby-Dolly: Thank you, Mr. President. Mr. President, it is more than a policy. There is a law that determines what happens with foreign nationals and there are a number of foreign nationals in our school system that have gone through the right way to get into our school system. Where we have issues with children who are stateless, as you would have described there, there are procedures to deal with that but the parents must go through the process of getting them documented.

In addition to that, as you would have seen with the Venezuelan migrants, where there are special circumstances, then there are ways that the Government can now deal with that. And we are dealing with that at this time so that we can have the children of the Venezuelan migrants, who are registered in a particular way, come into our schools. But the Government has a responsibility to all of our citizens and our children to ensure that these protocols are followed, the law is followed for their own protection.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, through you, again to the hon. Minister: Hon. Minister, could you indicate whether that particular child's parents are citizens of the Republic of Trinidad and Tobago? Can you confirm or deny to this honourable Senate?

Mr. President: I will not allow that question, Sen. Mark. Next question.

Sen. Mark: Can I ask through you, Mr. President, to the Minister, whether

approaches have been by the parents of this child to the Ministry and to the Ministry of National Security to have this issue of citizenship addressed?

Mr. President: Minister of Education.

Hon. Dr. N. Gadsby-Dolly: Thank you, Mr. President. No such request has come to me as Minister. Whether it has come to other officials in the Ministry, I am not aware of that, but nothing has come to me.

Mr. President: Sen. Mark.

Sen. Mark: And finally, Mr. President, in the case of that child that is stateless at this moment, can the Minister indicate whether there is any mechanism in the Ministry to track this child's progress so that in the final analysis, that child does not stray into areas that will come to hurt our nation and our society, either in short or the medium or long term, whether some tracking mechanism is in place, particularly with children who are stateless and they are without access to school?

Mr. President: Minister of Education.

Hon. Dr. N. Gadsby-Dolly: Thank you, Mr. President. Mr. President, we are the Ministry of Education. Therefore, we deal with children who are in our school system.

Hon. Senator: [*Desk thumping*]

Hon. Dr. N. Gadsby-Dolly: What the Member is describing is a function of maybe the Children's Authority, the Ministry of National Security. It is certainly not a function of the Ministry of Education.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen Mark, next question on the Order Paper.

Overfishing Disputes Between Tobago and Barbados Fishermen

(Talks between Governments)

17. Sen. Wade Mark asked the hon. Minister of Foreign and CARICOM

Affairs:

In light of reports of overfishing disputes between Tobago and Barbados fishermen, can the Minister indicate whether talks are being held between both Governments to address this issue?

Mr. President: Minister of Foreign and CARICOM Affairs

Hon. Senators: [*Desk thumping*]

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Mr. President, I am pleased to advise this Senate that officials of Trinidad and Tobago and Barbados engaged in active bilateral talks during the months of October and November 2023. Participants in those meetings on the Trinidad and Tobago side included officials of the Ministry of Foreign and CARICOM Affairs; the Ministry of Agriculture, Land and Fisheries; the Ministry of National Security; the Tobago House of Assembly, including the THA's Division of Food Security, Natural Resources, the Environment and Sustainable Development. And there was similar representation on the Barbados side. Fisherfolk from both countries also participated in these talks. A representative of the Caribbean Regional Fisheries Mechanism, CRFM, also participated in the talks at reference. I thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Mark.

Sen. Mark: Can the hon. Minister share with the honourable Senate the status of these discussions, Mr. President?

Mr. President: Minister.

Sen. The Hon. Dr. A. Browne: Thank you, Mr. President. Mr. President, I would want to advise the Member that at the conclusion of those discussions, a joint communiqué was issued in November 2023; joint communiqué meaning it was

signed off both by Trinidad and Tobago on the Barbados side, was publicly issued, published, and therefore available to well-researched Members of this Chamber and the members of the broader national community. That joint communiqué did reflect the main outcomes of the discussions as well as the current status of the issue.

Out of an abundance of concern for the noble intent behind those discussions, I would indicate here that both countries agreed to collaborate in the conduct of an assessment of the fish stock, particularly the flying fish and associated species, toward achieving a greater understanding of the factors affecting sustainability in the region. There was also an expressed desire by both sides to enter into a new fishing agreement in the future. There was also agreement for continued stakeholder consultations with the fisherfolk community, both in Trinidad and Tobago and Barbados, in moving forward on this particular matter.

The study that I referenced was discussed given the need for more data. That would explore all the possible factors affecting our fish stock, and not just between Barbados and Trinidad and Tobago but also the other islands of the eastern Caribbean whose fish stock are also being affected, and would include issues of the impact of sargassum seaweed on the fish stock, for example, which would have to be considered. Such a study would also determine what levels of fishing could be deemed to be safe and make recommendations towards the preservation of same. It has been indicated during the talks that other states would be invited to participate in such a study which is expected to be a medium-term, a multiyear study, but necessary in the southern and eastern Caribbean at this time. Thank you, Mr. President.

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, can I ask the hon. Minister, through you, has the Government determined when it will establish teams to begin discussions on the formulation of an arrangement that will lead to an efficient agreement that can reduce the tension between Tobago fisherfolks and Barbados fishermen who seem to be at odds because of what has been claimed by the fisherfolks of Tobago? Has a decision been taken to get teams together to begin establishing and working towards a fishing agreement between the two nations? That is what I am trying to clarify.

Mr. President: Minister.

Sen. The Hon. Dr. A. Browne: Mr. President, just for the benefit of the Member posing these questions, the issue of reducing tension is the objective of all of what I have described. You would recall, Mr. President, that the two heads of Government had discussions on this matter and it was determined that these bilateral talks is the natural progression in reducing tensions. I would say that, to a large extent, has been achieved. Of course, this issue is live and can flare up again.

With respect to the teams that have been engaged, I could just quickly summarize, the Director of The Treaties, International Agreements and Legal Division of the Ministry of Foreign and CARICOM Affairs participated as head of delegation; the Chief Secretary of the Tobago House of Assembly himself was engaged in these bilateral discussions; the Secretary of the Division of Food Security, Natural Resources, the Environment and Sustainable Development, Mrs. Nathisha Charles-Pantin; the Chief Technical Adviser, the Division of Finance, Trade and Economy, the THA; the Deputy Administrator, Division of Food Security, Natural Resources, the Environment and Sustainable Development, THA; the Director of fisheries division in the THA; the Deputy PS, Ministry of Foreign and CARICOM Affairs; the Director of CARICOM and the Caribbean Affairs

Division of the Ministry of Foreign and CARICOM Affairs; several Foreign Service Officers; Senior Fisheries Officer, Ministry of Agriculture, Land and Fisheries; Fisheries Officer, Ministry of Agriculture, Land and Fisheries; the Trinidad and Tobago Coast Guard's Commander of Operations, Acting Commander Ray Frederick; International Affairs Coordinator, Ministry of National Security. And on the Barbados side, similarly.

So these are matters that we take very seriously, Mr. President. We continue to engage responsibly. And I just want to assure this Chamber that on the issue of reducing tensions and doing the work necessary, Trinidad and Tobago is doing its part. Thank you.

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, given the excellent relations that exists between the two nations on this particular matter that has resulted in a reduction in tensions, can the Minister indicate whether a timeline, a time frame has been established for the teams to meet to arrive at a conclusive fishing agreement that will govern fishing activities between the two nations? Can I get some guidance from the Minister on this issue?

Mr. President: Minister.

Sen. The Hon. Dr. A. Browne: Thank you, Mr. President. Okay, so as I referenced, conclusive agreement is determined to be best founded on proper data and an assessment of fish stocks. There are discussions underway with respect to a multiyear study, which is essential, otherwise we will be agreeing based on archaic data, information and sometimes misconceptions. So the time frame for negotiations and development of a final fishing agreement really is dependent on that study and assessment of fish stock.

In the interim, however, and this may assist the Member, both parties are

currently reviewing the now expired 1990 agreement. That is being reviewed as a basis for the start of negotiations to possibly an interim agreement until the study is concluded, which can take some time. So discussions among stakeholders within Trinidad and Tobago and the update of that 1990 agreement, those discussions are expected to take place over the next few months within our own jurisdiction and similarly on the Barbados side. So that is where it stands. And I just want to reference, once again, the Caribbean Regional Fisheries Mechanism as a neutral regional body that is playing an essential role in steering this as well. Thank you, Mr. President.

2.10 p.m.

Installation of New Highway Barriers

(Details of)

18. Sen. Wade Mark asked the hon. Minister of Works and Transport:

Given reports on three tragic highway deaths in 2023 thus far resulting from vehicular “crossovers” owing to deficiencies in highway barriers and cable infrastructure, can the Minister indicate the following:

- (i) when will the installation of new highway barriers and cables commence; and
- (ii) what is the timeline for completion of these projects?

Mr. President: Minister of Works and Transport.

Hon. Senators: [*Desk thumping*]

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):

Thank you. Thank you, Mr. President. Mr. President, the Ministry of Works and Transport through the Highways Division maintains its focus on road user safety, and in this context regular repairs and maintenance work is done on the existing cable barriers however, the maintenance of the cable barriers continue to pose a

significant challenge for the Ministry. There are several areas where large sections of the barriers have been damaged by impact, and it is the view of the Ministry that this type of barriers is not the best solution. As such, the Ministry has taken a policy decision, I am advised, to move away from cable barriers and replace them with guardrails—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sinanan:—which again I am informed are considered to be a better solution in terms crash protection, lower life-cycle cost and efficiency in the repairs.

The Ministry has developed and is currently implementing its medium barrier programme to be executed over a three-year period to remove all cable barriers and replace them with guardrails. Phase one of this programme consists of three significant packages as follows: installation of W-type metal beam guardrails on the Uriah Butler Highway in the vicinity of the Caroni area comprising of 5.2 kilometres; installation of W-type metal beam guardrails on the Solomon Hochoy Highway consisting of 8.34 kilometres; installation of W-type metal beams guardrails on the Solomon Hochoy Highway, Victoria West consisting of 12.66 kilometres. In this phase, we are attempting to remove and replace 26.2 kilometres. Tenders were invited via the open tender in 2023 for these projects in order to ensure competitiveness and value for money. Unfortunately, due to discrepancies in the evaluation report the procurement process had to be terminated. The package will be re-tendered shortly in 2024. In the interim, the Ministry will continue its programme of in-house maintenance of the cable barriers. I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Mark.

Sen. Mark: Yeah. Mr. President, I do not know if the Minister is in possession of the statistics, but can the Minister indicate or share with this honourable Senate, how many lives or accidents or a combination of both have been experienced that has caused the Government to shift from the cable barrier kind of arrangement to this new policy of erecting guardrails? Can you share with us?

Mr. President: Minister.

Sen. The Hon. R. Sinanan: Mr. President, the information I would like to share is that road safety remains a major aspect of the Ministry of Works and Transport, and since 2016 all the way to 2022, we have had a significant reduction in fatal accidents.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sinanan: As a matter of fact, we are the only country in the Western Hemisphere to achieve the WHO goals of a reduction of 50 per cent in road fatalities.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sinanan: Unfortunately, we have had a slight increase over the last two years, and I am not sure that it is a direct impact of cable barriers, but we are still way below what we had experienced prior to 2016. Thank you.

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, may I ask through you to the hon. Minister, in the interim whilst we are seeking to re-tender the packages, what steps or measures are being taken to really ensure that even though the cable wire network is a bit, as we say when we shift from that, what measures will be taken, Mr. President, to save lives whilst this process is going to be re-tendered? What measures?

Mr. President: Sen. Mark.

Sen. The Hon. R. Sinanan: Sen. Mark—I do not think he probably listened to the

full answer. In the interim the Ministry will continue its programme of in-house maintenance of cable barriers. So we are continuing in-house to maintain some of the barriers, and in-house we are, while the process of the tendering is placing place, we are using our in-house staff to assist in the maintenance of what is actually on the ground.

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, can the hon. Minister indicate to this Senate, what criteria is being used to determine the maintenance programme?—because we are talking about a huge and long highway. There must be areas and so on that you would like—when I say, you, Mr. President, the hon. Minister and his technical people would want to pay attention to. So I just want to know, what criteria is being used by the Ministry to determine which areas are to be given priority attention in the maintenance process.

Mr. President: Minister.

Sen. The Hon. R. Sinanan: Sen. Mark, is quiet correct. There is a—

Hon. Senator: What?

Sen. The Hon. R. Sinanan:—method used to, for the first time Sen. Mark is correct. There is a method that is being used to identify what we call the hot spot areas. So where accidents frequently happen and then there are areas that you have turns on the highway, so there are vulnerable areas, and those are the areas that we focus on, and when we start this programme here, it is actually done taking that into consideration. So for the first time, Sen. Mark, that is a sensible question. Thank you.

Hon. Senators: [*Laughter*]

Mr. President: Sen. Teemal.

Sen. Teemal: Hon. Minister, could you please advise in terms of the maintenance

of the new guardrails, is that being included in the procurement package? The maintenance of the guardrails.

Mr. President: Minister.

Sen. The Hon. R. Sinanan: So, yes. In terms of the maintenance guardrails, the Ministry is now implementing a system where the Ministry can maintain the guardrails. It is much easier for the metal guardrails to be maintained, because in the past the Ministry actually put them down. The Ministry had the machinery, when they bend, to straighten them back. Unfortunately, over the last couple of years we went out of that, but the Ministry is now developing that in-house capacity to be able to replace the guardrails or, you know, fix them once they are damaged, because it is much easier than the cable barriers. When we came in 2016, when I came in 2017, I got a bill for \$18 million just for outstanding repairs for the cable barriers. It was cheap to install, but the maintenance is really, really high. The guardrails may cost a little more, the capital cost, but it is a lot cheaper to maintain, and we can do the maintenance in-house. Thank you.

Mr. President: Sen. Teemal.

Sen. Teemal: The hon. Minister indicated that because of the extent of maintenance that is required for these guardrails based on history, would the Ministry be considering a dedicated unit, well-equipped and well-resourced, within the Ministry to ensure that the maintenance is done in a timely manner?

Mr. President: Minister.

Sen. The Hon. R. Sinanan: We have the Traffic Management branch and the BLT that their focus is on the road safety. However, again we are developing the capabilities in the Ministry. So what you will see happening is a strengthening of that branch for the maintenance, because it will cost us a lot cheaper to have the machinery and to do it in-house because it is just a matter of increasing the labour

force on it. It is not rocket science to straighten these guardrails and things like that. Once you have the machinery, you have the labour available, it can be done a lot faster than going through the whole process of tendering and private contractors and things like that. Thanks.

Mr. President: Sen. Dr. Paul Richards.

Persons on Remand

(Details of)

57. Sen. Dr. Paul Richards asked the hon. Minister of National Security:

Can the Minister indicate the following:

- (i) the number of persons currently on remand; and
- (ii) the number of new remandees for each year during the period 2018 - 2023?

Mr. President: The Minister of National Security.

Hon. Senators: [*Desk thumping*]

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you very much. According to information received from the Commissioner of Prisons with respect to item number (i), that is to say, the number of persons currently on remand, there are currently 2,053 prisoners on remand. This consist of 1,985 males and 68 females.

As it relates to item number (ii), that is to say, the number of new remandees for each year during the period 2018 to 2023, in year 2018 there were 2,790 new remandees; year 2019, 2,200; year 2020, 1,633; 2021, 1,768; 2022, 1,627, and 2023, 2,454 new remandees in the respective years. I thank you.

Mr. President: Sen. Dr. Richards.

Sen. Dr. Richards: Just for clarity, Minister. The numbers you have identified are new remandees per year or the total number of remandees, given your initial

statement of 2,053 remandees overall? It sounds like the “maths not mathsing”.

Hon. F. Hinds: For the years I have expressed, they would be new remandees.

Sen. Dr. Richards: Through you, Mr. President, can the Minister indicate, if to his knowledge our prison system is able to accommodate these remandees or is there overcrowding given the numbers you have identified?

Mr. President: Minister.

Hon. F. Hinds: Since I was revealing facts from a historic standpoint, we were able to accommodate every one of them.

Mr. President: Senator.

Sen. Dr. Richards: Thank you. Given the cost identified to house each of these remandees and the number of new remandees identified going into the system between 2018 and 2023, have there been any conversations about alternative measures including electronic monitoring, et cetera, to deal with these remandees? Some categories?

Mr. President: Minister.

Hon. F. Hinds: More than conversations, we have passed and we practise electronic monitoring in Trinidad and Tobago which facilitates persons while on remand not being incarcerated, we practise that. In addition to that, the very foundation principle of bail allows for persons to be at large, at liberty, while their matters are pending, they being put on bail by the very courts that administer these criminal justice processes.

In addition to that, Mr. President, we have as a Government taken the policy position, amended the law appropriately to decriminalize the possession of marijuana below 60 grammes, and that constituted a reduction, a substantial reduction, in the number of persons who were otherwise have been arrested and on remand pending their finalization of their particular trials. So a lot has been

actually done, well beyond conversation. I thank you.

Mr. President: Senator. You have one more. Yeah.

Sen. Dr. Richards: Yes, thank you. Finally, Minister, given what I consider the large number of new remandees you have identified between 2018 to 2023, would the Minister have information as to whether these remandees are what we would describe as part of a revolving door and on charges in and out of the prison system giving rise to the high recidivism rates we have seen identified in the past reports?

Mr. President: Minister.

Hon. F. Hinds: Mr. President, the fact that a person was described in my answer as a “new remandee” does not necessarily mean that bail did not eventually come, eh? These would be new remandees in the respective years.

Secondly, the question of the revolving door, there are other methods, other ways, in which we as a society treat with those matters. We have declared, for example, that we see crime and violence as public health concerns and therefore we take a whole-of-government, whole-of-society approach to dealing with these. You would have heard the Prime Minister’s recent announcement of a \$100 million to treat with behavioural, attitudinal, cultural, sociological circumstances that lead to young persons getting involved in pathways and finding themselves in the criminal justice system.

So as a Government we are constantly aware of some of the issues around the revolving door, as the Senator in terms of drug treatment and rehabilitation operations and improving their academic and their technical skills while even in the prison, even on remand, these are some of the things we have done to address these issues, quite apart from and in addition to the well-supported formal education process that exists for the benefit of all of the young people in Trinidad and Tobago, opportunities in sport, opportunities in business and all the other

things that we as a society, through this Government, would do in that regard. I thank you.

Hon. Senators: [*Desk thumping*]

2.25 p.m.

Gun-Related Charges
(Number of Persons on Bail)

59. Sen. Dr. Paul Richards asked the hon. Minister of National Security:

Can the Minister provide the number of persons on gun-related charges who obtained bail for each year during the period 2018 - 2023?

Mr. President: Minister of National Security.

The Minister of National Security (Hon. Fitzgerald Hinds): I thank you very much yet again, Mr. President. The Commissioner of Police has provided the following data in response to the question: Can the Minister provide the number of persons on gun-related charges who obtained bail for each year during the period 2018 to 2023. It seems as though—for year 2018, 862 persons would have been put on bail for gun-related charges; 2019, 807 persons; 2020, 920 persons; in 2021, 1,000 persons; in 2022, 736 persons; and for 2023, 800 persons. Mr. President, thank you.

Sen. Dr. Richards: Thank you Minister for that answer. These are quite startling numbers in my opinion. Would the Minister be able to identify through conversations with perhaps Commissioner of Police, or his colleague the Attorney General, the factors leading to what I describe as high numbers of persons obtaining bail on gun-related charges given the fact that we have a significant crime situation and guns are the primary source of driving the murder rate in the country?

Mr. President: Minister.

Hon. F. Hinds: The question of bail, as the Senator might well know, is entirely a question for the courts, and the judges have indicated, on every opportunity they had to, that they guard very jealously that right, those determinations. We as a Parliament, operating independently of the Judiciary, have from time to time amended our bail law in order to raise the bar to ensure that those, particularly those who are repeat offenders in terms of gun-related matters are not put at liberty again to reoffend. On one occasion most recently when we came to Parliament to refresh that very sensible legislation, our friends on the other side, the Opposition that is, the Front Bench on the other side, they took stout objection to it and we were taken back to where we were in 1994 in terms of the first passage of bail legislation in this country. So, Mr. President, apart from the discretion exercised by the court under section 6 of the 1994 Bail Act there is no other, and we are entirely in the hands of the court in that regard. I thank you.

Sen. Dr. Richards: Thank you. Thank you Minister, and I do not know if you have this information based on general information you received based on the first question. But would you have information as to how many of these persons who received bail between 2018 to 2023—again I find these numbers startling—to be repeat offenders on gun charges?

Hon. F. Hinds: I do not have that information presently with me since you did not ask it, but it can quite easily be provided. I thank you.

Mr. President: Next question on the Order Paper.

Matters awaiting Indictment Filing by DPP

(Number of)

60. Sen. Dr. Paul Richards asked the hon. Attorney General and Minister of Legal Affairs:

Can the Attorney General provide the number of matters awaiting filing of

indictment by the Director of Public Prosecutions for each year during the period 2018 – 2023?

Mr. President: Attorney General.

Hon. Senators: [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald

Armour SC: Thank you very much, Mr. President. Mr. President, by correspondence dated January 30, 2024, the Office of the Attorney General and Ministry of Legal Affairs received the following statistics from the Office of Director of Public Prosecutions confirming the number of indictments awaiting to be filed each year during the period 2018 to 2023 as follows:

- Year 2018, outstanding indictments to be filed, 193;
- Year 2019, outstanding indictments to be filed, 225;
- Year 2020, outstanding indictments to be filed, 119;
- Year 2021, outstanding indictments to be filed, 330;
- Year 2022, outstanding indictments to be filed, 324;
- Year 2023, outstanding indictments to be filed, 141.

Thank you, Mr. President.

Mr. President: Senator.

Sen. Dr. Richards: Thank you, Mr. President. Thank you AG for the response. Given the conversations in the public domain regarding the backlog in the criminal justice system through various independent agencies, including the Office of the DPP, have there been conversations and/or factors proffered for the delays in filing of these indictments that you are aware that you can share with us?

Mr. President: Attorney General.

Sen. The Hon. R. Armour SC: Thank you very much, Mr. President. I can confirm that there are conversations. I can confirm that there are developments,

most recently the passing, thanks to this Senate, and the other place, passing of the legislation that abolish preliminary enquiries, but I am not at liberty to disclose the details of those conversations, having regard to the offices with which those conversations are taking place, which I respect. Thank you.

Sen. Dr. Richards: Finally, through you, Mr. President, would the AG be able to say if the conversations and recommendations coming out of those would be able to, in his opinion, aid in the reduction of these numbers of indictments awaiting filing in the near future?

Sen. The Hon. R. Armour SC: All I can say, thank you, Mr. President, is that all conversations that are taking place among the relevant agencies concerned with law and order, prosecution and justice, are aimed at reducing the timeline from the filing of indictments to delivery of verdicts, and including time spent on prison. Thank you.

Mr. President: Acting Prime Minister.

Hon. Senators: [*Desk thumping*]

**BASE EROSION AND PROFIT SHIFTING INCLUSIVE
FRAMEWORK (COUNTRY-BY-COUNTRY) REPORTING BILL
2023**

The Minister of Finance and Acting Prime Minister (Hon. Colm Imbert):

Thank you, Mr. President. I beg to move that:

Bill to provide for the Country-by-Country Reporting (CBCR) by Multinational entities relative to the Base Erosion and Profit Shifting Inclusive Framework, and to provide for matters related thereto, be now read a second time.

This Bill is part of a substantial initiative to remove Trinidad and Tobago from the European Union's list of non-cooperative tax jurisdictions. Essentially, the

implementation of the base erosion and profit shifting minimum standards on country-by-country reporting. Let me state at the outset there are amendments I intend to take at the committee stage which should be circulated shortly based on comments from the Organisation for Economic Cooperation and Development, and this is an example of statements I have made previously about constantly moving goal posts. These proposals from the OECD were only received two months ago. They were not on the horizon last year or earlier last year. They just came out. I am told that, in particular, base erosion and profit sharing framework evolves every three months, so we just have to do what we need to do. I am hopeful that the amendments that are going to be made will finally comply with the latest requirements of the EU and the OECD.

The context of the Bill is as follows. The OECD defines base erosion and profit sharing (BEPS), as:

“...tax planning strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no tax locations where there is little or no economic activity or to erode tax bases through deductible payments, such as interests or royalties.”

This creates unfair advantages for businesses operating internationally over those at a domestic level, undermines the fairness of tax systems resulting in little or no corporate tax being paid, and can reduce voluntary tax compliance.

If I could just give some simple examples? What multinational companies do is that they would seek to declare their income in a low tax or no tax jurisdiction, and therefore they have no tax to pay. So they try to build up expenses and income in that low tax or no tax jurisdiction, although they do not

really have a physical presence there, and there is nothing going on there. That is one way where they try to shift profits. So they will shift profits to a zero tax destination. In terms of base erosion they will have a charge, an expense charge based on a demand for payment coming from a related foreign entity which reduces their chargeable income. That is base erosion. So there are two ways to deal with it: They erode the base of their tax obligation, and they also shift profits to a zero tax organization.

Now, there is a long history with this, and for many years the OECD did not pay much attention to it, but the world has changed and now is a very, very serious matter, and it is one of the reasons why we are still deemed to be non-compliant by the EU. We became a member of the OECD in 2017, November, and by that I mean a member of the base erosion and profit shifting exclusive framework. We committed at that time to four minimum standards which include countering harmful tax practices, taking into account transparency and substance, preventing the granting of double taxation treaty benefits in appropriate circumstances, country-by-country reporting, and making dispute resolution mechanisms more effective.

The framework that members have committed to report includes: reporting on aggregate and anonymized data in respect of country-by-country reporting that they receive under Action 13 of the BEPS (IF), which is essentially the country-by-country reporting framework. The data is vital to work under Action 11, which measures the impact of base erosion and profit shifting. As part of the Action 13 minimum standard, and that is of the OECD/BEPS (IF), jurisdictions have committed to promoting tax transparency by requiring the largest

multinational enterprise groups to disclose the global breakdown of their income taxes and other indicators of the location of their economic activity. So it is all about disclosure. So that the largest multinational enterprise groups are now required to disclose where they earn their money, how much they earn in each territory, the taxes that they pay, and the location of their economic activity. In the past they were able to hide and therefore avoid paying taxes.

This requirement to disclose this information has improved tremendously the ability of tax authorities to assess the behaviour of these multinational enterprises, and also the risk associated with them. The minimum standard has been translated into specific terms of reference and a methodology for a peer review process. The peer review of the Action 13 minimum standard has completed five annual reviews, in 2018, '19, '20, '21 and 2022. These reviews covered the areas under review. The domestic, legal and administrative framework, the exchange of information framework, and the confidentiality and appropriate use of country-by-country reporting, otherwise known as CBC Report.

The Sixth Annual Peer Review Report of the BEPS (IF) reflects all aspects of implementation. It contains a review of 136 countries that have submitted legislation or information on the implementation of country-by-country reporting. Fifty-eight countries have mandated or permitted the filing of country-by-country reports for 2016, and more than 110 jurisdictions have enacted legislation to impose a country-by-country reporting requirement. I am also told that as of October '22 there were more than 3,300 relationships for the exchange of country-by-country reports between jurisdictions.

2.40 p.m.

This means that virtually every multinational company with a consolidated group turnover of at least €750 million already has to submit a country-by-country report. So that is the definition of a large MNE. A company, a multinational company with a consolidated group turnover of at least €750 million. And the work continues and this is why we keep getting more and more requests out of the EU and the OECD. This legislation requires all large multinational enterprises to file a country-by-country report. They have to report annually and report for each tax jurisdiction in which they operate, the amount of revenue, profit before income tax, income tax paid and accrued as well as the number of employees, stated capital, retain earnings and tangible assets. Once our exchange of information framework is in place, Trinidad and Tobago will be a recipient of country-by-country reports on all the MNEs that are located here and subsidiaries of multinational enterprises. So it is all about information sharing.

So, it is very important for us to do this so that we will now for the first time get country-by-country reporting on the multinationals that operate in Trinidad and Tobago, and that will help us tremendously in determining whether they are evading taxation. Multinational groups are required to identify each entity within the group that operates in a particular country and provide an indication of the business activities that each entity is engaged in. As a result, tax administrations around the world will receive information on large foreign-owned multinational groups that was previously unavailable. Benefits are obvious. We have undergone peer reviews, Trinidad and Tobago, in all four minimum standards and we are guided by the recommendations, the various recommendations, as I say, they evolve all the time that have brought us here today. The OECD has undertaken an

assessment of our country-by-country reporting framework and it has led to the development of this legislation that we are debating today.

With respect to the EU, the EU objectives are to improved tax transparency and good governance globally by ensuring priority in keeping with the standard set by the EU member countries. And as an aside, I did mention in a previous debate that an African country had gone to the United Nations to file a Motion before the UN that instead of us being subjected to the standards by the EU and the OECD, that the standards be set by the United Nations. And that Motion was in fact carried by a vast majority of countries, Trinidad and Tobago voted for that Motion. So we will see where that goes. But for the time being we must subject ourselves to the EU requirements and the OECD requirements. The EU's list of non-cooperative jurisdictions for tax purposes was created as a tool which seeks to tackle tax fraud or evasion, tax avoidance and money laundering. There are three pillars in the EU's assessment criteria: Transparency, fair competition and base erosion and profit shifting.

Let me just report now on what is going to happen in 2024. The Global Forum Secretariat will be in Trinidad and Tobago from the 4th to the 8th of March to conduct an onsite mock Phase 2 of the Exchange of Information reporting which is aligned to the actual peer review which will be launched in June 2024. We are sending a questionnaire, we have already begun the peer review process, we will be sending an Exchange of Information questionnaire to the Global Forum Secretariat by the end of this month. The onsite mock peer review as I said by the Global Forum Secretariat is in early March.

A report will then be sent by the Global Forum Secretariat to Trinidad and

Tobago with an assessment of our compliance with the Global Forums Exchange of Information Standards and give us an opportunity to address any shortcomings which we expect to be completed by May 2024. We will analyze, evaluate the comments and make the necessary changes by the end of May. We will prepare for the official Phase 2 peer review on exchange of information in June 2024, and the onsite peer review is scheduled for September 2024. Once we are successful in all of this we expect that by the end of this year, 2024, we will either be largely compliant or partially compliant with the OECD and the EU. So this Bill that we are about today is all part of that process.

I go straight to the Bill. The first clause contains the short title. The second clause, it is a commencement clause, standard, that the commencement date of the Bill would be fixed by proclamation by the President and that is necessary to put systems in place because legislation is not all that they require, they require us to implement. So one of the things we had to do, just this week, is to get the Board of Inland Revenue to report to us as we send the questionnaire to them, to the Global Forum on their state of readiness for exchange of information on taxation.

Clause 3 is the interpretation clause and defines a number of various entities and things, such as, what is a constituent entity, an excluded MNE group, an MNE group, a reporting entity, a surrogate parent entity, an ultimate parent entity and actually a group itself. With respect to the definition of an excluded multinational group the advice we have received is that a jurisdiction can implement the TT dollar equivalent of €750 million from 2015 or utilize a more recent rate. So it is up to us to decide whether, let us take a large multinational like BP, certainly will be above €750 million in terms of turnover in Trinidad and Tobago. So we can use

the January 15 turnover or a more recent rate if we wish. That is equivalent to about TT \$6 billion today at the current exchange rate and 5.38 billion in January 2015. So we can choose which ever one we wish.

We have noticed that several other jurisdictions in the Caribbean, Bahamas, Barbados, Belize, they are pegging the threshold against US dollars as opposed to Euros in the sum of about US \$850 million. Clause 4 is the filing obligation, places the obligation of filing a country-by-country report on an ultimate parent entity and also on a constituent entity. With reference to clause 4(4) of the Bill there should be an appropriate reference to clause 4(2)(b) of the Bill and the need to ensure that the country-by-country reporting conforms to clause 6 and is made through a surrogate parent entity.

With respect to the notification requirement in clause 5, this requires a constituent entity of a multinational group that is resident for tax purposes in Trinidad and Tobago to notify the Board of Inland Revenue as to whether it is the ultimate parent entity or surrogate parent entity or the identity and tax residence of a reporting entity. The time period for reporting is not later than the last day of the reporting fiscal year of the multinational entity and will thus vary from entity to entity. Clause 6 of the Bill establishes that the Board of Inland Revenue by guidelines under section 22 will issue guidelines in relation to the content and format of a country-by-country report and the method for filing. The advice we have just received from the OECD tells us there is a requirement to exchange country-by-country reports using the OECD XML schema which includes additional information on tax information numbers and the address of the constituent entities on the report. Again, all in an effort to close any gaps,

loopholes, to nail down these multinational entities.

Some countries require the report to be filed by the multinational entities on the schema in which the information is included. We are not going to do that because we need to make sure that our system includes taxpayer identification numbers and addresses as required elements for filing otherwise we will not have all of the information that we need to exchange. While it does not need to be included in the primary legislation there is a requirement to publish the details of the full content and format requirements of the country-by-country report. This can be in secondary regulations. So that not only if this Bill is approved by Parliament will we be moving towards compliance but we would also move towards a system where there will be publication of country-by-country reports on multinational entities.

With respect to the time for filing, clause 7 mandates that the country-by-country report should be filed with the Board no later than 12 months after the last day of the reporting fiscal year. This would mean that the first country-by-country report would be due in 2025 or 2026 depending on the fiscal year of those multinational entities operating in Trinidad and Tobago. Clause 8 establishes the use that may be made of the country-by-country report. If you look at the clause carefully it is largely dependent on international cooperation through qualifying competent authority agreements.

In the OECD model legislation there is also permissible usage among other things for assessing high level transfer pricing risks and assessing the risk of non-compliance by members of a multinational group with applicable transfer pricing rules. However, there is not yet any comprehensive transfer pricing

framework in Trinidad and Tobago but we are working actively on this with help from the International Institute of Accountants. Country-by-country reporting will provide the Board of Inland Revenue with a global picture of the operations of multinational corporations. The Board can then use this information to conduct high level transfer pricing risk assessments and evaluate other base erosion and profit-sharing risks. So there is a relationship between transfer pricing, base erosion and profit shifting. They are all more or less the same thing. It is all attempts by multinational companies to create expenditure and then shift their profits to zero tax jurisdictions.

Clause 9 is about confidentiality. It guarantees the preservation of confidentiality in relation to information contained in a country-by-country report on the basis of the standard under the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. So it is not everything that will be published. With respect to clause 10, clause 10 of the Bill establishes record keeping provisions that are applicable for a minimum of six years. Clause 11 requires the Registrar General to forward on a six-month frequency a list of enterprises registered under the Companies Act, Registration of Business Names Act, and Non-Profit Organisations Act. This will allow the Board of Inland Revenue to verify whether a constituent entity is resident in Trinidad and Tobago for tax purposes.

Clause 12 mandates constituent entities to provide the Board of Inland Revenue with information necessary to determine whether they are in compliance with the Act. This obligation also requires a constituent entity to take all necessary steps to bring the information to Trinidad and Tobago where it is outside of

Trinidad and Tobago. There are some typographical errors in the Bill. That was drawn to my attention by the drafters and also by a Senator here. There is an incorrect reference to the Board in clause 12(1) that will be addressed in due course. Clause 13, errors in country-by-country reporting; 15, fake country-by-country; 16, altering, destroying, mutilating or obliterating a country-by-country report and 17, hindering or obstructing the Board. All of these clauses, 13, 15, 16, 17, give teeth to the country-to-country reporting regime. They establish penalties for the failure to correct errors in a country-by-country report within 14 days of having been notified of same by the Board of Inland Revenue; knowingly making or submitting a false country-by-country report; altering, destroying, mutilating, obliterating, hiding or removing a country-by-country report which has been submitted to the Board of Inland Revenue; hindering or obstructing the Board of Inland Revenue from performing a function under the Bill. The fines range from \$250,000 to \$500,000 and there is a term of imprisonment of up to 10 years for those offences.

2.55 p.m.

Clause 14 deals with the avoidance of the obligation and it is designed to ensure that obligations under this Act will persist even when entities enter into agreements for the purpose of trying to avoid their obligations under this Act. So it voids any agreement that is in conflict with this legislation.

Clause 18 gives the right of appeal. Again, the actions of the Board of Inland Revenue as they relate to country-by-country reporting will be subject to the supervision of the High Court. That is quite standard.

Clause 19 gives the board the power to administer administrative fines and

this is a feature of this type of legislation that is coming to the fore in recent times. I think it is coming up in FATF as well, the whole question of giving competent authorities the ability to administer administrative fines. So clause 19 gives the Board of Inland Revenue the power to impose administrative fines. It is a recurrent theme within the OECD and it is necessary to demonstrate the effectiveness of the legislation through the ability to mandate compliance. The fines will be circumscribed by regulations to be made.

Penalties are outlined in clause 20. Clause 20 creates a criminal offence:

“...where a reporting entity fails to comply with the reporting requirements for country-by-country reporting...”

The penalty is a fine of \$250,000.

Clause 21 gives the Minister of Finance the power to make regulations under the Act and permits administrative fines in those regulations to be up to \$100,000 and offences, \$250,000.

Clause 22 of the Bill permits the Board of Inland Revenue to issue:

“...Guidelines for the purpose of assisting with compliance...”

And these guidelines will be published in the *Gazette*.

To sum it up, Mr. President, this Bill will support the Government’s initiative to make us compliant with the Global Forum and the EU, and address some of the recommendations received through the BEPS Action 13 peer review process in 2021. It will enable Trinidad and Tobago to implement a domestic legal and regulatory framework to impose and enforce country-by-country reporting obligations. It will allow us to take the necessary steps to bring into force a qualified competent authority agreement with various countries of the BEPS

Inclusive Framework that meet the conditions of confidentiality, consistency and appropriate use conditions with which Trinidad and Tobago has an international exchange of information agreement in force. It will allow for the automatic exchange of information. This will further enable our competent authority, the Board of Inland Revenue, to take the appropriate steps and put in place the necessary processes and written procedures to ensure that the exchange of information takes place in a way that is consistent with the exchange of information framework.

Country-by-country reporting is an important tool for tax administration. It allows tax authorities an opportunity to view multinational companies that operate in our jurisdiction from a global perspective. It is part of a three-tiered approach to transfer pricing documentation, alongside a master file containing standardized information relevant to all members of a multinational group and a local file relating specifically to material transactions by members of a group in our country.

The country-by-country reports alone will not prove that a multinational group is involved in base erosion and profit-shifting but when read together with the master file, the local file and all other information available to tax authorities, they can provide important indicators of where tax avoidance, tax leakage and tax—

Sen. Dr. Richards: Minister, if I could just—

Hon. C. Imbert: Sure.

Sen. Dr. Richards: Thank you. Through you, Mr. President, two quick questions. How does this legislation, if at all—well, I am sure it will—affect our investment rating in Trinidad and Tobago with compliance?—part one. And part two, you

referenced the Motion to the UN earlier on in your presentation and there were quite a number of meetings related to CARICOM leaders, including Prime Minister Keith Rowley, Prime Minister Mia Mottley, I think Prime Minister Holness and others, who were quite disturbed as having to jump through these hoops every couple months to remain compliant or becoming grey or blacklisted, and if you can give us a status update on where that is because of the potential impact on our economies because we are the smaller players in a global scenario. Thank you.

Hon. C. Imbert: Certainly. This is certainly going to help us, in terms of investment, in terms of correspondent banking, in terms of our relationships with foreign bank. It will help Trinidad and Tobago in our quest to become an international banking centre. But with respect to the matter that you spoke about, although the Motion was passed in United Nations, you still have the OECD and the EU in charge of the Global Forum, and international pressure will have to be brought to bear on these organizations by the countries that are members of the UN to allow the United Nations standard to be the standard rather than a standard being imposed by these advanced economies.

It is interesting that all the advanced economies voted against the Motion. That was interesting, and one expects that is because they want to be in control. They want to be able to set the standards. So it is a lot of work but there is sufficient pressure from the majority of countries in the world, not just in CARICOM, to move away from this dominance and this control by the OECD and the EU.

Sen. Dr. Richards: Thank you. And what happens to multinational companies,

through you, Mr. President, who run afoul of this legislation, who are significantly embedding our economy and who are sanctioned internationally, in terms of its impact on our local domestic economy when there are, in some instances, large multinationals and they run afoul? What are our insulations and the protections for our economy? Thank you.

Hon. C. Imbert: Well, this Bill is going to impose penalties if they breach the provisions of this legislation. The world has changed, eh. I was talking to someone yesterday who is doing business for the Government and it is not so easy for these companies any more to run, and duck, and hide, and get away. I think as time passes and this sort of action becomes more powerful, especially if it is driven by the United Nations rather than the advanced economies, I think that the multinationals will have to comply. They have no choice. Okay?

So as I said, the country-by-country reports are not proof that a multinational group is involved in base erosion and profit shifting, but if you add everything together, tax authorities can certainly determine whether somebody is cheating. The country-by-country report is a significant way to determine, together with everything else that a tax authority uses, to assess whether a company is cheating or not. We will determine how best to use these country-by-country reports. It is simply a tool available to us to do our own tax risk assessments.

We, as I said, believe that we will be successful at the end of this year. We will see. Let us hope it does not evolve again. But I can assure Members, I know it is tedious, but I will come to the Parliament every time it is required to get this thing done. Even as we speak, I am hearing about further requirements. So we may be dealing with these matters from now until June. But I am hopeful that by

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the end of June, all legislation will be passed, all amendments made, and it is then up to implementation by our Board of Inland Revenue to get this thing done.

This is going to create a robust and flexible system to ensure tax transparency, fair competition, allow us to update our double taxation treaties and allow timely exchange of information to get us off the EU list. But apart from all of that, apart from getting us off the non-compliant list, I trust Senators understand how important it will be to us that we will get access to these country-by-country reports so we can determine whether multinational companies are avoiding tax, shifting their profits, trying to weaken the tax base and so on.

I beg to move, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: Hon. Senators, before I put the question for debate, just a few reminders. Number one, should there be any amendments to the Bill that is before us, please circulate them before we start committee stage. And then secondly, outside of an introduction as well as a conclusion, which is designed to create context and summary, please do refer to the particular clauses in the Bill upon which you will be stating your opinions and arguments so that everybody can follow along accordingly.

Question proposed.

Mr. President: Sen. Mark.

Hon. Senators: [*Desk thumping*]

Sen. Wade Mark: Mr. President, I am very pleased to speak on this matter that is before—this Bill that is before us which is addressing what has been deemed and which:

“...provides for Country-by-Country Reporting...by Multinational entities relative to the Base Erosion and Profit Shifting Inclusive Framework...”

Now, Mr. President, it is clear that Trinidad and Tobago is coming way behind many other countries when it comes to this tardy approach to matters that the Government of Trinidad and Tobago was clearly aware of since it arrived on the compound in 2015, September the 7th.

You would have listened to the hon. Minister indicate to this honourable Senate, in response to a question by Sen. Dr. Paul Richards, about the advantages, the benefits that we will derive as a nation when this thing is effected, when we are removed from the so-called blacklist or non-cooperative jurisdiction.

We talk about investment. Our investment environment and space will improve. We understand also, Mr. President, that we will be able to catch the culprits who have been evading taxes, and who have been aggressively avoiding taxes in Trinidad and Tobago.

So, Mr. President, let us deal with what is this base erosion and profit shifting Bill all about. We are being told by the hon. Minister of Finance that every time he comes to this Parliament to present a measure to get us off the blacklist, to get us off this non-cooperative jurisdiction, more amendments are coming from the Global Forum, more amendments are coming from the OECD.

3.10 p.m.

But why? Why is this thing taking place? Mr. President, the Government of Trinidad and Tobago owes the population of this country a public apology. Would you believe, would you believe, we are talking about tax transparency or transparency and exchange of information for tax purposes? That is what this is

about and it is aimed at dealing with tax evasion and elicit financial flaws. That is what this Base Erosion and all the other pieces of legislation that we have passed in this Parliament since 2020, '21 , '22 and recently 2023 and just a couple weeks ago, a miscellaneous provision where we amended seven pieces of legislation, Companies Act and Registrar General's Department among others.

Mr. President, the Minister has indicated that when we are talking about Base Erosion and Profit Shifting, it is a tool that is used by multinational enterprises and corporations, whether they be in the energy sector, whether they be in manufacturing because I want this honorable Senate to note, we are not only speaking about multinational corporations in the energy sector. We are taking about other companies and we have a series of conglomerates in Trinidad and Tobago and Mr. President you know them, and they too will be captured by this legislation. The question that we have to ask is why has it taken this country and this Government and the Minister of Finance all these years to bring basic legislation that they know, with the appropriate amendments, we will give the necessary consideration to. Why?

You know how much billions of dollars this Government has caused this Government to lose because of their laziness and incompetence? Mr. President, this is economic treason that this Government has committed against this country and they come today—the Minister of Finance. He makes no apologies to the country for his failure, to bring a piece of legislation that this hon. Minister promised the European Union, the Global Forum, the OECD in a letter that I have in my possession dated the 21 November, 2017 and signed by who? The Minister of Finance. You know in this letter—I will not bore you, I could give you a copy

of it and circulate it to all Members. But in this letter that was signed by the Minister of Finance and addressed to the Chair of the Code of Conduction Group (Business Taxation) in Brussels, Mr. President, you know what commitment he gave?

3.15 p.m.

Not on his behalf, you know, not on behalf of Colm Imbert you know, the hon. Colm Imbert, Member of Parliament for Diego Martin North/East and the hon. Minister of Finance.

Mr. President: No, no. One second, one second. Sen. Mark, so number one, I have repeated many times in this Chamber, it is the “Minister of Finance”. We use the titles in this Senate ascribed to individuals when they are in here so it is the “Minister of Finance”.

Sen. W. Mark: My apologies, the hon. Minister of Finance, and I think he is Acting Prime Minister. He should be in Hollywood. The amount “ah acting” he has gotten.

But, Mr. President, let us come back to the reality of this letter here. The hon. Minister of Finance, in a letter dated the 21st of November 2017, promised the European Union, promised the OECD, promised the Global Forum that the Government of Trinidad and Tobago will pass into law on the 30th of June 2019 the base erosion and profit-shifting legislation. That is what the Minister of Finance in black and white promised. Mr. President, June 2019, 2020, 2021, 2022, 2023. Why did the Minister not bring legislation to the Parliament for passage? Was the Minister protecting and defending his financiers?

Mr. President: All right. So Sen. Mark, that line of argument is not allowed, it is

imputing improper motives. I would ask you to not go down that road.

Sen. W. Mark: All right. Mr. President, I will not go down that road, we will deal with that in the public platform. We will deal with that publicly and we dare him to sue us, we dare him to sue us.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: But, Mr. President, let me address you, please. This is a serious matter. Here, it is the Minister just told us a short while ago that we have no transfer pricing legislation in the country and under the minimum standard, which has four principles that he outlined a short while ago during his presentation, he made it very clear that does not exist.

But, Mr. President, I want to remind your good self and this honourable Senate, if you go—and I have all the documents here. If you go to the budget of 2016, 2017, 2018, 2019, what was the Minister of Finance pounding into the heads of the country? The need for transfer pricing legislation and the Minister said action was being taken to address this in 2016, in 2017, in 2018, in 2019 and then in 2020, it disappeared. Why? Why?

But, Mr. President, I want to tell you there is a report that I recently discovered and it deals with ECLAC, the Economic Commission for Latin America. It is a UN body, and in this report, they talked about transfer pricing and they talked about BEPS, B-E-P-S, base erosion and profit shifting. That is the scheme, that is the technique that is used by multinational enterprises, multinational corporations, whatever form they take. Conglomerates, energy sector companies, digital companies, it does not matter. They all practise the same methodology, the same technique. To do what? To rob us. To rob the people of

our country of their fair share of taxes. That is what this thing is about you know. It is about tax liability, it is about eroding our tax base. It is about not providing the Government with the revenue necessary for public service. That is what this is about. And I cannot understand why a Government conscious of this particular matter would take almost eight and a half years, 2019, and we are now being told that we have to pass this legislation.

And “hear nah”, Mr. President, the Minister tells us that peer review coming at the end of March and then we go into another round and he said by September of 2024, a second peer review and if all goes well, it will be okay, we will pass. So we have to go through all of this because of the incompetence of a government?

Mr. President, in 2018—this was written in 2017. You know what happened in 2018? ECLAC revealed that Trinidad and Tobago lost through transfer pricing by the multinational companies in oil and gas, more so gas, you know how much we lost? They have estimated in this report on page—I think it is page 21, just now. ECLAC, page 42 of this report. You know what they told us? Under this Government, because of their refusal to bring legislation to deal with transfer pricing involving multinational energy companies, Trinidad and Tobago, our country lost between \$8 billion to \$13 billion in 2018 according to ECLAC report. And you know what was the name of the report, Mr. President? I know I cannot show you, but the name of the report is “Navigating transfer pricing risk in the...gas sector” in Trinidad and Tobago and they were dealing with Guyana and Trinidad and Tobago. And, in this report, “they tell you, they tell us”, they told the world that the Government was sleeping at the wheels and “we end up” losing through transfer pricing between TT \$8 and \$13 billion. And you want to impose

property tax on me? You want to impose property tax on me and the people of this country when you could have gotten between \$8 and \$13 billion?

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: That is what you want to do? Mr. President, this is economic treason. They should be put on trial in the court of public opinion, but, Mr. President, do not worry, do not worry, do not worry, it is coming, either this year or next year, they will be put on trial.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: The people will find them guilty or innocent. It is the masses to determine that. But we have so much to expose, I think that they will be buried.

Mr. President, I bring this to your attention so that you could understand the gravity of the situation that we are facing as a nation. So you come now. The EU does not trust the Government. They do not trust them. That is why every time they come with something, “it weak”. So “they say eh heh, dah what they coming with?” More. Cannot come with this, otherwise non-cooperation. And who is facing that backlash? It is us. It is us the people of Trinidad and Tobago. We are threatened with banking—correspondent banking, we could be in trouble. In terms of investment, we could be in trouble because of the tardiness of the Government of Trinidad and Tobago. So, Mr. President, this Government must go you know, they have to go.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Mr. President, imagine tiny Barbados, tiny Barbados since 2021, “dem off the list”. They are off the list because they do not have the PNM. They do not have the PNM. They have a government in Barbados that is committed to

transparency, accountability and they are promoting the interest of the people of Barbados as far as is practically possible.

So, Mr. President, we have gone through this Bill and we want to strengthen it too so “yuh eh getting only amendments from the EU eh know, yuh getting amendments from us too” because we realize that you are trying to weaken the Bill. You are trying to weaken the Bill, so we intend to strengthen the Bill, Mr. President. Because you know why? We are nationalists, we are patriots, we want to get off the blacklist. We want to get off the blacklist and we want to at least be able to make investors come here and feel comfortable. We want to attract investors here and when you attract investors here and they do not engage in underhandedness and engage in transfer pricing, Mr. President, then it means to say that Trinidad and Tobago and its citizens will be able to get a greater share, a fairer part of what they are entitled to.

So, Mr. President, when we look at the Bill that we have before us, nowhere—I looked at the Barbados legislation, they have competent authority. And who is the competent authority? In their case, it is the Minister of Finance. In our case, it is the Board of Inland Revenue. That is what is in the legislation. The Board of Inland Revenue is the centre of gravity in terms of the reporting by the multinational entities and these groupings. But you know the Minister of Finance and his Attorney General for some reason they have put nothing here, I have seen nothing in the definition and interpretation section dealing with competent authority. Who is the competent authority in the legislation? I see competent agreement between countries and there is a definition for that. But nowhere in the legislation are we being advised by the Government of Trinidad and Tobago who

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is the competent authority. Put the Board of Inland Revenue because they are the competent authority. Why you do not want to put the Board of Inland Revenue and to know what I have before me?

Sen. Lyder: “He say he want to do like Barbados.”

Sen. W. Mark: No, no, no, Barbados does not have the current Minister of Finance.

Barbados does not have the current Minister of Finance.

3:30 p.m.

Hon. Senator: They have the IMF.

Sen. W. Mark: Yeah, they may have the IMF. I think after this Government we are going in the jaws of the IMF.

Hon. Imbert: That is where you are going?

Sen. W. Mark: After, because the Government is taking us there—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—Mr. President, that is where it is going. So, Mr. President, I have looked through the legislation and there are many parts of this legislation that leave a lot to be desired. Mr. President, what is country-by-country reporting? What is a definition? Mr. President, ‘yuh’ remember, this Government will not be here after next year.

Sen. Roberts: That is true, that is true.

Sen. W. Mark: They gone, they gone. The people are going to spit them out. But the reality is you must bring legislation that the ordinary man could understand, and appreciate and read.

Hon. Senator: Who cannot understand here?

Sen. W. Mark: So, you leave out “reporting”, “country-by-country reporting”, what is the definition of that? We have to listen to what the Minister said, a short while ago while he spoke? So, why is that not in the definition or interpretation section, eh, Mr. President? Why? So, we are asking the Minister that among other things, we want him to consider incorporating that definition. What is an enterprise? We want you to incorporate—you see, we are trying to help the Minister because the Minister is not able to provide the OECD and the Global Forum with the kind of legislation required to take Trinidad and Tobago off the list of non-cooperative jurisdictions. He has failed miserably since he became the Minister of Finance. Mr. President, you know what is here and the Minister did not tell us?

Hon. Imbert: You want to know why?

Sen. W. Mark: And I want him to address it when he is winding up, EU\$750 million, TT\$5 million gross sales, he never told us once in his presentation. He talked about multinational enterprises, multinational corporations, I spoke about multinational within the energy sector. The Minister never told us that this will incorporate local conglomerates. He never told us that. So, is Agostini going to be part of it? Because their sales would be above what we are talking about. So, is Massy going to be above that? Is Massy going to be part of it? Is ANSA McAL going to be part of it? Is Blue Waters going to be part—we do not know, Mr. President, because the Minister did not enlighten the Parliament on this matter. And that is why I raised the matter—the point a short while ago that whether this late arrival of this document before us has to do with any other motive.

Hon. Imbert: Likewise.

Sen. W. Mark: That is why I raised that question, Mr. President. So, Mr. President, as I said, in the document we talk about international standards, accounting practices. In the document, in this Bill, international accounting practices. I know about international accounting standards but I see they used the concept—I think they need to talk to the hon. Minister of Public Administration who is a professional accountant and understands these principles—that is left out.

And not only is it left out, there is no reference in the interpretation section to what this international accounting practices are all about. We do not know. That is embedded in the legislation, Mr. President. But if you want to understand what it means, and is it consistent with international accounting standards and the institution that is associated, it is not in the interpretation and definition section which it ought to be. So that ordinary people who have to read this will understand that there is a link between the international accounting standards and the international accounting organization that promotes that. So we will understand the definition of it.

So, and—Mr. President, what is more alarming, and we take the strongest objection, how can a Minister stand up in this Parliament and address the hon President and this Senate, say he has amendments to be incorporated into the legislation. The Standing Order says that those amendments are supposed to be circulated whilst we are debating this matter otherwise they have to be subject to a separate debate.

Hon. Imbert: So, what is your point?

Sen. W. Mark: So, in other words why is the Minister hiding? Why did the Minister not table those amendments and have them circulated as you have

instructed, eh, Mr. President?

Hon. Imbert: go to committee stage.

Sen. W. Mark: What committee stage? So, you want to—you want to ambush us?

Sen. Sagrarsingh-Sooklal: You are challenging the President?

Sen. W. Mark: No, we are not “challenging no President”.

Mr. President: Hold on, hold on, hold on, hold on. Hold on, Sen. Mark, have a seat. So, that line or that point that you are making in relation to something the Chair would have stated earlier, I thought I was very clear in relation to what needs to happen. It is something that we have done several times in relation to other pieces of legislation, so it is not in question here. I would ask you to move on in your contribution.

Sen. W. Mark: I am not querying you know, Sir, I understand my role. Because I have been there, so I understand my role. I am not querying you, I am not questioning you. And if you feel that way, I apologize to you Sir, right. You see these men and women there, [*points to the Government bench*] I question them.

Mr. President: Sen—alright. Just—Sen. Mark—

Sen. W. Mark: The hon. Members, Sir.

Mr. President: Sen. Mark, have a seat. Have a seat, have a seat, have a seat, right. We have spoken to it, it has been answered move on.

Sen. W. Mark: Thank you. Mr. President, you know I always observe you. Mr. President, I know that you read a lot and I know my friend from Lav—I was going to say Laventille, but it is San Fernando. Mr. President, I have a document entitled, “Pioneering Global Progress in Tax Transparency: A Journey of

Transformation and Development”. It is a 2023 Global Forum Annual Report. Mr. President, this report talks about, “Round 1 Overall Rating”, “Round 2 Overall Rating”. You know, when we talk about rating you understand what we are talking about? Round 1, is like phase one. Round 1 deals with the legal, regulatory and administrative framework.

Mr. President, it deals with confidentiality, it deals with how you are going to use information. And under this framework you have what is called automatic information exchange. Or you can have automatic information exchange on request. These are the ratings that you are judged by in order to determine, Mr. President, if you will be accepted within the club called the Global Forum. In the document I have before me, on page 50, 2023 report, “Jurisdiction: Trinidad and Tobago”. This is the embarrassment that we are facing.

“Round 1 Overall Rating...Trinidad and Tobago”, Mr. President, “Non-Compliant”. As it relates to Round 2 they leave there blank. They have not even gone onto Round 2 yet. Round 2 is implementation, operationalization of the legal, regulatory, and administrative framework. The Government of Trinidad and Tobago has not satisfied Round 1 in terms of rating. Mr. President, when you go to Trinidad and Tobago on page—this Annex B, Mr. President, of this global report—Global Forum Report and it talks about:

“Core Requirement...(domestic legal framework)...(international legal framework)...Overall Determination”—these are sections—

Mr. President: Senator, you have five more minutes.

Sen. W. Mark:—these are sections of the legislation that must be satisfied. You said, Sir?

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Mr. President: Five more minutes.

Sen. W. Mark: Yeah. These are sections that have to be satisfied and every one, Mr. President, “Trinidad and Tobago”—every one, seven core standards:

“Not In Place...Not In Place...Not In Place...Non-Compliant...Non-Compliant...Non-Compliant.”

This is the shame and disgrace that this Government has brought this nation. Mr. President, they have provided no co-operation, they are non-compliant.

Sen. Mitchell: Mr. President—

Sen. W. Mark: And they come here—

Sen. Mitchell:—a point of order please, 53(1)(b).

Mr. President: So, Sen. Mark the Point of Order raised speaks to tedious repetition, and at this point you have just about four more minutes left. So, we have gone from the introduction which creates context straight into the summary of what it is that you are saying. I have heard about one point being repeated for the majority of your contribution. You spoke to the Bill that is before us in relation to the definitions, and what you would like to see inside there, but I have not yet heard anything in relation to the 22 clauses that are in this Bill. If you have anything to say with those clauses, I would ask you to bring it forward now, if not, you only have four minutes, you will have to wrap up.

Sen. W. Mark: Mr. President, [*Inaudible*]*—the principles and policy of this Bill. The principles and policies of this Bill are contained in my contribution, and I can tell you, Mr. President, I do not have to go through every clause and tell you or tell this hon. House—*

Mr. President: Sen. Mark, have a seat. Yes, you went through the principles of

the Bill, you have responded to one point that the Minister of Finance has made and that has been on repeat for almost 40 minutes. Hence the reason why 53(1)(b) is being upheld. I am asking you now, if you have anything to say in relation to the clauses in the Bill, bring it forward, otherwise you are being tedious in your repetition of the arguments.

Sen. W. Mark: Mr. President, may I continue please? I advise you, Mr—I would like you to join me, Sir. Go to clause 11, Sir, go to clause 11:

“The Registrar General shall forward to the Board at least once every six months a list of enterprises registered under the—”

—following Acts. And you can see it for yourself, Mr. President. The question here is that there is need for a certain degree of competency, capability, capacity at that particular office if we are to observe, and if we are to effect our obligations, and if we are to reach the standards necessary to ensure that Trinidad and Tobago is not being taken advantage of.

3.45 p.m.

So that is a very important factor that we have to take on board.

So the role, Mr. President, of the Registrar General’s Department is critical. The role of the Board of Inland Revenue is extremely important, as outlined in the legislation. And therefore, the Government will have to ensure, with the support of Global Forum, that the technical cooperation and assistance that is required to strengthen these institutions are put in place so that we can get our fair share of returns on this particular piece of legislation.

So, Mr. President, the other point I would like to raise before I close, the Board of Inland Revenue will issue guidelines, but these guidelines will not be

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subject to any overview by the Parliament. So we are making an amendment to ensure that the Parliament has a big role. Mr. President, if you go to clause 22, you will see regulations. The Minister whimsically makes regulations on his own to govern this piece of legislation without any reference to the Parliament. So we are saying, under clause 22 of this legislation, that it be amended to ensure that clause 22 is subject to an affirmative resolution of the both Houses of Parliament. So that is another area, Mr. President.

So, Mr. President, I know that my time is up. I would just like to wind up by indicating, Mr. President, that this Bill that we have before us is needed to get us off the blacklist from the non-cooperative jurisdiction status. We want this Bill to be strengthened. We will do everything to strengthen the legislation and we hope, at the end of the day, the Government will accede to our amendments, along with those of the OECD and the Global Forum so that we can get off the blacklist at the end of the day. I thank you, Mr. President.

Hon. Members: [*Desk thumping*]

Mr. President: Sen. Vieira.

Sen. Anthony Vieira SC: Thank you, Mr. President. At a time, not just here in Trinidad and Tobago but all over the world, when most people are living from pay cheque to pay cheque, more often than not, having more month left over than money in their pocket, some of the richest amongst us pay little or nothing in taxes. And this was recently exemplified where a Manhattan jury found two Trump organization companies guilty on multiple charges of criminal tax fraud and falsification of business records connected to a 15-year scheme to defraud tax authorities by failing to report and pay taxes on

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compensation for top executives; a clear case of tax evasion and fraud, both of which are unlawful.

Multimillionaires, billionaires like Jeff Bezos, Michael Bloomberg, Mark Zuckerberg, Rupert Murdoch, Bill Gates have also, through tax avoidance schemes, managed to pay only a tiny fraction of the hundreds of millions, if not billions they should properly have paid and should be paying in taxes, and transnational corporations are no different.

What this Bill seeks to address is the ability of multinational enterprises or transnational corporations to adjust the transfer prices amongst their subsidiaries, thereby enabling them to shift profits from high tax to low tax jurisdictions. The ability on the part of transnational corporations, or as it is referred to, MNEs, to misprice or to reinvoice trade transactions using sophisticated networks—so, in particular, by exploiting tax havens, through the use of various schemes, which enable them to avoid paying taxes in countries where they make a lot of money—transnational corporations get to double-dip on profits, first by being able to extract natural resources, whether it is in the energy, agriculture or service sectors, and then by being able to minimize thereof and the taxes they ought properly to be paying in relation to the profits earned via exploitation of those natural or other resources.

It is estimated that around US \$420 billion in corporate taxes is shifted out of 79 countries every year; billions in lost revenue for those countries. There are three major channels that transnational corporations can use to shift profits out of a country: debt shifting, registering intangible assets such as intellectual property in tax havens, and a technique known as strategic transfer

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pricing. Now, without going into the specifics, the bottom line is that instead of paying taxes on the profits they make, transnational corporations or MNEs are able to use these channels to shift profits from the country where they should be paying their taxes to a tax haven, where little or no taxes are paid.

Now, the root of the problem lies in the way international corporate income is taxed. It may be worth noting that the current tax system was devised over a century ago, when transnational corporations were not as common as they are today. Now, I mean, historically, you did have corporations like the West India Company and the East India Company, and even then, they have always been powerful. They have always been politically influential.

Fast forward to the 21st Century, today's transnational corporations are multiheaded hydras that are able to make up and to run separate accounts for each subsidiary company, as though it is an entirely independent entity through the legal fiction of separate corporate personality. So, as such, transnational corporations are able to shift profits and losses, like pawns on a chessboard, throughout this global network of related companies, subsidiaries and tax havens.

So the Bill is an attempt by governments around the world in cooperating towards the stemming of these channels and otherwise creative accounting on the part of transnational corporations through, as we have heard, the use of country reports and validation processes.

Now, this legislation is important for us, not only because it will require us to actively participate in the global effort towards reducing transnational

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tax evasion and avoidance, it is also important because it offers us an opportunity, as Sen. Mark has pointed out, to retain money that should properly come to this country in taxes; money that could have been and should be used by government for policies that improve the lives of citizens, instead of being given to shareholders of these rich and powerful transnational corporations.

So, in a nutshell, because it will allow us to view transnationals operating in Trinidad and Tobago from a global perspective, this legislation is an attempt to stem the steady flight of unpaid taxes from this country.

Now, citizens complain about the property tax because it touches them directly, and you could look at it and you can speak about it in actual dollar terms. But the shifting of taxes to tax havens on the part of transnational corporations is generally invisible. It is complex. It is not something that the man on the Priority Bus Route is going to be thinking about in the ordinary course of things and yet, it is equally, if not even more important because this is a form of corruption which permeates the economic life of many countries. This is about cheating the public revenue on a grand scale.

When transnational corporations fail to pay their fair share of taxes, it is a misuse, even an abuse of the system. When transnational corporations are able to unfairly and to unjustly ferret away money they should have paid in taxes, it makes it difficult for the government to raise fiscal revenue, which in turn negatively impacts the equitable distribution of net revenue.

So it is in the interest of Trinidad and Tobago to join in this global alliance and to establish systems which will contribute to the fight against

those who make huge profits and yet do not pay their fair share of taxes.

Before I close, I would just like to highlight the fact, as we have heard from the hon. Minister, that the legislation is a necessary prerequisite for Trinidad and Tobago to get off the EU list of non-compliant jurisdictions. And while that may be a laudable goal in and of itself, I would like to suggest that there is another reason why we would want to get off that list, and it has to do with trade. Citizens may not realize this but we have a very favourable trade balance with Europe. In fact, we substantially export more to Europe than we import from Europe.

According to a statement put out by the EUROCHAMTT, the European Chamber of Commerce, dated 16 July, 2023:

“The value of goods...entering the EU...with no duties...in 2022...”

—from Trinidad and Tobago—

“...was €5.6 billion...representing 32 per cent of this country’s exports.”

And the bulk of those exports coming from the energy sector, such as petroleum, methanol and hydrocarbon-related products. Conversely:

“...the value of imports into Trinidad and Tobago from the EU was €1.1 billion...”

—mainly in the form of motor vehicles and products for commercial and industrial usage.

So this legislation is going to go a long way towards ensuring that this important relationship is not jeopardized, especially when it offers so much opportunity in terms of non-energy exports and the services sector,

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opportunities, I think, we have not fully developed. We still have a lot of chance to cultivate and exploit.

The other thing I would like to put on our radar—and this is just as important, I think, as the legislation we are considering today—is the need to finalize the process to adhere to the CARIFORUM-EU Economic Partnership Agreement, which was signed in 2008, in particular our obligation to remove tariffs on goods emanating from Europe. Under the Agreement, as it was signed, the Europeans immediately removed tariffs on all goods originating from CARICOM countries entering into their markets, including Trinidad and Tobago, and we were given 25 years between 2009 to 2033, within which to reciprocate by gradually reducing tariffs.

But notwithstanding legislation having been passed and all the necessary legal instruments having been put in place for those tariff cuts, we are among the last five CARIFORUM countries remaining to give notice of ratification and this needs to be addressed, especially as it will enable citizens greater access to quality goods at a lower price. We should make this a high trade priority. Our focus should not only be on getting off the EU list of non-compliant jurisdictions. And so, I hope my recommendations will be given favourable consideration, and I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Attorney General.

Hon. Senators: [*Desk thumping*]

4.00 p.m.

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The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you very much, Mr. Speaker. Thank you for the opportunity to contribute to this debate this afternoon, on this very important piece of legislation. The Base Erosion and Profit Shifting Inclusive Framework (Country-by-Country) Reporting Bill, 2023. Some 22 clauses in length. Mr. President, the Base Erosion and Profit Shifting commonly known as BEPS concerns a pressing issue that is affecting economies worldwide, and I take the opportunity to complement the hon Minister of Finance, Acting Prime Minister, from bringing this legislation to the House.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: To ask this august Chamber to support the effort to pass this legislation, so that we can address some important issues giving rise to the concept of BEPS. As recently as, the 24th of November, 2023, the hon Minister of Finance is recorded in *Hansard* as telling us that:

“The Government... of which I am proud to be part, ... led a team from the Ministry of Finance, the Tax Treaty Unit, the Board of Inland Revenue, the Office of the Attorney General has established a high-level committee to deal with the problem... created by BEPS. The placement by the European Union of Trinidad and Tobago on a list of non-corporative tax jurisdictions. The committee continues to work with the Global Forum secretariat through intense technical assistance towards a common goal of preparing the necessary legislative, administrative, and operational improvements to undergo the peer review to protect the integrity of the global financial system and to comply with the EU requirements.”

Mr. President, this committee continues to work in tandem with the European Commission, and the Global Forum Secretariat, through intensive technical assistance towards a common goal of preparing the necessary legislative, administrative, and operational requirements and improvements to undergo its phase two peer review in order to protect the integrity of the global financial system inclusive of the EU financial system.

This commitment, Mr. President, it is evident today, and the very reason why we stand here in this Chamber. The emphasis on international compliance reflects recognition of shared values, mutual respect, and a commitment to addressing global challenges collectively. The Government's approach reinforces its commitment to foster transparency, fairness, integrity in the global tax system that supports economic growth and social equity. By aligning tax rules with economic substance and preventing the artificial shifting of profits, Trinidad and Tobago can safeguard its tax bases and promote sustainable development. In today's globalized economy, Mr. President, multinational corporations operate across borders leveraging various jurisdictions to minimize their tax liabilities. We have heard of that in detail from the hon Minister of Finance, and I will not repeat that at which he has so eloquently put before us.

We recognize, Mr. President that while tax planning is a legitimate business practice, concerns have emerged and continue to exist regarding the erosion of tax bases and the shifting of profits to low-tax jurisdictions depriving governments of essential revenue, and it is in response to these challenges that Trinidad and Tobago has recognized the need for concerted action to address BEPS. Mr. President, I wish to place emphasis on the fact that the Global Forum Bill which

was debated and passed in the other House, in the other place, on November 24th, 2023, is geared to address Trinidad and Tobago's placement on the EU's list of non-cooperative jurisdictions. And by Global Forum Bill, I refer to the Miscellaneous Provisions (Trustees, Exchequer and Audit Act, the Minister of Finance (Incorporation) Act, Proceeds of Crime Act, Income Tax Act, the Companies Act, the Partnerships Act, the Securities Act, the Tax Information Exchange Agreements Act, the Non-Profit Organizations Act, and Mutual Administrative Assistance in Tax Matters Act, 2023.

I make the point here, and I will return to it that the Bill that we have before this august Chamber today, is part of a package of legislation that this Government is committed to passing, has already passed, and will be returning to this Senate to address.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Dumas SC: This is not a one-off waving of a magic wand to solve all perceived challenges. It requires hard work, it requires attention to detail, it requires research, and it requires discussions with multilateral agencies and other governments so that we get it right on a continuing basis. Trinidad and Tobago's placement, Mr. President, on the EU's list of non-cooperative jurisdictions for tax purposes, as this House will be aware, is as a result of three criteria. The first is the non-compliant rating by the Global Forum.

4.05 p.m.

Second, the forum on harmful tax practices, and importantly the inclusive framework on base erosion and profit shifting, the anti-BEPS measures. And it is this Bill before this august Chamber today, by which we attempt to address the

third criterion.

Mr. President, the first standard agreed and implemented provides for the international exchange of information on request, where a tax authority can request a particular piece of information to progress a tax investigation. The second provides for the international automatic exchange of information where a predefined set of information on financial accounts held by non-residents is automatically exchanged every year. This exchange is underpinned by ensuring that the information is kept confidential, properly safeguarded, and particular requirements are placed on jurisdictions to address this and to ensure it.

The Global Forum monitors the worldwide implementation of these standards and conducts peer reviews to ensure that the standards are implemented effectively. It also serves as a forum, and that is important for its members to discuss these issues and delivers capacity building and technical assistance to members to support them in implementing the standards.

Mr. President, the base erosion and profit shifting pillar, the third pillar, provides for the introduction of country-by-country reporting requirements in line with BEPS Action 13. Country-by-country, one does not need a definition section to understand what is meant by a country. A country such as Trinidad and Tobago—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC:—and its reporting relationships to another country, a European country, Sweden. One does not need a definition section to define country-by-country reporting. A CbC report, country-by-country report provides local tax authorities visibility to revenue, income, tax paid and accrued,

employment, capital, retained earnings, tangible assets, and activities. It provides tax authorities information to assist them in assessing transfer pricing risks and make determinations on how they allocate tax audit resources.

The hon. Minister of Finance has already spoken to the annual consolidated revenue threshold for MNEs and I will not return to that at the risk of repeating him needlessly. This pillar is also inclusive of Action 14, the Mutual Agreement Procedure, which has already indicated that Trinidad and Tobago needs to amend and update a significant number of its tax treaties. Trinidad and Tobago reported that it intends to update all of its tax treaties via bilateral negotiations to be compliant with the requirements under Action 14 minimum standards, and has to be in place for specific negotiations.

The MAP, that is to say, the Mutual Agreement Procedure, is included, Mr. President, in Article 25 of the OECD Model Tax Convention and commits countries, countries such as Trinidad and Tobago, C-O-U-N-T-R-I-E-S, to endeavour to resolve disputes related to the interpretation and application of tax treaties. The peer review process is conducted in two stages.

Stage one assesses countries against the terms of reference of the minimum standard according to an agreed schedule of review. Stage two focuses on monitoring the follow-up of any recommendations resulting from jurisdictions' stage one peer review report. And Mr. President, BEPS, BEPS undermines the very foundation of our tax systems, eroding the tax base of nations and shifting profits to low tax jurisdictions. This not only deprives governments of essential revenue needed for public services and infrastructure, but also creates an unfair advantage for multinational corporations over smaller businesses that cannot

engage in such aggressive tax planning. It is therefore imperative that we tackle BEPS through international cooperation and collective action.

One proposed solution is the implementation of measures, Mr. President, to ensure greater transparency and information exchange between tax authorities. By sharing information about the economic activities of multinational corporations, we can identify and address instances of profit shifting more effectively.

Most recently, Mr. President, the Council of the European Union publication, October 17, 2023, added Trinidad and Tobago with Antigua and Barbuda, Belize and Seychelles with a total of 16 countries that are on the EU list for non-cooperative tax purposes. It is why we have to continue on an ongoing basis to update our legislation as the goalpost continues to shift. And that does not apply only to us. There are any number of other countries that are constantly having to make these adjustments. Why? Because we trade in an international environment. We are a nation island in a sea of many other economies and we have to coexist and hold our own, head and shoulders ahead of the rest by collaboration, compliance, and strict adherence to upgraded standards of financial propriety. That is why.

Mr. President, this Bill presently before this Senate is accordingly a critical piece of proposed legislation, so as to enable and position Trinidad and Tobago to comply with its obligations with respect to the European Union requirements. I can assure this House that this Government is taking every step possible to attend to its remaining deficiencies by implementing comprehensive measures to address BEPS to combat tax avoidance with a fair and transparent global tax system.

The Government continues to take a cohesive multipronged approach,

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including administrative and operational measures, as well as the introduction of a number of laws to ensure Trinidad and Tobago's removal from the EU list. Among those laws are included the very Bill we are debating here, the Base Erosion and Profit-Shifting Inclusive Framework (Country-by-Country) Reporting Bill, 2023.

Secondly, the Global Forum Act, which I have already mentioned, which was debated in this very Chamber on the 24th of November, 2023 and passed in the other place on the 19th of January 2024. The CROS Bill, the acronym, and my learned friend, Sen. Thompson-Ahye has teased me on the word "CROS"s. It is the acronym for Computer Registration Online System. That is to say, the Miscellaneous Provisions (Registrar General, Companies, Registration of Business Names, and Non-Profit Organisations) Bill, 2023, which has already been debated in this august Chamber, that is the 12th of December 2023, and has laid in the other place on 13th of December 2023.

That is going to make a comprehensive series of amendments to the legislation that is identified in the long title, which will be read along with the Global Forum Bill, will be read along with this Bill that we are debating today. It is going to target concepts such as beneficial ownership so that persons are not able to hide behind the veneer and disguises of corporate structures that are just names on a building outside of a structure.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: The Special Economic Zone Act, No. 1 of 2022, which was assented to on the 31st of January 2022, Mr. President. This Act provides for the designation, development, operation, and management of special

economic zones, and the establishment of the special economic zones authority. It is a comprehensive approach to prudent fiscal standards and strict management of our obligations to ensure that our society is guided by canons of equity, transparency, and the avoidance of tax evasion. Our approach not only enhances the country's standing in the international arena, Mr. President, but also reinforces this Government's role as a responsible and accountable global actor.

Mr. President, in implementing this legislation there are a number of significant benefits to Trinidad and Tobago. Enhanced tax transparency. We have heard from the hon. Minister of Finance the fact when you look at the provisions of the Bill, that these are transparency objectives because of what will be published on a regular basis, once we have the wisdom and the courage to pass this Bill today into law to identify aggressive tax planning strategies and to ensure that companies pay their fair share of taxes in the jurisdictions where they operate.

Another significant benefit, protection of the tax base. This will close loopholes and address mismatches to ensure that governments can collect the revenue necessary to fund essential public services, infrastructure, social programmes, thereby promoting economic stability and development. This will prevent tax avoidance strategies which exploit gaps to artificially shift profits to low or no-tax jurisdictions. The legislation would aid in the injection of more revenue into the economy through the reduction of tax evasion.

It will create a more level playing field for businesses by reducing the advantage employed by multinational corporations engaging in tax avoidance. Compliance with BEPS standards ensures that all businesses, regardless of size or geographic location, will compete on fair terms, fostering healthy competition and

innovation. It will strengthen international cooperation among countries, country-by-country, to combat tax evasion and avoidance effectively. Through information exchange in mutual assistance, governments can detect and deter illicit financial flows promoting global financial stability and integrity.

Improved investor confidence. The Bill, as a suite of legislation, which the Government is passing, enhances investor confidence by signalling a commitment on the part of this country, by this Government, to fair and transparent tax practices. This confidence attracts investment; it stimulates economic growth and contributes to the overall prosperity of countries implementing BEPS measures. It promotes sustained development driven. By a collective commitment to inclusivity, Trinidad and Tobago follows the whole-of-government and whole-of-society approach to sustained development goal implementation. The increased revenue can be directed towards poverty reduction, education, health care, and infrastructure projects, fostering inclusive growth and reducing inequalities.

Mr. President, in short, this legislation is aimed at combating tax avoidance strategies used by multinational corporations to shift profits to low tax jurisdictions, to erode the tax base of countries where they operate, to close loopholes, enhance transparency, and ensure that multinational companies pay their fair share of taxes while simultaneously addressing deficiencies, creating a fairer, more transparent, and sustainable global tax environment. By addressing the challenges of base erosion and profit shifting countries can promote economic prosperity, social equity, and responsible corporate citizenship.

This Government, Mr. President, continues to work to improve Trinidad and Tobago's current non-compliant rating and to ensure Trinidad and Tobago's

removal from the European Union list of non-cooperative tax jurisdictions. We have heard from the hon. Minister of Finance of the peer review to be taking place later this year. The gaps in our compliance can be addressed with, not least, the aggressive implementation of the necessary legislation in a timely manner.

Tackling BEPS, Mr. President, requires a collective effort and commitment from governments, businesses, and international organizations. A steadfast commitment to implementing these BEPS measures is essential to promote tax certainty, enhance trust in the tax system, and create a more equitable environment for businesses to thrive. This underscores the importance of international cooperation in addressing the challenges posed by BEPS, and ensuring a level playing field for business worldwide.

Therefore, Mr. President, as I close, I ask the Members of this Chamber to work with us steadfastly and with the appropriate urgency to pass this necessary legislation. I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Lyder.

Hon. Senators: [*Desk thumping*]

Sen. Damian Lyder: Thank you, Mr. President. Mr. President, I thank you very kindly for the opportunity to contribute towards this debate on Base Erosion and Profit-Shifting Inclusive Framework (Country-by-Country) Reporting Bill, 2023. And Mr. President, this is a very serious financial framework legislation. Mr. President, base erosion and profit shifting is indeed a very serious issue that is faced by many governments throughout the world, inclusive of Trinidad and Tobago.

4.20 p.m.

And, Mr. President, this has been something, as we heard the hon. Minister of Finance say, they have been experiencing this for many years. But for the listeners who are listening in today, a simple Google research will give a good explanation of what it is. And I see the hon. Minister of Finance chose to take the same Google search that I did when he was explaining what it was or his writer, whoever. But a simple search would show that it refers to corporate tax planning strategies used by multinationals to shift profits from higher tax jurisdictions to lower tax jurisdictions or no tax locations where there is little or no economic activities.

Hon. Senator: [*Inaudible*]

Sen. D. Lyder: Yes, that was from Google. Well, you could also google it. Right.

Hon. Senators: [*Laughter*]

Sen. D. Lyder: So Mr. President, I am sure you could google it, and you will find it there. Right. So, Mr. President, thus eroding the tax base and the high tax jurisdiction using deductible payments such as interest and royalties. Mr. President, for the Government, the tax base, for most of the tax base is income and profit from companies and when countries experience base erosion and profit shifting, many of these countries lose millions, if not billions of dollars in income coming into the coffers. Mr. President, when income and profit are transferred to tax havens, the tax base is eroded and the companies that are generating millions of dollars within this country are removing the profits out of the country in which they are making the profits in, so as for the Government not to be able to tax on us to get our fair share of the pie.

Mr. President, they have businesses right here in Trinidad, that have been power washing their books, that are setting up companies in jurisdictions as close as St. Lucia, for instance and as far as Europe, Asia, all in an effort to shift profit out of the country. Mr. President, there are businesses that bounce around their debt between different subsidiaries—they open different subsidiaries in different countries and they bounce debt around, depending on the level of tax in the jurisdiction in order to evade taxes or avoid taxes. Mr. President, many companies could be moving their profits to places like Panama, for instance. They could be moving their profits to places like The Bahamas, or even places like Venezuela and then go across and dance the conga after in conga line and celebrate all the profits.

Sen. Mitchell: Panama or—[*Inaudible*]

Sen. D. Lyder: No, no Venezuela, the conga line. I think many on that side know the conga line very well. Some benefited from it. Mr. President, but allow me to take a few minutes to ask some questions and point out some aspects. The Organization of Economic Co-operation and Development, the OECD introduced this Inclusive Framework on Base Erosion and Profit Shifting all the way back in 2016. And, Mr. President, the hon. Minister of Finance indicated 58 countries signed up to it on that point. And then we came again in 2017 and another 45, a second round, another round—another opportunity for Trinidad to join these countries. Another 45 were added to the list and it was only until late or I think it was November of 2017, did Trinidad actually bother—the Government of Trinidad and Tobago actually bothered to complete the paperwork necessary to be part of this framework. So they have had three years, almost three years, coming into government, understanding the issues with base erosion and profit shifting, and

only at the end of 2017 did they bother to do the paperwork, Mr. President, to be a party of this framework.

Mr. President, the framework is meant to help global governments fight base erosion and profit shifting through country-by-country reporting and multilateral co-operation. Mr. President, the OECD plan has 15 action steps, one to 15. The first action step, Mr. President, is dealing with countering acts of BEPS in increasing digitalization of both multinational business operations and all the way to administrations to Action 15 that seek to produce an effective multilateral instrument to resolve cross border tax disputes.

So we are dealing with a 22-clause Bill here today that is addressing the OECD's minimum standard for Action 13, out of all the actions for country-by-country reporting, which in itself is a problem and I will explain to you why later in my contribution, why it is a problem that we are only here at this point dealing with Action 13, when we should be all the way to 15 like many of the other countries even in the CARICOM region.

Mr. President, this action as part of the Inclusive Framework, could have been agreed upon and implemented by this Government since 2016, when they took office in 2015—after they took office in 2015. In fact, Mr. President, a number of our CARICOM neighbours back in 2016, some of them back in 2016 had already complied. The hon. Minister of Finance mentioned them, Barbados, The Bahamas, even Belize, and none of these had any magic wand like the hon. Attorney General indicated that we need to make these things happen. I wonder if the hon. Prime Minister Mia Mottley had a magic wand back then. Mr. President,

because Barbados has signed on and filed with the OECD for information sharing, along with enforcing all the relevant legislation that comes with that.

Mr. President, The Bahamas has enforced the necessary legislation and strengthened the domestic reporting mechanisms, and even Belize, Mr. President, and I will tie it to the Bill, even Belize has implemented the necessary legislation very similar to what we are seeing now here in clauses 4 and 6 today, and they had no magic wand but they did that four years ago. Mr. President, this Bill does set up a country-by-country reporting, which is incredibly important so, I agree this is extremely important. If you look at a quote by Deloitte, which is a very reputable firm, they say and I quote:

“...country-by-country report will provide tax authorities with visibility over how key elements of a multinational group’s financial results”—that is the—“(revenues, profits before tax, income tax paid and accrued, employees, capital, accumulated...tangible assets)”...—are broken—“...down by tax jurisdiction.”

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

So this form of international cooperation allows us to protect ourselves against the predatory multinational companies from what Sen. Mark had indicated, have literally been gutting our economy, pilfering from our economy for so many years. Sen. Mark mentioned that in 2018, alone, it was up to \$13 billion of tax revenues escaped our coffers. I am not going to go into the report he used but I am going to bring up some other figures after, Mr. President. I am going to bring up some other figures.

So what this does, it empowers the necessary authority to record keep and gatekeep, while still preserving the rights of private and public entities to conduct business in a country. So the question has to be asked, Sen. Mark asked the question, I am asking the question as well. Why has the Government waited until 2024, Mr. Vice-President? Welcome, Mr. Vice-President. Why has the Government waited till 2024 to bring this legislation to the Parliament? So why was it not done in 2016/2017 when you had another chance to do it? Was it not important back then? Was it not important back then? You cannot blame Kamla for this one, you had nine years in government.

Sen. Nakhid: Nine.

Sen. D. Lyder: Nine years in government. You cannot blame Kamla for this one.

Sen. Mitchell: You would support it?

Sen. Nakhid: Nine.

Sen. D. Lyder: No, we would support it.

Sen. Mitchell: Thank you.

Sen. D. Lyder: We support it. We raised the issue. You all had years after to deal with it, Mr. Vice President.

Mr. Vice-President: Senator, just a reminder that all your comments must be put through this Chair not—

Sen. D. Lyder: Yes. Sorry, through you, Mr. Vice-President, this Government had nine years to do it nine.

Sen. Nakhid: Nine.

Sen. D. Lyder: So they cannot go—

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Sen. Dr. Browne: Mr. Vice-President, on a point of order, Standing Order 53(1)(b), tedious repetition.

Sen. Lutchmedial: Saying points.

Mr. Vice-President: As much as the points remain the same, I just ask that you bring some different context in—

Sen. D. Lyder: Yeah.

Mr. Vice-President:—to bring some relevance to the topic please.

Sen. D. Lyder: Thank you, Mr. President, and if the honourable, through you, if the hon. Minister had given me an opportunity to get to my next point, I would have given you context. Because you see, I represent and look for the interests of small and micro and medium businesses in this country when this Government does not.

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder: When they do not, you see, because when we talk about multinational entities, the first thing everybody thinks about are entities like these big oil giants. And I noticed that the hon. Minister of Finance indicated €750 was the threshold—

Sen. Lutchmedial: It is millions.

Sen. D. Lyder:—sorry, a million euros was the threshold for them to fall and be caught under this legislation. But I want to remind the hon. Minister of Finance and the population and my colleagues here today, that there are many domestic companies owned by citizens of Trinidad and Tobago and we, as you know, Mr. Vice-President, you of all people will know, Mr. Vice-President, we live in a fishbowl and there are many words, tongues wag around the city when they say

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that some of these big business, local businessmen are very close with high ranking members of the PNM. I cast no aspersions on anyone.

Sen. Mitchell: Mr. Vice-President—

Sen. D. Lyder: No aspersions on anyone.

Sen. Mitchell: He said he do not cast, 46(6) please.

Mr. Vice-President: Sen. Lyder, as it applies to imputing improper motives, I ask that you tread lightly and thoroughly.

Sen. D. Lyder: Thank you, Mr. Vice-President, I was not aware, sorry, I thank you for guiding. I was not aware that we could not speak about a political entity. I thought we cannot speak about a person. I talk about a political entity here, Mr. Vice-President, the PNM we all know about them and we all know about PNM's affiliation with certain big business people in this country.

Hon. Senators: [*Desk thumping*]

4.35 p.m.

Sen. D. Lyder: And when I listened to Sen. Mark mention a couple of names—I am not going to call those names, right? But I did a Google search again, just like I did before, and I saw five companies, \$5.97 billion, \$12.36 billion and \$5.2 billion.

Sen. Thompson-Ahye: US? TT?

Sen. D. Lyder: TT dollars. So that translates to the €750 million and over a billion US dollars. Five companies. But I also ask the question, how many companies do this Mr. President? How many of them are below the threshold of 750 to \$500 million and can still bring about or infringe on base erosion and profit shifting? How many of them are at \$400 million? I found one at \$400 million and I know they know somebody high in the PNM.

Mr. President, but some of them have companies under different names. They registered different companies and set it up in different jurisdictions. So when you add up the amount of money and revenue of some of these local conglomerates, they “fass ah pass”, €750 million, but they will not be trapped under this legislation at €750 million. So we have to understand it is not just these multinational companies from foreign. But whether it is multinational companies or the locally-based companies in this country that are distributing food products, hardware products, whatever, who is the person that suffers when they perpetrate this thing called BEPS? It is the small, medium and microenterprise companies that are suffering here, Mr. President.

Eight years later, almost nine years later, they have had to endure this pain under this Government. You see, Mr. President, when you think about the SMEs and the challenges that they have already, it is not only challenges when it comes to getting foreign exchange, while the multinationals get all the foreign exchange.

Hon. Senator: [*Inaudible*]

Sen. D. Lyder: No, no, I am getting to a point, Mr. President.

Sen. Nakhid: You have a Standing Order?

Sen. D. Lyder: It is not only about—it is not only—they did not only have to navigate through the worsening ease of doing business in this country. They do not only have to grapple with the worst crime situation we have in Trinidad and Tobago as an SME, when they cannot afford to pay security like “de” big boys can, but they too have to compete. These SMEs have to line up and compete against these big multinationals who are taking part in base erosion and profit shifting, giving themselves a competitive edge over the SMEs, Mr. President. They are able

to pay less taxes than the SMEs by doing this. They are able to shift their profits outside, along with their foreign exchange. So there is not a level playing field when these big multinationals and the domestic multinationals are competing against these small, medium and microenterprises, Mr. President.

Sen. Nakhid: They are trying to kill the middle class

Sen. D. Lyder: That is what they are doing. They are killing the SMEs by waiting this long, Mr. President, and then let me tell you, even when we pass this today with the amendments, do they have the ability to enforce it? Because that is the other question, do they have the ability to enforce this when this legislation is passed? How long will it take them, to get to that point to enforce this legislation? Because we have seen them failed woefully in implementing any piece of legislation passed, including the gutted procurement legislation.

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder: Mr. President, I am sorry if I am sounding like people inside of here, eh. There are one or two people that sound like me today. I apologize.

Sen. Mitchell: [*Inaudible*]

Sen. D. Lyder: I have a lozenge. Do not worry. I have a lozenge. Mr. President, these companies have been here for years, taking advantage of this BEPS matter. And when I heard Sen. Mark spoke about \$13 billion in 2018 escaping our shores, that was only from the oil sector. The question is, how many more billions of dollars have escaped through the local multinationals in this country? How many more billions are added to that? And the reason why I asked that question, in reference to the small, medium and microenterprise in this country, is because if we had captured this—if this Government had complied since 2016, we could have

captured billions of dollars more in our coffers per year, and this would have helped the more than 6,000 SMEs from shutting their doors after the COVID pandemic. That money could have been used for that. I heard the hon. Attorney General speak about, better infrastructure, roads and all that. So I am responding to him as well too. So it is not only just about infrastructure, roads, national security apparatus, but that money could have been used to save those 6,000 SMEs that shut their doors and the many thousands more that are gripping and holding on for their life today.

Mr. President, instead you know what the PNM came with for the SMEs? Instead of the billions we could have saved, they came last month with a mamaguy, through NEDCO, to tell us they will give \$20,000 to a 1,000 SMEs; \$20 million versus, possibly, \$50 billion dollars we could have had; \$20 million you are doing through NEDCO as a mamaguy, as though \$20,000 for a 1,000 entities would help them to survive and build. Mr. President, that is what the PNM Government offered these SMEs. They do not offer them legislation to trap some of the friends and financiers from putting the money outside.

Hon. Senators: [*Desk thumping*]

Sen. Nakhid: Good point, good point.

Sen. D. Lyder: But they take the taxpayers' money to give you a \$20,000 "cacadah".

Sen. Dr. Browne: Mr. President, Standing Order 46

Sen. D. Lyder: I move on, Mr. President.

Mr. Vice-President: Sen. Lyder, you are straying a bit way off of the core of the Bill. Can you please bring some more relevance—

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2024.02.20

4.40p.m.

Sen. D. Lyder: Yeah. Yeah. Yeah. Thank you, Mr. Vice-President. Mr. Vice-President, with the greatest respect to you, because I heard the hon. Attorney General speak about what the money could be used for, so in response to him, I am saying, yes, but you could have been used for the SMEs also. So I should be allowed a little leeway, and thank you for allowing it. I do not know how many times—you see, I know every time I start to jab them, they “go” stand up on Standing Orders.

Hon. Senators: [*Desk thumping and laughter*]

Sen. D. Lyder: Every time they feel the pain, they stand up on Standing Orders. It is okay, I will brave through it. I will brave through it today. I will brave through it today.

Mr. Vice-President, the timing of this legislation, as we said, is not just late—“I ain’t go repeat myself”—but it is also very bizarre. Mr. Vice-President, when we look at clause 4(1)—so I am going to the “bizarre”—4(1), it says, and I quote:

“Each Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Trinidad and Tobago shall file a country-by-country report, conforming to the requirements of section 6, with the Board, with respect to its Reporting Fiscal Year on or before the date specified in section...”

Then we go on to clause 6(1), which states, and I quote:

“The Board shall, in accordance with section 22, issue guidelines in respect of the-

- (a) content and format of a country-by- country report; and

(b) method for filing a country-by-country report.”

Then, finally, Mr. Vice-President, in clause 8 of the Bill, it says that:

“The Board shall use the country-by-country report and any other information obtained pursuant to this Act for the purposes of collaboration on compliance and enforcement with other competent authorities pursuant to a qualifying competent authority agreement.”

Now, Mr. Vice-President, these are very, very serious responsibilities for any entity to manage, and, like Sen. Mark, I agree that the Board of Inland Revenue should be the competent authority to handle something like that. I have no disagreement with that, Mr. Vice-President. I do not argue against the Board of Inland Revenue. I recognize that they are the competent authority. Whether or not they will actually have the proper training and ability, I think I will let another colleague speak about that, the ability to implement. But here is my concern, Mr. Vice-President, I question if the Government is indeed making proper consideration on the implications of this legislation, especially as it pertains to the full operationalization of the Trinidad and Tobago Revenue Authority, because that would be the body. Of course, we will have to come back to Parliament, again, once that is completed, but that would be the body that would have the responsibility, I would assume, for these important responsibilities, for being able to see very, very serious pieces of information from any multinational company.

It comes back to the same concern I had when we were debating a number of other pieces of legislation that had the Trinidad and Tobago Revenue Authority at the helm, and taking it right back to the first debate on the Trinidad and Tobago Revenue Authority. The same concern arises there when we see a Director

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General and a board appointed by a Minister of Finance. No, I cast no aspersions against this one, you know, any Minister of Finance from any government. I mean, we will have a new Minister of Finance in only a year and a half.

Hon. Senator: Howai.

Sen. D. Lyder: Right? In only a year and a half—

Mr. Imbert: [*Inaudible*]

Sen. D. Lyder: You are retiring? Oh God, the country will praise. The country will drop to their knees.

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder: If you retire, the country will drop to their knees.

Sen. Nakhid: Time to go. Time to go.

Sen. D. Lyder: Mr. Vice-President, so you have a political appointee—appointees in the board of the Director General who then hire contracted workers, and here is the concern there.

It is two ways, you know; the risk is two ways with this type of information. Pray you are not against a vindictive government. If you call the name of the government, it is three syllables; it starts with a “P”, I will whistle. But pray that you do not have a vindictive government.

Sen. Mitchell: Three letters.

Sen. D. Lyder: Three letters. Three letters. Right? Pray you do not get three letters, starting with “P”—right?—and pray you do not have them, and if you are to be—because you stand the risk as a multinational of being politically victimized by political mischief, but let me tell you the other side of the coin. Let us say—because I said it earlier, and I do not hide, this is a fishbowl we are in; I said so,

and we know that there are big multinationals deeply close with senior members of the PNM. And then what if something is picked up, and, I say, I cast no aspersions on anybody here today, Mr. Vice-President, but you have a political appointee appointing a board of directors and a Director General, can that not open the risk of things being covered up by any government?

So that concern continues to stay with us, and that is why we were so opposed to the TTRA in the first place. But, Mr. Vice-President, beyond the TTRA—I will move on from that. The Country-by-Country Reporting requirements are set out in these 22 clauses here today. When I look at the other OECD actions—and I heard the hon. Attorney General speak of other actions that the Government is doing, but when you look at the other actions, because this legislation, as I said, is only addressing Action No. 13, we must look at other actions regarding our tax regime with our relationship with the European Union. Because the base for this legislation is to get us off this blacklist, and if it is we are trying to get off the blacklist and stay off the blacklist, we have to consider the other actions as well. So though in theory we most certainly support this legislation with some amendments, and we support anything that stops tax leakage, we have to consider whether this is sufficient enough.

When we consider Action 5, avoiding tax treaty abuse, something that goes hand in hand with Country-by-Country Reporting, this Action classifies as a minimum requirement in inclusive framework. Mr. Vice-President, the OECD's Fifth Peer Review Report on Treaty Shopping highlights Trinidad and Tobago's position. They say, and I quote, that:

“Trinidad and Tobago has 16 tax agreements in force, as reported in its response to the Peer Review questionnaire...”

—that the hon. Attorney General spoke about. Peer Review:

“...including the multilateral agreement among the members of the CARICOM concluded with ten treaty partners...

None of those agreements comply with the minimum standard...”—today.

I am quoting it “eh”. This is quoted here:

“None of those agreements comply with the minimum standard.”

So this is not a report from 2016 or a report from 2018, Mr. Vice-President, or sometime in the COVID-19 pandemic, this was in 2022 Peer Review, just under a couple of years ago. In fact, Mr. Vice-President, the Harmful Tax Practices Peer Review—and I heard the Minister mentioned harmful tax earlier, the Harmful Tax Practices Peer Review of 2024, you know how they classified Trinidad and Tobago? Let me quote it for you again. Let me tell you how they do this:

Trinidad and Tobago’s free trade zone regime as harmful to this tax jurisdiction.

The OECD goes on to highlight Trinidad and Tobago’s issue with ring-fencing information reporting.

Mr. Vice-President, this Bill will aid in the sharing and access of information, but it will fall short in addressing even more substantial shortcomings in our tax regime. And again, I cast no aspersions, but I ask myself the question, is this Government bringing this legislation to the Parliament in a haphazard way simply to possibly satisfy a peer review coming up shortly, as a Band-Aid, to see if they could get off of the blacklist, for now at least? Mr. Vice-President—

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Hon. Senator: [*Inaudible*]

Sen. D. Lyder: I heard that, you know. You see, I know Balisier House done finish build already, you know. I know Balisier House done finish build already, and election around the corner, so they are coming to clean up the show and come off the Euro blacklist. Balisier House done finish already. “Them multinationals, dey good to go.”

Mr. Vice-President, you see, there are many honest MNEs operating in this country, but there are many of them, there are a few of them that have been living off the fat; living off the slice of the PNM pie, Mr. Vice-President, and we have to trap them. So I have mentioned multiple aspects of the OECD’s plan on addressing BEPS. It is these OECD Actions that inform the European Union’s blacklist. But while the Government purports this legislation necessary, I have now look—I have to look further at the EU’s OECD-inspired criteria for the blacklist, because everything was spoken about coming off this blacklist. So I decided to look at some of the criteria for coming off and staying off of this blacklist, Mr. Vice-President; grey or blacklist.

When you look at criterion 1.1—let me quote it:

“Jurisdictions should exchange financial account data with all EU member states through automatic exchange of tax information.”

Now, this legislation, Mr. Vice-President, will help the reports as set out in clause 4 and onwards. It will help to fix T&T’s house, although leading to a bit of paperwork and waiting for the rest of CARIFORUM, because our economic partners agreement with the EU. So that criteria is covered, but let us look at criterion 1.3, Membership to the OECD multilateral convention on mutual

administrative assistance in tax matters, and you would think that this one was straightforward and done with. You would think so. You would think that we have the magic wand for this one. As the hon. Attorney General said, we got the magic wand for this one.

Mr. Vice-President, let me tell you about our regional partners. Bahamas, Barbados, Belize, Dominica, Grenada, St. Lucia, Jamaica, St Kitts and Nevis, St Vincent and the Grenadines, Mr. Vice-President, have all ratified this treaty for a number of years now. They have all ratified this treaty as set out in criterion 1.3. So surely, although we are bringing this Country-by-Country Reporting legislation behind the rest of the world, I might add, and proposed clause 9 of this Bill will explicitly cite headway for guidance under this convention, this Government, under the People's National Movement, has ensured that Trinidad and Tobago has not ratified with this convention, Mr. Vice-President, or at least not in the OECD—sorry—not on the website. We do not see it on the website. So maybe if they are, they should get it updated.

Mr. Vice-President, 100 countries, almost the whole of the Western world, almost all of CARICOM and CARIFORUM have ratified this convention, but Trinidad and Tobago's name is not on that listing. So we talk about staying off the blacklist, criterion 1.3 specifically states how to do so; every country, almost every country in the CARICOM is signed up to this—ratified with this convention, except Trinidad and Tobago. You know what Sen. Mark had said earlier? Shame. Shame on this Government for not even complying with that criterion, Mr. Vice-President.

Mr. Vice-President, criterion 2.1:

“Jurisdictions should not have harmful preferential tax measures.”

Let me repeat again:

“Jurisdictions should not have harmful preferential tax measures.”

It was the OECD that points out in February 2024, in their update—in February 2024 that we have harmful classified economic policy that is hurting the tax regime, that this current legislation will simply not believe.

Hon. Senator: [*Inaudible*]

Sen. D. Lyder: Yes. Somebody said it, but, yes, that is exactly what it was, the free zone Bill. Mr. Vice-President, criterion 3.2, Implementation of anti-BEPS minimum standards, as I have briefly shared, we are behind the minimum—

Mr. Vice-President: Senator, you have five minutes left.

Sen. D. Lyder: Thank you, Mr. Vice-President. As I have shared, we are currently behind on the minimum measures of Actions 5 and 6 of the 15 Actions, and we are now trying to get Action 13 in order by the rest of our partners, and neighbours are in the process of implementing Action 15. The multilateral instruments, we have not even started the conversation of that legislation as yet. So we are still far behind and we are talking about coming off the blacklist?

4.55 p.m.

So we are still far from achieving this position of desirability from the Global Forum that will qualify us to be taken off the EU blacklist. To stay off the Euro blacklist I heard the Attorney General say we have to continue coming back, continue coming back. “Oh gosh, well ketch up at least nah. Ketch up at least nah.” You are in a three-legged running with one foot. Catch up with the rest of the pack and then make your changes to stay off the blacklist. That is why we ask

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the question, why? Who is benefiting by us not fulfilling this criteria, by us taking so long to bring this legislation, Mr. Vice-President?

So, Mr. Vice President, you might think I am being cynical, I hear them chuckling across there. You may think I am being cynical but, you see, we have lost trust and faith in this Government. When we see a government that just late last year came to this Parliament gutting the procurement legislation to try to stop from the breaking of law or cover up the breaking of law, we lose our trust in the Government. So when we see them come today with this piece of legislation, we ask: Is this Government really serious about protecting the evasion of tax, base erosion, profit-shifting, or is it just another checkmark? It is a quick little checkmark because there is a review coming up.

Mr. Vice-President, I want to remind you that after ignoring CFATF recommendations and EU blacklisting for years, this Government came here last year and rushed a nine-headed hydra—I think our colleagues across used the word “hydra” of a Bill to the Senate which has led us now to this proposed legislation. Let us not forget that at multiple points this Government tried to utilize the pressure of blacklisting and potential risks of sanctions to come and force-feed us with legislation that we had to bring amendments to that could have taken away and robbed the rights and freedoms of citizens in this country. And, they were forced to make some amendments with some of the legislation. Even the Independent Senators had pushed amendments, Mr. Vice-President.

So I hope that the PNM Government is getting serious with this piece of legislation and protecting our tax base. Almost every regional partner has engaged properly in all the aforementioned conventions and recommendations.

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Most of our economic partners have established competent country-by-country reporting frameworks years ago. The world, even the developing world, understands the importance of shifting this tide and has made the necessary changes, Mr. Vice-President. Governments all over the world have moved with a mandate to protect the interest of citizens by protecting tax revenues. You know what it takes, Mr. Vice-President? It takes proper leadership to accomplish that. You know what this country has that those other countries do not have?—a PNM Government. That is what we have that they do not have. Poor leadership when it comes to these types of pieces of legislation, Mr. Vice-President.

So, Mr. Vice-President, I end simply by saying that though we recognize the lazy nature and mischievous nature of this PNM Government, we will support anything that will protect the tax base of this country, that will protect us from losing the \$13 plus billion that we lost in 2018 under this PNM Government. We will support anything that will help us get to that point despite how lazy they are, and in a year and a half from now, Mr. Vice-President, when we take office we will catch up with the three-legged race—

Hon. Senators: [*Desk thumping*]

Sen. D. Lyder:—that they are far behind with, Mr. Vice-President. With those few words, Mr. Vice-President, I thank you.

Mr. Vice-President: Sen. Hazel Thompson-Ahye.

Hon. Senators: [*Desk thumping*]

Sen. Hazel Thompson-Ahye:

“AN ACT to provide for the Country-by-Country Reporting (CBCR) by Multinational entities relative to the Base Erosion and Profit Shifting

Inclusive Framework and to provide for matters related thereto.”

Mr. Vice-President, normally I will begin by thanking you for allowing me the opportunity to join this debate but when I read the title of this Bill, I took no pleasure in it. It seemed like I was about to enter a torture chamber. The wording seemed all Greek to me. Latin was my favourite subject at school, but Greek, the closest I got to Greek was when directed by Derek Walcott, I acted in the Greek writer Aristophanes’ *Lysistrata* in UWI in the 1970s. In that play, the women, fed-up of the men continually fighting war, decided they will withhold sex until the men desisted. But I must not hold back on doing my duty, so here goes.

The long title of this Act as I said before is:

“AN ACT to provide for the Country-by-Country Reporting (CBCR) by Multinational entities relative to the Base Erosion and Profit Shifting Inclusive Framework and to provide for matters related thereto.”

I wonder what my fellow citizens on social media must think about this. Does that sound like English? It is all Greek to me. But then, I should not be surprised because did we not hear recently mention being made about Icarus, who was a Greek mythological character, so it is now part of the course to bring the Greek into public discourse and now into the Senate and I must deal with it, so I begin.

Mr. Vice-President, it would be remiss of me not to thank the hardworking parliamentary staff for the issues paper which simplified matters somewhat and created an “Ah-ha” moment, or in local parlance, “Or hor, dat is what dey mean.”

It states that:

“The Organisation for Economic Co-operation and Development (OECD) defines base erosion and profit shifting (BEPS) as ‘tax planning strategies

that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity or to erode tax bases through deductible payments such as interest or royalties.’ This creates unfair advantages for businesses operating internationally over those at a domestic level, undermines the fairness of tax systems resulting in little or no corporate tax being paid, and can reduce voluntary tax compliance.”

Many years ago, perhaps before the Calypsonian representing “we was born,” the Mighty Sparrow sang:

“Doctor, or no, doctor (You cannot get away from the tax)”.

Today tax avoidance and tax evasion remain a feature of life in every country operating internally and externally across borders. International cooperation to curb tax evasion is an essential feature to ensure tax compliance. This Bill is designed to achieve this. Its long title states that:

“AN ACT to provide for the Country-by-Country Reporting...”—et cetera as I said before.

According to its documents:

“The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework...”—within which work in the area of—“...tax transparency”—and exchange of information is carried out by over 90—“...jurisdictions which participate in the work of the Global Forum on an equal footing.”

It is charged with in-depth monitoring and peer review of the implementation of the standards of transparency and exchange of information for tax purposes. The

standards provide for international exchange on request of foreseeable relevant information for the administration or enforcement of domestic tax laws of a requesting party.

Mr. Vice-President, the reason we are here today is that the Global Forum of which Trinidad and Tobago has been a member since 2011 conducted an evaluation of our legal and regulatory framework in place against the standard of transparency and exchange of information and found us wanting. Evaluating the transparency framework involves a look at both the information-gathering process and procedures for the exchange of information. The European Union has deemed us a non-cooperative jurisdiction for their tax purposes in respect of one of their criteria. They have found in us some loopholes in so far as compliance where our obligations are concerned and have called on us to cooperate with them and close existing gaps in our law. That is why we are here today to try to comply with what we are asked to do.

Now this present Bill is another one of the suite of legislation for which I may dare coin a term namely, “The tattletale or tell-tale or tit for tat or you scratch my back I scratch yours,” package of laws. It is designed by countries for other countries to report on private citizens and companies within the latter’s jurisdiction that seek to evade payment of taxes or engage in money laundering or other such nefarious financial activities which harm a country’s economy. Now do not get me wrong, I approve of these laws. I describe it as I did so the man on the Priority Bus Route to whom we must speak will understand of what I speak. Now to the Bill. Clause 1, gives the short title:

“...the Base Erosion and Profit-Shifting Inclusive Framework

(Country-by-Country) Reporting Act, 2023.

Clause 2, states that the commencement will be on the date fixed by the President by proclamation. So we have to await that date and we hope it will not be too long after the Act is passed.

Clause 3, is the interpretation or definition section. It defines among other terms—and I will not speak to all. The:

“‘Board’ means the Board of Inland Revenue established under section 3 of the Income Tax Act;”

Sometimes I will say “BIR” and you will know that I am talking about the Board of Inland Revenue. It explains what is meant by “Consolidated Financial statements,” “Constituent Entity” and “Fiscal Year.” It tells us that a:

“‘Group’ means a collection of enterprises related through ownership or control such that it is either required to prepare Consolidated Financial Statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of The enterprises were traded on a public securities exchange;”

It defines:

“‘International Agreement’ means the Multilateral Convention for Mutual Administrative Assistance in Tax Matters or any bilateral or multilateral...”—MNE group

And MNE group is described:

“(a) includes two or more enterprises, the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the

business carried out through a permanent establishment in another jurisdiction; and

(b) is not an excluded MNE Group;”

So people find a number of ways of getting around paying taxes and this legislation is designed to catch them in all the ways that their creative minds can bring forward solutions.

Included in this definition section also are, “Qualifying Competent Authority Agreement,” “Reporting Entity,” Reporting Fiscal Year,” Surrogate Parent Entity,” “Systemic Failure, “Ultimate Parent Entity” and other terms used which have already been explained to you. The drafters have taken pains to explain these unusual terms using the Act as they are not words used in everyday language. I am grateful for their comprehensive explanation.

Clause 4 of the Bill, sets out the filing obligation by setting down who must file namely:

“Each Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Trinidad and Tobago...”

It gives the nature of the report to be filed, that is a country-by-country report conforming to the requirements of section 6. With whom it must be filed, that is the Board of Inland Revenue. The time period for filing, which is late down in Clause 7. And finally, it delineates the criteria to be satisfied for filing.

5.10 p.m.

So in fact, at every turn this legislation is trying to comply with what is required under the European law.

Clause 5 specifies that that notification be given to the BIR of the status of

the Constituent Entity whether Ultimate Parent or Surrogate Parent Entity within a designated period.

Clause 6 requires the BIR to give guidelines for methods of filing and which must be strictly complied with if the filing is to be deemed valid.

Clause 8 stipulates the information that the BIR shall use:

“...for the purposes of collaboration on compliance and enforcement with other competent authorities pursuant to a qualifying competent authority agreement.”

It is to be noted that the all-embracing phrase “and any other information obtained pursuant to this Act” is included within the sources of information. This signals that there is no limitation on how far one can go in one’s quest to obtain required information save that it must be obtained pursuant to the Act.

Clause 9 now speaks to the necessity for confidentiality of information obtained by the “Inland Revenue Department”. It must be pointed out though, that the issue of confidentiality is one that has little credence in our society, historically and as a very recent event showed in a case which is close to us.

Clause 10 lays down the requirement for the reporting entity to establish and keep for a period of six years a record of:

- “(a) the steps undertaken for the performance of the obligations...
- (b) any evidence relied upon for the performance of...obligations...”—

to file a country by country report and the information submitted to the Board.

Clause 11 now directs:

“The Register General...”—to—“forward to the...”—BIR—“at least...every six months a list of enterprises registered under the—

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- (a) Companies Act...;
- (b) Registration of Business Names Act...and
- (c) Non-Profit Organisations Act...”

—which the list is to be utilized to determine if the enterprises on the list are

“...constituent entities resident in Trinidad and Tobago for tax purposes.”

I trust that with the additional responsibilities given to the Register General, there will be a concomitant increase in staff and also staff training. Having to deal with entities who are trying to comply with FIU legislation has led me to believe that common sense is not so common as staff in financial institutions can become very nervous when faced with a simple issue of proof of source of funds and they keep asking sometimes for you to fulfil requests when the proof of funds, source of funds is staring them in the face, and that can be very frustrating.

Clause 12 is awkwardly worded at the beginning and needs to be revisited, but it seems to aim to give power to the Board of Inland Revenue to obtain:

“...copies of relevant...”

—information howsoever and where so ever stored by entity and in:

“...its possession or control...”—in order—“...to determine whether”—a—

“Constituent Entity is compliant...”—with the—“Act.”

If you looked at it, what it says and I quote:

“The Board may, in writing and within such times as it may require, require a Board provide or make available to it, information including—”

And it goes on. So something is obviously wrong there and it needs to be changed.

Clause 13 specifies how errors in a country-by-country report are to be dealt with. First, you have notification of the error, you have correction within 14 days

after the date of service of the notice, failing which the entity may be:

“...subject on summary conviction to a fine of two hundred and fifteen thousand dollars and imprisonment for ten years.”

Now, I cannot help wondering if this very onerous and punitive provision is for the purpose of generating revenue rather than achieving compliance. Surely a reasonable man on the Priority Bus Route can think of circumstances where compliance within 14 days is not achievable. This provision needs to be revisited and amended to allow for an extension in extenuating circumstances.

Clause 14 which deals with avoidance of obligation, is a reasonable one. I can envisage the problems with proof, but we do still have some intelligent persons in our society who can overcome the challenges.

Clauses 15, 16 and 17 deal with offences which are knowingly making and submitting false reports, alteration, destruction, mutilating, obliterating, hiding of reports, hindering or obstructing the board from performing its duties. And these incur severe sentences which in the circumstances I regard as justifiable.

Clause 18 provides for an appeal of the Board's decision to the High Court.

Clause 19 gives the Board the power to impose administrative fines for breaches of procedure under the Act in accordance with regulations. I trust, but given the obvious predilection for negative resolution I doubt that these regulations will be subject to affirmative resolution, but I am prepared to be surprised. I like surprises, and the Minister of Finance shakes his head.

Clause 20 makes the failure to report an offence liable on summary conviction to a fine of \$250,000 and imprisonment for ten years. This to me sends a signal to the local and to the international community that we are serious about

compliance, but then it is softened a bit by the alternative provision for an administrative fine.

Clause 21 gives the Minister the power to make regulations to give effect to the Act.

Clause 22 now speaks to the possibility of the Board issuing appropriate guidelines to assist with compliance with this Act. These guidelines are to be published in the *Gazette*. I trust that it will also be published in the daily newspapers. Few people read or have access to the *Gazette*.

All in all I think this Bill is a commendable attempt to take us out of the embarrassing position in which we have found ourselves for some time now, as a non-compliant country. Outside of my comments, I support it wholeheartedly. Jamaica and other Caribbean countries have achieved favourable reviews; so can we. Thank you.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Minister of Public Administration.

Hon. Senators: [*Desk thumping*]

The Minister of Public Administration (Sen. The Hon. Allyson West): Thank you, Mr. Vice-President, for allowing me the opportunity to contribute to this debate. Having come so far down the batting line and recognizing that all the contributors so far from each of the three benches are essentially in support of the Bill, I am going to veer slightly away from my intended contribution and just give a brief synopsis of what gave rise to the need for this Bill, and then focus on the one objection I have heard in respect of the Bill so far.

So essentially profit shifting as the Acting Prime Minister would have indicated,

arises from the fact that multinationals operating across the globe are exploiting gaps in tax legislation, mismatches between different tax regimes and quite often differences in rates of tax that apply in different countries. These multinationals operate internationally and they have little regard to national borders, so they take their investments and they take their money to jurisdictions where they anticipate that they can get the best return, either from profits generated or from reduction in the taxes that they are likely to pay.

So the kinds of measures that they generally use to avoid tax include things like exploitation of intellectual property. Intellectual property is easy to exploit because it is an intangible. It is easy to establish the ownership of intellectual property anywhere that you want because it is not a physical thing, and therefore you look for tax advantageous locations to locate your intellectual property and then you charge all of your members, all the members of the group, funds for utilizing the imposed charges on them for utilizing this intellectual property, get those profits, put them in the low-tax jurisdiction, you get a deduction where they are paying taxes from operating companies, and you pay little to no taxes in the country where the intellectual property is regarded as being earned.

The same thing with management charges. They impose management charges on their operating companies operating in high tax jurisdictions, reduce the profits there and take those profits to jurisdictions where the taxes are low. And a very significant measure that is also used is the imposition of interest bearing debt. So, you charge your related parties debt to as high as you can get away with in the country where the profits, the actual profits and actual operations take place, you transfer that debt to a low-tax jurisdiction and so you again lower the tax liability

in the tax jurisdiction, take it to a no-tax jurisdiction or low-tax jurisdiction and significantly reduce your profits.

So it is for this reason the fact that we have multinational corporations that ignore borders that arrange their tax affairs to benefit themselves and “cheat” the tax man, that countries have decided, countries throughout the world have decided that they must collaborate to try to combat that growing tendency of multinationals to take advantage of these differences in tax rules. That has led us to where we are today, the imposition of various rules to allow for the cooperation among countries.

What we are seeking to do today is allow, is to encourage countries to join this growing rate, growing group of entities that say, when you are operating across borders, if you are earning more than US \$850 million a year, then you must report what you are earning and where you are earning it, and what your expenses are essentially, so we can have a global picture of your operations and thereby be able to more easily determine what rules you are taking advantage of, to give yourself tax benefits. It is only when you have that global picture that you can properly do that. So that essentially is the reason for this Bill and it is essentially what the Bill is trying to do.

But what we need to recognize is, it is only a reporting measure. All it is saying to multinational corporations is, you must tell us where your operations are, what income you are earning and what expenses you have essentially. It does not magically lead to an increase in tax collection. Things have to be done to move us from the collection of information to the generation of more tax information, and that requires the operation of robust, knowledgeable, well-resourced tax

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authorities. In the absence of that, the legislation takes us nowhere, all we have is another pile of legislation and we can see that if we look at the existing rules that we have.

We have double taxation treaties between Trinidad and Tobago and various countries. Those double taxation treaties currently say that we must exchange tax information among ourselves so that we can better supervise and ensure that our residents of those two countries are properly accounting for the taxes between the two them. Under those tax treaties we currently get tonnes of information. When I worked at the Board of Inland Revenue I remember seeing reams of papers at that time, computer-generated paper listing all of the Trinidad and Tobago citizens and residents who were earning interest/income, for example, in the States, or dividend income in the States. So the information is supplied by the US to Trinidad and Tobago and then what?

How many of us have US dollar accounts earning interest? How many of us actually see an assessment from the Board of Inland Revenue saying, this is the tax that you ought to have paid on the US interest, and this is the penalty and interest that you will be charged for not reporting that interest and paying tax on that? I am sure if you look around this room you can find at least one person who is, who finds him or herself in that situation. So what is the point of getting this information if you are not going to do anything about it?

So the timing of this legislation may seem off, but I am always focused on when we are required to look at introducing legislation that is pretty much imposed on us from the international community like this is, I always like to focus on how Trinidad and Tobago can benefit from the passage and implementation of this

legislation.

And we have the opportunity to do that if we know what we are doing and we have the resources to do it.

5.25 p.m.

So what will this legislation give us? It will tell us where international companies that invest in Trinidad are operating, what charges are being imposed, how they compare to charges being imposed on the members of that group that operate out of Trinidad. So we have the wherewithal then to better audit those companies to see where—what hidden charges there are, what overstatement of charges there are, because we have the whole picture and we are better able to do a proper assessment of their tax liabilities. It will also require our multinational—locally based multinational companies, like the Republic's and the Massy's of this world, who may well qualify to be compliant—to be required to comply with this legislation, it will give us a better picture of their operations as well, once we ensure that they do what they are supposed to do.

Having that additional information should lead us to a place where we can better assess the taxes payable by those multinational corporations, both the foreign base that have investments here and the local base that have investments outside. But unless we have the wherewithal to do those proper audits, unless we have the resources and the right approach, it will just be another piece of paper, another bit of information.

So, to me, this legislation is useless in the absence of a robust tax authority, which we have been trying to introduce since 2009 through the Trinidad and Tobago Revenue Authority. It was not a—we were not able to successfully do it

before the 2010 elections. It was abandoned between 2010 to 2015, and post the 2015 period, in trying to get that through, the ideal way to get it through would have been with the support of—is with a special majority support because then we would have been able to transfer all the powers that currently exist at the Board of Inland Revenue to the new revenue authority and make it more effective and impactful. We got no support for the full Bill as it was originally designed to give the Board of Inland Revenue the real teeth that it—sorry, to give the TTRA the teeth that the Board of Inland Revenue now has and therefore, what we had to eventually do was whittle down the impactfulness of the legislation to allow it to come through with a simple majority passage.

Having done that, we are now in the process of implementing and rolling out the revenue authority, which is taking longer than it should, because we have had to split the powers between the public service and the TTRA because we could not give the TTRA all the powers that it needs. And so, to me, introducing that this legislation, BEPS legislation, in the absence of a robust tax authority, it would have taken us no where

Now that we are in the process of implementing the tax authority, it is an opportune time to introduce the legislation. So that, to me, is the most relevant explanation as to why it made no sense to rush the BEPS legislation before now because it would have meant nothing to us. It would have given us no advantage. Because, yes, we can have all the reports in the world that we want, but if we do not have the ability and the resources and the approach to properly audit those people, in respect of whom we have the information, it takes us nowhere.

Sen. Mitchell: Correct.

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Sen. The Hon. A. West: Sen. Mark also raised the issue of transfer pricing legislation, “We do not have this and we need that,” and whatever. And what I will say to Sen. Mark is, the same thing applies. Transfer pricing legislation is useful, yes. There are lots of countries that have introduced it and some of them may be benefiting from it. But I reached out to a colleague of mine in Jamaica, which has had transfer pricing legislation for quite some time, to say, “How it impacted on your revenue?” And I am told, “It has not, not in any significant way.” Because the approach, in terms of implementation and enforcement and utilizing the information that you get from these bits of legislation, has not changed, and so there has been no impact on the small man, on the SME, on tax collection, because you need a framework for these things to make sense and we are now putting the framework in place. So, to me, this is an opportune time to introduce this legislation.

Sen. Mark also complained about the fact that because we do not have transfer pricing legislation, people are allowed to get away with whatever and as a result of that, we lost 8 to \$13 billion in taxes. What I would say to Sen. Mark, in response to that, is a couple of things. One, although we have not yet introduced transfer pricing legislation, and although there is utility in introducing transfer pricing legislation because it puts the onus on the business operators to report on their positions and therefore gives the tax authority more information to treat with it and hopefully arrive at proper audits, we have had throughout the history in Trinidad and Tobago essentially, section 67 of the Income Tax, which is an anti-avoidance section that essentially allows us to do what the transfer pricing legislation intends us to do, which is to identify the right price point for a

transaction between related parties. What it does not do is impose a reporting requirement on the businesses, but it does give the Board of Inland Revenue the authority to make adjustments. The Board of Inland Revenue has been using that section and has used it successfully to generate—to assess people to more taxes than what they have declared.

So that the absence of the transfer pricing legislation on its own does not debilitate our tax regime in such a way that it would deprive us of all these billions of dollars if the tax authority was consistently doing what it was supposed to do. It has not been. So we need a robust tax authority to do what is required, supported by the legislation to get us there. So is transfer pricing useful? Yes, it is. Will we introduce it? Yes, we will. But to me, it is just another piece of legislation, unless we have everything else to go with that, and the ecosystem is what it should be.

So I cannot comment on the veracity of Sen. Mark's claim that we lost 8 to \$13 billion in taxes because of the absence of transfer pricing legislation, but I can remind us this House and the national community that as a result of steps taken by our hon. Prime Minister, who was pillory throughout Trinidad and Tobago for daring to say that we are going after the energy companies for understating taxes, for depriving us of income to which we thought we were entitled, ably supported by Minister Young, because of these two gentlemen who worked diligently on behalf of Trinidad and Tobago, we, in fact, recovered \$17 billion in funds that ought to have come to us in taxes from these multinational corporations. So we more than compensated for what Sen. Mark alleges that we lost.

Hon. Senators: [*Desk thumping*]

Sen. Mitchell: True.

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Sen. The Hon. A. West: And we did that in the absence of BEPS and in the absence of transfer pricing. So it has less to do with the legislation and more to do with the approach and the robustness and our determination to get what was due.

So, yes, this legislation will help. It should be make it easier for the tax authority to do what is required of them, but it is not impossible for them to do what they need to do, even in the context of where we are now. So do I support the legislation? Yes, I do. Because with the digitalization of the economy, with the expansion of global activity, with the removal or the reducing importance of national borders, getting information becomes more and more challenging, and this will make it easier to get the information. But really, it is all part of an entire ecosystem and we are working on building out the ecosystem to give us the robust ability to do what needs to be done to ensure that Trinidad and Tobago recovers the right amount of tax to make life easier for all of us, to make it possible, perhaps for the Minister of Finance at some point to say, “Let us go back to a 25 per cent tax rate rather than 13 per cent,” and to give us the opportunity, give us the ability to provide the support and resources that our citizens need.

So, Mr. Vice-President, I fully support this legislation. I think I have adequately answered the only complaints of the Opposition, in terms of the timing. And I would hope that, having regard to the comments that have been made, we can have an easy passage through this place. Thank you, Mr. Vice-President.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Jayanti Lutchmedial.

Sen. Jayanti Lutchmedial: Thank you, Mr. Vice-President, for the opportunity to contribute to this Base Erosion and Profit Shifting Inclusive Framework

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(Country-by-Country) Reporting Bill, 2023. Mr. Vice-President, a lot has already been said by Members of all benches, and so I am certain I will not use my full speaking time, but I just want to make a couple of comments on the policy underlying the Bill today. Specifically, I have a couple of questions arising out of what was just relayed by the Minister of Public Administration and what was stated, and I would make a couple comments on some of the clauses in the Bill. The penalty clauses specifically I may want to narrow down—narrow in on.

Mr. Vice-President, we are bringing legislation to enable country-by-country reporting so that Trinidad and Tobago can meet its obligations under this Base Erosion and Profit Shifting Inclusive Framework. This is but one of 15 action points developed which countries are encouraged—and there are a 140 countries, I believe, presently working together in an effort to minimize tax evasion and tax avoidance, and so to allow for a more comprehensive, global and fair tax regime. And why is this really important? Because as we have heard from everyone today, multinational corporations can exploit gaps and mismatches in tax rules and shift their profits in such a way so that they make deductible payments and so on, utilizing deductible payments, utilizing the retail price methods and so on to minimize their profits and basically pay less taxes to certain jurisdictions.

Fairness and integrity of a tax system is very important and when we have multinational corporations being able to legally, through deceptive but not illegal practices, avoid income tax, it really does not inspire confidence. And seeing that the payment of taxes by the average citizen in this country is something like voluntary—we have voluntary tax compliance. Of course, the Inland Revenue has powers that they can go after persons who do not comply, but we depend on

voluntary tax compliance. And when large multinational corporations can exploit loopholes and minimize taxes and avoid paying taxes, it does not inspire confidence and will ultimately undermine voluntary compliance by many of our average taxpayers, the small to medium businesses and so on.

We rely very heavily on corporate taxes. And particularly, in this country, the multinational enterprises, which operate in our oil and gas sector, the entire economy depends heavily on our development as a country, and in many developing countries, we depend on taxes from multinationals. And so if we can plug those loopholes, it is certainly something that we should treat with urgency.

Mr. Vice-President, the Opposition, despite what may be said otherwise, we have always supported legislation that will help remove Trinidad and Tobago from any list that paints this country as non-compliant, whether it be FATF, whether it has to do with the EU non-compliance and so on. We have supported the legislation. The unfortunate thing is that a lot of this legislation comes sort of like an emergency. It comes at a time when we are facing some sort of imminent review, a peer review, an assessment, and it always something that has to be pushed with urgency because of delay, and many of my colleagues have spoken about delay,

5.40 p.m.

But I think it is necessary to talk about it a little more, because today, the 20th February, 2024, the Council of Europe adopted the EU list of non-compliant jurisdictions for tax purposes and Trinidad and Tobago is again, today, featured as only one of 12 countries still on that list. And that press release came out today, Mr. Vice-President, and it is really, when I saw that and I read the press release and

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I read the report coming out of—stemming from the Council of Europe where they talked about the 12 non-compliant jurisdictions. And I saw countries like the Bahamas, and Belize, and the Turks and Caicos Islands being removed from the list today and that communiqué being issued today, but I see Trinidad and Tobago still there with the likes of Russia and Panama, I was concerned because this is what they had to say about Trinidad and Tobago.

“Trinidad and Tobago does not have”—and I am reading from, just in case anybody wants to look at it:

“Brussels, 20th February, 2024

Outcome of Proceedings

From: General Secretariat of the Council

To: Council.

...The Counsel conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes.”

And I will get to what they say about Trinidad and Tobago. And they said:

“Trinidad and Tobago does not have a rating of at least “Largely Compliant” by the Global Forum for exchange of information on request, has not signed and ratified the OECD Multilateral Convention on Mutual Administrative Assistance as amended, has harmful preferential tax regimes (Free Zones), does not implement the BEPS minimum standard on country-by-country reporting and has not resolved these issues yet.”

This is what they said today.

And I thought back to myself and I said well, free zones, that sounds familiar and then this whole BEPS thing we are debating it today. But, Mr.

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Vice-President, this piece of legislation has been on the Order Paper since November last year. It was laid in this House November of 2023, November 24th I believe. Yes, introduced on November 24th. We have had eight Tuesdays for this year since January and we have only sat for Private Members' Day.

So when the Government comes here and says that, look, this is so great, this is a useful tool and we are getting there and we are going to come off the non-compliant list and we are making progress and so on, nobody has explained the delay, no one has—I mean Sen. Mark raised the issue of the delay from since 2017, when this list first emerged, because we have been on the list since 2017, and some body mentioned that so many of our Caribbean neighbours have continuously been reviewing their laws and implementing their laws in order to get off the list. They complained that the goal post shifts, that happens all the time, it happens with FATF as well and the anti-money laundering rules and so on.

You have to continuously keep yourself—you move from grey to dark grey, to light grey, to non-compliant and you have to continuously look at these things. And Barbados is the best example. When you look at all of the progress they have made to keep themselves off the list, many of the other jurisdictions have been removed and were placed back on the list for certain things, they have come off again, but we have consistently been there since 2017. And that to me really brings on, you know, to a place where you must really question the commitment of the Government to compliance with all of these requirements and to getting us off the list. And if the Government themselves come here and talk about the importance of compliance and the importance of us getting off of this list, well then they should proffer some explanation as to why there has been such a great

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delay, particularly with—and this is only one of the action points that we are required to comply with.

When I read the communiqué as well, I talked about the, you know, that we still have free zones and so on. I remember when, it was in early 2022, we came here to debate the Special Economic Zones Bill. That is also a useful piece of legislation and I am glad that the Minister of Public Administration has mentioned that if you do not implement your legislation, then it is just another piece of paper. I say that all the time, on almost every Bill that we bring into this Parliament, that if you cannot properly implement legislation then it is just another piece of paper. We past that Bill, we supported that Bill for Special Economic Zones. I think that Bill is still awaiting proclamation. That Bill is still awaiting proclamation and I noticed that this Bill also has a proclamation clause.

So when we hear that we must come here today and we are asked to support a piece of legislation that is urgent because we have an assessment coming up in March, but we look at the track record of the Government in terms of their delay, in passing legislation, in bringing legislation, in having this legislation sit on the Order Paper since November last year and today, us being named and shamed again, internationally, on a list of non-cooperative jurisdictions by the Council of Europe, we really want to know, well, is there urgency or is there deliberate delay or is it just slothfulness and a lackadaisical attitude from this Government in terms of—

Sen. Nakhid: Incompetent.

Sen. J. Lutchmedial:—taking this country forward and making us compliant.

So I raised those issues because I think it is extremely important.

Mr. Vice-President, I also want to say something that was raised by the Minister about the transfer pricing. The Minister of Finance and Acting Prime Minister has indicated that this is a very useful tool because it is a tool that makes it mandatory for countries to basically provide information to the Board of Inland Revenue. And it is the ability of the Board to utilize this tool and it is only one of many tools that can be utilized to then determine whether or not there has been transfer pricing and to go after certain entities who engage in this type of activity and to challenge the transfer pricing. But in the absence of actual transfer pricing legislation, and I have to agree with Sen. Mark that the Minister attempted to downplay the need for or the usefulness of transfer pricing legislation.

If something is not being implemented properly and utilized to its fullest capacity that does not mean it is not useful. And, again, in my research I found some useful material and I thought it was rather strange to then hear the Minister say, well look, you know it is not that we have that, we have section 67 of the Income Tax Act, we have not used consistently, et cetera. It is my information, and I am subject to correction from anybody, but it is my information that assessments have been raised by the Board of Inland Revenue specifically with multinational companies operating in the oil and gas sector and they have gone before the Tax Appeal Board attempting to use the powers under the Income Tax Act to challenge what they called artificial and fictitious transactions and so on, which is technically the same thing as transfer pricing. Because it tries to look at the—whether they are arm's length transactions and so on, and they have not been successful and that the need for transfer pricing legislation has actually been acknowledged by the Tax Appeal Board and the authorities within Trinidad and

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Tobago.

So there is actually judicial guidance on the need for this legislation. But again, I do not know if it is because of the Government's own delay in bringing this legislation to the fore that they have come here to sort of play down the importance of it, because Sen. Mark has called them out on it. And he has called them out on it for good reasons and, again, part of the reason for my surprise is because in my research I came across a presentation on the Ministry of Finance website. And it was a presentation presented by Sen. The Hon. Allyson West, Minister in the Ministry of Finance as she then was, dated October 24th, 2017. And it is entitled, "Changing the Paradigm: Putting the Economy on a Sustainable Path". And in this presentation, and this document is published on the Ministry's website, it identifies a medium-term fiscal policy that speaks about transfer pricing. And what this presentation put forward by the said Minister who has just said, look Jamaica has it and it is not making much use and so on, is, we are building capacity to guard against transfer pricing practices that erode potential revenue flows to Trinidad and Tobago. It is our intention to bring legislation to the Parliament in 2018 that will strengthen our ability to address such commercial arrangements.

Mr. Vice-President, coming here today to make excuses and to downplay the value of legislation simply because you have failed to honour your own commitments is really unbecoming of a Government. And it is unbecoming of a Government that comes here to ask for the support of all Members and we will support it. As I said before we have always supported legislation. Nobody could pinpoint a piece of legislation that is needed to bring Trinidad and Tobago in line with international standards or commitments and so on, that we have not

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supported. We have always supported legislation brought to deal with anti-money laundering, to deal with tax compliance and so on, and we have been told from time to time that this legislation is urgent, this will get us off the EU blacklist. Well today, 20th February, 2024, we are on that list, published today, even though we have had legislation sitting on Order Papers since November.

So, that being said, Mr. Vice-President, I say all of that to say that the Government must recognize that this is one baby step. It is one tool in an entire tool box that is needed for us to seriously deal with the issue of transfer pricing, to seriously deal with the issue of leakages when it comes to our tax revenue. It is important that we go after the tax revenue particularly from our oil and gas sector that is necessary for the building of this country rather than try to find ways to impose additional tax burdens on the average citizens, continue to build the capacity, again, and I will get to that now.

Since we have identified this problem and that we have been on this list since 2017, can anybody from the Government say what has been done to build capacity within the Inland Revenue to deal with this? Because I just heard the Minister, who used to be at the Board of Inland Revenue, who was then a Minister in the Ministry of Finance, say that under the double taxation treaties we collect all this information but is it, are we really using it. So is this going to be another piece of legislation that requires information coming into the Board of Inland Revenue but they are not equipped to use it. Because where would that leave us? Because I think everybody in this House knows and if they do not they ought to know that compliance with international standards is not just about passing legislation, it is about the implementation.

So what has the Government done since 2017, when they became aware of this problem, when we have had reports from ECLAC and other reports coming out about the amount of possible revenue that we have lost as a result of transfer pricing? Have they built the capacity in preparation for this legislation? Because if it has taken you eight and a half years to bring the legislation to Parliament and you have been promising that since in 2017 presentation that in 2018 you are bringing transfer pricing legislation to the Parliament and today you are coming here to say, here, well, it is not really all that useful and, yeah, we will continue to do it. But when? You all have one year left. So when?

Hon. Senators: [*Laughter and desk thumping*]

Sen. J. Lutchmedial: If it took you eight and a half years to get here and what capacity do we have to really utilize this piece of legislation? Are we going to impose obligations on all our multinational corporations to now file reports? Are we passing legislation here in the Parliament imposing penalties that nobody could perhaps enforce?—because we do not know how to monitor it properly, we do not know how to use it. Are we equipped? Have we trained people to deal with this? These are the questions we want to ask.

Another issue I came up with is that last year there was an announcement that we had gotten financing from CAF, and that the Inter-American Centre for Tax Administrators had come to the country and done an onsite assessment. This was last year I think in March. And that we have—we were supposed to be working towards a project for the control of transfer pricing operations. Where have we reached with all of this? And you know these are pieces of information that are very important when you are asking this House to support legislation, because we

need to know where we are going. And I think Sen. Lyder used the word, “haphazard”. And it is very haphazard, because the Minister says, well I will be coming back, I will be coming back with different things and we came recently with the amendments to the certain pieces of legislation, the Registrar General’s Department and dealing with all of those things and beneficial ownership and all of this is part of it.

Why are we so haphazard? Why is there no proper policy document or a framework that will say this is where we are, this is where we need to be, these are all the things that we plan to do and how it is going to get done and bring things together in the Parliament that we can debate it in a way and look at it and examine it in such a way that we know how we are complying. And at the same time, let the Parliament know where we are in terms of implementation.

5.55 p.m.

When it comes to the particular provisions of the Bill, I want to make a couple of comments—well I think I picked up an error in one of the sections, but I think that is being corrected. I see that the amendments were just being circulated and it has to do with the request for information. So I think that the word “Board” was repeated somewhere and that has to be changed in clause 12. So it ought to be that the Board can ask the entity or something like that to make information available to it.

In terms of the penalties, when they fail to comply with requirements for country-by-country reporting under the Act you are committing an offence of summary conviction and imprisonment to 10 years, and I think Sen. Thompson-Ahye mentioned that you can also be faced with an administrative fine or penalty.

The imposition of administrative fines as an alternative to criminal sanction can be useful when you are dealing with companies and so on, but it ought not to be something that can be formulated outside of this Parliament. I do not believe that any sort of sanction to be imposed, whether on an individual or a corporation, ought to be done outside of the Parliament. And so, I would ask and I would put it in writing and email it to the Clerk, that the regulations that have to flesh out the details of the administrative sanctions be brought to the Parliament, because you cannot simply vest in a Minister, or in any Minister, and in any person with executive power, the ability to impose fines and sanctions without the oversight of the Parliament. I do not agree with that at all.

The imposition of penalties is very important and it is something that affects rights of individuals and entities and it ought to be subject to a debate or at least have the option of any Member of Parliament being able to raise it for debate. It should not be done outside of this and have no opportunity for the Parliament to look at it. The other thing is that in clause 20(2) it says that:

“Notwithstanding subsection (1), a Reporting Entity which contravenes sections 4, 5, 6, 7 and 10 and Guidelines made under section 22 may be liable to an administrative fine...”

Now there was extensive guidance coming out of the Privy Council in the Dominic Suraj matter with respect to what, in essence, whether or not guidelines should be imposing criminal sanctions. And so, when we have these guidelines and we are talking about breaches, we have to ensure that we do not crossover into having a breach of guidelines, having sanctions. And even if it is an administrative fine I think we should be very careful with breaches of guidelines because

guidelines have to be very carefully crafted with certainty, and guidelines do not often have that level of certainty.

So when you have a breach of a guideline in a case like this—and I will ask the Minister to reconsider whether or not they want to impose sanctions, whether it is criminal or administrative fines for a breach of a guideline, because that could lead to a lot of uncertainty. It could lead to a lot of challenges and it is very difficult to enforce the breach of a guideline. The nature of a guideline is really to give advice and to give guidance—exactly guidance—on how to comply with regulations.

So really and truly any breach or anything that should attract a sanction ought to be included in parent legislation or in subsidiary legislation such as regulations which should be subject to oversight by the Parliament. And I think those—apart from the other areas that have been mentioned, those are some of the proposals that we would like to make in order to strengthen the legislation to ensure that it is workable, to ensure that it will achieve what it is supposed to achieve because the last thing we want is an entity being able to exploit another loophole containing a guideline and not being compliant with what they have to do under this law.

We recognized the importance of compliance. We recognized the importance of passing this piece of legislation in order to get us one step, even if it is a baby step, just a little bit closer to plugging that hole and leakage in our tax revenue and in becoming compliant with the international standards. And so, we do not want a piece of legislation that can be exploited in any way, the same way that they have been exploiting loopholes in our tax laws to minimize profits and so

on. We do not want our compliance with international standards to now be questioned because there is a loophole contained in a piece of law via a guideline and something that can be questioned and queried.

So in terms of strengthening the legislation, I would say to look again at that particular piece of drafting there with respect to guidelines. Guidelines have a particular role and a particular function, and a body that is formulating or even administering sanctions and so on should be properly constituted because they are performing a quasi-judicial function.

[MR. PRESIDENT *in the Chair*]

And if you have a body, Mr. President, that is either the Board of Inland Revenue or the Trinidad and Tobago Revenue Authority, if it comes on stream, and they have to administer this piece of legislation, they will be exercising a quasi-judicial function and ought to be properly constituted and equipped to do so.

I have questions and I query whether or not that is in fact something that has been taken into account in terms of the Trinidad and Tobago Revenue Authority legislation. Even now presently with the BIR, whether they are equipped to sit and hear matters and determine matters such as this and impose sanctions for non-compliance. The rules that they seek under this particular section to have as a breach really deals with something else as to whether you file it or you do not file it, and it is very similar, for example, to some of the obligations that you will see under our securities legislation. But that is why the actual composition of the Board under the Securities Act is designed in such a way that they are equipped to exercise a quasi-judicial function.

So again perhaps the Minister can say whether or not he is satisfied that the

Board of Inland Revenue as presently constituted, and even if it becomes the Trinidad and Tobago Revenue Authority, whether they would be equipped to exercise that jurisdiction and whether they are best placed to exercise that jurisdiction for non-compliance and to impose fines, sanctions, and penalties. I know that there is power presently exercised by the Board in terms of the person settling queries and so on, but this is a whole new regime that we are introducing and we should be satisfied that they are equipped to do so.

Mr. President, the failure to plug any gaps in our tax system has a very negative impact on the citizens of this country. Tax revenue is what keeps this country running. It pays salaries, it helps us to deal with issues such as crime, infrastructure, and there is so much work to be done that one cannot underscore the importance of us trying to maximize our tax collection efforts and also to be able to demonstrate our compliance with foreign countries. When we adhere to globally accepted standards for tax corporation, to governance and so on, we can also attract more foreign investments.

I know persons were concerned and raised the concern about whether or not implementing a regime like this may negatively impact foreign investment. But I do believe that countries that wish to attract foreign investment ought to at least provide certainty with respect to how the laws would operate with respect to transfer pricing and with respect to taxation because that in itself will offer some sort of incentive to foreign investors to come here. And that is why I would say and I would end by saying that the Government ought to not be as slow as they have been with this particular piece of legislation. They should not be as slow to bring the transfer pricing legislation and to have a full and comprehensive regime

to deal with transfer pricing. Because it not just helps us plug the hole and to help us to maximize our revenue, but it will also provide certainty for the multinationals who wish to invest here, and who are already here and who may wish to continue to invest here as to how the tax regime will operate and how they will be affected.

I would encourage the Government to utilize the opportunity of this debate to really give the country some assurance that when this legislation is passed today, and in the other House hopefully soon, that we do have the capacity to really make it work for us and to give an account to the population because that is what they are here to do. They are here to give an account. Give an account to the population over the last eight years that they have been aware of this problem, how they have built our capacity to not just bring a 22 clause Bill to Parliament, but to implement it and effectively use all of the information. Because all this piece of legislation is, all it says in these 22 clauses is you must give us information, and if you do not give us information we can impose a fine or a penalty on you. But that takes us nowhere towards solving the ultimate problem that we have unless we understand fully how the information is to be used and that we know how to use it.

As I said before, one tool in a whole toolbox that is needed. So tell us today how you intend to fill that toolbox, how you intend to effectively equip our institutions with a full toolbox to treat with a very important problem that affects this country. I thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Teemal.

Sen. Deeroop Teemal: Thank you very much, Mr. President, for the opportunity to contribute on this Bill that is before us here today. Mr. President, in the

Explanatory Note it is stated extremely early in the Explanatory Note—in fact, the first part of it—that the purpose of the Bill is twofold. It seeks to provide country-by-country reporting legislation to meet Trinidad and Tobago’s obligation to the Base Erosion and Profit Shifting—or BEPS—Inclusive Framework of the OECD. And the second aspect being to assist with one criterion of the list of non-cooperative jurisdictions for the purposes of the European Union.

And just on the basis of the Explanatory Note at the beginning there, Mr. President, I would have really liked to hear from the hon. Acting Prime Minister and Minister of Finance, a framework as to where we are overall because we are looking at one particular piece of legislation, that is the CbCR legislation, but in terms of the overall obligations to the BEPS Inclusive Framework. And then the other criteria that we need to fulfil to get us off the list of non-cooperative tax jurisdictions as to where exactly this Bill when it is passed, would be taking us, and what are the challenges we have in front of us in the coming months or in the coming period of time that we have to address and how the Government intends to address those challenges.

So that rather than—I do not know if I will be uncharitable by using this word, but rather than be limping along, we would really be on a track for possible success within a short period of time to achieve our objectives in getting off of the non-cooperative jurisdiction list of the European Union, and also fulfilling our obligations under the BEPS. Not just to like writing an exam to get off a list, or to do well and to score well, but really and truly, to be able to benefit from the many advantages that achieving such milestones in our legislation and in our operationalization of the respective pieces of legislation, the many advantages that

it could possibly bring to our tax base here in Trinidad and Tobago.

Now I understand from what was presented is that since 2017 we have been on the OECD list of uncooperative tax jurisdictions, and from my understanding, it is that it has led to certain disadvantages particularly revocation of valuable double taxation treaties, and in particular, I understand Denmark in January of 2022, and Norway in January of this year.

6.10p.m.

Also importantly, important European trading partners have started using defensive tax measures on transactions on uncooperative non-European jurisdictions and of course, measures being adopted include denial of tax deductions and in positions of withholding taxes on payments. So, it is affecting us negatively.

The BEPS Action Plan was established in 2013 with a main objective of addressing tax avoidance by MNEs and double non-taxation of the MNE's profits and by closing gaps that come about in the emergence of globalization and digitalization. So two key things driving the creation of these wide gaps in global taxation and affecting us locally would be the emergence of globalization and digitalization and from what I have been presented thus far, it seems as though our focus at this point in time and probably understandably so, would be dealing with the effects of the globalization.

Now, the Minister did mention—the hon. Minister of Finance did mention about a continuously evolving framework and reference was made to a shifting goalpost. And a recourse in order to arrest the situation or probably better manage the situation of a shifting goalpost, would be a recourse to the United Nations to avoid what seemingly is dominance by developed countries and from what we

understand, most CARICOM states subscribe to this thinking. At the same time, we have to acknowledge—I think we have to take on board the fact that the global world that we live in and the emerging global politics of the day is a rapidly changing environment.

So shifting goalposts are becoming a way of life, whether we like it or not. As the whole world order is being challenged and the dominance of certain world powers is being challenged, the geopolitics has created a situation of shifting goalposts almost on a monthly basis. Maybe as a country, we have to become acclimatized to the idea that we are dealing with a world in which the goalposts are always going to be shifted. And maybe we have to develop that resilience and that capacity to be able to deal with such situations as effectively and as efficiently as we can and as I am sure that we are capable of.

Now, the hon. Minister—acting Prime Minister did outline certain minimum standards that come under BEPS and we have to remind ourselves that all of the standards are subjected to peer review. He did mention Action 5 as one of the actions and this deals with harmful tax practices. Now, we have heard from the hon. Sen Lyder. He went into a bit of depth about the various actions and he did quote from certain reports that tended to indicate where we are with regard to our status under the specific action items. But I felt that the hon. acting Prime Minister and Minister of Finance, in his time—I am sure he probably would in the limited time he had, he chose not to and leave it for his wrap up.

6.15 p.m.

But as to where we are with the particular action, the fourfold action, and to offer to this Senate brief reasons as to why we have not been able to live up to our

obligations. So, for instance, the Forum on Harmful Tax Practices where, unfortunately, 319 preferential regimes and 12 nominal tax only or—no tax or only nominal tax jurisdictions, 73 jurisdictions are fully in line, 58 jurisdictions have received a total of 61 recommendations to improve their legal or operational framework.

Although we signed on to BEPS in 2017, we have the dubious distinction of being the only jurisdiction still listed for harmful tax practices under Action 5 of BEPS. And from what I gathered, from hearing from the contributions of other Members, it is really because of the free zones Act, which we have actually dealt with, with the passage of the special economic zones legislation some time ago, as mentioned by the Sen. Lutchmedial, and it has been partially proclaimed but the full proclamation of that piece of legislation, which I think is the sole reason why we are listed as a harmful tax practising country, we really need to address it, we really need to get our name out of this Action 5 classification, again, because we are the only one there.

Under Action 6, the tax treaty phase, where we are on this—and probably if not in this forum but some other forum, we can be given the reasons why we are still there and why we have not achieved what we have set out to do.

Action 13, of course, is the subject matter of this country-by-country reporting which is before us today. And Action 14, Mutual Agreement Procedure, I respectfully ask the question, where we are on this and what are the challenges that we are facing that we have to overcome in order to fulfil the peer review requirements of Action 14?

Now, one thing I want to raise, Mr. President, is outside of the minimum

standards of the OECD, we now have the OECD/G20 Inclusive Framework on BEPS which was established in 2016. And on July 11, 2013, there was an agreement on the two-pillar solution to address tax challenges arising from digitalization of the economy. And Pillar One, from what I understand, deals with a multilateral convention to implement what is referred to as “Amount A”, which is the reallocation of taxing rights to market jurisdictions. And Pillar Two, which is being referred to as “Amount B”, deals with simplification of transfer pricing rules and under this pillar, there is also the development of the Subject to Tax Rule, or the STTR, and a 15 per cent global minimum tax becoming a reality for some 50 jurisdictions taking action towards implementation.

So, Mr. President, the reason I raised that is because it shows that—if we want to classify it as “shifting goalpost”—but it shows that this entire thing is evolving and it is being driven, not just by the global factors, but it is being driven by technology, it is being driven by digitalization. I am not sure if our hon. Minister of Digital Transformation will be making a contribution here today but I would have really liked to hear his views on the whole aspect of digitalization, the impact on taxes, the challenge that there is for a tax regime here, and what his Ministry might be doing in particular to address—particularly coming out of the OECD/G20 two-pillar approach, in addition to the minimum actions, that now have been accepted as part of BEPS.

With just those few comments, Mr. President, just one or two things on the Bill itself. Under clause 3, the interpretation—and, of course, I am raising this—I will just raise the point. Under the definition of:

“Excluded MNE Group”—and I am reading from the Bill—“means, with

respect to any Fiscal Year of the Group, a group having a total consolidated group revenue of less than the equivalent of eight hundred and fifty million United States dollars in Trinidad and Tobago dollars...”

Now, as an engineer, I was really trying to wrap my head around that language and I do not know, from a point of legislative drafting—I am still trying to conceptualize the drafting here, so I will just repeat it. It says:

“...a group having a total consolidated group revenue of less than the equivalent of eight hundred and fifty million United States dollars in Trinidad and Tobago dollars...”

So I do not know if the hon. Minister of Finance could give some thought—maybe I am just being—

Hon. Senator: [*Inaudible*]

Sen. D. Teemal: All right. It is being addressed in the amendment, I am being told, so my apologies.

Clause 12—well, I realized that that is also being addressed in the proposed amendments, where the “Board” is being changed to a “Constituent Entity”.

My last comment is on clause 13, which deals with errors in CBC reporting, and clause 13(b) requires:

“...the Reporting Entity to correct the error and submit a corrected report within fourteen days after the date of service of the notice...”

Now, Sen. Thompson-Ahye did raise the question of 14 days, and hon. Acting Prime Minister, in the context of the entire thing and the fact that we are dealing with fairly large multinational entities and the fact that there is recourse for appeal to the Appeal Court, I am just thinking whether we are opening up ourselves to

unnecessary litigation by just allowing 14 days. I think consideration should be given to a much longer period of time—well, not necessarily much longer but probably about 45 days. That would give enough time because there are two things. One is to admit that you are guilty of an error and the second thing is to be given time to correct the error and resubmit your report, and I think 14 days is a little too insufficient for that.

Sen. Vieira SC: And it also carries a penalty if you do not do it.

Sen. D. Teemal: Yeah. And it carries a penalty, as Sen. Vieira is telling me, if you do not do it. So I would like that some consideration be given to what I am proposing here.

And with those few words, Mr. President, I would like to thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Minister in the Ministry of Works and Transport.

Hon. Senators: [*Desk thumping*]

The Minister in the Ministry of Works and Transport (Sen. The Hon. Richie Sookhai): Mr. President, thank you once more to be able to contribute to this Bill entitled:

“An Act to provide for Country-by-Country Reporting (CBCR) by Multinational entities relative to the Base Erosion and Profit Shifting Inclusive Framework and to provide for matters related thereto”.

Mr. President, due to globalization and digitization, multinationals, such as Amazon, Google—as my colleague on the opposite side likes to stress on—Apple and many others, have been able to enjoy growth due to these: globalization and digitization of the world. It has actually shrunk the world in such a way that it is a

small world. It is no longer where you have to wait for hours until someone is on the other side to make a call to any eastern country which is 12 hours ahead. Globalization and digitization has brought a level playing field and has given the opportunity for such entities to grow, and grow internationally so that their footprint could be all over.

At the same time too, it then allows such entities to exploit loopholes that were never catered for in tax regimes throughout different countries and by looking at havens, they have decided—or they have used these loopholes to be able to maximize profit. Hence, the OECD/G20 Inclusive Framework on BEPS has been created to be able to help countries as such to plug these loopholes that do exist. So the BEPS Minimum Standard requires four actions, just four actions for the minimum standard: combating harmful tax regimes, preventing the tax treaty abuse and countering treaty shopping, country-by-country reporting, the Multilateral Mutual Agreement Procedure—well, MAP. These four actions are part of a larger ecosystem that comprises the framework that will give governments all over the world the ability and tool to be able to plug such loopholes and avoid haemorrhaging of taxes.

Now, I would like to talk before we go into it, and I heard my colleagues on the opposite side talk about this Government being lazy and that we have not been proactive in terms of stopping any sort of haemorrhaging when it comes to the matter of transfer pricing. But I would like to just quote from the late Sen. The Hon. Franklin Khan, who was then Minister of Energy and Energy Industries, at the Energy Chamber's annual conference, where he stated categorically that during the period 2011 to 2014, Atlantic LNG lost revenues of over US \$6 billion a year

due to transfer pricing and it took this Government's initiatives to be put into place to recover some of those lost revenue in which—the hon. Prime Minister, Minister of Finance, and the Minister of Energy and Energy Industries—to be able to harness and recover some of what this country was losing.

So we understand the importance of having a framework when combating transfer pricing but it has to be done, not in silos, it is all done by building the necessary framework needed. When you look at country-by-country reporting, what is that? The template for country-by-country reporting allows entities to then state what their profit is in that country, sales, the amount of employees, their assets and their income paid. So when that information is shared by country by country, then we could understand what taxes are being avoided and how you, as a government, or your revenue authority will then take into effect of how to combat and look for your revenue shortfalls or where the leakage or haemorrhaging is taking place.

Mr. President, I will have to say the revenue authority was on stream since 2009, but with a change in administration, it was all put—shelved.

6.30 p.m.

Our Government, since then, has been putting initiatives in place. And while we understand the thing about the shifting goalpost, because of digitization, because of the environment that we live in, the goalpost is changing, the arena is changing. And we need to be able to cater because these individuals are getting craftier in terms, how they hide and how they even elude certain tax evasions.

Some of the frameworks that the Government has been putting into place such as the Miscellaneous Provisions (Trustee, Exchequer and Audit Act, the

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Minister of Finance (Incorporation) Act, Proceeds of Crime, Income Tax, Companies Partnerships, Securities, Tax Information Exchange Agreements, the Non-Profit Organisations and Mutual Administrative Assistance in Tax Matters) Bill, 2023—Miscellaneous Provisions Bill, 2023. I know the AG went through some of this information already but also, we have the National Insurance Act, pieces of the Finance Bill in 2023, amendments to pieces such as the National Insurance Act, the National Tax Act, Corporation Act, Petroleum Taxes Act, Property Tax Act, the Public Procurement and Disposal of Public Property Act. All these are necessary frameworks that need to be in place to build out the bigger picture at the end of the day, right. The Tax Information Exchange Agreements Act, 2020, the Income Tax Act—Tax Information Exchange Agreements Act.

The amnesty allows for also the ability for entities to come up to par. Because when the Revenue Authority is installed, all these entities will be able to then bring forward, and have to be updated and on the system at the same time. We talked about billions of dollars of resources, of revenue lost. Why do we not talk about the billions of dollars that this Government has saved our country by being diligent, in terms of how we deal with multinationals? The BEPS project—there is a hybrid—allows for different fares. There is the hybrid, mismatched tools especially with treaty shopping, special purpose entities and transfer pricing. But I want to touch a bit on the treaty shopping as mentioned by Sen. Deeroop Teemal, and understand what is treaty shopping, and why it is that cannot come into play until we have certain frameworks.

Companies taking advantage of tax treaties between two contracting states using a shell company based in a third jurisdiction is what is termed as treaty

shopping. So, I will draw an example, a company A that resident in the Cayman Islands is licensing an intellectual property to company C, let us say based in South Africa, and a letterbox company that they have designed, set up, in an European state. Because there is a tax treaty network in that European state that allows for treaty shopping. It allows for the treaty between certain entities to be able to conduct or withheld tax profits in terms of pay. In essence, these three companies due to treaty shopping are able to avoid taxes in all three jurisdiction. And this is where treaty shopping comes in. What are the solutions? The solution is to design and to ensure the true residents of the area, or the entity, have a benefit from the treaty that it was designed to support. The only way that can be done is by having the proper due diligence.

And having the country-by-country reporting in place gives entities or governments the ability to ensure and do due diligence, so that this part of the framework could then be formed and rolled out under greater planning. Mr. President, I want to actually concentrate a bit on the framework or what was said, in terms of profit shifting may be considered legal in some jurisdiction, but it raises some ethical concerns. It impacts the Government's ability to fund public services, it exacerbates economic inequality, it places a greater burden on SMEs and individuals, more so the middle class.

And I want to come back to my point with Sen. Lyder, and talk about SMEs. Because when we talk about the SME's and I hear my colleagues on the opposite side love to use the reference of 6,000 businesses closing doors from COVID. Where is the due diligence behind that figure? What is the source behind that figure? And if it came from a Chamber, I would like to know which Chamber, and

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when that was presented because I could tell you flat, being at the helm of that, that was not the case. Myself, and even Dr. Vaalmikki Arjoon, the economist, we both toured the area during COVID, after COVID, and even up today in the Central region. That is why you can see economic activity developing through and through Chaguanas because if you drive through the skyline, you have businesses upon businesses that we cannot even cater for—they are opening stores.

So, if you would like to say that 6,000 businesses and paint this picture that this country is going through an economic crisis, I am shocked. But you know, they talked about SMEs' access to the foreign exchange and, you know, this is not something new. Because I remember when I was Chamber President in 2010, there was an interview on this same issue concerning foreign exchange and the reason then was shortfalls in revenue in the energy sector. We know the energy sector, what it has been going through over time. This profit shifting and base erosion is one step forward in helping us tighten that regime to ensure that what truly belongs to the sovereign right of our people, they can benefit from it by accessing the right availability of the taxes and foreign exchange that is rightly ours. And not be hidden in certain dark areas.

Mr. President, the State—some of these benefits to the SMEs, the State has more revenue to spend in the development of the SMEs via grants, multinational pay, taxes, so the forex that we gain will be able to help some of these shortfalls that we are experiencing. Multinationals already have an advantage, a competitive advantage, due to their background, their ability to access foreign exchange and then giving our local entities—especially small, micro and medium enterprise—a disadvantage.

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Hon. Senator: Yes.

Sen. R. Sookhai: Hence putting them out of business. So, I could tell you the mom and pop shop that opened maybe 50 years ago may be suffering. But if we provide the right environment by giving them the ability and to enjoy—

Sen. Lutchmedial: [*Inaudible*] skylines.

Sen. R. Sookhai: No, they have skylines, trust me. They have been able to work through and enjoy the skylines, but could you imagine how much bigger that skyline would be? Because that happened of recent, in the past—I would say in the past 10 years—we have seen a growth within that area. If you drive through that central region, it is amazing.

Sen. Lutchmedial: [*Inaudible*]

Sen. R. Sookhai: Soon to change.

Sen. Lutchmedial: [*Laughter*]

Hon. Senators: Hmmm.

Sen. Lutchmedial: Ah-yie-yie.

Sen. R. Sookhai: And that is a fact. So, while they will have lofty ideas of holding their seat, they maybe need to get comfortable on that side because I am pretty sure the regime or the tax regimes that they wanted to implement has basically eroded us and set us back years behind.

Hon. Senators: [*Desk thumping*]

Sen. R. Sookhai: This Bill when enacted, it makes the tax process more harmonized. It is simplified for greater transparency, greater transparency will attract multinationals, actually it could even help increase our credit rating, under international standards, which gives us and makes us even more marketable to an

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international platform. It brings a certainty with respect to tax planning, and when there are clearer rules, less chance of unexpected disputes with the authorities, you have more confidence in the system, which allows for businesses to strive, survive and grow.

And this is what this Government is about. Not just coming today, tomorrow, we take our time and we put the necessary infrastructure in place, and the arrangements. So that our colleagues on the other side could push back and delay the whole process in the lofty hope that they will then resume. When the SMEs begin to grow and expand in other countries, and this it is what we are looking at, these small mom and pop shops that are actually growing. This regime, this country-by-country arrangement will then allow because we have now become a part of it. We are now compliant.

It allows our local entities to become multinational and play with that level of confidence as other big players in that field. The overall level of the playing field by the multinationals, for them to pay their fair share of tax will augur well for everyone in this country. It will bring greater services to our people that are needed at a time as now.

Hon. Senators: [*Desk thumping*]

Sen. R. Sookhai: I have to say, it took this Government to understand the importance of digitization by creating a separate Ministry—

Hon. Senators: [*Desk thumping*]

Sen. R. Sookhai:—to handle such, and I have to commend the hon. Minister of Digital Transformation, Mr. Hassel Bacchus, for the good work he has been doing.

Hon. Senators: [*Desk thumping*]

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Sen. R. Sookhai: Because it will take a digital economy or if you want to paint it green, black, red or blue, it has to be done through digitalization. It has been to be done in a structured manner, which is exactly what this Government has been doing—

Hon. Senators: [*Desk thumping*]

Sen. R. Sookhai: —and putting into place, and in effect, working with every single entity down to taxation, down to legal, down to even the Ministry to Works and Transport and the Ministry of Finance, which we all use his platform going and coming. Mr. President, I stand here today, one, in support of this Bill because I understand the benefits it aids to bring to our country of Trinidad and Tobago. This Act in fact will then help our country based—

Sen. Lutchmedial: [*Interruption*]

Sen. R. Sookhai: I am sorry to hear that. Our hon. Member is concerned with the digital economy. But maybe she is not aware of how a true digitized economy will work and that is where—

Hon. Senators: [*Desk thumping*]

Sen. R. Sookhai:—we will then show and demonstrate how. But coming back to my point, this Act, this Bill is all geared to a larger framework in taking Trinidad and Tobago to develop a different structure, to have a different outlook. And where others may think that we are behind the game, trust me a lot of ground work has been done through the office of the Ministry of Finance, through the AG's office, through the digitalization process, and all other agencies to bring our country up to play. Trinidad and Tobago is still an industry leader in the Caribbean.

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Sen. Mitchell: Oh yes.

Sen. R. Sookhai: And we should be proud of that.

Sen. Mitchell: Yes.

Hon. Senators: [*Desk thumping*]

Sen. R. Sookhai: And I thank and I support this Government, for having us to where we are today. Mr. President, I do approve this Bill and I thank you.

6.45 p.m.

Mr. President: Sen. Maharaj.

Sen. Sunity Maharaj: Thank you, Mr. President, for allowing me to join this debate. I promise to be very short. When this BEPS emerged a lot of analysts thought that there would be significant pushback from the so-called developing world. Because, here was a framework similar to a part of a larger framework from the OECD countries that challenged the fiscal sovereignty of nations. It did not originate with the full participation of those countries either, and rules were set for you. There was the assumption that countries would not want that. They would challenge that. They would feel that they were being condescended upon by European industrialized nations, and the compliance, almost, without your input, would be objectionable. Lo and behold, countries have just lined up to sign on. And it is no surprise that we can call all these islands of ours in the region, in particular, that they have done very well and they have gone ahead of us. Because they know that they are over a barrel. They do not have a choice. Is this the world they would choose? I doubt it.

If we were asked, for example, if we were serious about tackling the

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multinational corporations, would we accept a threshold of 750 million, TT 5.5 roughly? Would we not say no, given our size, maybe a billion? But we did not have a say. Now, I am not sure that is the reason, an ideological concern is what has caused the delay in Trinidad or the long period of time, because I know we have been very busy trying to bring property tax into being and set up the revenue authority and these have been very, very thorny issues.

The moving goalpost is not always a moving progressive marker. We do not know when we get past this whether we will not get another and another. Because countries that have their interests are larger, more powerful and we see ourselves almost supine in that relationship. Our only way out of that, that we can claim to stand on our own feet, is if we have collaborative relationships with other countries. All these countries that are being asked to sign up, at some stage, the world is not going to move always in that direction. We are seeing it with climate change. We are seeing how Barbados, for example, they are trying to rally. They have not yet pulled money out of that fund to any significant degree, but an alliance is building that can be replicated in the area of taxation as well.

I think the south has to strengthen its muscle. The idea of just hastening and complying, we do not have a choice, and so I will vote for this measure. But I warn us against seeing this compliance as something that is good. This is a value system of European industrialized countries who are serving their purposes. And until we recognize what our interests are and we create the solidarity systems of countries along our own path, looking after

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our interests, that allows us to take these issues and bring them to the people and have the input, and have a say. Until we do that, well we are really not sovereign.

I understand the world is one of negotiation, Mr. President, but we have to have a certain confidence. But small nations cannot stand alone. But there are partners in the world. There are big nations that are on the southern side. There is Brazil. We have, you know, South Africa. Look at what they have done in that matter with the Israel wants Gaza.

And so, it goes against my grain to just have to say let us just go ahead and support this. I just stick a pin to say this is not the world that we should want to be in, where we are at the mercy of a superpower—well, only one superpower there is, and that superpower is not interested in this. They have their own rules; let us remember that. And that we have to begin—We have a CARICOM, and from CARICOM we have a CARIFORUM. And we can go out and join—this is what we need to be doing so that we could stand up in the world with pride. We have to ask ourselves: How does this serve our purpose? I am hearing a lot of—the transfer pricing, how great it will be. Well, a number of countries have already queried that. And I think they are running a pilot project. They have reshaped their processes and they are running some pilot projects to be able to say, look, you have actually got 10 times more taxes, and so on. What applies in one country may not apply in another. The process for actually accessing that information may not be as easy as you think.

The country-by-country report is one that goes to the office where the

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company is resident. Then it goes through different channels and then it will come. And you have to know how long that process is going to take, what are the nitty-gritties, what are the processes. We do not have that information. I also do not have any information about membership fees. I know there is a scale between the supposed so-called more developed world and the developing world, annual fees that you have to contribute, and so on, and so forth.

So, I sadly, sadly vote for this, but I hope that we see what this is. I can understand if the Government does not have all that is in place for this to actually make it work for us for a long time. Because really, as the introduction said, it is about compliance. Let us be straight, this is about compliance. It is a tick box. But what does it require of any country? We are 1.4million people. There are countries in this of a couple hundred thousand people. What are the implications? Is it onerous for their bureaucracy, their tax systems? What does it really cost them? Who is paying for that for them? We need a far more inquisitorial enquiry into this, but for now I just put that on the record. Thank you.

Mr. President: Acting Prime Minister.

The Minister of Finance and Acting Prime Minister (Hon. Colm Imbert):
Thank you very much, Mr. President. I want to thank all Senators who spoke, since all Senators have indicated they will support the Bill. That is what I heard anyway, Mr. President.

Just to deal with a matter raised by Sen. Teemal, I did indicate where we were in terms of making progress. I will repeat what I said. We will be

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sending an exchange of information peer questionnaire to the Global Forum Secretariat by February 2024. We have an on-site mock peer review by the Global Forum Secretariat in the first week of March 2024. Following that, a report will be prepared by the Global Forum Secretariat. This will give us an assessment of our compliance with the Global Forum's Exchange of Information standards and gives us the opportunity to address any shortcomings which will be completed by May 2024.

We ourselves will analyze and evaluate the comments and make the necessary changes by the end of May 2024. The official Phase 2 peer review questionnaire will be sent to the Global Forum in June 2024, and the actual on-site Phase 2 peer-review by the Global Forum is scheduled for September 2024. Once we achieve all of this, and we satisfy the requirements of the peer review, we expect to get either a largely compliant or a partially compliant rating by December 2024, which will change our status with respect to the Global Forum.

Let me give some other information. With respect to the Convention on Mutual Administrative Assistance in Tax Matters, the miscellaneous provisions Bill, which we passed just towards the end of last year, addresses the legislative issues identified by the coordinating body. We are going to request permission onto sign to the Convention after submitting our questionnaire to the coordinating body in March 2024. We will then follow their instructions with respect to the process of signature and ratification of the mutual assistance in tax matters, MCAA. So, we expect by the middle of this year, we will be signing on to the mutual assistance in tax matters. With

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respect to automatic exchange of information, in August of 2024, we are scheduled to sign the common reporting standards and the Multilateral Competent Authority Agreement, and that will allow for the establishment of domestic reporting for financial institutions.

In November 2024, we will connect to the common transmission system, that is automatic exchange of information. With respect to harmful tax practices, I heard a comment about the special economic zones legislation, but it has already been partially proclaimed. I do not know if Sen. Lutchmedial is aware of that, and the regulations were laid in Parliament as required. I expect the SEZ authority, this is the advice given to me by the Minister of Trade and Industry, and full proclamation of the Act to be done by the middle of this year, 2024. Correct?

Sen. Gopee-Scoon: Yes.

Hon. C. Imbert: Or before. In terms of country-by-country reporting, we will hopefully pass this legislation in this place and the other place, and then, with respect to the other matter that I have mentioned, we should be well on our way to coming off that EU blacklist.

With respect to questions raised by Members, we have circulated some amendments. There is a revised list, which should address most of the queries raised by hon. Members. I will be making some adjustments at the committee stage to deal with some of the issues raised. And I just want to thank everybody for supporting this Bill. I beg to move.

Hon. Senators: [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

7.00 p.m.

Senate in Committee.

Mr. Chairman: Okay. Hon. Senators, this Bill contains 22 clauses, and we have circulated amendments from the Minister of Finance, as well as Sen. Mark. Is everybody in receipt of the hard—no? Sen. Dillon-Remy, and anybody else? Sen. Mark. You do not have Sen. Mark's? Okay. But everybody has the Minister of Finance, yes? Alright. Okay. So if everybody is now in receipt of all circulated amendments we will be ready to begin.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

Mr. Chairman: So we have amendments from Sen. Mark, which I will dispense with that one first. Sen. Mark.

Sen. Mark: Mr. Chairman, my amendments are very simple. I observed that even though the Attorney General spent an inordinate amount of time, pooh-poohing on this matter of country-by-country—

Mr. Imbert: What?

Sen. Mark: I noticed that, for instance, the Minister of Finance—

Mr. Imbert: [*Inaudible*]

Sen. Mark: Well, let me withdraw that.

Mr. Chairman: Yes.

Sen. Mark: Yes. So, I noticed the Minister of Finance and Acting Prime Minister

was a little more wise. Because either that, or he was instructed to include the very definition, that I have put under the item country-by-country reporting. So if you look at what I have advanced, and you look at what the hon. Minister and Acting Prime Minister has advanced, you realize it is a coinciding, and therefore in those circumstances that is the first area I want to just pay attention to. I am talking about here, Mr. Chairman, under—if you go to the definitions, Mr. Chairman, in clause 6 of the Minister's Bill, you would see where under clause 3(a), you will see where the very definition that I in fact advanced, seems to be—the Minister seems to be in agreement with it.

7.05 p.m.

Mr. Chairman: That is it?

Sen. Mark: And then in addition to that, Mr. Chairman, I observed that the Minister—maybe it was an oversight—did not really explain in the interpretation section what an “Enterprise” means, and this is what I have sought to do under clause 3, the interpretation section, and also the concept of “International Accounting Principles.”

Again, I have put that in the definition and interpretation section so that it could be pellucidly clear to all and sundry that is reading this piece of legislation, that this concept of “International Accounting Principles” are clearly outlined and they are consistent with International Financial Reporting Standards. So those are two areas under clause 3, in terms of definition, under interpretation, I would like the hon. Minister to consider.

Mr. Chairman: Acting Prime Minister.

Mr. Imbert: Thank you. With respect to the amendments proposed by Sen. Mark, while in our jurisdiction the competent authority would be the Board of Inland Revenue, in other jurisdictions, it may not be. For example, United States,

it will be the Treasury. So that while I myself was looking at that as an amendment that might be made when it was pointed out to me that they use different terms in other countries, we cannot define “Competent Authority” as Board of Inland Revenue so narrowly. Okay? That is the first point.

With respect to the second one, the drafters have told me, it is better to put— what you have put here for “Country-by-Country Report”, although we are a little more detailed, it is better to put it in clause 6 rather than in the definition section. With respect to “Enterprise”, it is not necessary to define that because when you go to the responsibilities of the Registrar General in clause 11, you will see:

“The Registrar General...”—is required to—“...forward to the Board at least once every six months a list of enterprises registered under the—

(a) Companies Act...

(b) the Registration of Businesses Names Act...”

Hon. Senators: [*Interruption*]

Mr. Imbert: Mr. Mark?

Sen. Mark: Yes.

Mr. Imbert: I am saying it is not necessary to define “Enterprise” because the information that the Registrar General has to forward to the Board of Inland Revenue would be on those entities that are:

“...registered under—

(a) the Companies Act...

(b) Registration of Business Names Act...

(c) Non-Profit Organisations...”

So that is already covered.

And then with respect to “International Accounting Principles”, I spoke to the draftsman and I have no problem with including part of this because it is

redundant to say, “Generally Accepted Accounting Principles” because that is already mentioned in the definition section of “Ultimate Parent Entity”, and it reads as follows:

“...under accounting principles generally applied in its jurisdiction of tax residence...”

So I have no problem with putting in, “International Accounting Principles” include International Financial Reporting Standards. Okay?

Sen. Mark: Through you, to the hon. Minister and Acting Prime Minister, I just wanted to ask the hon. Minister, whether he has looked at the Barbadian legislation, where they have clearly defined the “Competent Authority” to mean the Minister of Finance in their jurisdiction. Now, I know in our arrangement—

Mr. Imbert: I got that.

Sen. Mark: Yes.

Mr. Imbert: But I have. And you have to look at the conjoined effect of all of the sections and clauses in all the legislation, and it is clear the “Competent Authority” is the Board of Inland Revenue. Because you will see, even in this Bill, it refers to the Board having responsibilities of a “Competent Authority”. It is obvious. You do not need to put it in.

Sen. Mark: Yeah, but all I was seeking to do, Mr. Chairman, and hon. Minister, is to strengthen the legislation so that we do not get into any kind of further “squibbles” with these people, who are coming to you every two weeks with new amendments. So that is why—

Mr. Imbert: I heard you but they have not raised that as a point.

Sen. Mark: They have not raised that as yet—

Mr. Imbert: In fact, they have made it clear to us that it is obvious the “Competent Authority” is the Board of Inland Revenue—

Sen. Mark: Okay.

Mr. Imbert:—in Trinidad and Tobago. So with respect to your proposal to amend clause 3, I think all that is required is that we put in a definition of “International Accounting Principles” and read as follows:

“International Accounting Principles” include International Financing Reporting Standards.

Sen. Mark: Okay.

Mr. Imbert: All right? And take out the rest.

Sen. Mark: Okay.

Mr. Chairman: And do you want to add that to yours or—your clause 3 amendment or do you—because we would have to bet get rid of everything else.

Mr. Imbert: Sure. Sure.

Mr. Chairman: So we will add it to yours, right?

Mr. Imbert: Yeah, yeah.

Mr. Chairman: Okay. All right. So then I can put the question on Sen. Mark’s amendment to clause 3, so—

Sen. Mark: No. Well, no—

Mr. Chairman: You are going to withdraw it?

Sen. Mark: All we are doing is seeking to strengthen the legislation, so I am not hard and fast on it. I do not want to us get into trouble again, so that is why I was seeking to strengthen. But if the Minister is reporting to this honourable Senate—

Mr. Chairman: I know exactly what you are saying.

Sen. Mark: Yeah, so I will withdraw.

Mr. Chairman: Withdraw?

Sen. Mark: It makes no sense pursuing the matter.

Mr. Chairman: That is fine. So, Minister—

Hon. Senators: [*Interruption*]

Mr. Chairman: No, it is the logistics of it all I am trying to work out, so once you withdraw, that is quite fine.

Sen. Mark: Yeah. Well, may I be pellucidly clear?

Mr. Chairman: “Mm-hmm”.

Sen. Mark: I am withdrawing in terms of amended—the Minister has amended my provision. So given the commitment the Minister has made to incorporate sections of this, I am prepared to withdraw.

Mr. Chairman: Yeah. Well, that is what we are going to do now.

Sen. Mark: Is that understood?

Mr. Chairman: So based on your withdrawal, it means I do not put the question for you, but I am going to now deal with the Minister of Finance’s amendment to 3, to which he will further amend.

Sen. Mark: Yes.

Amendment withdrawn.

Mr. Chairman: Good. Minister of Finance.

Mr. Imbert: This was to—and Sen. Teemal brought it up. We are taking out the words “in Trinidad and Tobago dollars”. Okay? Because that will change all the time so we just leave it as “United States dollars”. So we delete the words “in Trinidad and Tobago dollars”.

Mr. Chairman: Right. I am just working out the other part. All right. Okay, yeah. So, hon. Senators, the question is that clause 3 be amended as circulated by the Minister of Finance and further amended to read at (b):

Insert the following new definition “International Accounting Principles” include International Financial Reporting Standards.

Minister of Finance, correct?

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

A. In the chapeau by deleting the words “files a country-by-country report with respect to the Fiscal Year Reporting” and replace with the words “through a Surrogate Parent Entity, files a country-by-country report with respect to the Fiscal Year Reporting with the tax authority of its jurisdiction of tax residence”; and

B. In paragraph (b) delete the word “7” and replace with the word “6”.

Mr. Chairman: Minister of Finance.

Mr. Imbert: Mr. Chairman, I am at a little bit of a disadvantage here. Just let me look at 4(4). I could not find—oh yes, I found it. Yeah, yeah, yeah. There is a typographical error—an omission where this part of the framework, so we need to include these words. It was left out in error. The “files a country-by-country report”, “through a Surrogate Entity”. So you replace it with—you delete the words “files a country-by-country report with respect to the Fiscal Year Reporting” and replace it with the words “through a Surrogate Entity, files a country-by-country report”. Okay? So apparently that has to go in because that is in the framework.

And then “7” should be “6”. That is a typo.

Mr. Chairman: Okay.

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5 ordered to stand part of the Bill.

Clause 6.

Question proposed: That clause 6 stand part of the Bill.

A. In subclause (2) delete all words after the words “is a report” and replace with the words-

“containing –

- (a) aggregate information relating to the amount of revenue, profit or loss before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees and tangible assets other than cash or cash equivalent with regard to each jurisdiction in which the MNE Group operates;
- (b) an identification of each Constituent Entity of the MNE Group setting out the jurisdiction of residence of such Constituent Entity and where different from such jurisdiction of tax residence, the jurisdiction under the laws of which such Constituent Entity is organised, and the nature of the main business activity of such Constituent Entity, and shall be in the form set out in Guidelines made under this Act.”;

B. In subclause (5) delete word “19” and replace with word “22”.

Mr. Chairman: Minister of Finance.

Mr. Imbert: This is the part where we put in the words similar to what Sen. Mark had proposed, but with a little more detail, to define what a country-by-country report is. So that is the amendment in subclause (2)(a) and (b), and then there is typographical error in subclause (5), where we are deleting the word “19” and replacing with “22”. Okay?

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clauses 7 and 8 ordered to stand part of the Bill.

Clause 9.

Question proposed: That clause 9 stand part of the Bill.

Delete the words “Inland Revenue Department” and replace with the word “Board”.

Mr. Chairman: Minister of Finance.

Mr. Imbert: Yes. This is an error. There is no such thing as the “Inland Revenue Department”. The correct word is “Board”. Okay?

Question put and agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Clauses 10 and 11 ordered to stand part of the Bill.

Clause 12.

Question proposed: That clauses 12 stand part of the Bill.

Delete the words “require, require a Board” and replace with the words “request a Constituent Entity to”.

Mr. Chairman: Minister of Finance.

Mr. Imbert: Right. This is a drafting error and if you look at it carefully “Constituent Entity” is defined in the interpretation section to be:

“any separate business unit of an MNE Group...”—and so on.

And therefore, it should be:

The Board may, in writing and within such times as it may require, require a Constituent Entity to provide or make available to it.

Not “require a Board”. It is a drafting error.

Mr. Chairman: Okay. The question is that clause 12 be amended as circulated by the Minister of Finance. Those in favour say, “Aye”. Those against say, “No”. The

“Ayes” have it—Sen. Vieira.

Sen. Vieira SC: It is just that the Minister said replace with “require”.

Mr. Imbert: Sorry, no, no, it is here, “request a Constituent Entity”.

Sen. Vieira SC: Yeah, I think you want to leave “request”.

Mr. Imbert: “Request” as circulated. Sorry about that.

Mr. Chairman: All right. So I will put the question again.

Question put and agreed to.

Clause 12, as amended, ordered to stand part of the Bill.

Clause 13.

Question proposed: That clause 13 stand part of the Bill.

Deleted all the words in the closing words and replace with the following:

- “(c) state that failure to comply with the requirements of the notice amounts to a breach of the Act and such breach may render every director or officer concerned in the management of the Reporting Entity liable and subject on summary conviction to a fine of two hundred and fifty thousand dollars unless he proves that the breach was committed without his knowledge or connivance or that he exercised reasonable diligence to prevent the breach.”.

Mr. Chairman: Minister of Finance.

Mr. Imbert: The insertion that we are asking for would introduce, you know, the usual principles of natural justice, where if a director or officer of a company who has not complied with a notice can show that he or she did it without knowledge or connivance, and that they tried their best to prevent the breach, they are not liable to the penalty. So we thought that that was only fairest thing to do.

Mr. Chairman: Okay. Hon. Senators, the question is that clause 13 be amended

as circulated by the Minister of—Sen. Teemal?

7.20 p.m.

Sen. Teemal: Before you ask for the amendment to be passed, just a response from the hon. Acting Prime Minister, in terms of the 14 days that was raised by several of us, it is there?

Sen. Vieira: It is 13.

Mr. Imbert: My apologies, I was looking at 21, I apologize, sorry about that. I would like to propose we change that to 28, is that all right?

Sen. Vieira: Yeah 28 is good.

Mr. Imbert: That is actually my handwriting here. I was a little distracted by noise around me, sorry about that.

Hon. Senator: You have to give the wording for that.

Mr. Imbert: We are deleting the words “fourteen days”—well the word “fourteen” and replacing it with the word “twenty-eight” in 13(b). The word “twenty-eight” sorry about that.

Question put and agreed to.

Clause 13, as amended, ordered to stand part of the Bill.

Clauses 14 to 20 ordered to stand part of the Bill.

Clause 21.

Question proposed: That clause 21, stand part of the Bill.

Delete the words “section 53” and replace with the words “subsection (1)”.

Mr. President: Sen. Mark.

Sen. Mark: Yes, Mr. Chairman, as it relates to clause 21, the Minister is going to be making regulations to give effect to this piece of legislation, which is very, very important and we have seen the kind of challenges we have had over the last six years. I think it is only fair that the Parliament has an oversight role in these

regulations that the Minister will be formulating and that has been our practice, that when it comes to regulations we the Parliament of Trinidad and Tobago must have an oversight role in looking at those regulations. And therefore, I am respectfully suggesting that as a democracy we should strengthen our institution and there should be some oversight role for our Parliament, and it is in that context, I have proposed that we amend section 21(1) to read that regulations, right, ought to be subject to affirmative resolution of our Parliament.

Mr. Chairman: Minister of Finance.

Mr. Imbert: The Regulations would be highly technical and therefore, according to practice, not really qualify for affirmative resolution. But I have no objection to making them subject to negative resolution so they will be laid in Parliament and if there is any argument, you can bring a Motion to negative resolution.

Sen. Mark: You know I will reluctantly support you.

Hon. Senators: [*Laughter*]

Sen. Mark: Right, reluctantly, you know that but my preference is of course affirmative but I hear you.

Mr. Imbert: Well, I have an amendment to 21, do I not?

Mr. Chairman: Yes.

Mr. Imbert: I have. Right, so could we deal with that and then I will make a further amendment to 21.

Mr. Chairman: So Sen. Mark, in light of the discussions would you withdraw? He would make further amendments to his 21 to include negative resolution.

Sen. Mark: In the spirit of democracy and compromise, right, I withdraw.

Mr. Imbert: Thank you.

Mr. Chairman: Minister of Finance, your amendment.

Mr. Imbert: Telling him I know he was supporting the Bill, that is why “ah tell him” thank you.

Mr. Chairman: You have an amendment 21?

Mr. Imbert: Yes, yes. So that firstly, the words “section 53”, a typo, should be replaced with “subsection (1)” and then this is the further amendment we wish to make to 21 (1).

The Minister may make Regulations for the purpose of giving effect to this Act” and such Regulations shall be subject to negative resolution of Parliament.

Question put.

Mr. Chairman: No?

Mr. Imbert: After the word “at” in 21 (1) after the word “at” and such Regulations shall be subject to negative resolution of Parliament, after the word “at”.

Mr. Chairman: After the word “at” and such Regulations—

Mr. Imbert: Shall be subject to negative resolution of Parliament.

Question put and agreed to.

Clause 21, as amended, ordered to stand part of the Bill.

Clause 22.

Question proposed: That clause 22 stand part of the Bill.

Mr. Chairman: Sen. Mark.

Sen. Mark: Mr. Chairman, I have the greatest respect for public officers, because I was a public officer at one stage in my career. But Mr. President you see coming to deal with fines—you see, this is administrative or what is called in Barbados, pecuniary fines. And when you are going to fine companies, organizations, I think that this Parliament should have—because the Minister will be brought into the

picture, because I do not think any public servant will dare formulate guidelines without having the Minister give those guidelines some kind of oversight role, because the Minister does not operate like that.

So, I would like to ask the hon. Minister to trust the Parliament and let us have some role in supervising and overseeing these guidelines, because this is a collective effort, where all of us are seeking to protect the national good. So, we would like to be part of whatever guidelines that have been formulated so we can be satisfied and I am going with affirmative but if the Minister as he has done earlier is prepared, I will listen to him to at least meet me halfway, because I think this is one in which we would like to get some support.

Mr. Imbert: Regrettably, under our system of laws, guidelines are not statutory instruments and cannot be subject to any resolution of Parliament. Regrettably. And if one looks through legislation, one looks at the—I pulled up the Securities Act, for example, the Securities and Exchange Commission can issue guidelines and in fact, the penalties there are tremendous, a fine of \$5 million and imprisonment for five years. These are guidelines issued by the Trinidad and Tobago Securities and Exchange Commission, which again are not Statutory Instruments, cannot be subject to a resolution of Parliament. But I want to draw your attention to the fact that under clause 22, which will become section 20(2), the maximum fine is already set at \$20,000. So that you are looking at an MNE that has a gross turnover of US\$850 million for an administrative fine of TT\$20,000, it is not really that significant. But the main point I want to make is regrettably, guidelines are not statutory instruments and cannot be subject to a resolution whether affirmative or negative. There is no real danger in this, as I hope I have explained to you.

Sen. Mark: Do you think the \$20,000 is a reasonable amount for a multinational making all that money?

Mr. Imbert: You are coming to replace it?

Mr. Imbert: No, I just am asking—

Mr. Imbert: I will tell you what—

Sen. Mark: I am just asking.

Mr. Imbert: I hear you. I will tell you. This has to go to the other place, and they may be making some adjustments and I would certainly take that into account in the other place to see whether perhaps we should increase that \$20,000.

Sen. Mark: Well I know when you tell me that, I know what to look out for.

Mr. Imbert: What did you say?

Sen. Mark: I know when you give me that assurance—

Mr. Imbert: What does it mean?

Sen. Mark: —I can go to sleep—

Mr. Imbert: Oh, okay.

Sen. Mark: —and sleep forever.

Mr. Imbert: All right, all right.

Hon. Senators: [*Laughter*]

Sen. Mark: I would sleep forever on that.

Mr. Chairman: Sen. Vieira.

Sen. Vieira: Just to echo the hon. Minister—guidelines are not rules, which typically imply rigid requirements or regulations. Guidelines are more of the nature of a standard, recommended practices, to follow. So that is why there is a little latitude there.

Mr. Imbert: [*Inaudible*] really seals it, “eh”. It is, you know, these guidelines will be very technical.

Mr. Chairman: You still putting the question or you withdraw?

Sen. Mark: I withdraw.

Mr. Chairman: Withdraw?

Sen. Mark: Yeah.

Question put and agreed to.

Clause 22, ordered to stand part of the Bill

Question put and agreed to: That the Bill, as amended, be reported to the Senate.

Senate resumed.

Bill reported, with amendment, read the third time and passed.

7.35 p.m.

ADJOURNMENT

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Mr. President, I beg to move that this House do now adjourn to a date to be fixed.

Mr. President: Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised and the Motion for the adjournment of the Senate. Sen. Dr. Paul Richards.

Hon. Senators: [*Desk thumping*]

Protection Orders for Women

(Updating of)

Sen. Dr. Paul Richards: Mr. President, the Motion I raise is the need for the Government to update laws, regulations and policies regarding protection orders to ensure more effective protection for women. If I can draw your attention to a study by a group headed by Dr. Gabrielle Hosein, who is the team leader. The research team included Tricia Basdeo-Gobin, the late Colin Robinson, Sabrina

Mowlah-Baksh, Simone Leid, and Amilcar Sanatan. and the title is “Gender-Based Violence in Trinidad and Tobago. A Qualitative Study” It is the executive summary I am going to precis here, and it includes the statement:

“Gender-based violence (GBV) is a”—problem—“issue that occurs across all settings and groups around the”—globe.

“Violence against women is one form...

“In 2012”—it was—“estimated”—that almost 40—“per cent of female...victims”—of homicide—“were killed by their intimate partners or family members...

“According to a 2013 global review of available data, 35 percent of women worldwide have experienced either physical and/or sexual intimate partner violence (IPV) or non-partner...violence. For the Caribbean in general, GBV is one of the most widespread forms of violence directly impacting citizen security”—including—“the stability and health of families and communities.”

“Between 2009 and 2012, almost 12,000 domestic violence applications were made in the Magistrate’s Court, according to a report by a group called NGO Caribbean Development Foundation (NCDF). Data from the Crime and Problem Analysis (CAPA) Branch of the Trinidad and Tobago Police Service (TTPS) revealed there were approximately 19,078 reports relating to domestic violence incidents between 2000 and 2013. Approximately 75% of these reports were related to female individuals. During the same period, there were 131 domestic violence related deaths of which 56% were female. For the period 1995 to 2013, there has been a total of 5264 murders”—in

T&T. “Out of this, 442 cases were due to domestic violence.”—or associated with a domestic violence situation.

Mr. President, if I can draw your attention to an *Express* report, dated January 02, 2024, updated January 02, later.

“Mother, daughter slain in Glencoe

A mother and daughter were shot and killed at their Glencoe home today. Police said that around 11 a.m. today Camilita De Leon, 66 and her daughter, Calida Schumber, 43, were at their Riverside Drive home in Shorelands, Glencoe when an estranged relative of Schumber shot both women at house. He then left the house, and”—at that time—“is currently at large.

Police said that Schumber had taken out a protection order against him last year.”

Trinidad *Guardian*, January 04, 2024,

“Mother, daughter killed in their home

Soldier wanted in connection with attack held in Arima”

—by Shane Superville. There is a quote by a colleague, Sen. Roberts, who is quoted in the piece as:

“Former Minister of Sport and Youth Affairs Anil Roberts, who is a close friend of Schamber and her mother was also on the scene.”

He said:

“...the murders of Schamber and DeLeon...”—her mother—“highlighted the need for more proactive and strengthened police responses to incidents of domestic violence and threats to women. He lamented such incidents

often did not prompt serious police intervention”—or prompt intervention—
“until there was blood shed.

“It is clear something has to be done because restraining orders are not
working, reports are not working”

He said, and I quote:

“This fella is in the army, the army should have had a report about this
because how could he get a firearm when he is in an emotional state where
he requires psychological help.”

An activist, in an article by Bobbi Lee Dixon, August 04, 2021:

“On the 30th Anniversary of Domestic Violence Act of Trinidad and Tobago,
activist and president of the International Women’s Resource Network
(IWRN), Adriana Sandrine Isaac-Rattan is calling for revision of the Act to
make the offence of domestic violence an official crime, punishable by law.”

Well it is now.

“That way...protection orders will not just continue to be a ‘piece of
paper’”—in many cases.

7.40 p.m.

In an article by Carisa Lee, December 01, 2022, Magistrate Sara De Silva
says:

“Magistrate Sarah Da Silva says approximately 30 applications are made for
protection orders at magistrates’ courts across the country daily. Ten of
them are usually new applications. However, she and her peers believe
some of these issues can be addressed before they reach the courts.”

One of the issues also highlighted in an article by Camille Hunte, “Protection
orders working, says Jacob”, May 26, 2022, updated May 27, 2022, says that:

“Between March 2019 and March 2022, the Trinidad and Tobago Police Service (TTPS) recorded 581 instances of people breaching protection orders that were placed against them.”

Then—“Ag Commissioner of Police McDonald Jacob however says protection orders are effective and have been working well.

Jacob was speaking during a Joint Select Committee on Social Services and Public Administration yesterday, held to enquire into the State’s capacity to provide support for victims of domestic violence and family conflicts.”

So the issue is not that, Mr. President, that the protection orders may not be working, but when you have that many protection orders, one wonders if the infrastructure is in place behind the scenes to support and respond to persons who breach those protection orders. As I have identified very early on in the presentation, the issue is when the responses are inadequate, or the infrastructure is not in place in an adequate form, clearly has resulted, over and over, in deaths. Now, we might say, “Out of 5,000 protection orders, 4,000 work”, but is it those two or three cases that we need to address where there are gaps in the system.

My understanding is that very often the response times and the infrastructure needed to support the laws that we have passed, need to be looked at, and the regulations related to them need to be addressed more significantly. And this is why I have brought this Motion on the Adjournment, not because we have not passed the laws, or not because the laws may not be adequate, but laws operate based on presumptions or assumptions that I think are valid, that there is an infrastructural regime behind it to ensure that there is a response time, particularly in these cases.

I can quote two cases where—I remember I did a series called *Survivors*

years ago, and a woman came on the show to recount her horror when her husband, whom she had a protection order against, came home to find out that she had a protection order against him, picked up a cutlass and murdered their three children and chopped her, leaving her for dead on the ground. She survived, only to want to die because her three children had been killed. She did not survive five years after that, because the grief of losing her children and the injuries sustained in that attack, basically, put her on a road to her death.

So this Motion is really a plea for us all, collectively, to look at the systems that support these laws, and ensure that the State responds in an adequate fashion and have the infrastructure in place, not only to sometimes prevent the perpetrator from gaining access to the victim and the family more often, but also in some instances to provide the support system, the halfway houses, and the counselling for the family who would have endured the trauma. Because in most of these cases there is a history of domestic violence that has led to the situation, and earlier this year we saw it unfold in west Trinidad. So my plea through you, Mr. President, is that we can come together, through all of us in here, Government, Opposition and Independents, and in the other place and find ways to strengthen the laws, the regulations, and the policies, and the infrastructure to protect particularly women and families in Trinidad and Tobago. I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: The Minister of National Security.

Hon. Members: [*Desk thumping*]

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you very much. Mr. President, I thank the hon. Senator for raising a very important matter. It has been important enough to have attracted the attention of the Parliament in

1999 in this country when we passed our first iteration of the domestic violence law. And of course, Mr. President, that law was amended in 2006, 2012, and 2020, and again in 2021, touching and concerning elements around the Firearms Act. It is important to adapt and strengthen measures to effectively protect those in need of protection in our society by staying current and responsive to the changing circumstances. The Government—this Government has been able to better address issues related to domestic violence, harassment, and other forms of abuse. Indeed, by addressing existing legislative and operational gaps, not only has the protection for the more vulnerable in our society been bolstered, but a more secure environment for the individuals seeking legal recourse and support has been engendered.

It is for these reasons that the Government of Trinidad and Tobago, through the Attorney General and Minister of Legal Affairs, brought the Domestic Violence (Amdt.) Bill in 2020 to this Parliament, which was introduced in the Senate on June the 3rd of that year and assented to on July the 3rd of the said year, in the form of Act 18 of 2020. That Bill amended the Domestic Violence Act, as well as made provisions for emergency protection orders, where if something happens, for an example, overnight, a report to a police station might be enough to accord some level of protection until, of course, more can be done.

The Bill was brought to Parliament primarily to provide additional protection for the numerous victims of domestic violence. It amended key definitions. It expanded the categories of persons who could apply for protection orders. It made provision, as I said, for emergency protection orders, and it established, very importantly, the National Domestic Violence Register for Domestic Violence Complaints. So my contribution focuses more this evening on

the critical role, as the Member alluded to, on the critical role of law enforcement officers and their capacity to operate effectively within the context of the legislation, important as it is; necessary, but obviously not sufficient.

It is significant to note that the Domestic Violence (Amdt.), it increased, as I said, the categories of persons who could apply. It allowed for the court, powers to issue an Interim Order or a Protection Order; those powers were expanded. The circumstances upon which an Interim Order may be granted were expanded as well, and provisions were made for the Interim Order to:

“...remain in force until—

- (a) it is revoked;
- (b) the application for a Protection Order is withdrawn or dismissed; or
- (c) a Protection Order is...”—actually—“...made.”

As well, provisions were made to introduce the process of making an emergency application, and the terms of the Protection Order were expanded, the service of protection orders, because there were people who would have a Protection Order and it is difficult to find the perpetrator, and therefore the service capacity was expanded where there was a reporting to be done after five days, and if that was not done, the court could have been approached for substituted service.

All of these things, as well as to establish a timeline within which a Protection Order must be served and the procedure for substituted service, if not completed within the prescribed timeline, all of these things targeted the infrastructure, the operational elements so as to render this—if I may use the language that the Senator used, more than a mere piece of paper. It has to be with a piece of paper. When the court makes an order, it is documented in the form of a piece of paper, and, as I said, necessary but not sufficient. It is that little piece of

paper that tells us what the legal arrangements behind it really represents, and I have just outlined some of them.

Protection Orders provide applicants with the means to take control of their safety and well-being. By obtaining a Protection Order, a person in a vulnerable situation can legally prevent an abuser from being in their residence, neighbourhood, business, school or workplace, engaging in direct or indirect communication, example, telephone, emails, letters; approaching the applicant within a specified distance, or causing or encouraging another person to do same.

Protection Orders can also force the abuser to:

- (i) “return...the applicant...property...;
- (ii) pay compensation for monetary loss incurred by the applicant as a...result of...domestic violence;”—such as medical expenses, dental expenses;
- (iii) “pay interim...”—maintenance for the applicant or a child;
- (iv) “...vacate any place or residence...”—even if owned or rented by the abuser;
- (v) give up—“...to the police any”—licensed—“firearm...firearm or weapon which he may have...;
- (vi) pay or—“...continue to...”—pay the—“rent or mortgage...”—for the applicant’s premises;
- (vii) “ensure that reasonable care is provided...”—with—“...respect of a child or dependent person;
- (viii) or applicant or both, receive professional counselling or therapy...”—or any such prohibitions and directions as consented to by the applicant or the respondent, or both.

The matter of whether Protection Orders have been effective has been widely discussed in the public, and the Senator raised elements of it. Instances of violations, as the Senator just revealed and reminded us, are well publicized, but the public is less aware of how these things actually work, and he alluded to it. They actually work, because you just have to wonder for a moment, Mr. President, what would the scenario have been in the absence of this. So there have been breaches. As a matter of fact, might I say, that since 2020, that amendment—since 2020—between July 2020, after the amendment to the present date, there were 880 instances of breaches. So human beings break the law. People will do things, paper or not. Some 400 though, and 50 of those have been arrested and charged in the same period.

So it is the response of the State, and particularly the role of the law enforcement personnel that really gives flesh to the skeleton of the piece of paper which reflects the order of the court. And as you would have heard a moment ago, the order of the court, or orders of the court, are quite expansive following the amendments of 2020, Mr. President. Protection Orders provide legal documentation that prohibit an individual from contacting or being near the person. It helps the police in situations where there is a history of domestic violence. The Domestic Violence Act even went one step further in assigning responsibility to police officers where the court directs that an applicant for a Protection Order is served personally on the respondent by a police officer. And should the application not be served within five days, the police officer is obligated to file a notice within two days thereafter and bring this to the attention of the court. So it imposes obligations on the infrastructure, in this case, on the police officers.

Police officers play a vital role in enforcing Protection Orders to ensure

safety of the individuals who are at risk of harm. When a Protection Order is in place, it is the responsibility of law enforcement to respond promptly and effectively to any violations of the said order. This may involve investigating reports of violations, making arrests, as I have explained, and taking steps to protect the individual who has been granted the Protection Order. Thus, officers have continued to provide a sense of security for the vast majority of those—in fact, I dare say, all of those who are in danger, and to prevent further harm and hold perpetrators accountable. What may be required is a constantly improving and engaging and more robust application of these protections by the police in what we describe as a zero-tolerance mode, and a cultural shift on the part of the entire society, rendering this aspect of violence, because domestic violence is a subset of violence generally.

Mr. President: Minister, you have two more minutes.

Hon. F. Hinds: These, Mr. President, are the measures that have been put in place and are being given effect in order to protect victims of domestic violence, potential victims even. I thank you very kindly.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Mark.

Hon. Senators: [*Desk thumping*]

Tobago Oil Spill

(Independent Investigation)

Sen. Wade Mark: Thank you, Mr. President. Mr. President, my matter on the Motion for the Adjournment deals with the need for an independent investigation into the recent oil spill, or whatever substance, in Tobago waters, negatively impacting the coastlines of Tobago and its tourism product. Mr. President, the

people of Tobago have been the victims of a vicious act of environmental and ecological terrorism in Trinidad and Tobago.

7.55 p.m.

Mr. President, we do not know who are the forces behind this act of terrorism against the people of Tobago. What we do know is that as a result of what happened and the oil spill that occurred, the people of Tobago, particularly Lambeau, they have been dislocated in a very negative way.

Mr. President, our intelligence has revealed that the vessel that is involved in this matter, the *Solo Creed*, has turned off its transponder for the last 15 days and cannot be located. The last time it was located was sometime in South America. So there is some secrecy, some clandestine activity surrounding this whole matter. The Government does not know. The Government does not see. The Government does not hear. They do not know what is going on in Trinidad and Tobago. I do not know why they are in Government—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: —if they do not know what is going on. But, Mr. President, what is going on, I will tell you, is that the people in Trinidad and Tobago are calling for answers and they are calling for an independent investigation into this matter, Mr. President.

Mr. President, let me inform this honourable Senate that it was on the 14th of February that the Trinidad and Tobago Coast Guard issued a statement saying that it had picked up these two vessels, the barge and the tug towing the barge, since the 4th of February, and then this barge and this tug towing it, the *Solo Creed*, disappeared mysteriously from their radar. So imagine we have a government with a security apparatus, with a 360-degree radar surveillance system, picked up a

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Sen. Mark (cont'd)

vessel, two vessels, and then all of a sudden the vessels disappeared. These same coast guards who were manning the surveillance system did not detect, did not alert, did not send out a Cape-class vessel to see if somebody is lost, if somebody is damaged, if some boat was sunk. They did not send out an aircraft to see what was going on, Mr. President, and this is the kind of scenario that we are facing in Trinidad and Tobago.

We know that that vessel went to Aruba, it picked up marine fuel. We know where Aruba is and we know what kind of fuel one does get there and we know who supplying fuel there, Mr. President, and it came, and it was in our territorial waters. What we want to find out from the Government, I would like the Minister of National Security to tell this Parliament whether the company called TFG, a joint venture company, owned 75 per cent by Trafigura, 15 per cent by Frontline and the other 10 per cent by Goldenship, I would like the hon. Minister to indicate to Trinidad and Tobago, when was a bunkering licence issued to Trafigura and TFG? Because I have evidence to show that TFG is operating a bunkering fuel operation in the waters of Trinidad and Tobago, and unless they have a licence to do so, they are operating illegally in our country.

So we want to know if the Government can tell Trinidad and Tobago whether they have issued a licence to Trafigura, coming under the name of TFG Marine Limited, operating in our waters, and whether at that material time, when that barge capsized, whether it was transporting marine fuel supplied by Trafigura at the material time. These are serious issues—and why the transponder of the *Solo Creed* has been switched off for 15 days. Nobody can find this vessel. The Government does not know where the vessel is, Mr. President. No crew, no captain.

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(Independent Investigation)
Sen. Mark (cont'd)

Sen. Lyder: No crew.

Sen. W. Mark: No crew, no captain. Mr. President, I think that the time has come—what is even more important is the Government of Trinidad and Tobago is still dilly-dallying after 13 days, going on to 14 days, and they have not effected Tier 3. We demand that—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—the Government effect Tier 3. Bring international assistance to Trinidad and Tobago to deal with the oil spill, Mr. President. And therefore, we believe that if they bring international experts to Trinidad and Tobago, Mr. President—that is why we are calling on the Government and the people to have established an independent expert forensic investigation so we can determine—

Mr. President: Two more minutes, Senator.

Sen. W. Mark:—we can determine, one, the circumstances into which these vessels entered our waters. How?—and they entered undetected, undetected.

So, Mr. President, this is a very serious matter. We want to know if the Government of Trinidad and Tobago is in league with Trafigura.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: We want to know if the Government of Trinidad and Tobago is involved in sanction-busting laid down by the United States of America. The people are demanding that the Government come clean and tell us what is going on with this matter, and stop obfuscating and hiding and not telling the people the truth, Mr. President. We want answers, and the Minister of National Security and his Prime Minister who is vacationing for 10 days in Guyana, doing what?—we “doh” know, but he is in Guyana for 10 days and he is supposed to be in Trinidad seeing about the oil spill. We demand today that Tier 3 be immediately

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(Independent Investigation)
Sen. Mark (cont'd)

implemented—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—in Trinidad and Tobago so we could get international support, Mr. President, to clean the waters from where you hence came. We want the President's waters to be cleaned, and we want those waters to be cleaned now.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Mr. President, I call on the Minister of National Security to indicate why are they hiding and let us know if they are part of this criminal activity taking place in our waters.

Hon. Senators: [*Crosstalk and laughter*]

Sen. W. Mark: This is what we want to know and this is what the people demand at this time.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: I thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: Minister of Works and Transport.

Hon. Senators: [*Desk thumping*]

Sen. Gopee-Scoon: “Dais the extempo king, yuh know”.

Hon. Senators: [*Crosstalk*]

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Mr. President, I “doh” know what to say about that what we just saw there—

Hon. Senators: [*Laughter*]

Sen. The Hon. R. Sinanan: —except to say—

Sen. Gopee-Scoon: Carnival over.

Sen. The Hon. R. Sinanan:—that Carnival is over, “comedy fest now start”.

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(Independent Investigation)
Sen. The Hon. R. Sinanan (cont'd)

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sinanan: Mr. President, I came to debate a Motion, and the Motion was the need for an independent investigation into a recent oil spill in Tobago waters, negativity impacting the coastline of Tobago and its tourism product. I think Sen. Mark forget the Motion he came to debate today and he just put on a display there—

Sen. Gopee-Scoon: Extempo.

Sen. The Hon. R. Sinanan:—that could cause Tommy Joseph to lose his job.

Hon. Senators: [*Laughter*]

Sen. The Hon. R. Sinanan: Nothing that he said—he is calling for an independent investigation, but he has all the facts, so why he does not just present it to us? He knows more than the IMO. He knows more than all the marine divisions throughout the Western Hemisphere. He has more information—maybe that oil probably was going by him.

Hon. Senators: [*Laughter*]

Sen. The Hon. R. Sinanan: Because he knows where it came from, he knows who “bring it”, he knows more than all the international organizations that we are liaising with.

Mr. President, let me try to bring back some sense of normalcy—

Sen. Gopee-Scoon: Please.

Sen. The Hon. R. Sinanan:—to this Motion—

Hon. Senators: [*Desk thumping*]

Sen. Gopee-Scoon: Please.

Sen. The Hon. R. Sinanan:—so that at least whoever is listening could understand where we are and what we are doing about this disaster that is very

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Sen. The Hon. R. Sinanan (cont'd)

important to the people of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sinanan: Mr. President, the Prime Minister has already gone on record in the other place and put a comprehensive report on the *Hansard*.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sinanan: The Minister of Energy and Energy Industries has also responded to a similar Motion—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sinanan:—in the other place, and it was nothing like what Sen. Mark just displayed here. It was facts and important information that is required at this time. And I will just simply add some information that will give the population the assurance that responsible people are in charge of this country—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sinanan:—and we will get through this.

Mr. President, the Motion seeks to call for an independent investigation into the oil spill in Tobago waters and its impact on the coastline of Tobago and its tourism product. As have been previously stated, Mr. President, this matter was first reported on the 7th of February, 2024. As at today's date, the clean-up exercise is ongoing and all relevant arms of the State have been activated. The question of an investigation on the impact on the coastline and tourist product is premature. I continue to hear and read much speculation as to the methods being pursued and the time being taken. I wish to once again state the steps being taken.

Mr. President, from the onset of the oil spill, which occurred on February 07, 2024, my Cabinet colleague responded in the other place and has placed on the *Hansard* that the matter engaged immediate attention and the services of various

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(Independent Investigation)
Sen. The Hon. R. Sinanan (cont'd)

technical experts and agencies to investigate and identify solutions to address the spill.

Mr. President, in an environmental disaster such as this, there are protocols for dealing with oil spills, according to the international practice. As soon as the spill was reported and Tobago House of Assembly engaged with the central government, all relevant entities were engaged, namely TEMA, the Ministry of National Security, Trinidad and Tobago Coast Guard, Maritime Services Division, CARICOM IMPACS, Guyana Coast Guard, Heritage Petroleum, and the list goes on. And, Mr. President, I would like to congratulate all the people of Tobago, the TEMA team, the fishermen of Tobago, all the volunteers in Tobago—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sinanan:—and all the people who are involved in this clean-up in Tobago.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sinanan: The only group that was not present in Tobago was the UNC—

Sen. Gopee-Scoon: United National Congress.

Sen. The Hon. R. Sinanan:—and continue to spur fake information on this project.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sinanan: This is not the time for that. This is the time for patriotism and for all hands on deck.

Hon. Senators: [*Desk thumping*]

Sen. Gopee-Scoon: Exactly.

Sen. The Hon. R. Sinanan: This, Mr. President, this was reiterated by the hon.

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Prime Minister who gave a very comprehensive report, laying the facts, steps on the disaster and the approach engaged. This report is now on the record of the *Hansard*. In addition to this, the Prime Minister directed relevant Ministers to be physically present in Tobago to ensure that the function of the central government was discharged in collaboration with the relevant officers in Tobago.

Mr. President, permit me to highlight the basis of existing protocols in dealing with oil spills. Various entities have been engaged and clean-up is underway, which is the primary concern. As you have heard, these protocols are categorized into tiers. Accordingly, at this time, we are under Tier 2, as identified based on the international practice, and all mitigation measures are actively being pursued at this time.

8.10 p.m.

The question of the time it is taking is categorically identified—the time it is taking to categorically identify the owners and flag of the barge is based on practical circumstances surrounding the incident. We believe that the original operations was a tug and barge operation. The barge is what has run ashore in Cove. In order to positively identify the badge, the first step taken was use of divers to find either the registered IMO name or serial number. Bearing in mind the area, as well as existing conditions of the water. A name was found specifically *Gulf Stream*. At this time, Mr. President, there are over 300 registered vessels by the name of *Gulf Stream* in active operation.

Given that there is no located serial number to date, the Maritime Service Division has been interrogating each name by its regional and international partners. We have been in touch with Caricom IMPACS, port state control, Panama, Aruba, Grenada, Tanzania, Suriname and many other states. We simply

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cannot call the name people and vessels without verification, unlike Sen. Mark. I would like to reiterate that the only way—

Mr. President: Minister, you have two more minutes.

Sen. The Hon. R. Sinanan:—to identify the owners of the vessel is by IMO serial number. We have not found such on the vessel around Cove, to date. Mr. President, to give the assurance that this Government is doing everything possible in order not to compromise the investigation, we have to act very responsible. We are pursuing several leads to identify the vessel, but in the maritime industry vessels are identified by the IMO number and the serial number. We have sent divers down, but it is at a dangerous level at this stage. And I know Sen. Mark and his team are hoping that something more—

Sen. Mark: Catastrophic.

Sen. The Hon. R. Sinanan:—catastrophic can happen there so he can come to the Senate and talk some more. This is a responsible Government.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sinanan: We are doing what has to be done and I give the assurance that we will get to the bottom of it because we are following leads. Only today, the Minister of Energy and Energy Industries has engaged two of the world's more experienced international companies to come to Trinidad and assist with the plugging of the leak and the removal of the vessel.

Hon. Senator: [*Interruption*]

Sen. The Hon. R. Sinanan: Right? And, Mr. President, unfortunately when the UNC thought they had something to rant and rave about, this Government, with the assistance of the THA, has handled this situation in a very professional and international standard. Mr. President, I thank you.

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Sen. The Hon. R. Sinanan (cont'd)

Hon. Senator: As expected.

Hon. Senators: [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.13 p.m.