

SENATE

Thursday, March 12, 2020

The Senate met at 2.00 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]



LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence to Sen. Dr. Varma Deyalsingh and Sen. Hazel Thompson-Ahye, both of whom are ill.

SENATORS' APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from Her Excellency The President, Paula-Mae Weekes, O.R.T.T.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency PAULA-MAE WEEKES,
O.R.T.T., President of the Republic of
Trinidad and Tobago and Commander-in-
Chief of the Armed Forces.

/s/ Paula-Mae Weekes

President.

TO: MS. ZOLA L. PHILLIPS

WHEREAS Senator Hazel Thompson-Ahye is incapable of performing her duties as a Senator by reason of illness:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ZOLA L. PHILLIPS, to be a member of the Senate

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temporarily, with effect from 12th March, 2020 and continuing during the absence of Senator Hazel Thompson-Ahye by reason of illness.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 12th day of March, 2020.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency PAULA-MAE WEEKES,
O.R.T.T., President of the Republic of
Trinidad and Tobago and Commander-in-
Chief of the Armed Forces.

/s/ Paula-Mae Weekes

President.

TO: MS. SHERVON IFILL

WHEREAS Senator Dr. Varma Deyalsingh is incapable of performing his duties as a Senator by reason of illness:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, SHERVON IFILL, to be a member of the Senate temporarily, with effect from 12th March, 2020 and continuing during the absence of Senator Dr. Varma Deyalsingh by reason of illness.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 12th day of March, 2020.”

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OATH OF ALLEGIANCE

Senators Zola Phillips and Shervon Ifill took and subscribed the Oath of Allegiance as required by law.

ARRANGEMENT OF BUSINESS

Madam President: Leader of Government Business.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): I seek your indulgence and the indulgence of this honourable Senate to kindly request that the urgent questions be deferred to later in the proceedings.

Sen. Mark: Madam President, can I?

Madam President: Sure.

Sen. Mark: When the hon. Leader said, later in the proceedings, can you tell us at what time, so at least we will know what time you have?

Sen. The Hon. F. Khan: It may be around 4.00, Sir, I mean Ma'am, because the Minister of National Security is indisposed at this minute, at this moment. He should be available at around 4.00, and the Prime Minister and the Acting Prime Minister are at Piarco at this time, so we are looking at around 4.00, 4.30.

Madam President: So, Hon. Senators, the urgent questions will be deferred until later in the proceedings.

ORAL ANSWERS TO QUESTIONS

Madam President: Leader of Government Business.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, the Government will be answering Question No. 52, and we seek a two-week deferral of Question Nos. 51 and 53.

Madam President: Leader of Government Business, you are only seeking a deferral of 51 and 53?

Sen. The Hon. F. Khan: We will be answering all the rest.

Madam President: All the others?

Sen. The Hon. F. Khan: Yes, yes, sorry. I did not turn the page.

Madam President: So, Questions 51 and 53 are deferred for two weeks.

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

**Augusta Westland AW139 Helicopters
(Resumption of Maintenance Contract)**

51. Could the hon. Minister of National Security state:

Given the recent decision of the Court of Appeal to award a UK based company approximately US \$10.6 M, in a matter against the State, for breach of contract in relation to the four Augusta Westland AW139 twin turbine helicopters, can the Minister indicate if the Government intends to resume a maintenance contract with the said company?

**Escalating Murder Rate
(Implementation of Policies)**

53. Can the hon. Minister of National Security indicate what, if any, new policies are being implemented by the Government to curb the escalating murder rate?

Questions, by leave, deferred.

**Termination of CEPEP Employee
(Details of)**

52. **Sen. Wade Mark** asked the hon. Minister of Rural Development and Local Government:

In light of reports that a CEPEP contractor terminated the employment of a female employee who refused to canvass for the local government elections, can the Minister indicate:

- (i) whether the Ministry has launched an investigation in this matter; and
- (ii) if the reports are confirmed, what action will be taken against the contractor?

The Minister of Rural Development and Local Government (Sen. The Hon. Kazim Hosein): Thank you very much, Madam President. I want to thank Sen. Mark for the question. The Permanent Secretary of the Ministry of Rural Development and Local Government requested information from the General Manager of the CEPEP Company Limited for Question 52 of the Fifth Session 2019 to 2020 of the Eleventh Parliament. The General Manager of the CEPEP Company Limited stated that the female employee is not an employee of the CEPEP Company Limited but an employee of an independent contractor hired by the CEPEP Company Limited. The contractor is responsible for hiring all unrelated issues, including termination of their employees.

Clause 9 of the contract between CEPEP and the contracting company states:

In the performance of this contract the contracting company is and shall remain an independent contractor maintaining complete and exclusive control over its personnel. The contracting company shall have absolute and sole responsibility for its personnel and for all obligations that may be imposed by virtue of any legislation, and all such personnel shall at all times be regarded as employees of the contracting company and not the CEPEP Company Limited.

Therefore, the contractor is responsible for the hiring and related issues including termination of their employees. The contractor submitted information to the CEPEP Company Limited on their disciplinary proceedings following in this instance the employee. Copies of three letters sent to the employee were provided, inclusive of two warning letters dated August 16, 2019, and September 17, 2019, respectively; and one termination letter dated November 08, 2019.

Based on the information provided, the contractor denied that the termination of the employee was a result of the employee refusing to canvass for the local government elections. The contractual arrangements between CEPEP Company Limited and the contractor, the contractor's control over their employee and the evidence of disciplinary action taken, supports the reason for the dismissal of the employee. Therefore, CEPEP Company Limited does not plan to take any action against the contractor as it relates to this matter. Thank you very much.

Madam President: Sen. Mark.

Sen. Mark: Madam President, through you, can the Minister indicate to this House what was the nature of the disciplinary action taken by the contractor against the worker that would have resulted in letters being issued and then ultimately a termination letter being issued?

Sen. The Hon. K. Hosein: Madam President, the question Sen. Mark is asking right now, was the arrangement between the contractor and the employee, so I do not have that information presently, but I could get it for you if we need it.

Madam President: Sen. Mark.

Sen. Mark: Madam President, can I ask the hon. Minister, through you, whether there is a policy at the level of CEPEP that would trump the Constitution of our Republic? Madam President, if I may just rephrase this or recast it: Can the Minister indicate to this House whether the Constitution is supreme in the context

of the rights of citizens re: discrimination for political reasons that may have been executed in this particular instance?

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

Sen. Mark: Madam President, can I ask, through you, whether the Minister, having regard to the termination of this employee, can the Minister indicate whether he is satisfied with the information produced by this contractor to the CEPEP company as it relates to the termination of this worker without any specific grounds that you could identify at this time? Are you satisfied with this development?

Madam President: Sen. Mark, I will not allow that question either, any—

Sen. Mark: Can I ask the hon. Minister to provide to this honourable House, the letters, warning letters as well as the termination letter involving this particular employee? Can the Minister, seeing that we, taxpayers—*[Interruption]* Madam, what is this Attorney General—

Madam President: Sen. Mark, you have asked the question. Minister. *[Interruption]* Sen. Mark, there is no “this”—*[Interruption]* Sen. Mark, Sen. Mark, please! Please! When you are making reference—

Sen. Mark: Yeah, the Attorney General. The hon. Attorney General.

Madam President: That is correct. Minister.

Sen. The Hon. K. Hosein: Thank you, Madam President. I will have to get the facts because this matter could be sub judice, and I want to be very cautious in how I approach this.

Madam President: Next question. *[Interruption]* No, Sen. Mark, you are out of questions. Next question, Sen. Obika.

T&T's Net Imports from Guyana

(Status of)

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115. Sen. Taharqa Obika asked the hon. Minister of Trade and Industry:

In light of the improving income of Guyana, can the Minister advise as to the status of Trinidad and Tobago's net imports from Guyana?

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):

Thank you very much, Madam President. Trinidad and Tobago recorded positive trade balances with Guyana over the period 2015 to 2019, which means exports to Guyana have outweighed imports from that country for the particular period. Trinidad and Tobago's exports to Guyana showed positive growth over the period 2015 to 2019, while imports from that country have been relatively constant with minor fluctuations over that same period. Therefore, as it stands, Trinidad and Tobago can be considered a net exporter to Guyana. In addition, Guyana was one of Trinidad and Tobago's top five trading partners within Caricom over the period 2015 to 2019. Guyana's first light crude oil export in January 2020, marks a significant milestone and achievement for that country, and there are opportunities for collaboration in the trade of both energy and non-energy goods and services. Thank you.

Madam President: Sen. Obika.

Sen. Obika: Thank you, Madam President. Can the hon. Minister indicate given the fulsome response, what trends they recognized? Is it that the data is trending upward or in whichever direction, if she can give some clarification?

Madam President: Minister.

Sen. The Hon. P. Gopee-Scoon: With regard to exports, the data is trending upward. With regard to imports from Guyana, it has been more or less stable, minor fluctuations. If I can give you an idea of the figures for that 2015-2019 period, we would have exported something like TT \$10 billion worth of goods, and

on the other hand, regarding imports from Guyana, we would have imported just about \$1 billion over the period 2015 to 2019.

Madam President: Next question, Sen. Obika.

African Union

(Appointment of Official Representatives)

116. Sen. Taharqa Obika asked the hon. Minister of Foreign and Caricom Affairs:

Given the diplomatic strides made at the African Union, can the Minister indicate whether the Government intends to appoint an official representative to the African Union in Addis Ababa, Ethiopia?

The Minister of Foreign and Caricom Affairs and Minister in the Ministry of National Security (Sen. The Hon. Dennis Moses): Thank you very much, Madam President. The Government of Trinidad and Tobago has appointed this country's High Commissioner to Nigeria about two years ago as the observer to the African Union in Addis Ababa, Ethiopia. Thank you, Madam President.

Madam President: Sen. Obika.

Sen. Obika: Thanks, Madam President. Can the hon. Minister indicate whether or not the Government is intended to have an official representative, notwithstanding the Ambassador for Nigeria, an official representative based in Addis Ababa?

Madam President: Minister.

Sen. The Hon. D. Moses: Thank you very much for the opportunity to respond. We reserve the right on behalf, in exercising that to define and have representatives based in Abuja Nigeria, the High Commissioner, the substantive head of that mission as the observer to the African Union. This has always been the practice. Thank you very much.

Madam President: Sen. Obika.

Sen. Obika: Thanks, Madam President. Given the thrust of the question as the hon. Minister would like—normally uses, can the hon. Minister indicate whether or not there is any advantage to be gained by having a direct representative based in Addis Ababa?

Madam President: Minister.

Sen. The Hon. D. Moses: Once again, Madam President, we reserve the right to use the scarce resources at our disposal in the deployment of staff to our missions, and indeed the accreditations that follow such missions. Thank you very much.

Madam President: Sen. Obika.

Sen. Obika: Thank you, Madam President. Can the hon. Minister be minded to provide the Senate with any information as to whether any other Caricom countries have a direct representative to Addis Ababa?

Madam President: Sen. Obika, I will not allow that question.

Sen. Obika: Madam President.

Madam President: You have—that was your fourth.

Sen. Obika: Oh, I did not know.

Madam President: Yeah.

TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018

Order for second reading read.

The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West): [*Desk thumping*] Thank you very much, Madam President, I beg to move:

That a Bill to make provision for the implementation of agreements between Trinidad and Tobago and other States providing for the exchange of information for the purposes of taxation, and for related purposes, be now read a second—

Madam President, I apologize. I am sorry, I am looking for the correct procedure. I believe this is it.

RELATED BILLS

The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Madam President, in moving the second reading of this Bill I seek the leave of the House in accordance with Standing Order 48(1) to debate along with this matter Bills Nos. 2 and 3 on the Order Paper which relate to the same subject.

Question put and agreed to.

Sen. Mark: West, without me, “you dead”. [*Laughter*] So I will not—[*Inaudible*]

Madam President: Minister, continue.

TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018

Sen. The Hon. A. West: Madam President, I thank you and I thank the other Members of the House for accommodating us in this request.

Madam President, I present for the adoption of the House the report of Joint Select Committee on the Mutual Administrative Assistance in Tax Matters Bill, 2018, the Tax Information Exchange Agreements Bill, 2018, and the Income Tax (Amdt.) Bill, 2019. The committee also recommends that the House agree with its proposals for amendments on these Bills. Madam President, the Bills which were considered and reviewed by the committee have their genesis in a global initiative to prevent tax evasion and tax avoidance through effective and regular exchange of information between global tax administration counterparts. Tax evasion and tax avoidance have become matters of acute global interest as nations tackle the threat of revenue loss through offshore evasion and increasingly globalized arrangements entered into backed by taxpayers. Taxpayers currently have more access to

investments made through financial institutions outside of their country of residence and have access to global structures that allow them to avoid and evade tax. And I would remind the Members that of tax avoidance is legal, tax evasion is not, but both methods of approach, reducing your tax obligations deprive the State which is entitled to these taxes from taxes, so the Global Forum is seeking to address both.

Madam President: Minister, if I may? At the very beginning of your presentation you spoke about adopting the report, but there is no report before this Chamber. What is before the Chamber will be the three Bills, so can you just correct that for the record, please.

Sen. The Hon. A. West: I appreciate your guidance, Madam President. The three Bills which are attached to the report deal with the issue of fulfilling our obligations under Global Forum.

Sen. Mark: No, no, not so. The President said you just have to correct that so that it does not go onto the record of the House. Just correct it.

Sen. The Hon. A. West: Just for correction purposes, Madam President, and for clarification I referenced the report only in the context of the fact that they were adopted in the House in relation to the three Bills, but the presentation is around the three Bills. Yes?

So, as I was saying, Madam President, the three Bills deal with addressing the issue of tax evasion and tax avoidance around the world through the methods proposed and implemented by members of the Global Forum. What the Global Forum initiative is seeking to achieve is better transparency and exchange of information for tax purposes which are key to ensuring that both individual and corporate taxpayers have no safe tax haven to hide their income and assets, and

that they pay the right amount of tax in the right place.

In the sphere of this international cooperation for ensuring tax compliance, countries have come together to set standards with respect to transparency and exchange of information for tax purposes. Madam President, in this regard, the Global Forum on Transparency and Exchange of Information for Tax Purposes is the international body through which work on transparency and exchange information for tax purposes has been carried out by both the Organisation for Economic Co-operation and Development, the OECD, and by non-OECD economies since 2002—since the year 2002.

Madam President: Minister. Minister, if I may?

Sen. The Hon. A. West: I am sorry.

ARRANGEMENT OF BUSINESS

Madam President: I apologize for interrupting you, but the Minister of National Security is here, and therefore I am going to revert to the business of Urgent Questions and then we will continue with your presentation.

Hon. Senators, may I just point out that I have granted leave to the Minister of National Security to waive certain Standing Orders with respect to the attire based on extenuating circumstances.

Sen. Mark: Madam President, before I pose my question, let me take the opportunity to wish my hon. friend a speedy recovery.

Hon. Senator: Yeah, yeah. [*Desk thumping*]

Sen. Mark: And even though we engage in light bantering from time to time, when something like this happens we all must be in solidarity. [*Desk thumping*] So we want to extend a speedy recovery to our colleague. [*Interruption and laughter*]

Hon. Senator: Licks now.

URGENT QUESTIONS**Trinidad *Express* Offices****(Police Search)**

Sen. Wade Mark: Yes, hon. President, through you, to the hon. Minister of National Security: In light of the recent police search on the offices of the Trinidad *Express* last evening, can the hon. Minister advise whether the search warrant for said search was obtained on the instructions of the Acting Commissioner of Police?

The Minister of National Security and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President, and I appreciate the Senate's accommodation on a number of different items, to allow me both my attire and to interrupt Sen. West's presentation, and I thank my colleagues on all sides for their well wishes.

With respect to the question asked, I remind the population, through you, Madam President, that the police service, as we are always quick to be told, is an independent body. The actions of the police service are, with respect to investigations and the actions that they take with respect to investigations are independent. With this particular circumstance, the Government, certainly I as the Minister of National Security, had no information prior, was not given any prior briefing or any prior information before the search of Trinidad *Express* offices took place. I have on the basis of this question being asked, asked the Trinidad and Tobago Police Service whether the Acting Commissioner of Police is the one who gave instructions for this search warrant to be obtained, and I have been told by the police service, the answer is no, and there is an ongoing police investigation. And I have just been told by the Attorney General there is now litigation surrounding these circumstances, so I do not want to say anything more, apart from that it is

independence of police and the Government had absolutely no role to play in it whatsoever.

Madam President: Sen. Mark.

Sen. Mark: Madam President, through you, to the hon. Minister. Hon. Minister, can you indicate whether at this time as you speak, whether you have been furnished with any reports from the TTPS on this very grave intrusion on the *Trinidad Express*?

Madam President: Minister.

Hon. S. Young: Thank you, Madam President. I have not been furnished with any reports. I had a conversation with one of the investigating police officers last night, where he confirmed their ongoing police investigations. From the time that language is used, I as the Minister of National Security do not intrude whatsoever. I just told them that they must always be cautious when it comes to the media and the protection of the freedom of the press and freedom of the media, but I leave the police service to do their investigations.

Madam President: Sen. Mark.

2.30 p.m.

Sen. Mark: Madam President, may I ask the hon. National Security Minister whether he has done any analysis or assessment on his own as it relates to the— what appears to be the inextricable link between this raid and a story appearing in the *Sunday Express* surrounding the very Acting Commissioner of Police who may have been responsible for issuing those instructions? Have you been able to make any analysis as the Minister of National Security on this matter?

Madam President: Sen. Mark, I would not allow that question. Next question, Sen. Dillon-Remy.

Sen. Dr. Dillon-Remy: Not about this.

Hon. Member: No, next question.

Sen. Dr. Dillon-Remy: To the Prime Minister?

Madam President: To the next Urgent Question.

Sen. Dr. Dillon-Remy: Okay, fine.

Madam President: Yes.

COVID-19 Virus

(Caricom Heads of Government Response)

Sen. Dr. Maria Dillon-Remy: Thank you, Madam President, to the Prime Minister: Given reports that several cases of the COVID-19 virus have been confirmed in the Caribbean region, can the Prime Minister indicate whether Caricom Heads of Government will conduct an urgent meeting to discuss a regional strategy to respond to the virus?

The Minister of National Security and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President. Madam President, the Prime Minister has asked me to remind the Senate, through you, and the population, that at the recently concluded Heads of Caricom Government meeting, which was held in Barbados, this was one of the items on the agenda that was discussed, that is the COVID-19. The Heads of Caricom are in constant contact as are all of the technocrats underneath the various Caricom countries with respect to this unraveling and very fluid situation with COVID-19. There was discussion at that Heads of Caricom meeting and certain decisions were taken as to how the Caribbean region should react. There was then an emergency meeting where our Minister of Health and our Minister of Trade and Industry attended in Barbados to deal with certain items related to COVID-19. But at the end of the day as you are aware this virus is going to be dealt with by each jurisdiction on its own.

In fact, I have just come here and I apologize for being late, being at the

post-Cabinet press conference where myself and the Minister of Health and the Chief Medical Officer just addressed as to Trinidad and Tobago's response with respect to COVID-19 and in particular these recent instances where there have been in very close quarters to us Guyana, St. Vincent, Cuba and two cases in Jamaica; instances of persons testing positive for COVID-19 and what our response to this continuing rapidly evolving situation is.

Sen. Dr. Dillon-Remy: Minister, specifically as it relates to areas, like the economy, trade, travel between the Caricom countries and the impact that is having specifically as it relates to—our countries are based a lot on tourism and the impact this is having on the economy. I just wanted to know whether there were any specifics as it relates to those things.

Hon. S. Young: Thank you. When you say specifics, you mean any specific responses? Each Caricom country is going to have their own response to it. For example, what we have just advised our population is that they should limit their travel to emergency and essential travel, right. We are not making it an imposition and obligatory, but we are saying that our advisory position as the Government of Trinidad and Tobago is limit your travel to emergency and essential travel. Each island in each jurisdiction is going to respond. We have also just taken a decision for the rest of the cruise ship season, Trinidad and Tobago is not going to allow cruise ships to dock here, that is until I believe, the 24th of April.

So yes, these decisions are going to have economic impact, but at the end of the day, the priority is the protection and the delay of this virus from getting to Trinidad and Tobago and the protection of our people in Trinidad and Tobago from our perspective.

Sen. Deonarine: Thank you, Madam President. Minister, as it pertains to the global supply chains and how it has been impacting imports all over the world, has

Trinidad and Tobago engaged with the business community to create any sort of intervention on the disruptions in the global supply chains?

Hon. S. Young: Thank you very much. As I said, this is a very, very rapid and very fluid situation. It is changing literally by the hour, and certainly every 24 hours is a different position. The Ministry of Trade and Industry is part of the Interministerial group that has been set up, that is co-chaired by the Minister of Health and myself, we have all of the various Ministries that have a role to play. There is going to be a meeting and that committee is chaired by the CMO. There is a meeting planned with the private business sector on Monday between the CMO and his group. It is something that we are looking at. The Minister of Trade and Industry and the Minister of Agriculture, Land and Fisheries are planning to have conversations from a food supply point of view, and at this stage we just continue to monitor and we are asking people to just use your common sense and just be cautious.

Madam President: So Urgent Questions have now been answered and we will now revert to the business at hand. Minister in the Ministry of Finance, you have utilized five minutes of your speaking time.

TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018

Sen. The Hon. A. West: Thank you, Madam President. Madam President, I was just about to go into a bit of background on the Global Forum and what led us to where we are now. So the Global Forum, since its re-structuring in 2009, has become the key international body working on the implementation of international standards on tax transparency. Global Forum is charged by the G20 nations with ensuring that these high standards of transparency and exchange of information for tax purposes are in place around the world through its monitoring and peer review

activities.

Trinidad and Tobago became a member of the Global Forum in 2011, and has so far undergone a Phase 1 Peer Review, which assessed the quality of the legal and regulatory framework for the exchange of information between Trinidad and Tobago and other jurisdictions. Trinidad and Tobago launched its Phase 2 Peer Review, which looks at the practical implementation of the legal and regulatory framework in June 2018. However, this country's Phase 2 Peer Review was suspended, and Madam President, the AG would have explained to us on previous occasions when we were debating Global Forum issues that in the Peer 2 Review it is necessary to show not only that we have the legislation in place, but that we are implementing the provisions of the legislation. So in June of 2018 Trinidad and Tobago was not in a position to satisfy the Global Forum that we were in that space.

In respect of the bits of legislation that are before us, in particular, as it stands, Madam President, the Global Forum has reported that Trinidad and Tobago is the only member country, and I cannot stress that enough, the only member country from its membership listing of 154 countries which is deemed to be non-complaint with the international standards for tax transparency and exchange of information. That is not a list we want to remain on. This is due to the fact that Trinidad and Tobago is the only member country that is yet to enact the requisite legislation to allow for effective exchange of tax information. We are here this afternoon to address that specific issue and to enact this package of legislation that will allow for Trinidad and Tobago to make good on its commitment of 2011.

Madam President, I wish to highlight that this concept of tax transparency and exchange of tax information is not new to Trinidad and Tobago. In fact, the

very same type of legal requirements, the administrative arrangements were introduced and had been implemented by the Tax Information Exchange Agreement (United States of America) Act, 2017, more popularly known as FATCA. But that legislation only applies to tax transparency between Trinidad and Tobago and the United States. So our obligations in respect of the rest of the world remains outstanding.

That Act with the United States allows for the automatic exchange of tax information between the Board of Inland Revenue and the United States Treasury on an annual basis, as well as exchange of information on request. Since the proclamation of the Act in 2017, the exchange of tax information between Trinidad and Tobago and the United States has operated and continues to operate smoothly with no problems.

The package of Bills before us this afternoon will allow for a similar type of exchange of tax information to take place annually as a matter of routine between Trinidad and Tobago and with treaty partners, starting with the 16 jurisdictions with which we already have double taxation treaties. In those double taxation treaties there are provisions requiring the exchange of information.

Global compliance, Madam President, with the new standard for exchange of tax information has taken on two main components, namely: a legal component and an administrative component. The legal component is grounded in the mutual convention on mutual—the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, or where countries are not party to the convention, a minimum number of executed taxation treaties that provide for exchange of information for tax purposes. The administrative component consists of the standard for automatic exchange of financial account information in tax matters.

And this consists of four integrated administrative elements which I will deal with a bit later.

Madam President, with respect to the legal component the convention is a multilateral treaty developed by the member states of the Council of Europe and the member countries of the OECD. The convention has been signed and ratified by over 100 nations worldwide, including all of the G20 nations, several members of the African union, Central and South American nations and the majority of Caricom nations including: Barbados, Jamaica, Dominica, Grenada, St. Kitts and Nevis, St. Lucia and St. Vincent and the Grenadines.

The Convention provides for a uniform and agreed legal basis upon which tax information can be exchanged between countries and facilitates four methods of exchange of tax information. That is:

1. Upon request;
2. Automatically;
3. Spontaneously; or
4. Simultaneously.

The Convention also provides for assistance between competent authorities in order to facilitate collections of tax and those areas of facilitation include: simultaneous tax examinations where each country—in their respective country examine the tax affairs of a particular person that is of interest to both and provide information to each other. Tax examination abroad where member of country A can come to country B to review the tax affairs of a person of interest. Three, it allows for the service of documents, so if there is a court ordered document in respect of a tax matter our counterpart country will be able to serve those documents in that country on our behalf and it also allows for assistance in

recovery of tax claims.

So if, for example, a taxpayer leaves Trinidad and Tobago owing money, takes its assets away, we can seek the assistance of the other country to enforce the tax obligations, that is, a Trinidad and Tobago tax obligation. So those are the four areas of collaboration between countries under this set of Bills that we have before you.

Therefore, Madam President, the Convention opens the door between the competent authorities of nations to ensure that there are few, if any, barriers, to the effective assessment and collection of taxes. Madam President, in January 2017 Trinidad and Tobago formally requested to become a signatory to the Convention but was prevented from doing so due to certain legislative deficiencies. It is expected that with the passage of this package of legislation that is before us today those deficiencies will be addressed and Trinidad and Tobago will be made a party to the Convention.

Madam President, we look now at the administrative component. In September 2013 the Global Forum adopted the standard, this is the Common Reporting Standard, as the new internationally accepted global standard for exchange of information for tax purposes. The standard represents the international consensus on automatic exchange of financial account information on a reciprocal basis and consist of four elements:

1. The Common Reporting Standard that contains the due diligent rules for financial institutions to follow in order to collect and then report the information;
2. The Competent Authority Agreement that links the common reporting standard to the legal basis for exchange, such as the convention on—

or a bilateral treaty specifying the financial information to be exchanged;

3. The commentaries that illustrates and interpret the standard and the competent authority agreement; and
4. Guidance and technical solutions, including a scheme to be used for exchanging the information and standards in relation to data safeguards, confidentiality, transmission and encryption.

So the administrative element covers how we implement the obligation.

The Common Reporting Standard consists of the reporting and due diligence requirements that underpins the automatic exchange of financial accounting information. A jurisdiction implementing the CRS, Common Reporting Standard, must have rules in place that require financial institutions to report information consistent with the scope of reporting set out in the standard and follow the due diligence procedures in order to effectively identify reportable accounts. The financial institutions covered by the standard include custodial institutions, depository institutions and investment entities and specified insurance companies unless they present a low risk of being used for evading tax and are excluded from the standard reporting.

So accordingly, Madam President, commercial banks, insurance companies, and certain credit unions and investment, this is in Trinidad and Tobago, will be required to report annually on reportable accounts held in their institutions. Those categories of financial institutions that will not be required to report include: Government entities on their pension funds, international organizations, the Central Bank, certain retirement funds, qualified credit card users, exempt collective investment vehicles, trustees, documented trust and other low-risk financial

institutions.

With respect to the financial information that must be reported, the standard requires the reporting of interest, dividends, account balance or value, income from certain insurance products, sales proceeds from financial assets and other income generated with respect to assets held in a reportable account. Reportable accounts would include: accounts held by individuals, companies and entities such as trust and non-profit organizations. The standard also requires an examination of passive entities in order to report on relevant controlling persons. Non-reportable accounts would include: retirement and pension accounts, non-retirement tax favoured accounts, third life insurance accounts, estate accounts, escrow accounts, depository accounts due to non-return overpayments and other low-risk accounts.

So if you look at it you will see that we are looking at the financial institutions which are not low-risk and the types of accounts held in financial institutions that are not low-risk. Reporting will be required in respect of that category of activity.

Madam President, it should also be noted that the standard does not require financial institutions to report on all account holders. The due diligence component of the standard was designed to facilitate the identification of reportable accounts from amongst the full complement of financial account held by a financial institution. These reportable accounts are identified by utilizing specified criteria to identify account holders that are likely to be taxpayers in external jurisdictions.

So just to be clear, this process is to identify accounts held by persons who are citizens and residents of other countries that require the information on those persons to ensure that they are paying their correct amount of tax. So a Trinidad person who has no external activity will not be exposed to this reporting standard.

It only relates to people who are involved in cross border activity.

Madam President, a thorough examination was done with this legislation before it was brought to the House. And quite a bit of deliberation and consideration and consultation took place between the Government, the other Members of Parliament and various commercial and other bodies, American Chamber, the TT Chamber, the Financial Investigative Branch of the police, the Financial Intelligence Unit, the Association of Insurance Companies, the Bankers Association, the Inland Revenue, the European Business Chamber of Trinidad and Tobago, the Association of Real Estates, the Institute of Chartered Accountants, the Trinidad and Tobago Attractive Industries Transparency Initiative. So there was a lot of collaboration and consultation on the legislation that is before us. One of the issues that was considered and significantly discussed was the Inland Revenue's ability to provide the information and the continued protection of taxpayers to unnecessary and unrequired disclosure of the information.

Madam President, getting down to the Bills themselves. The first of the three Bills on which we received the report relates to the Mutual Administrative Assistance in Tax Matters Bill, 2018. This Bill seeks to allow for the provision of the Convention on Mutual Administrative Assistance in Tax Matters as well as the Common Reporting Standard to be implemented in Trinidad and Tobago. The passage of this Bill is a critical part of Trinidad and Tobago demonstrating that it is ready to comply with its legal and administrative obligations under the Global Forum regime. This Bill has four parts and 25 clauses. There are also seven Schedules to the Bill.

Part I of the Bill deals with preliminary provisions, and contain seven clauses. Part II provides for the forms of assistance with exchange of information,

and contain seven clauses. Part III provides for compliance and enforcement under the Act. Part IV of the Bill deals with miscellaneous provisions and contains six clauses.

In the preliminary part of the Bill, Madam President, I wish to draw your attention to the definition of tax. That definition specifies the categories of tax to which the Act would apply and relates to taxes on income and profits, taxes on capital gains which do not apply to us currently because we do not have a capital gain tax but will apply to other member states and taxes on net wealth. Each party to the Convention has listed the taxes to which the exchange of information falls.

So the exchange of information identifies the categories of tax and each country identifies these specific taxes which fall within those categories. In respect to Trinidad and Tobago the taxes caught are corporation tax, income tax, business levy, unemployment levy, petroleum profit tax, supplemental petroleum tax and Green Fund levy. So those are the taxes in respect of which we can seek information from other members of the Global Forum Convention.

Clause 5 of the Bill, Madam President, names the Board of Inland Revenue as the competent authority, so they will be receiving information from the financial institutions and sharing that information with foreign countries. They will also be receiving information from those foreign countries with respect to Trinidad and Tobago residents and citizens. Clause 6 of the Bill allows for the Act to apply to new taxes that are imposed after January 01, 2017. Madam President, clause 7 empowers the Board of Inland Revenue to enter into bilateral or multilateral agreements with other competent authorities for the establishment of procedures for the exchange of information. The Act—the Competent Authority agreements would provide a guide to the Board of Inland Revenue as to what information and

the manner in which that information must be shared with each jurisdiction.

Part II of the Bill contains the core provisions of the Bill, related to exchange of information. Clause 8 requires the Board of Inland Revenue to exchange with another state applying for administrative assistance under the Act information that is foreseeably relevant to the administration of the domestic tax laws either upon request, automatically, spontaneously or simultaneously. Information that is foreseeably relevant generally refers to information related to an ongoing investigation for non-compliance of tax laws. What it seeks to do is allow states to collect the information that they could reasonably require in respect of a matter that is before them, but not to allow them to go on a fishing expedition.

Clause 9 of the Bill addresses disclosure of confidential and personnel information. In recognition of the fact that the exchange of information for tax purposes will require financial institutions and the Board of Inland Revenue to access and disclose information that is ordinarily exempt from disclosure under written law. Clause 9 expressly provides that sections 55 of the Financial Institutions Act, section 14 of the Securities Act and any other law that restricts the sharing of personal information will not prevent the board from complying its obligation under this legislation. Coupled with this provision are additional safeguards, mainly with the requirement for the board to keep any information it receives under this Act and creates an offense for any unauthorized disclosure of that information.

Clause 10 deals with the exchange of information upon request. This generally entails responding to periodic requests for information by one competent authority to another. Pursuant to clause 10 the Board of Inland Revenue is required to take all relevant measures to provide the competent authority of a requesting

state with information requested, including utilizing the full extent of its information gathering powers under the law even if that information is not required for Trinidad and Tobago purposes.

So one of the ways you can see this automatically happening is if a competent authority outside of Trinidad and Tobago is looking at a capital gains tax issue because the Board of Inland Revenue will not need that information, because as I said you do not have capital gains tax, but another country which does have capital gains tax on—imposed capital gains tax on its citizens may need that information from Trinidad to properly assess the obligation.

Clause 11 of the Bill deals with automatic exchange of information on an annual basis and it is through this clause that the core components of the standard are read into the Bill. Clause 11 sets out the specific items of information to be collected by financial institutions in relation to reportable accounts and the timelines for transmission of that information.

Clause 12 sets out reporting requirement of a reporting financial institution. Clause 12 also requires a reporting financial institution to notify an account holder in respect of a reportable account that information relating to that person which is required to be reported has in fact been forwarded to the Board of Inland Revenue and will be transferred to a competent authority. So the individual impacted by this legislation must be informed by the financial institution, that is, information has been supplied for this purpose.

Clause 13 of the Bill sets out the grounds on which spontaneous exchange of information can be conducted by the Board of Inland Revenue which generally relates to instances where the Board has reasonable grounds to suspect that there may be a loss of tax in another country or that a savings in tax in Trinidad and

Tobago would give rise to an increase in tax in another country.

Clause 14 addresses the simultaneous exchange of information through the conduct of simultaneous tax examinations in two or more countries with a view to sharing any relevant information.

3.00 p.m.

Madam President, clause 15 is the first clause of Part III. This creates an offence where a person enters into an arrangement or engages in any practice to avoid a requirement under the Act or regulations, and the fines go from \$300,000 under a summary conviction to \$600,000 as an indictable offence, and a term of imprisonment one year under summary, two years under indictable.

Clause 16 provides for collaboration between the board and another competent authority to correct any erroneous or incomplete information of this exchange. Clause 17 mandates the preservation of records. Clause 18 requires the board to notify the OECD Secretariat immediately regarding any breach of confidentiality, or failures or safeguards that has been discovered. Clause 19 allows a reporting financial institution to use service providers to fulfil their reporting requirements.

Clause 20 protects an officer of the Board of Inland Revenue who properly discloses financial information. So the Board of Inland Revenue officer, who is acting in accordance with his obligations under the legislation, cannot be penalized for providing that information.

Clause 21 requires the Minister of Finance to lay an annual report in Parliament on the operations of the Board of Inland Revenue under this legislation. Clause 22 authorizes the Minister of Finance to amend the schedules as necessary. Clause 23 allows the Minister to prescribe any date that must be prescribed by

Order. Clause 24 provides the making of regulations subject to negative resolution for the purpose of giving effect to anything required to be done under the Act. And finally, Madam President, clause 25 provides for consequential amendments to existing legislation.

Madam President, as I mentioned, there are seven schedules in the legislation. Schedule I sets out the common reporting standard and due diligence requirement; Schedule II list the competent authorities of all countries signed on to the Convention; Schedule III sets out the full text of the Convention; Schedule IV sets out the States which are party to the Convention; Schedule V list the jurisdictions undertaking first exchanges in 2017, and those undertaking first exchanges in 2018. Trinidad and Tobago is among the latter; Schedule VI sets out the model competent agreement schedule; and Schedule VII sets out consequential amendments to the existing Acts.

Madam President, may I ask when I will finish in full time please?

Madam President: You finish at 16 minutes past three.

Sen. The Hon. A. West: Thank you. So moving on very quickly. The Tax Information Exchange Agreements Bill is the second Bill in the package. It allows us in effect—it contains 10 clauses and this allows the Board of Inland Revenue to provide information to foreign countries. The last Bill in the package is the Income Tax (Amdt.) Bill, 2019. This Bill had—there was some history involving this Bill in that we have been trying to pass it since 2018 and had difficulty doing so, but following the deliberations and reconsiderations in the committee we have brought it back in the hope that we will secure the support that we need to pass the Bill because at the moment the Board of Inland Revenue is prohibited from sharing tax information with anybody other than persons involved in the administration of the

local legislation.

So in order to allow us to fulfil our obligations, we have to make an exception to that provision, and this is what we are seeking to do by our amendment to the Income Tax Bill. The Income Tax Bill also seeks to amend sections 117 and 117A of the Income Tax Act which allow the Board of Inland Revenue at the moment to seek third party information in respect of the taxes under its purview. This amendment will allow it to seek third party information in respect of taxes caught by the exchange of information obligations. So it widens its powers of seeking third party information to allow the board comply with its obligations.

Madam President, I wish to reiterate the point in the exchange of information for tax purposes by whatever method is a matter to which every country in the world must now put its focus, small countries and large countries. We have been accused in the past of pandering to big countries, but this is not something of the big brother imposing on the small brother. Everybody is under an equal obligation to involve themselves in this activity. The world has concluded that tax evasion must be mitigated, tax avoidance must be mitigated, and we could only do that by sharing information. So the world is putting—each country in the world is putting an obligation on every other country to do this.

If the Coronavirus has taught us nothing, is that the old adage of our grandparents that when somebody sneezes in China you have to get ready to blow your nose in Trinidad, is true. What the world is saying to us is that if you want to participate in global trade, if you want access to global banking facilities, you need to comply with this legislation. Because we ignored that warning a year ago, two years ago, countries in Europe have already started to place limitations on Trinidad

and Tobago's citizens and Trinidad and Tobago institutions. We have students aboard who cannot open accounts. We have money transfers that cannot go through, or, the charges for those money transfers are significantly enhanced because the banks are arguing that they have to do a lot of due diligence because we are not providing the information that they require to ensure that these funds are legitimate, that things are above board, that people are not evading and avoiding taxes.

So, Madam President, this is something that Trinidad and Tobago, although an independent state and we are not seeking to seed our independent, has to get involved in. As I mentioned to my colleagues earlier, while we continue to be a literal island, we are no longer a figurative island. We are part of a global village, and the village is getting smaller and smaller. Trinidad and Tobago cannot afford to not comply with its obligations. It will impact financial activity, it will impact trade, it will impact our travel, all aspects of our lives, and we need to remember it is not a one-sided affair. When Trinidad and Tobago joins this group of countries we will not only be required to give information, but we will also be able to receive information, and that information that we receive will allow our tax administration to more effectively oversee, assess, and collect taxes from persons who owe taxes to the Government of Trinidad and Tobago. That can only work to our benefit.

So, Madam President, those essentially are the provisions before us this afternoon. It is critical that we get this legislation passed. It does require a special majority, and I urge to all Members to give it the support that we require. Madam President, I thank you and I beg to move. [*Desk thumping*]

Question proposed.

Madam President: Hon. Senators, you are reminded that leave has been granted

for the Income (Amdt.) Bill, 2019 and the Mutual Administrative Assistance in

Sen. Saddam Hosein: Thank you very much, Madam President, for giving me the opportunity to join this debate on behalf of the Opposition to deliberate and consider three very important Bills before us, which are the Administrative Assistance in Tax Matters Bill, 2018, the Tax Information Exchange Agreements Bill, 2018 and Income Tax (Amdt.) Bill, 2019. And, Madam President, if I may breathe a sigh of relief that we have reached this stage because this particular JSC that considered three pieces of law would have stemmed three sessions of this Parliament—the Third Session, the Fourth Session and the Fifth Session—and I must say, from the Opposition’s point of view, is that when the Government is ready to work with Opposition, the Opposition will work with the Government.

[Desk thumping]

Because too often—because of our partisan nature and where we came from we will often disagree when it comes to policy and legislation, but in this instance every one of us in this Chamber, and in the other place, recognized the importance of the passage of this particular piece of legislation. Where is Trinidad and Tobago today, Madam President? Trinidad and Tobago is placed in the global world that those who may argue that when we give up rights in certain instances we compromise our sovereignty, but where are we today? The Minister in the Ministry of Finance indicated the coronavirus. We have seen how that has impacted several economies in the space of a couple weeks. So we must understand how important passing legislation like this is when we are part of a global community, that if Trinidad and Tobago is not in the best place, definitely our economy will be affected.

Madam President, if I go on to say while we were discussing these three

Bills in the Joint Select Committee, it had a history in terms of what happened to the Income Tax (Amdt.) Bill, 2018 that was laid at that time and now presented before this House as the Income Tax (Amdt.) Bill, 2019. I will get into those matters deeper down into my contribution. But I must say, in this Joint Select Committee—I know we are not debating the report, but it is important to acknowledge the work that has been done because I would like to congratulate my colleagues who belong to the other place, MP Rodney Charles and MP Fazal Karim, for being in this JSC and assisting so much in terms of the work that was done. [*Desk thumping*]

Madam President, but we must also thank those who had taken their time to consider these three pieces of law, because these Bills are very voluminous and technical Bills as everyone inside here would have seen. One of the Bills alone is probably covering half of my desk right now, that is the convention Bill, and there are stakeholders who took the time and went through these Bills to give us their view point. And I would just like to put on record that we on this side appreciate the work of AMCHAM, of the Trinidad and Tobago Chamber of Industry and Commerce, the Financial Investigation Branch of the TTPS, the FIU, the Association of Trinidad and Tobago Insurance Companies; Bankers Association, the Inland Revenue Division, the European Business Chamber of Trinidad and Tobago, the Association of Real Estates Agents, the Institute of Chartered Accountants of T&T, Trinidad and Tobago Extractive Industries Transparency Initiative, and the Ministry of Finance. I think all of us in this Senate should congratulate all of those stakeholders who have taken the time to give us their viewpoints in these matters [*Desk thumping*] because they assisted us greatly in where we are today in producing this final product of these three pieces of

legislation.

When we look at the history of this Bill, Madam President, why are we passing these three Bills today? We are passing these three Bills today because the Global Forum indicated that Trinidad and Tobago is largely non-compliant with the requirements that are set out by the Global Forum and the OECD. When we were discussing the Income Tax 2018 Bill there were two components of that Bill. The one that is currently before this House which deals with the exchange of information through mutual agreements and, also, in terms of enforcement of tax law domestically where persons who would have been under certain criminal charges, their taxpayers' information would now be available to those investigatory bodies.

We warned the Government at that time that this will not take us off the blacklist. I am calling it the blacklist loosely, Madam President. We said, "Let us work together at that time. Let us discuss the three Bills. We will bring the three to Parliament in 2018 and we would have passed it." We are in 2020, two years later and we are here. But when these three Bills are passed we are still not going to come out of the blacklist because there is more work to be done. Because Trinidad and Tobago had found itself in this precarious position, we are now required—which is unconventional—to pass the law in Parliament first and then we would be allowed to sign the Convention. Under our system we normally would enter into a treaty first, a Convention, and then that will be incorporated into domestic law, but in this case it is the reverse.

Then afterwards Trinidad and Tobago will be required to enter into about 13 agreements with other OECD member countries, then we will now become somewhat compliant and be removed from the largely non-compliant list. And,

Madam President, when we look at what happened with Trinidad and Tobago, we have to look at the history, and Global Forum they will access countries on a two-phase basis. The first phase is where they deal with legal and regulatory framework, and that is examined. A report is compiled. In the second phase, Global Forum will look into the implementation of this framework and they will deal with persons who are being largely compliant, partially compliant, or non-compliant.

Trinidad and Tobago—we must know this—we were evaluated phase one in March of 2010, and I got this, Madam President, from the Peer Review Report, Phase 1: Legal and Regulatory, Trinidad and Tobago, OECD Report, 2011, on page 9. So it says that. What is also said is that at that time on the 29th of March, 2010, a questionnaire was sent to the Government in order to indicate what measures are in place for us to be compliant with their requirements. That questionnaire was not responded to until the 27th of July, 2010, when a new Government came in.

Now, Minister Larry Howai at the time, Minister of Finance, in 2014 would have travelled to Berlin, and then he would have indicated that we were going to implement or give a timeline of implementation for 2017. So we would have started our first sharing by 2017. That is why in the Bill, in the Convention, you will see that there is a retroactivity element where taxpayers' information would now be shared from when the commitment was given. At Global Forums Plenary on the 2nd to the 4th of November, 2016, an agreement was made that there is something called fast track review, and this fast track review would have put certain countries there in order to determine where they have reached with respect to compliance. I have a document in my possession, Madam President, which deals

with what is the fast track review procedure. It deals with identifying criteria for what we will deem non-compliance, and the first one is that they would look at whether or not you sign on to the Convention on mutual administrative assistance in tax matters; then they will at whether or not you made a commitment to the automatic exchange of financial account information; and thirdly, achieving at least a largely compliant rating in the Global Forums Peer Review for exchange of information on request, and if a jurisdiction fails to meet two of these criterion then you would be placed on the list of being non-cooperative.

So that is where Trinidad and Tobago was after we went through the fast track procedure and that was done in June 2017, and we were one of the only countries in the world to be deemed non-compliant at that time. So the Minister was right at that time. But what Global Forum did, they did not just leave Trinidad and Tobago in the dark. Global Forum would have reached out to jurisdictions, such as Trinidad and Tobago, to assist those jurisdictions in becoming compliant. They spoke of looking at experts coming to the various jurisdictions to assist, and all of these things are contained in the document that came out from the OECD frequently asked questions about the fast track review procedure. But interestingly, Madam President, on the 23rd of October, 2017, there was a letter that came out from the Gen. Fabrizia Lapecorella, and this came from the OECD which asked Trinidad and Tobago to give some level of commitment in terms of becoming compliant with Global Forum and there were several criteria.

The Minister spoke of the common reporting standard. They asked us to give a commitment with respect to that, they asked us to give a commitment with respect to the exchange of information in terms of the transparency, and when we will make the exchange they also asked about something that may come later on in

this Parliament about our harmful tax practices because the Minister of Finance indicated this already that free zones that Trinidad and Tobago belong to are frowned upon by the Global Forum, and then also the base erosion framework. The Minister of Finance would have responded to that letter and he would have given an indication that Trinidad and Tobago will be ready to meet its commitment by December of 2018—December 2018.

So, Madam President, where are we today with respect to this in terms of how we reached here? So 2017, 2016, they indicated we have to go through fast track; June 2017, we participated in fast track, Minister gives commitment in November 2017; on the 5th of December, 2017, the Global Forum found that Trinidad and Tobago was placed on the non-cooperative jurisdictions. So on the 5th of December this happened and I think the Attorney General at that time issued a statement indicating that it is not correct that we are on the blacklist, but that we have been deemed to be non-compliant by the Global Forum. It was only in June 2018, which is about six months later, then a JSC was convened for us to discuss these Bills. So we were blacklisted, as I said loosely, in December 2017 and it took them six months later to come to the Parliament for us to now consider the first stage to become compliant.

The Minister of Finance indicated that the first day he became Minister of Finance—he said this on *Hansard*—that he had to give a commitment to Global Forum that they will be compliant with this, but because of the Government change they now have to become familiar with these matters. So when you hear Members of the Government blaming the Opposition that it is because of the Opposition that we are blacklisted, Madam President, the facts will show that the work was not done in time by the Government to put us in this state.

Since 2018 this legislation had to be passed and Trinidad and Tobago would have removed from that non-compliant list. Since 2018, but this Government continue to drag their hands on this issue. When we had joint select committees in this Parliament, Madam President, would you know that it is the Opposition who had to ask the Government to convene meetings for this JSC for us to discuss this? So much so was our commitment to having this legislation passed, we agreed to sit through the vacation. All of us worked through the vacation to ensure that we are here today. Oftentimes they accuse us of being non-patriotic. That is the furthest thing from the truth because we assisted this Government recently with respect to FATF.

We have come to a very good place with FATF. [*Desk thumping*] It is because we assisted the Government in passing good law. So you will hear the Attorney General—I know he will come after me and blame us, Madam President, that we did nothing from 2010—2015, but the work was not done there. It was in 2014 the commitment was made to have a sharing by 2017. Who was in power from 2015—2020? When were we placed on that blacklist? In 2017. So it is a non-issue. The facts will show, the facts will bear, that we are not responsible for Trinidad and Tobago going on the blacklist. It is on Government. [*Desk thumping*] That is on the part of the Government.

Now, I want to move on very quickly in specific detail to the various Bills, and I want to start first with the Income Tax (Amdt.) Bill. Now, this particular Bill was in fact also amended—it was further amended in the House of Representatives. So the Bill that came out of the report at the committee stage in the passage of this legislation in the other place, there was an additional amendment to clause 8 that was included with respect to legal professional

privilege and I will get to that. So what does this do, Madam President? What does this amendment in a nutshell do? It allows now for taxpayers' information to be shared with foreign jurisdictions, because we have section 4 of the Income Tax Act which prevents taxpayers' information from being shared except in certain circumstances and certain instances.

Now there is an amendment to section 4 which opens up the secrecy provisions so that that information can be shared. But you would see a strange term, Madam President, call foreseeably relevant and we had a lot of discussion on this matter. And foreseeably relevant is something very specific or a standard that has been set by the Global Forum, and there is so much literature on this particular area that the clause reads:

“4D. Notwithstanding sections 4(1) and (2), the Board shall provide taxpayer information that is foreseeably relevant to the administration and enforcement of...domestic laws of another jurisdiction with which there is an arrangement for double taxation relief or exchange of information in relation to taxes.”

But when you look at the model Convention that the OECD has for all jurisdictions, you will see that they would have gone through and explained what does this standard mean. And we agreed, Madam President, with that position that that is the standard we have to adopt so we will do it in order for Trinidad and Tobago to now pass that legal and regulatory framework step.

The other issue deals with, Madam President, there were several exceptions made to the Data Protection Act, and the Data Protection Act is a very unique piece of law in Trinidad and Tobago. Notwithstanding that it has been existing on the book for quite some time it has not been fully proclaimed as yet, and the

exceptions created dealt with sections 6, 38, 40, 30, 31 and 46 of the Data Protection Act, and those deal with the general privacy principles, the use of personal information without the consent of the person, processing of sensitive personal information without consent, collection of personal information, and disclosure of personal information outside Trinidad and Tobago without consent.

Now, what I want to ask, Madam President, is that when the Attorney General gets up to give his contribution is that I would like to know and if the Attorney General could give this Senate an appreciation of when the Data Protection Act in this country will be fully proclaimed. [*Desk thumping*] Because it is a dangerous thing you know, Madam President. We saw what happened very recently as of last night in a headquarters—I do not want to go too much in that area, but it is frightening. It is frightening what our reality is in this country. It is frightening because you continue to give police powers which are found in the Income Tax (Amdt.) Bill and you can see how those powers are abused, and these are the kind of issues that we raise on this side, Madam President, in terms of the protection of the rights of citizens and the protection from abuse of the State.

Now, the other Bill is the Tax Information Exchange Agreements Bill and we would all remember FATCA, and during the FATCA debate that particular piece of legislation was repealed—the old 1989 TEIA—and now what we are doing is that we are re-enacting the same law that was repealed, basically.

And when the convention is passed and when we open up the income tax—the secrecy provisions, it will now allow us to enter into those agreements with the other jurisdictions so that there will be the sharing of the taxpayers information which is what we hope to achieve in the near future.

3.30 p.m.

We did a complete analysis of the old law and the new law. So in clause 5, it allowed the President the power to declare a tax information agreement by order. For the purposes of transparency, we had asked in the JSC that that order be laid in the both of Houses of Parliament for some level of accountability because it is the countries that will be entering into those agreements, and we asked that all of those agreements that are entered, to be laid in the Parliament so that everyone, the public, has sight of those agreements and the nature of those agreements that we are entering into.

Clause 6 is the same as the 1989 Act but the Minister is given the powers to give general directions to the board, and the board in this case is the Board of Inland Revenue. The members of the JSC found, Madam President, that it was too wide to give the Minister this power, so you will see in the Bill, an amendment was made to restrict the Minister from giving any direction relative to the personal information of any specific person. So that is one upgrade or one additional safeguard that was put in the now re-enacted TIEA. Clause 7 was very convoluted, we had to redraft that. Clause 11, we had to ensure that the penalties for breaches of the provisions of that Act are all consistent with other pieces of existing law. Clause 12, an amendment was made to be consistent with FATCA that there be notification to a person whose account is required to be reported and whose information has been shared with another state within one year.

Now, the biggest part of this Joint Select Committee was the Mutual Administrative Assistance in Tax Matters Bill, 2018. That was the most voluminous Bill that we had to consider and this is basically the Convention. It is what we are going to use to enter into the 13 agreements with the other states and then further to that, we will have to enter into more. But what that Bill does now, is

it creates the sharing of information in different instances. You share upon request, you share automatically and you also examine simultaneously. And spontaneous is that you share information without a request. If there is any reasonable grounds for any jurisdiction to believe that there is a loss of tax in a party state, they can in fact share that information and this is really for preventing evasion of taxes in both states. In terms of automatically, Madam President, those reportable accounts will now have to be shared nine months after the end of every calendar year and upon request is where a contracting state will be required to provide information that is foreseeably relevant. So those are the areas where that Bill will touch and concern.

Madam President, this is a point I think I need to make at this stage. It is that these pieces of legislation that we are passing right now do not apply to every single citizen of Trinidad and Tobago. If you look at the definition section of the Convention, if I may take you to that section, Madam President, it speaks about the “reportable jurisdiction person” and I would like to put this on the record because it means:

“...an individual or entity that is resident in a reportable jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was resident of a reportable jurisdiction and where an entity such as a partnership, limited liability partnership or similar legal arrangement has no residence for tax purposes it shall be treated as resident in the jurisdiction in which its place of effective management is situated;”

So it does not apply to everyone just like FATCA. It applies to those who may be resident in those OECD countries that may be doing business in those other countries. So it is not a free-for-all that you can just share everybody's information, there must be some level of evasion in both countries that is taking place or some

criminal investigation that is taking place in those other jurisdictions. And in this particular piece of legislation, I spoke also about the retroactivity, that it applies retroactively in terms of that it goes back all the way until the 1st of January, 2017, when the commitment was given for us to start the sharing of information.

And there was one other amendment that was made to this particular piece of legislation. Well, it was an amendment made to this, yes, and then imported into the Income Tax Act and that had to do with some issues that were raised during the JSC. And I must say that in the Fourth Session, when we were completing the report, a letter was written by the Opposition members indicating that we had some issues before we could agree to the JSC report and in the Fifth Session, we were accommodated. So I must say I must be grateful to the Government for accommodating us with respect to that request and we were able to deal with the notification, and we were able to deal with issues of legal professional privilege and we were also able to deal with the retroactivity issue.

Now, there was an amendment being made to section 117 of the Income Tax Act and in section 117, as originally drafted, it had indicated that there will be an exception created to the sharing of taxpayers' information, notwithstanding that it is subject to legal professional privilege. Now, we thought that would have been very vague so we asked for clarification from the OECD and an email was provided to this Committee from Ms. Chantel La Roche when these issues were raised, and the answer that was given is that the jurisdictions are not required to provide information that would disclose information which is subject to attorney-client privilege. So we looked at that; whether or not you are sharing information that is subject to attorney-client privilege, whether or not that could be shared. OECD says that it should not be shared but to every general rule, there are

exceptions. And they went on to say that there must be some exceptions of what would constitute legal privilege and what will not. So if someone takes their information to hide that information to evade being charged and just places it in the hands of his solicitor, his attorney, it would mean, Madam President, that that is not covered by legal professional privilege because you are furthering the commission of a criminal offence and this is one of the instances that OECD told us that we cannot have the exception for because it is not protected information.

So what we did, Madam President, in the other place, what happened is that in Anguilla, there was a similar provision in terms of what legal professional privilege is, and in Anguilla, they were very specific and this is now included in the Income Tax Act. So it is a bit more clear, it is more prescriptive in terms of what will constitute legal professional privilege. If you would allow me to read, Madam President, from section 24 of Tax Information Exchange (International Co-operation) Act in Anguilla. It says that:

- “(1) Information is subject to legal professional privilege where this information would reveal confidential communication between a client and his legal representative where such communications are—
- (a) produced for the purposes of seeking or providing legal advice;”

So bona fide asking for legal advice, it is protected.

- “(b) produced for the purposes of use in existing or contemplated legal proceedings;”

So any information that is connected to litigation that is happening now or that will happen.

“but does not apply...”

And this is very important:

“...to any information or other matter, which is communicated or given with the intention of furthering the criminal purpose.”

And that is agreeable because we cannot have the legislation operating in such a manner where persons can use it for their advantage.

Now, I know the Attorney General in fact raised some reservation with respect to the compliance of this particular clause in terms of whether or not it should be governed by—there is a caveat he gave in the committee stage in the other place in terms of where the clause was put that legal professional privilege shall be governed by the Laws of Trinidad and Tobago. So that is something that we are yet to test.

And also a person has the opportunity where a dispute as to whether or not the information is subject to legal professional privilege, they can determine this issue by a judge of the High Court. So that is an important safeguard so that if someone feels aggrieved or the attorney himself, he can make an application to the court for the court to then determine whether or not this information is disclosable to be shared with an international jurisdiction and that is a very, very important safeguard that was put in. And again, we worked in a bipartisan manner. The Leader of the Opposition in fact piloted this amendment and it was adopted and accepted by the Government and I want to congratulate the Leader of the Opposition for this important amendment [*Desk thumping*] to protect legal professional privilege. So that is what happens with legal professional privilege.

Now, Madam President, what if this Bill is not passed, what happens to Trinidad and Tobago? We heard from the Attorney General that the sky will fall, that we would lose correspondent banking because we have already lost

correspondent banking and all sorts of other frightening issues we would have heard from the Attorney General what will happen. But I did some research and I found out from Global Forum because they have a resolution here, that they prescribed some of the defensive measures where jurisdictions are not compliant and some of those have to deal with reinforced monitoring of certain transactions; increased audit risk for taxpayers benefiting from the regimes at stake; increased audit risk for taxpayers using structures or arrangement involving these jurisdictions.

Now, what is very important is that Global Forum is not the body that sanctions a country. Global Forum has no business in sanctioning any individual country. Who takes the decision to impose the sanctions? They are the individual jurisdictions. So it is either Trinidad has a quarrel with England, they are not agreeing, England can impose their sanctions, it is not that the Global Forum can, because these are things that were stated in fact by the OECD from their online articles, where it says that neither the Global Forum or the OECD has the power to impose sanctions on countries that do not implement the standards. Individual countries, whether OECD or non-OECD, will decide themselves what actions they consider necessary to ensure the effective enforcement of their tax laws. So that is one of the issues that we had flagged in terms of the non-compliance.

Again, as I said, when we pass this piece of legislation, we are not going to come off the non-compliant list unless the work is done. We are giving the Government the support, we are giving them the opportunity and we hope that we can come out of this blacklist very soon because the work has been done but now it is for the implementation, and we have seen time and time again and we warned several times in this Chamber that the Government passes law but the issue is with

respect to enforcement and implementation. And in this case it is something that they cannot get away from because it is not the Opposition that is going to be looking at them. It is the Global Forum that is going to determine whether or not they are compliant and whether or not they are implementing the standards that they agreed to.

Madam President, we are still a far way ahead in terms of getting Trinidad and Tobago to compliance. We are committed on this side to working with the Government to ensure that the banking sector remains unaffected by this issue that we are in and we want to ask the Government that there are other pieces of legislation that we are required to pass in order to become more compliant which is for example, the base erosion and profit sharing legislation. I want to ask the Attorney General also, in his contribution, to give an indication when that will be coming to the Parliament. I believe the Minister of Agriculture, Land and Fisheries also, there is an issue with respect to the fisheries and the EU, I hope that legislation will also be coming to the Parliament in order to deal with that issue and those are some of the things, Madam President, that we have to deal with in order to treat with the global environment that Trinidad and Tobago has found itself in.

So when this Government comes with legislation and reports to tarnish the Opposition Members, let them remember that there are more important things to be done with respect to putting Trinidad and Tobago in a better place.

Madam President: Sen. Hosein, you have five more minutes.

Sen. S. Hosein: Thank you very much, Madam President. So instead of coming to the Parliament to talk about “who talking with criminal and all kinda thing”, you have important legislation to pass to get Trinidad and Tobago in a better place. [*Desk thumping*] You have work to do. And I want to end my contribution by

saying, again, thank you to all of the members of this Joint Select Committee. We have worked very hard, the work is done, and we are in a better place now, Madam President, and I hope, and we on this side, we indicate which is some people might say unusual, but we support these three particular pieces of legislation and I thank you very much. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. I am very grateful to again be with this honourable Senate and to share in contribution this afternoon. I rise to support the work piloted by my learned colleague with respect to the three Bills before this House and I am compelled to correct the record on a number of matters raised by Sen. Hosein lest through the reading of *Hansard* lead the learned observer astray. I mean no disparaging comment to Sen. Hosein but he got certain aspects violently wrong in terms of process and consideration and I am compelled to iron that out.

Madam President, the three Bills before us today stand as a package being debated together. They are birthed by and come from the work of a joint select committee. That work was considered in the Third Session, the Fourth Session and indeed, the Fifth Session. The chronology of events that take us to where we are, Madam President, really demonstrate that Trinidad and Tobago has, as of March 2020, been in the Global Forum dance for exactly 10 years.

The Global Forum was an entity and is an entity crafted first in the year 2000. It underwent a significant reform in the year 2009. In 2010, just at the end of 2009, because of the birth of the International Financial Centre in Trinidad and Tobago and because our economy runs with over US \$5 billion, the Global Forum included Trinidad and Tobago in a basket of recipients to fill out a desk-based questionnaire form. That was done in the period March to August 2010.

And the first point to clarify and to correct Sen. Hosein on, is not that the Global Forum membership occurred in March 2010 as noted at page 9 of the OECD Peer Review 1. That is not it. If you read the Peer Review 1, you will see we were invited to fill out a questionnaire because of the size of our economy. That process ended with an assessment of Trinidad and Tobago Peer Review 1 as at August 2010. It is well known that there was a general election in May 2010, and therefore, if you look to the *Peer Review Report Phase 1, Legal and Regulatory Framework, Trinidad and Tobago*, produced by the Global Forum on Transparency and Exchange of Information for Tax Purposes, you will see the 2011 report:

“January 2011”—is when it was published—“(reflecting the legal and regulatory framework as at August 2010)”

So that is point number one.

Point number two in terms of chronology is that in analysing our obligations, it was not until 2011 that Trinidad and Tobago took a deliberate step to join the Global Forum. That, Madam President, in fact, was done by way of Cabinet approval. It was under the last Government that we joined the Global Forum. The Government considered by way of Cabinet steps, a commitment to join the Global Forum.

The Global Forum at its Seventh Plenary meeting in Berlin, Germany, on October 28 to 29, 2014, heard from Minister of Finance Larry Howai that Trinidad and Tobago was committed to engaging in first exchange by September 2017. Contrary to the allegations, the boldfaced allegations brought by Sen Hosein, it is not that the Government did not engage in the necessary work in the period 2015, September 2015 to 2020, far from the case being us in that scenario. What

happened, Madam President, was that from the 2014 marker, you were obliged to take certain steps as a jurisdiction.

The steps to be taken as a jurisdiction were that under the Tax Information Exchange Agreements Act of 1989, Trinidad and Tobago had to engage in entering into tax information exchange agreements with 13 countries. We did not enter into tax information exchange agreements by adding schedules to the Tax Information Exchange Agreements Act, and therefore, by September 2015—in October 2015, the Minister of Finance was met with a knock on the door from the Global Forum saying where are two things: number one, where are your 13 agreements similar to the US IGA Model 1A which we did for the FATCA legislation, and the second thing that they asked for is where are your amendments to the Income Tax Act.

Madam President, I am surprised that after participating in a joint select committee, that Sen. Hosein is so off the tracks. Sen. Hosein has told this Parliament, after serving as a member on the Joint Select Committee, that Trinidad and Tobago is in a very unusual situation. Sen. Hosein said today that we are passing the mutual assistance cooperative structures, the MAC Bill as we call it, which is one of the Bills before us, before we sign the agreement. And he omitted to tell the country that the reason why we are passing that legislation is because the only Bill that we were required to amend really in the early days was the Income Tax amendments and then we would have been permitted under the tax information exchange treaties under our Tax Information Exchange Agreements Act to get into the position. But the position of the Convention is not the steps that Sen. Hosein told us. We do not have to go and engage in 13 agreements; that is not the case. The Convention which is attached as a Schedule to this Bill before us now—the Bill before us is a Bill to implement the Multilateral Convention on

Mutual Administrative Assistance in Tax Matters—that Multilateral Convention replaces the need for the 13 treaties. I mean, I am honestly in shock that the hon. Senator would come here to tell us we have 13 agreements to do. That is not the case.

And, Madam President, the record will demonstrate that the Income Tax (Amdt.) Act was the only key that we had to turn. The Global Forum told the world that Trinidad and Tobago cannot move from Phase 1 Peer Review into the Phase 2 Peer Review because we have not done the 13 treaties historically, and more importantly, we have not amended the ability to exchange information under the Income Tax Act which has a companion piece of law called the Tax Information Exchange Agreements Act.

Sen. Hosein said something else which was quite startling. Sen. Hosein recognized that we are reinstating the Tax Information Exchange Agreements Act 1989, as slightly modified. I want to put on record and remind the world, when we came to the country to pass the FATCA legislation to bring to life the work that the UNC was supposed to do and did not do when they insisted that they would not pass the legislation for FATCA, they insisted that we had to repeal the Tax Information Exchange Agreements Act, the 1989 Act, and incorporate a Tax Information Exchange Agreements (United States of America) Act. I as Attorney General warned the country and warned the UNC that we were throwing away the umbrella law for Global Forum. It is on the record of this country's books, the *Hansard*, that I warned the UNC that we would have to come back and put back the same law. Today, Sen. Hosein has confirmed for the world that that is exactly what we are doing today.

Worse yet, Sen. Hosein put a few other inaccuracies on the record. Sen.

Hosein told the country, a short while ago that there are safeguards in the mutual assistance, the Multilateral Convention legislation and that in the tax information exchange structures, that we are not like FATCA. Sen. Hosein specifically told us a little while ago, Madam President, that we are in fact not like FATCA because it is only effectively the European countries, the Global Forum countries, their citizens or residents that are going to be the subject to this law and then he used the specific words to say that this is not like FATCA. Let me correct that for the record.

Act No. 4 of 2017, is the FATCA legislation. The FATCA legislation does not apply to everyone. The FATCA legislation is divided into two parts: the 1989 IGA, Inter-Governmental Agreement obligations and then the latter 2017 obligations. I want to point out it is in bold position in writing, clauses 10, 11, et cetera, of that law, this only applies to a United States person. So the FATCA law only applies to a United States person, a United States person means:

“...a citizen of the United States of America or resident individual, a partnership or corporation organized in the United States of America or under the laws of the United States of America...”

So what Sen. Hosein just told this country a little while ago is absolutely wrong. What is correct to say is that the obligations under tax information exchange for the Global Forum are exactly like FATCA, they only relate to the foreigners' accounts which may be in Trinidad and Tobago. That is what it does.

And it does that, Madam President, with respect to four types of exchanges of information: information which is exchanged on request, automatic exchange of information, simultaneous exchange of information and spontaneous exchange of information. What this package of laws allows us is the ability to achieve

something called common reporting standards. Common reporting standards for on request, common reporting standards for spontaneous, common reporting standards for simultaneous, common reporting standards for automatic exchange of information.

When you achieve what you call CRS by signing the Multilateral Convention, by having the Tax Information Exchange Agreements Act, by allowing for the Income Tax (Amdt.) Act, you have achieved stage 1. Stage 2 does not involve what Sen. Hosein told us a while ago. There is nothing called base erosion profit sharing, it is anti-base erosion profit shifting and there is a no law for that; that has to be implemented. You have to implement a law to deal with special economic zones. In other words then, preferential tax treatment in what is referred to as free zones. I just do not understand how the hon. Senator could have participated in a joint select committee for as long as he did and not know what I am telling you right now. This was the subject material of the Joint Select Committee.

Let me deal further with the legislation before us right now and to put it into context. The best way to understand what we actually did in the process of four years of begging the Opposition to support this law, causing the international sector to come down and treat with us, having the local sector: Bankers Association, the insurance association, the accountants, the EU, the various representatives; we literally begged and pleaded with the United National Congress who refused to support this law for a full four years straight.

4.00 p.m.

And Madam President, you can find it, which is now a public record, in black and white in the Report of the Fourth Session, Eleventh Parliament on the

Mutual Administrative Assistance in Tax Matters Bill, 2018, the Tax Information Exchange Agreements Bill, 2018 and the Income Tax (Amdt.) Bill 2019. And if you go to page 249, you will see a list of recommended amendments.

The first at 249, starts out with the Mutual Administrative Assistance in Tax Matters Act. It runs down the ladder till we get to the second amendment. The second amendment, list of amendments that we have in these Bills—that came from this mighty joint select committee—is with respect to the Tax Information Exchange Agreement Act. That shows an amendment. I will come to the Multilateral Convention last, but I have raised it first. The second Bill, the Tax Information Exchange Agreement, we amended clause 4(2), 5, 6, 7 and 11.

In clause 4(2), we said insert the word “exchange”, after the word “agreement”. Clause 5, insert a subsection (2) to say lay the Order in the House of Parliament. By the way, when you lay an Order in the House of Parliament, you cannot do anything with it. There is no negative resolution. There is no affirmative resolution. That is it. If I ask anybody today what was laid in this House right now, I bet you do not know. Every time we sit we lay matters. So, clause 5 amendment really takes us nowhere. Clause 6, after the subclause, for the purpose of sub (2), general directions. Clause 7, we just re-organized the language exactly as it was from the 1989 agreement. And clause 11, we replicated what we had in FATCA. In other words, hon. Senators, we spent four years. We spent Third Session, Fourth Session and Fifth Session with the UNC telling us this law is so complicated that it cannot be passed, and what we really did is we brought back the 1989 tax information exchange law as amended by FATCA. That is it. Three years of joint select committee to do a replacement of what I warned the UNC we should not throw away, but they insisted we had to.

Let us get to the other Bill. The Income Tax (Amdt.) Act, Madam President, it is a matter of public record that as Attorney General, I came to this Parliament and Act No. 18 of 2018, was birthed. It was assented to on the 11th of December, 2018. I came to the Parliament dealing with amendments to the Income Tax Act with a three-fifths majority Bill. I am sure you remember it hon. Senators. In that legislative run, the law as I brought it and as hon. Members would recall, was to deal with the FATF, the Financial Action Task Force obligations, which we had to report upon, and also the Global Forum.

The public statement that I put out dealt with an allegation that Trinidad and Tobago was blacklisted by the FATF, and we treated with the Global Forum. We corrected the record. We said we were on the grey list of FATF. The UNC refused to support that law. As Attorney General, I had to do the unthinkable. I had to strip off the three-fifths majority clauses from that Bill, move the clauses and move the preamble and create two Bills. I took what I could to go to the FATF. I want to remind the population. What the UNC was kicking and screaming and gnashing teeth about in that law, was that we were going to allow the police access to the Board of Inland Revenue. They thought that they could have blocked that. They did not realize that the law enforcement approach into that law was a simple majority position. So all that we stripped out of that 2018 Income Tax (Amdt.) Bill was exactly what we had in FATCA. That is it.

We had to beg the Leader of the Opposition, who refused to support the law, and then we had to reintroduce the FATCA-type clauses into a Bill which came before this Joint Select Committee. Let me, for the record, tell the world again the massive amendments created in the Joint Select Committee. It is at page 268 of the report. Clause 5, delete paragraphs (b) and (c) and renumber accordingly. That is it.

So let us look to clause 5, paragraphs (b) and (c) and let us see what took us so long and so hard to do. It is to be found at page 424 of the report, the Income Tax (Amdt.) Bill. Hear what paragraphs (b) and (c) do. We delete paragraphs (b) and (c) and effectively, we are removing insertion of the word “that country, the receipt and sharing of information relative to such arrangements,” and in paragraph (a), we are deleting the word “;” and substituting the word “:”. So, we spent an entire joint select committee to delete a “;” and Sen. Hosein has the audacity, the intellectual audacity, to tell this population that we had such a significant amendment to make to the Income Tax (Amdt.) Act. For heaven's sake, Madam President, we deleted a “;”.

And Madam President, let us get to the multilateral convention, which Sen. Hosein somehow, after all of this time in the Joint Select Committee, somehow believes that we have to go and negotiate 13 treaties after. No, we do not. We need to sign the Convention, because when we sign the Convention, Madam President, we have access to all of the other jurisdictions that have signed the Convention, and there are many of them. The position as at January 30, 2020, there are 136 jurisdictions that have signed on to the Multilateral Convention. When we sign the treaty, we avoid the need to go and negotiate 13 treaties.

Let us deal with this big Bill, what Sen. Hosein said was occupying his entire desk and let us understand what we are really dealing with. The Bill is 25 clauses long. The 25th clause is to cause some consequential amendments. And in the amendments which you will find in the Joint Select Report, which I have referred you to, Madam President, which I started off as item No. 1, in referring to the list of amendments at page 249.

Madam President, when you go through what has actually been amended

and you compare it with where the source of amendments came from, the amendments came from the Global Forum. The amendments to the 24 clauses and the Seventh Schedule came from the Global Forum. Because the Global Forum was working with the Government whilst their milestones moved from time to time. Because what they decided in 2007 as compliance requirements changed in 2018, changed in 2019. The Global Forum caused the amendments to the multilateral convention.

So, Madam President, we have effectively just spent three years of gnashing and wailing and bawling and screaming by the UNC, in one case to change a semicolon. In another case, to cause a re-enactment of the 1989 Tax Information Exchange Act, admitted to by Sen. Hosein. And in the other case to sit down with the Global Forum and see what the most recent standard of the Global Forum is. I mean, for heaven's sake, Madam President, that is really the Opposition's contribution to governance? [*Crosstalk*] You know, I sat quietly the entire time. So I will answer the crosstalk. Why “yuh” did not do it in 2018? Let me underscore why we did not do it in 2018. [*Crosstalk*]

Madam President: Sen. Hosein, you were allowed to make your contribution. Please, unless you have a Standing Order to invoke. Continue, Attorney General.

Hon. F. Al-Rawi: So why we did not do it in 2018? Perhaps my friend needs to be schooled in this as well. We could not enter into the—[*Interruption*]—you have something to say?

Madam President: Attorney General, please.

Hon. F. Al-Rawi: Sorry, I did not know if it was a Standing Order.

Madam President: No, and therefore address your comments to me, please.

Hon. F. Al-Rawi: There being nothing to be said, I would say this. We could not

engage in the 2018 move, because we brought the Income Tax (Amdt.) Act in 2018, and they refused to support it. And as I have just demonstrated in the report of the Joint Select Committee; what did we do? We deleted the semicolon. So, we could not turn the lock of the multilateral convention. The Global Forum told us in writing: You cannot sign on to the Multilateral Convention unless you amend your Income Tax Act. It is as simple as that. We could not do it in 2018, because the UNC refused to do it; 2018, 2019, 2020. And Sen. Hosein comes here today to breathe a sigh of relief. Really? Madam President, really? So, Madam President, I am not letting the record stand without clarity today, which is why I am being as strident as I am on the contribution that the hon. Senator made.

Madam President, let us get to the reason why we could not do it in the Fourth Session. We had a report in the Fourth Session, the massive report that I have referred to. That is 427 pages long. We had a report in the Third Session. We had a report, Madam President, in the effectively in the Fifth Session. We were stopped in our tracks largely because of one issue. The one issue was legal professional privilege. And we were told by the Leader of the Opposition, for the first time in clear terms on the last time that we debated this in the House that the position on legal professional privilege should be treated with specifically as the amendments to the law in Anguilla.

And Madam President, what is quite interesting about that is that the committee sat, convened itself in the Fifth Session. There was no minority report produced by the Opposition. Let me make it absolutely clear. We came to debate this law, and there was no minority report. We came knowing we needed a three-fifths majority support, and at the floor or on the floor of the Parliament in the House, we were told: Look, this thing of legal professional privilege is so

draconian that we have to treat with it.

Sen. Hosein was correct. We went as a committee and we obtained the Global Forum's advice. It was rendered by Donal Godfrey from the Global Forum, and specifically they noted that jurisdictions are not required to provide information which would disclose information, which is subject to attorney/client privilege. They specifically cautioned that because communications must be produced for purposes of seeking or providing legal advice, the privilege does not attach. Let me repeat that: The privilege does not attach to documents or records delivered to an attorney in an attempt to protect such documents or records from disclosure, also information on the identity of persons, such as a director or beneficial owner of a company is typically not covered by the privilege.

Now, what I have just said there, Madam President, is axiomatic. *Regina v Cox and Railton* (1884), 14 Queen's Bench Division at page 153. Let me repeat that. Since 1884, the law on legal professional privilege has been set out. It is still the law that governs where we stand. We considered this in the joint select committee. We answered the observation. We got the recommendation coming from the Opposition that Anguilla was the precedent to be dealt with. We were told it is a deal breaker.

The Leader of the Opposition said: Either you give me what we want or the law is not going to pass. So I will confess, my advice to the Government was: We have to go with it. And I put on the record there, as I put on the record here now, the black and white coming from the official journal of the European Union. The official journal of the European Union, dated the 27th of February, 2020.

Part IV, Notices. Notices from the European Union institutions, bodies, offices and agencies. Council, council conclusions on the revised EU list of

non-cooperative jurisdictions for tax purposes.

They note specifically that we in Trinidad and Tobago are on the EU list of non-cooperative jurisdictions for tax purposes. We are there alongside American Samoa, Cayman Islands, Fiji, Guam, Oman, Palau, Panama, Samoa, Seychelles, US Virgin Islands and Vanuatu.

But with respect to us, we say Trinidad and Tobago does not apply any automatic exchange of financial information, has a non-compliant, not largely non-compliant. Let me put that clear, has a non-compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes, 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, and has not resolved these issues yet.

But, Madam President, with respect to that stated in annex two this 2020 report, they say with respect to Anguilla, from whom we are borrowing this precedent, the following developing countries, they list Anguilla and Turkey, which committed to have sufficient rating by the end of 2019, is waiting for a supplementary review by the Global Forum. In other words, the “ratch” on legal professional privilege has not yet been tested by the Global Forum. Trinidad and Tobago went to the Global Forum with the draft of legal professional privilege, which we have, as it relates to the amendments proposed, and they said to us: You have to leave it the way it is.

A gun was held, proverbially, to the head of the country by the Leader of the Opposition; she credited it to Sen. Hosein, and we have underscored now. Take notice, we may very well have to come back and amend this law, which we are putting in today. Again, simply because the UNC says so and simply because, in

the House of Representatives, we need their votes.

Now, Madam President, I heard Sen. Hosein thumping the UNC's performance with respect to the Financial Action Task Force. Madam President, I think it is on the weekend I was asked for a reflection by one of the newspapers, I think the *Newsday*, as to what the highpoint of service has been and the low point of service. And I said quite confidently that the high point of national service has been the privilege to create a legislative and national agenda and to action it and implement it, as well as to create a San Fernando West agenda to action and implement that. And I said, and I repeat it here publicly again, that the lowest point of service has been to interact with the UNC in fighting for their support on legislation.

Madam President, I pulled a list of the key pieces of legislation that we have had to treat with, in terms of taking Trinidad and Tobago out of the hole. And I would like to say, of the 22 pieces of law, now 23 pieces of law that the Government passed, the UNC either delayed, or said no to, or abstained or refused to vote on almost all of them. Whistle blowing protection, Opposition said no. Whistleblowing Protection Bill, 2015, Whistleblowing Protection Bill, no, voted out. Public Procurement and Disposal Act, we had to delay the passage of that. Miscellaneous Provisions, Anti-Gang, Bail (Amdt.) Bills, Bill defeated; Gambling (Gaming and Betting) Control Bill, 2010, went to a JSC. We are fighting for relevance in the other place as they refuse to support it; Family and Children Division Bill, delayed, could not bring it into operation until we passed it the way we did; Insurance Bill, No. 9 of 2016, same thing; Tax Information Exchange Bills, 2016, dancing in a joint select committee for two years to pass the law. Under public pressure, they had to cave in. The SSA amendments, they voted

against that; Commissioner Gary Griffith, appointment of Commissioner of Police, they voted against that. Anti-Terrorism Bill, No. 9 of 2017, did not support the Bill until beaten into prospects. Miscellaneous Provisions, marriage of children, no to that as well, to abolishing child marriage; Miscellaneous Provisions (Mutual Assistance in Criminal Matters) Act, no to that; Miscellaneous Provisions (Trial by Judge Alone), Special Select Committee objected, delayed; Cybercrime Bill, cannot get support; Anti-Gang Bill, 2017, Bill defeated; Criminal Division, voted against by the UNC; Magistrates Protection Bill, abstention by the UNC; Income Tax (Amdt.) Bill, 2018. You know what happened to that? They said: No, we had to strip it down, bring it to two and today we come to deal with the semicolon, the mighty amendment by the UNC. Two years later, to deal with a semicolon. Mutual Administrative Assistance in Tax Matters; Sexual Offences. Listen, the list goes on and on and on. And I therefore, Madam President—

Madam President: Attorney General, you have five more minutes.

Hon. F. Al-Rawi: Thank you. I therefore, Madam President, cannot accept a word of what Sen. Hosein has put on to the record today. I would like to say, Madam President, it is now more than ever that these laws must go into effect. But Madam President, I want to remind, these laws are companion laws to very significant laws that we are fighting with.

The Revenue Authority is one of them. That is still in debate before us here, Madam President. When we talk about the collapse of the global economy, we are looking at the shutdown of borders. We are looking at the cancellation of flights. We are looking at the United States of America say automatically Europe cannot come to the US. What happened? Madam President, students are being, sent home from universities abroad and elsewhere. We are watching the price of oil, our

mainstay contributor to our revenue, collapsing. So what is so wrong with taxing legitimately our people? What is so wrong in saying to foreign entities: If you have our citizens who are engaged in money laundering, tax evasion, perhaps avoidance which may be evasion, give us that information and we will give you theirs? What is so debilitating to the UNC every time we talk about income tax, revenue authority, FATCA, foreign accounts in Global Forum? Why is it we take two and three and four years to pass law? Why? Why could that semicolon not have been removed in the debate when we were considering that? Why could we not agree to keep the 1989 Tax Information Exchange Act? Why?

Madam President, this country must ensure that our taxation net is as wide as possible and as low as possible. This country must reap the reward of saving the working-class people of this country who their pay as you earn deductions automatically with their cheques being issued. It is not acceptable that the wealthy or the unbanked do not pay their fair share. We can drop the rate of taxation from 30 per cent and 25 per cent to 12 and a half per cent; where we would like to get to, if everybody pays their fair share. People do not need to be panicked by the rhetoric that comes from the Opposition. We just need to make sure that we move this country in the right direction.

Madam President, I have come to support the Minister in the Ministry of Finance, the Minister with responsibility for Public Administration today, especially at committee stage, in the event that hon. Senators need guidance, because it is the AG's responsibility to have drafted this law. I can tell you I speak with certainty that the law is proportionate. It is necessary. It is long overdue and I cannot thank the technocrats and stakeholders enough for having had the patience to wait for the UNC to feel shame enough to support the law as they have. I thank

you, Madam President. [*Desk thumping*]

Sen. Wade Mark: Madam President, I rise to make my contribution to these three pieces legislation that is before us. I listened intently to the normal statements associated, statements blown out of proportion, a lot of “zessing” from the Attorney General, but absolutely no substance. [*Desk thumping*] “Gallerying” and old talk coming from him, the hon. Attorney General, that is.

And Madam President, a lot of statements were made by the Attorney General that were totally untrue. [*Desk thumping*] I do not know—you know Madam President, when you engage in peddling untruths sometimes you forget the truth. And, for example, Madam President, may I advise, through you, we were told by the Attorney General, as an example, that we did not support, we voted against the notification to approve the recommendations of Her Excellency, as it relates to the Commissioner of Police. Madam President, that is not so. The United National Congress, which will form the next Government—[*Desk thumping*—]—did not oppose the Commissioner of Police. We abstained, Attorney General. Please understand there is a difference between abstaining and opposing. We did not oppose that.

And the hon. Attorney General talk about procurement. It is his Government that has refused to proclaim the procurement law. [*Desk thumping*] But as usual, Madam President, in his attempt to engage in hyperbole, the Attorney General maybe just did not appreciate at the material time what was emanating from his utterances.

So you cannot blame us, Madam President, for the absence of procurement legislation today. And then he says that the Leader of the Opposition did not respond to letters written by the Minister of Finance, who was the chairman of this

committee dealing with these three Bills. Madam President, I will provide you and this honourable Senate with a copy of the letter that was written in response to those two letters by the hon. Leader of the Opposition. Again, Madam President, I do not know if it had to do with the fact that out of 13 meetings the Attorney General was only able to attend six, or was it eight? I think he attended eight, Madam President, and he may have missed about six or seven. Not so? So, maybe he did not have all the facts and the relevant material before him. And I will debunk his arguments this evening when return from having a very well-deserved tea.

[Madam President motions five]

Sen. Haynes: No. We are going at 5.00.

Sen. W. Mark: I think I will have some tea on him. Because when I return, Madam President, I will demonstrate, Madam President

[Madam President motions five]

Sen. Haynes: Senator, we are going for 5.00.

Sen. W. Mark: Oh yes, okay. I understand. At five o'clock, I will have some tea on his head. Thank you for reminding, Madam President. I am so anxious to have tea with my colleague, the Attorney General.

So Madam President, it is wrong for the Attorney General to give this honourable Senate the impression that it was the United National Congress and the Opposition that was responsible for the delays. And, Madam President, a very astonishing statement was made. We were told by the Attorney General that four years—for four years we delayed and delayed these pieces of legislation.

4.30 p.m.

Madam President, may I advise this honourable House that these Bills were

only referred to a joint select committee in May of 2018, you understand? So it is not four years, Attorney General, it is not four years. So get your facts straight.

And, Madam President, I want to share with you— and again, to debunk the statements made by the Attorney General where the Government of this country made written commitments to the European Council through what is called the “Code of Conduct Group”. Madam President, it was on the 23rd of October, 2017, that the Chairman of the Code of Conduct Group wrote the Government of Trinidad and Tobago on this whole question of tax transparency and the exchange of information in the context of the various pieces of legislation that had to be passed, approved and operationalized in order of us to go to the level of phase two of their review, to determine whether Trinidad and Tobago will be removed from the so-called “blacklist”, as we would call it.

Madam President, this letter as I said that I have before me, is written on the 23rd of October, 2017. And we are being advised that we should provide additional information to the experts designated to assess the compliance with the criteria agreed by the Council of the EU, which is the European Union, concerning the areas of tax transparency, fair taxation and implementation of anti-based erosion and profit shifting or sharing measures. And this is set out, Madam President, in accordance with the letter that is being written in conclusions on criteria and process leading to the establishment of the EU list of non-cooperative jurisdiction for tax purposes. This letter, Madam President, goes on to say that:

The Code of Conduct Group will not recommend to the Council of the EU to include in the list of non-cooperative jurisdiction for tax purposes, any country or jurisdiction which commits to correct some identified deficiencies by the 31st of December, 2018 at the latest.

They went on further, Madam President, this letter, the last sentence:

We will be grateful for your response to reach us by the 17th of November, 2017.

Now, Madam President, this letter is coming from the Chairman of the Code of Conduct Group writing on behalf of the European Union and the Global Forum, and that was to the Government of the Republic of Trinidad and Tobago, and asking the Government to respond no later than the 17th of November, 2017.

Madam President, you know what happened? You know what happened, Madam President? The Government of Trinidad and Tobago did not respond on the date that was suggested by this group, 17th of November, 2017, but instead, Madam President, a letter was dispatched to the Chairman of the Code of Conduct Group on November 21, 2017, Madam President. That is what happened. And in this letter, we are told, and I want to tell you, this letter is signed by the Minister of Finance, the hon. Colm Imbert. And, Madam President, in his letter, that is the hon. Minister, a commitment is given to the European Union and Global Forum to address the deficiencies that were outlined by the European Union and the Chairman of the Code of Conduct Group by December 31, 2018.

Madam President, this is in black and white. It was not the UNC who gave that undertaking to address the deficiencies by the 31st of December, 2018. I would not bore you with all the contents, I will just give you snippets of what is contained here. And, Madam President, the hon. Minister indicated to the European Union, through the Code of Conduct Group, that the Government will pass the Income Tax (Amdt.) Bill, dated 2017, to meet this deadline of the 31st of December, 2018.

Not only that, the Minister of Finance gave an undertaking that the double taxation agreements Bill, 2017 will also meet that deadline of December 31, 2018.

Madam President, also the Companies (Amdt) Bill of 2017 was also supposed to be passed by the 31st of December. The Mutual Administrative Assistance in Tax Matters Bill, 2017 was also, according to this correspondence, to be passed so that as part of the identifiable deficiencies, legislatively speaking, the Minister gave that undertaking, Madam President.

In paragraph 6 of the hon. Minister's response to the Chairman of the Code of Conduct Group, I quote for you, Madam President:

As it relates to Trinidad and Tobago joining the OECD BEPS Inclusive Framework and adopting the four OECD BEPS minimum standards, Trinidad and Tobago expressed its intention earlier this month to join the Organization for Economic Cooperation and Development, BEPS inclusive framework and adopt the OECD BEPS minimum standards.

And this would require, Madam President, drafting of new legislation and putting the necessary operational infrastructure in place, and he said this will address criteria three. That is the hon. Minister.

So, Madam President, here it is, a deadline of the 31st of December was given to Trinidad and Tobago to put its house in order to address a number of critical pieces of legislation. They gave, in summary, the undertaking to the Chairman of the Code of Conduct Group that the Income Tax (Amdt.) Bill, 2017 would be passed no later than June 30, 2018. That is in black and white. It is the Government of Trinidad and Tobago that gave European Union, Code of Conduct Group this undertaking and this deadline.

The double taxation agreements Bill of 2017. The Government gave European Union, Global Forum June 30, 2018. Madam President, the Mutual Administrative Assistance in Tax Matters Bill, 30th of November, 2018.

Remember, Madam President, the deadline is the 31st of December, 2018. And, Madam President, there were two additional Bills, outside of the three that we are dealing with here today, that they gave an undertaking to complete; the Companies (Amdt.) Bill of 2017, I think the Attorney General and the Government passed that but they had given a deadline of the 30th of June, 2019.

But there is something called BEPS, Madam President, and that is something, I think, base erosion profit shifting Inclusive Framework legislation that deals transfer pricing that the Minister of Finance promised since his first budget speech was read in this honourable House. And, Madam President, this was given to the European Union through the Chairman of the Code of Conduct Group that we would have this passed by June 30, 2019. And, Madam President, June 30, 2019, has come and it has gone. And the Government has not brought and, in particular, through you, Madam President, the Attorney General has not thus far brought to this Parliament the BEPS Inclusive Framework legislation.

Now I guess the Attorney General will want to blame us the UNC for this. So we have not brought the legislation. Madam President, what I am saying to this honourable Senate, through you, is that the three pieces of legislation that we are dealing with today in this honourable House: a Bill to amend the Income Tax Act; a Bill to make provisions for the implement of agreement between Trinidad and Tobago and other States for the exchange of information; and a Bill to implement the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

We are in March of 2020 and the Minister of Finance, representing the Government, gave an undertaking to the European Union and Global Forum that these three pieces of legislation will be approved, passed and approved, debated, passed and approved, Madam President, by the 31st of December, 2018.

The incompetence, negligence and laziness of this Government, Madam President, has resulted in a situation where the 31st of December came and left, and no Bills were debated nor approved. And the hon. Attorney General of this country has the audacity to come to this House today and try unsuccessfully to lay the blame at the feet of the United National Congress for his Government's failure to pass these pieces of legislation. As the hon. Saddam Hosein indicated we had to beg the Government to hold meetings when these matters were referred to the Joint Select Committee. The Government did not want to hold meetings, Madam President, and the five meetings that they held during that period, the total period of time spent in terms of time was less than three hours, if so much.

So, the Government was never serious about passing these measures. So do not come to this honourable House, hon. Attorney General through you, Madam President, and try to give the country misleading information— or I should not say misleading information— wrong information, Madam President, on this matter, when the hon. Attorney General knows that the Government of this country must take full responsibility for this matter.

Madam President, we all agree that as a nation participating in the international marketplace, we need to recognize at times, even though we are a sovereign democratic State, we have to enter into agreements with global players, whether it is the United States or whether it is the European Union/Global Forum, we know that these things are important to engage in. But, Madam President, in doing these things, the Government cannot expect us— as when they were in opposition— the Government did not expect the then PNM opposition to rubber stamp everything that we brought. And I can tell you, I have evidence before me where the PNM, during the reign of the United National Congress and the People's

Partnership, did not support several pieces of legislation. They did not support us. So, I do not understand the argument, Madam President, that is being proffered by the Attorney General that the United National Congress, especially in the House of Representatives, we do not support the Government, we do not support.

Madam President, I will tell you and I will tell the country, and I will tell this hon. Senate we will always support good law. [*Desk thumping*] We will always support good law. You cannot bring bad law, flawed legislation, defective legislation, Madam President, and expect the UNC to rubber stamp these pieces of legislation.

And, Madam President, I can give you a few examples where we sat with this Government, based on weak and defective and flawed legislation, where this Government was prepared to sell out the rights and privileges and freedoms of the people of T&T and we had to battle the Government to ensure that those rights and freedoms are not eroded by the Government through weak and defective legislation.

Madam President, I can remind this honourable House, FATCA was a classic example, FATCA. Of course, the Government wanted us to just blindly sign off on it but, Madam President, we stood our ground and we brought amendments, after amendments. I think we brought maybe 100 amendments to that FATCA legislation. Several of them were accepted and at the end of the day, we were able to agree and we were able to pass FATCA— good legislation at the end of the day. Madam President, the same went on with the Anti-Gang Bill. We sat with the Government at committee and we brought about changes.

Madam President: Sen. Mark, I know that you are responding to some of the issues raised by the Attorney General but I think you are spending a little too much

time on this aspect of it. I will ask you to move on. [*Interruption*] Sen. Ameen, is there something you wish to say?

Sen. Ameen: [*Inaudible*]

Madam President: Okay.

Sen. W. Mark: So, Madam President, if you will allow to just wind up this point here. I was saying that, for instance, there are several pieces of legislation that we supported on behalf of the people and we, at the end of the day, had good law, whether it was the Anti-Gang or the Anti-Terrorism Bill, we supported the Government and we ended up with good legislation.

So, Madam President, I want to let you know as well that when we looked at the Bills before us, again, reference was made, and I looked at it myself and saw where this law will take effect from 2017. And the reason why the law, Madam President, if you go to clause 6 of the Bill on Multilateral Convention on Mutual Administrative Assistance in Tax Matters you would see, wherein clause 6 of this piece of legislation it says:

“This Act shall apply to any identical or substantially similar taxes imposed on a Party after 1st January, 2017.”

So, Madam President, here it is we are debating this Bill in 2020 and the measures that are being improved or will ultimately be approved will take or have retroactive effect. So it tells, Madam President, that it came from the prospective of our initial commitment. We gave a commitment as a country. The Minister of Finance at that time, Larry Howai, gave that undertaking that we will come on board by that time in 2017. So what is being reflected in the legislation, Madam President, is to ensure that we maintain that particular undertaking and that commitment, Madam President, to our obligation.

Madam President, when we look at the Bill set before us, three Bills, you realize that the reason why special majorities are needed for these Bills had to do with the fact that sections 4 and 5 rights were being breached and being violated. It took the Joint Select Committee and this Government several years in formulating, thrashing out and arriving today as it relates to these measures before us.

Madam President, I want to put on record, my disappointment, dissatisfaction and opposition to this tendency to drop legislation on this Senate 42 to 72 hours before debate begins or starts. These are technical matters, these are very complex matters and remember, Madam President, many of us in this Chamber do not have the kind of support and resources that are at the disposal of the Government. And we have to be making night into day just to understand and to be able to get up in this honourable Senate to make, Madam President, an input into this or these pieces of legislation.

So I want to really ask the Government, through the Leader of Government Business, that you must have—the Government must be able to take into account that we do not have the technical and other resources that are required, Madam President, to do that kind of research that is needed and especially when you have three complex Bills that we have agreed to take together. So this is an area that I want to appeal to the Government to pay attention to in the future. I know that they do not have much time again, time is running out on the Government. So, I do not know if they will be to do it but we will make our position very clear.

Madam President, in terms of the global compliance, the hon. Attorney General talked about the new standards or new reporting standards that have to be looked at as we deal with the whole question about tax transparency, tax fairness, Madam President, in the context of these agreements and measures that we have

before us. But, Madam President, the key thing that we have to focus on is that the European Union, Global Forum, through these pieces of legislation, are attempting to ensure that they get their fair share of taxes. There are citizens who are located in Trinidad and Tobago, they want to ensure that there is a mechanism to avoid tax evasion and tax avoidance.

And that is why, Madam President, you have these various mechanisms being advanced in the legislation, the Automatic Exchange of Information, simultaneous, sporadic and then upon request. All of these things, all these mechanisms within the framework of the convention as we seek to exchange information with the European Union, Global Forum is aimed at ensuring that citizens of those countries that are residing in this Republic are able to pay their fair share of taxes.

And, Madam President, I was very happy, when the Attorney General made a little reference to “everyone should pay their fair share”. There is a Bill that is coming out very shortly, where I will be able to demonstrate— it has not arrived, I do not think it has arrived here. I do not know but anyway, Madam President, it has to do with fair share and paying your fair share of taxes. Madam President, there are so many people, so many individuals, so many entities in this country called T&T who are not paying their fair share of taxes. And, Madam President, I will— at the appropriate time I will— be able to expose these people, and these organizations, and entities. So I agree with the Attorney General, let us be able to get our citizens especially those, Madam President, who are very powerfully placed in this society to make and to pay their fair share of taxes.

Madam President, on this question of the global compliance with the new standards for tax information. There are two components that we need to pay

attention to. There is the legal component, which is what is called like the “first phase”, and there is what is called the “administrative component”, which is the second phase. So today, Madam President, we are dealing with phase one. We are dealing with the legal component and this is why we have all these pieces of legislation before us. And these legal documents before us, or Bills that are before us, Madam President, once they are approved by this honourable Senate, Madam President—

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

Sen. W. Mark: Once they are approved by this honourable Senate, Madam President, the European Union will send their experts to do a peer review as a first phase. Not only passage would they be looking at, they would be looking at the implementation, the operationalization and the effectiveness of same to determine whether we are meeting those particular sign posts that they have established. And, Madam President, the administrative component is what the Attorney General referred to as the standards and there is where you have the automatic exchange of financial account information in tax matters.

Madam President, we are not part of the convention at this moment, that is the Multilateral Convention. But we have a lot of our Caricom colleagues who have ratified this convention.

5.00 p.m.

Madam President, my information— and the Attorney General could tell me if I am wrong—that over 120 countries have ratified the Multilateral Convention thus far. And within our own region Madam President—well, among those 120 and above countries, Madam President, you have the whole of the G20, you have South and Central America, as example, you have Africa, and other countries like

Australia, New Zealand. And then when we come to our own countries within Caricom, Madam President, we have places like Barbados, we have Grenada, we have Dominica, we have Jamaica, we have St. Kitts and Nevis, and we have St. Vincent and the Grenadines, as examples. But Trinidad and Tobago still remains in 2020, Madam President, as far as the European Union is concerned. In fact, I think at one stage we were the only non-compliant country according to the Global Forum. We have made history.

So, the Government, Madam President, has failed the nation through their incompetence, negligence, and ineptitude. And we take strong umbrage and objection to this kind of fancy foot works that we saw displayed here today, trying as usual in their dying hours—this is a dying regime. But they are trying, Madam President, to shift the goal post. They are always attempting, Madam President, to blame others for their own incompetence [*Desk thumping*] Attorney General “doh” blame anybody for your incompetence. If you fail the Government—that is the hon. Attorney General— in taking measures to meet the deadlines set by the European Union and Global Forum. Do not come here in this Parliament and shed crocodile tears and then blame the Opposition for the Attorney General’s incompetence, ineptitude, and negligence, and put on the records of this Parliament a lot of innuendos, half-truths. Madam President, I am guided.

And, Madam President the most hurtful part of it was when he told us in this Parliament, and you, Madam President, that the hon. Leader of the Opposition did not respond to the letter of the Minister of Finance, when the hon. Attorney General would be aware and should be aware that a letter was written, an eight-page letter was written, [*Desk thumping*] and I have copies of it for him if he did not see it. But to put that in the record, Madam President, is wrong. So, Madam

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President, how many seconds I have again.

Madam President: Thirty.

Sen. W. Mark: How many?

Madam President: Thirty.

Sen. W. Mark: “Ah finish”?

Madam President: You are almost finished.

Sen. W. Mark: Okay. Madam President, I want to thank you for giving me this opportunity to deal with this matter and to tell the Attorney General, if he wants to bring good laws in this Parliament, he has our support. “Yuh bring bad laws, yuh will not have our support, and if yuh bring laws that require our support and yuh don’t get it, and yuh chop it dong and cannibalize it”, you will meet us in court. [*Desk thumping*] I want to warn the Attorney General, in closing, you will meet us in court. We will not allow a dictatorship.

Madam President: Sen. Mark.

Sen. W. Mark: Thank you very much, Madam President.

Madam President: Yes. May I ask who is next? Minister in the Ministry of Finance. [*Desk thumping*]

The Minister of Public Administration and the Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you, Madam President.

Madam President: Minister—So, hon. Senators, at this stage the sitting will be suspended and we will be return at 5.35 p.m.

5.05 p.m.: *Sitting suspended.*

5.35 p.m.: *Sitting resumed.*

Madam President: Minister in the Ministry of Finance.

Sen. The Hon. A. West: Thank you, Madam President. Madam President, the

debate, such as it was, centred around: who did what, when it was done, who is responsible for us being where we are, and who should take credit for the excellent amendments that came in the Bill but nothing questioning or challenging the provisions of the documents that are before us. So, Madam President, in those circumstances, what I would do is give a brief synopsis of the provisions before I put the matter to this honourable House.

So, Madam President, just to reiterate, this package of legislation allows us to address the chronic issues of tax avoidance and tax evasion by allowing states that have signed on to the agreement, to exchange information on their respective residents/citizens so that they get a better overall picture of the activities of their citizens and so, can better assess them to taxes. And it allows collaboration in terms of enforcement and collection of those taxes.

What we have done— what we are seeking to do is to implement a design for the exchange of information from a legal perspective and from an administrative perspective, to allow for exchange of information on request, automatically, spontaneously, simultaneously, not according to Sen. Mark, sporadically. That is not covered in the legislation. It gives the State of Trinidad and Tobago the right to enter into enforceable exchange of information agreements. It gives the Board of Inland Revenue the right to collect information from the banks, to share that information with member states, to collect information using its powers under the Income Tax Act, to seek information from third parties in respect of requests made by the member states. It protects persons employed at the Board of Inland Revenue from being prosecuted for sharing personal tax information, provided that information is shared in accordance with the provisions of the legislation. It ensures that information collected, in respect of

this suite of legislation, is not open to access by anybody outside of the tax administration and other than, in respect of the sharing. So it protects the confidentiality of this information.

And one issue that I would like to reiterate, just to make it clear to the citizens of Trinidad and Tobago, that although this information—FATCA impacted only US citizens. This tax package signs us on to deal with all members of the Global Forum, to share information with all members of Global Forum which, at the moment, constitutes 154 states. But it will only apply to citizens of those states with financial assets in Trinidad and in respect, in particular, of Trinidad and Tobago citizens, this legislation will only apply to you if and to the extent that you have financial assets located in any of those countries that we have signed that are members to this convention.

So if you are a Trinidad and Tobago citizen, you do not have dual citizenship, and you do not have financial assets outside of Trinidad and Tobago, this legislation will not impact you. Just to be clear on that issue. It will allow the world to get more compliant. Importantly for me, it will allow the Trinidad and Tobago tax authority to get access to information on assets owned by its citizen outside of Trinidad and Tobago, to allow us to better police the tax system, to better determine whether people are properly accounting for taxes on all their income, and should allow Trinidad and Tobago to improve its tax collection efforts.

So, Madam President, although the provisions of the Bill are very detailed and very technical, that in a nutshell, sums up what the legislation seeks to do. I was heartened to hear—that is the only thing that registered with me in all of the discussion— that the Opposition intends to support the Bill. I am very happy about

that and I recommend this Bill to the House. It is necessary, we need it not next year, we need it now to avoid a complete shutdown of our financial operations. We must remember that the banks in Trinidad and Tobago operate throughout the Caribbean and all of the states within the Caribbean in which our banks operate have signed on to this. So, if we do not get this passed, we will significantly impact on their operations in those states.

We must also remember that our banks have corresponding relationships with banks in— all jurisdictions in which we have corresponding relationships have signed on to this: Australia, the United Kingdom, Holland, did I say—yes, I said the UK, all of Europe, China. So it is critical that we sign this to ensure that our financial system continues to work, that our citizens get access to foreign— to be able to open foreign accounts, can transfer money and so on and so forth. Not signing this will significantly and negatively impact Trinidad and Tobago. In those circumstances, I recommend to every Member of this House the Bill, the provisions of the Bill and ask for your support. Madam President, I thank you and I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 11 ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to: That the Bill be reported to the Senate.

Senate resumed.

Sen. The Hon. A. West: Thank you, Madam President. Madam President, I wish

Tax Information Exchange
Agreements Bill, 2018
Sen. The Hon. A. West (cont'd)

to report that the Tax Information Exchange Agreements Bill, 2018, was considered in the committee of the whole and approved without amendment. I now beg to move that the Senate agree with the committee's report.

Question put and agreed to.

Bill reported, without amendment.

Question put: That the Bill be now read a third time.

Madam President: Now, this Bill requires a three-fifths majority, so the Clerk will now conduct a division.

The Senate divided: Ayes 27

AYES

West, Hon. A.

Khan, Hon. F.

Gopee-Scoon, Hon. P.

Baptiste-Primus, Hon. J.

Rambharat, Hon. C.

Sinanan, Hon. R.

Moses, Hon. D.

Hosein, Hon. K.

Le Hunte, Hon. R.

Cox, Hon. D

De Freitas, N.

Singh, A.

Henry, Dr. L.

Borris, H.

Mark, W.

Haynes, Ms. A.

Ameen, Ms. K.

Hosein, S.

Obika, T.

Richards, P.

Chote SC, Ms. S.

Vieira, A.

Seepersad, Ms. C.

Teemal, D.

Dillon-Remy, Dr. M.

Phillips, Ms. Z.

Ifill, Ms. S.

Ms. A. Deonarine abstained.

Question agreed to.

Bill accordingly read the third time and passed.

INCOME TAX (AMDT.) BILL

Order for second reading read.

The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Madam President, I beg to move:

That a Bill to amend the Income Tax Act, Chap 75:01, be now read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 8 ordered to stand part of the Bill.

Preamble approved.

Question put: That the Bill be reported to the Senate.

Senate resumed.

Sen. The Hon. A. West: Madam President, I wish to report that a Bill entitled an Act to amend the Income Tax Act, Chap 75:01 was considered in the committee of the whole and approved without amendment and I now beg to move that the Senate agree with the committee's report.

Question put and agreed to.

Bill reported, without amendment.

Question put: That the Bill be now read a third time.

Madam President: This Bill requires a three-fifths majority, so the Clerk will now conduct a division.

The Senate divided: Ayes 28

AYES

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Khan, Hon. F.

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Rambharat, Hon. C.

Sinanan, Hon. R.

Moses, Hon. D.

Hosein, Hon. K.

Le Hunte, Hon. R.

Cox, Hon. D

De Freitas, N.

Singh, A.

Henry, Dr. L.

Borris, H.

Mark, W.

Haynes, Ms. A.

Ameen, Ms. K.

Hosein, S.

Obika, T.

Sobers, S.

Richards, P.

Chote SC, Ms. S.

Vieira, A.

Seepersad, Ms. C.

Teemal, D.

Dillon-Remy, Dr. M.

Phillips, Ms. Z.

Ifill, Ms. S.

Ms. A. Deonarine abstained.

Question agreed to.

Bill accordingly read the third time and passed.

6.00 p.m.

**MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX
MATTERS BILL, 2018**

Order for second reading read.

The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Sorry again, Madam President. Thank you, Madam President. I beg to move:

That a Bill to implement the Multilateral Convention on Mutual Administrative Assistance in Tax Matters which would make provision for the implementation of agreements between Trinidad and Tobago and other States to provide for the exchange of information for the purposes of taxation, and matters incidental thereto, be now read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 25 ordered to stand part of the Bill.

Schedules 1 to 7 ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to: That the Bill be reported to the Senate.

Senate resumed.

Sen. The Hon. A. West: Madam President, I wish to report that the Mutual Administrative Assistance in Tax Matters Bill, 2018, was considered in a committee of the whole and approved without amendment. I now beg to move that the Senate agree with the committee's report.

Question put and agreed to.

Bill reported, without amendment.

Question put: That the Bill be now read a third time.

The Senate voted: Ayes 28

AYES

West, Hon. A

Khan, Hon. F.

Gopee-Scoon, Hon. P.

Baptiste-Primus, Hon. J.

Rambharat, Hon. C.

Sinanan, Hon. R.

Moses, Hon. D.

Hosein, Hon. K.

Le Hunte, Hon. R.

Cox, Hon. D.

De Freitas, N.

Singh, A.

Henry, Dr. L.

Borris, H.

Mark, W.

Haynes, Ms. A.

Ameen, Ms. K.

Hosein, S.

Obika, T.

Sobers, S.

Richards, P.

Chote SC, Ms. S.

Vieira, A.

Seepersad, Ms. C.

Teemal, D.

Dillon-Remy, Dr. M.

Phillips, Ms. Z.

Ifill, Ms. S.

Ms. A. Deonarine abstained.

Question agreed to.

Bill accordingly read the third time and passed.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, I beg to move that this Senate do now adjourn to Tuesday the 17th of March, 2020, at 1.30 p.m. In that sitting, we plan to complete the Trinidad and Tobago Revenue Authority and to debate the Sexual Offences Bill and judge only—not judge only, judge retirement age. [*Crosstalk*] The Sexual Offences Bill and the retirement of judges.

Madam President: Minister, what date?

Sen. The Hon. F. Khan: Well, Revenue Authority, I said that earlier. Okay, just a minute. Madam President, I beg to move that this Senate do now adjourn to Tuesday the 17th of March, 2020, at 1.30 p.m. During that sitting, we will conclude the debate and carry it through all its stages, the Trinidad and Tobago Revenue Authority Bill, we will also do the Sexual Offences Bill and the retirement of judges Bill.

Madam President: Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised. Sen. Mark.

Sen. Mark: Madam President, I want to say that in the interest of humanity and our oneness of purpose in the face of the common and deadly enemy called the coronavirus, I wish to defer my two matters on the motion for the adjournment to the next sitting of the House. [*Desk thumping*]

Madam President: As we leave the Chamber today, I think I should just say that each person here is a leader in his or her own right and, therefore, that you influence others to not to panic, to abide by advice that is given and to be tolerant

Adjournment
Sen. The Hon. F. Khan (cont'd)

2020.03.12

and loving to our fellow citizens. [*Desk thumping*] *Question put and agreed to.*

Senate adjourned accordingly.

Adjourned at 6.11 p.m.