



Baseline Assessment of the Committees in the Parliament of Trinidad and Tobago

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DISCLAIMER

The "Baseline Assessment of the Committees in the Parliament of Trinidad and Tobago" has been drafted by Franklin De Vrieze. It was developed in the framework of the project "Strengthening the Parliament of Trinidad and Tobago", co-funded and implemented by the United Nations Development Programme (UNDP) in Trinidad and Tobago. The views expressed in this document are those of the author and do not necessarily represent the views of the Parliament or UNDP.

Acronyms

AG	Auditor General
CPC	Chief Parliamentary Counsel
CPS	Commonwealth Parliamentary Association
CSO	Civil Society Organization
EC	European Commission
HOR	House of Representatives
ICT	Information and Communication Technology
IP	Inquiry Proposal
IPU	Inter-Parliamentary Union
JSC	Joint Select Committee
LIMS	Legislative Information Management System
LRC	Legislation Review Committee
MCSC	Municipal Corporations and Service Commissions
MFE	Ministry of Finance and Economy
MoU	Memorandum of Understanding
MP	Member of Parliament
MTEP	Medium Term Economic Programme
PAAC	Public Administration and Appropriations Committee
PAC	Public Accounts Committee
PAEC	Public Accounts Enterprises Committee
PLRC	Pre-legislative review committee
PM	Prime Minister
RoP	Rules of Procedure
SO	Standing Orders
ToR	Terms of Reference
UK	United Kingdom
UNDP	United Nations Development Programme
USAID	United States Agency for International Development

1. Introduction

The "Baseline Assessment of the Committees in the Parliament of Trinidad and Tobago" has been drafted in the framework of a joint project, Strengthening the Parliament of Trinidad and Tobago, between the Parliament of the Republic of Trinidad and Tobago and UNDP.

The Baseline Assessment is part of a consultancy designed to move forward the process of strengthening the legislative role and functioning of Committees in the Parliament of Trinidad and Tobago. This output is also a key objective of the Parliament of Trinidad and Tobago Strategic Plan of 2013 – 2018, to improve the legislative process in Parliament to ensure better scrutiny and quality of legislation. In a democratic country, important conditions for quality implementation of the competencies of the parliament are an efficient legislative process that requires adequate resources and skills, good organization and good planning.

The consultancy will result in a series of reports, concept papers and comparative best practices reports on a number of topics such as the functioning of Committees, public hearings and post legislative scrutiny.

In concrete terms, the consultancy foresees four main deliverables:

✚ **Baseline assessment of the functioning of the Committees** within the Parliament of Trinidad and Tobago, in particular in terms of the legislative and oversight role of parliament. The current document constitutes this first deliverable.

✚ **Public hearing manual and comparative best practices report on public hearings.** In order to support the legislative function and the work of Committees, the UNDP project aims to strengthen the practice of public hearings on draft laws, taking into account the current forms of interactions with civil society in the legislative process, such as Public Forum activities and Papers for Public Comment. The project will bring on board best practices from other parliaments, provide knowledge products and support piloting of public hearings on selected draft laws.

✚ **Concept Paper, Parliamentary and expert roundtable, and report on post-legislative scrutiny** and law implementation, a practice not yet introduced in Trinidad and Tobago. The project will offer research on best practices from other parliaments, knowledge products to assist MPs and senior staff to support piloting of post-legislative scrutiny hearings and oversight field visits on selected draft laws.

✚ **Final report with recommendations** on how to strengthen the functioning of parliamentary Committees. The current "Baseline Assessment" has been drafted following a series of interviews with Members of Parliament, staff of parliament and other stakeholders which are interacting with parliament during the missions to Port-of-Spain on 17 - 27 September 2014 and 5 - 15 December 2014, the review of relevant literature and additional input received from parliament staff within the last two months.

The author would like to express his appreciation to the Speaker of the House of Representatives, the President of the Senate, the Clerk of Parliament, parliamentarians and staff for the kind discussions held and insights provided. The author is grateful to the UNDP project manager for all support provided prior to, during and after the in-country missions.

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Franklin De Vrieze
Brussels / Port-of-Spain,
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2. Executive Summary

The baseline report on the Committees and the legislative function in Trinidad and Tobago Parliament aims to propose a picture as factual as possible and an analysis as explanatory and forward looking as feasible. In other words, this baseline assessment provides a factual account of the current state of affairs of the committees and the legislative function in Trinidad and Tobago, while also providing initial thinking for the further institutional development of the Parliament of Trinidad and Tobago and its committees.

The baseline report has been structured around three main chapters: a first chapter on the legislative role of the Parliament and its Committees, a second chapter on the oversight role of Parliament through the Joint Select Committees (JSCs), and a third chapter on the oversight role of the Parliament through the PAC and PAEC. A final chapter looks briefly into the newly created Committees on Governance Assurances and on Public Administration and Appropriations.

For the three main chapters, a set of assessment questions have been identified. These questions enable a comprehensive review of the composition, institutional set-up, daily functioning and (tentatively) the results of the Committees. The assessment questions have been developed based upon the relevant literature on parliamentary development, while taking into account the specific national context of Trinidad and Tobago.

In terms of the legislative role of Parliament and its Committees, these ten questions have been reviewed:

1. *How independent is the parliament in its legislative work?* The majority of legislation considered by parliament is introduced by the Government, though there is no annual legislative plan submitted by the Executive to the Parliament. With a view to develop a Parliamentary Calendar based upon the governments annual legislative agenda, we suggest that the Parliament of Trinidad & Tobago works with the Office of the Attorney General towards the development of new procedures for cooperation and communication between the Parliament and the Government. While the Chief Parliamentary Counsel drafts the legislation based upon the Cabinet Note, the status of the preparation of legislation remains to a large extent unknown to parliament. Submitting to parliament a CPC prepared, periodically updated overview chart on legislation under preparation will help parliament in anticipating future workload and developing a parliamentary work plan and parliamentary calendar.
2. *What are the procedures for subjecting draft legislation to full and open debate in parliament?* Parliamentary debates usually take place during the second reading, based upon the Minister's speech in which the principles and purposes of the Bill are outlined. The Minister sometimes indicates which consultations with stakeholders and interested parties have been conducted.
3. *What are committee procedures and role for scrutinizing and amending draft legislation?* Scrutinizing the bill happens when the House resolves itself into a Committee of the whole House or when the House refers a bill to a Special Select Committee of the particular House or to a Joint Select Committee of both Houses for detailed inquiry. Currently, very few bills are reviewed by a Committee with external input from CSOs, experts and stakeholders.
4. *What are parliament's sources of information in its legislative work?* Sources of information for MPs in reviewing proposed legislation are the 'Bill Essentials', Committee and parliament plenary records and other sources. However, very rarely the bills are accompanied with costs estimates or in-depth information on compliance with international policies or legal obligations.
5. *What is the parliament's infrastructure for lawmaking?* The Revised Laws are consolidated and are available on the Ministry of Legal Affairs website. The Law Revision Commission intends to launch the "digital law library", bringing together all legislation from 1887 onwards, including adopted legislation,

legal notices, acts and ordinances. Parliament does not yet have the capacity of a fully-fledged Legal Department, assisting MPs with independent and in-depth advice and legal analysis on draft legislation.

6. *What are procedures and opportunities for consultation with relevant persons, groups and interests in the course of legislation?* On the side of Parliament, bills are made available to the public after the first reading. A bill is posted on the web site and it would be useful if the general public could give comments online. Currently, JSC or Select committees very rarely take evidence from officials, experts or members of the public when considering a bill. It would be useful if the general public could give comments online on bills posted on the parliament's web-site. This provision will require that someone in parliament is designated to deal with the comments. The line ministry should then look at the comments and take a position on them. A question can be raised in which circumstances it is useful to foresee in a formal obligation or requirement for the Parliament and its committees to conduct a public hearing on draft legislation. Amongst others, this can be for cases when bills require a special majority, when the constitution is amended, and when the bill deals specifically with human rights issues.
7. *What are the opportunities for individual members of parliament to introduce draft legislation?* The Parliament of Trinidad and Tobago has the right to initiate bills in all policy jurisdictions. However, there is very little if any practice for Members of either House to introduce Private Member Bills.
8. *What are mechanisms for parliament in ensuring that legislation enacted is consistent with the constitution and the human rights of the population?* Some Bills brought to Parliament infringe upon the rights established in the Constitution and must be passed with a special majority. At the end of such a Bill, there is a certificate which clearly states that the required majority has been obtained. There are currently no mechanisms for parliament to independently review if a special majority is required.
9. *What mechanisms are in place for parliament to ensure a gender-equality perspective in its work, in particular the legislative work?* Currently, parliament does not have specific mechanisms available to ensure a gender-equality perspective in its work. In 2014, the House revised its Standing Orders and decided to create a Committee on Human Rights, Diversity, the Environment and Sustainable Development.
10. *In which way does parliament pay attention to the issue of implementation of legislation?* So far, the Parliament of Trinidad and Tobago has not extensively addressed the question of implementation of legislation. There is no systematic evaluation of the extent to which legislative goals have been achieved. Ministries do not specifically report to Parliament on the progress of implementation of legislation adopted by Parliament.

In terms of the oversight role of Parliament through the JSCs, eight questions have been reviewed:

1. *How does the membership, composition and attendance rate affect the functioning of the JSCs?* Considering the low number of backbenchers available for committee work, the current size of the JSCs at 12 members poses a challenge, sometimes leading to cancelling of meetings due to the lack of quorum, or scheduling a low number of meetings. Possible ways forward include reducing the overall membership of JSCs, adjusting the practice of quorum and reviewing the membership of Cabinet Ministers in JSCs. Parliament can enhance transparency by publishing the attendance records in JSCs. It will be useful to work with long-term external advisors sitting and participating in all committees. The question of financial rewards or sanctions related to attendance at committees can best be dealt with in relation to the discussion on appropriate remuneration of MPs.
2. *What are the mandate and powers of JSCs?* JSCs are empowered to investigate, enquire into and report on the administration, the manner of the exercise of the powers, methods of functioning and any criteria

adopted by the Ministry or body which is assigned to it by the House in the exercise of its powers and functions. However, the division of ministries and entities between JSC-1 and JSC-2 could have been done more logically and expertise-oriented than is currently the case. It would be useful to prepare for another distribution of Ministries and entities for the next mandate of parliament.

3. *How is the work of the JSCs managed and supported?* The chairmanship and vice-chairmanship by independent senators have enabled a political culture conducive for in-depth work at the meetings of the JSCs. Members of the House and Senators have strong and unanimous appreciation for the high quality work of the staff supporting the Committees, executed in a very professional and politically neutral way. The work of the JSCs can be further professionalized through Committee quarterly and annual work plans, with the calendar of entities to review, including travel inside the country.
4. *How regularly do JSCs receive administrative reports from state institutions and entities?* The oversight work of the JSCs over the ministries, state companies and entities under their purview is to a large extent based upon the annual administrative reports received from these institutions. However, in many instances, entities do not submit a regular report. The Ministries resorting under JSC-I submitted their annual administrative reports in only 20 % of cases over the last four years; and the Ministries resorting under JSC-II submitted their annual administrative report in only 48 % of the cases over the last four years. The quality of the reports is often uneven. It is therefore advisable that Municipal Corporations receive further guidance on the structure, content and methodology of the annual administrative report.
5. *How do JSCs prepare for oversight hearings?* The process involves various stages, including selecting the entities to be examined, preparing an Inquiry Proposal, collecting written submissions and organizing the hearing. We have analyzed a sample of IPs and found them to be of high quality, detailed and particularly useful in the questions they suggest to the MPs. The process of eliciting public submissions from stakeholders of entities is dynamic. Therefore, the stakeholders targeted by the Committee are not fixed and depend on the nature of the entity subject to the scrutiny. It would be useful to develop for each of the JSCs a comprehensive database of experts, stakeholders and the final beneficiaries of the services provided by the entities, which can be called upon for written submissions or in-person participation at the hearing.
6. *How do JSCs conduct oversight hearings?* The Committees usually meet in private before the commencement of a public hearing to discuss the issues to be raised during the hearing. Although a number of challenges to the conduct of the hearings have been observed, during the current mandate of parliament (2010-2014) there is a sharp increase in the number of inquiries conducted and reports laid. Public hearings can gain added value by additionally inviting relevant stakeholders and final beneficiaries of the public service companies, municipal corporations and entities. The response rate of government or service commissions to the reports is somewhat satisfactory, though could be better.
7. *How do JSCs ensure follow-up and impact of oversight hearings?* Currently, there is no comprehensive overview of the total number of recommendations made by the three JSCs and a tracking of how many are accepted and effectively implemented. Nevertheless, the samples of recommendations made by the various JSCs that have been affected is clear proof of the policy impact of the inquiry work of the JSCs. At the political level, there are more unused opportunities for parliamentarians to make use of the analysis and recommendations in the JSCs.
8. *How do JSCs ensure openness, transparency and outreach to the public?* During the last year, the Parliament of Trinidad and Tobago has undertaken a number of initiatives to promote the work of the JSCs. Nonetheless, the outreach can still be improved and upgraded in various ways, for instance through an annual and publicly accessible Committee report, or end-of-mandate Legacy Report.

In terms of the oversight role of Parliament through the PAC and PAEC, these questions have been reviewed:

1. *How does the structure and composition of the PAC & PAEC affect its functioning?* Currently, there are 10 members in both the PAC and PAEC. The composition of the PAC/PAEC is proportionate to the party membership in the House and there is representation from the Senate foreseen. As a best practice, Cabinet ministers should not be member of the PAC due to its crucial oversight role. It is advisable to restrict government membership of PAC/PAEC to Ministers of State and Parliamentary Secretaries, rather than Cabinet ministers.
2. *What are the right of access and powers of PAC and PAEC?* The PAC and PAEC in Trinidad and Tobago have access to most areas of public and private sector, though not all. The functions and powers of the PAC and PAEC reflect normal practice in having unrestricted power to examine public accounts and financial affairs. Both Committees are empowered to consider whether policy is carried out efficiently, effectively and economically and whether expenditure conforms to the authority which governs it. This is directly in line with the value for money audits.
3. *What are the human resources supporting the work of the PAC and PAEC?* The parliamentary staff support to the PAC/PAEC currently includes one parliamentary clerk, two research staff and financial and administrative officers. In addition, from time to time the PACs have called upon the assistance of external consultants for specialized technical advice.
4. *How do the PAC and PAEC perform their duties on daily basis?* During the last four years (48 months), the PAC conducted 18 meetings only, while PAEC conducted 28 meetings. The review of audited financial statements by PAC is challenging, as they are often submitted late, there are capacity constraints and issues on priority setting on the side of the Auditor General. As far as PAEC is concerned, the backlog of outstanding audited financial statements of state companies has reduced. However, both PAC and PAEC managed to consider and report on only a couple of audited financial statements a year. This is a result of the large number of institutions and entities under their purview, the low frequency of meetings (of PAC) and its practice to rely almost exclusively on in-person hearings with entities prior to finalizing a report. The latter has been changed by PAEC, which now relies to a large extent on written inquiries. In addition, the PAEC could inquire with the MFE on how they ensure that entities submit financial reports including on the Ministry's role to surcharge entities which do not comply with applicable legislation.
5. *How does Parliament proceed with PAC/PAEC reports?* Currently, the Parliament of Trinidad and Tobago has no institutionalized mechanism to monitor and follow-up on the implementation of government responses to committee recommendations. It would be useful to consider at least one annual plenary debate on the work of the PAC and PAEC. In specific circumstances, chairpersons of PAC/PAEC can take the initiative to request a debate or move a motion on specific reports during the course of one session. We recommend that the Ministry of Finance provides progress reports to the PAC and AG on the implementation of PAC recommendations across all ministries and agencies (as is the case in Jamaica).
6. *Do the PAC and PAEC achieve successful outcomes?* In Trinidad and Tobago, there are no formal processes in place to monitor and follow-up implementation of government responses to committee recommendations. So far, the PAC/PAEC do not adopt a formal mechanism for measuring their performances. It would thus be useful, similarly as suggested for the JSCs, to create a tracking mechanism on follow-up to PAC-PAEC recommendations, in cooperation with the MFE.

According to the revised Standing Orders of the House of Representatives, six new Joint Select Committees will be created. In the last chapter of the baseline assessment some of the features of the Committee on Governance Assurances and the Public Administration and Appropriations Committee are discussed and information of some relevant best practices in other Westminster-style parliaments provided.

3. The Parliament of Trinidad and Tobago today

The assessment of the functioning of the Committees takes place against the background of a Parliament increasingly active and positively ambitious to improve its performance.

Two systemic issues affect the ability of parliament and its committees to upgrade their functioning: the low number of MPs available for parliamentary work and the lack of full-time MPs who are properly paid.¹

Because the size of the executive in Trinidad and Tobago is large compared to the size of the legislature, few 'backbenchers' remain available to allocate most of their time to their parliamentary duties. In addition, Trinidad and Tobago has a small Parliament. Such legislatures often have greater difficulties than larger jurisdictions in the operation of the committee system simply because of the small number of members available to participate in the full range of committees.

Parliamentarians in Trinidad and Tobago who serve in the executive branch of government are considered to be holding full-time jobs. Most other members work in a profession in parallel to their parliamentary mandate and are essentially treated as part-time parliamentarians.²

Yet, the regular parliamentary duties, from Committee work over constituency representation to plenary debates and occasional international activities, may make it inevitable that Trinidad and Tobago moves beyond the current part-time parliament concept towards a more full-time and fully professional parliament. The demand for a further professionalization of the function of parliamentarian is logical and inevitable.³ It is more and more expected that the Members of the House and Senate are allocating their time to their parliamentary function to the fullest extent possible. This will entail further consideration of the adequate remuneration of members and the appropriate number of parliamentarians and Senators.

It is thus of high importance that the Salaries Review Commission and the House Committees of the House and the Senate come to an agreement on the remuneration of the job of MP (counting for 95 % of their professional time allocation).

As stated in the CPA Benchmarks for Democratic Parliaments (1.5.5)⁴, Members should not be required to place themselves under any financial or other obligation to outside individuals or organization that might influence them in the performance of their official duties or might give the impression of so doing. It is thus logical, as stated in the Strategic Plan of Parliament, that as of the next parliamentary term following elections, more Members will allocate time to their parliamentary function on a full time and exclusive basis.

In this context and over the last year, the Parliament of Trinidad and Tobago has taken a number of important decisions to strengthen its institutional functioning.

- ✓ Firstly, a comprehensive five-year Strategic Plan was adopted. This document sets out the objectives and the concrete initiatives which the parliament wants to undertake up to 2018.
- ✓ Secondly, legislation is being prepared to ensure the Parliament has administrative and financial autonomy, an essential factor in gauging the autonomy of parliament and delinking the Parliament from the Public Service Commission.

¹ Interview with the Speaker of the House, Mr. Wade Mark, September 2014, and with the Leader of the Opposition, Dr. Keith Rowley, December 2014.

² The Senate usually sits on a Tuesday (afternoon/evening) and the House sits on a Friday (afternoon/ evening). The PAC and PAEC meet on Tuesday (morning) and the JSCs on a Friday (morning) i.e. on a day Parliament is sitting.

³ There is a clear consensus on this issue identified during all interviews with Members of the House and with Senators, from ruling parties, opposition and independent bench. (September and December 2014)

⁴ http://www.cpa-caaregion.org/media/get_media.php?mediaid=caa4fafb-a31

- ✓ Thirdly, a review of the Standing Orders of the House has been completed, enabling amongst other things, a strengthening of the oversight role of parliament within the current institutional set-up and the creation of a number of new Joint Committees.
- ✓ Finally, the role of Parliament in the budget approval process has been deepened through the organization of public sessions of the Standing Finance Committee under the chairmanship of the Speaker of the House.⁵

As far as the organization of the committee system is concerned, the Parliament of Trinidad and Tobago foresees four types of committees:

- Sessional Select Committees are Committees that deal with matters relating to the internal operations of the Senate/House. These include the Standing Orders Committee, the House Committee, the Privileges Committees and the Regulations Committee (or Statutory Instruments Committee);
- Special Select Committees carry out specific inquiries, studies or other tasks which the House judge of special importance, and are sometimes referred to as ad hoc committees;
- Joint Select Committees, which include the Public Accounts Committee (PAC) and the Public Accounts (Enterprises) Committee (PA(E)C) and the Departmental Joint Select Committees;
- Departmental Joint Select Committees are to inquire into and report to both Houses of Parliament in respect of Government Ministries; Municipal Corporations; Statutory Authorities; Enterprises owned or controlled by or on behalf of the State or which received; funding from the State of more than two third of its total income in any one year; and Service Commissions.

The next chapters of this document will review in greater depth the legislative role of the Parliament of Trinidad and Tobago and its Committees, the oversight role of the Parliament of Trinidad and Tobago through the Joint Select Committees; the oversight role of the Parliament of Trinidad and Tobago through the PAC and PAEC; and the newly created Committees.

⁵ <http://finance.gov.tt/budget-statement-2015-presentation/>

4. The legislative role of the Parliament of Trinidad and Tobago and its Committees

In most democratic countries, the task of legislating is in practice almost always shared with the executive, although in the great majority of cases it is the legislature that votes formal approval of all legislation. In most countries, legislation can be introduced either by parliamentarians (and/or party caucuses, etc.) or by the executive. In the majority of countries in both the developing and the developed world, the executive plays a larger role in developing legislation than parliament, and most legislative proposals are introduced directly or indirectly by the executive.⁶ Therefore, the role of parliaments in legislation is often covered by the following three activities⁷:

1. Set-piece debates between government and opposition on legislation of key importance, whether the national budget or some substantial change in policy direction. The opposition's purpose in the debate is not necessarily to defeat the government but rather to highlight the different approaches of the two sides. This function is often described as the arena role of parliament.
2. In-depth analysis of legislation proposed by the executive by committees of parliament, including the proposal and adoption of amendments in many cases. This depends on the ability of different parliamentary groups to work together in a depoliticized atmosphere in committee. Effective analysis of key legislation may well include recourse to expertise, either from within parliament or through outside experts.
3. Proposals for individual members' legislation on issues of personal or symbolic importance. Sometimes, an individual member's legislative proposal will be readopted by the executive after due consideration. Occasionally, a member's proposal will become law.

Thus, the key capacities that a parliament typically needs to have in regards to the legislative function are: (A.) legislative drafting capacities, particularly the ability to craft effective amendments to legislation (where possible, a dedicated legislative drafting team will be established); (B.) capacity among both members and staff to analyze legislation and its likely impact; (C.) the ability to work together across party boundaries in committees to improve legislation.

BOX 1

■ The objective: characteristics of "good" legislation

1. Achieves its objectives
2. Financially viable; cost-effective; benefits justify costs
3. Operationally practicable; efficient to manage and enforce
4. Likely to secure public acceptance and reasonable compliance
5. Predictable and stable in application; no likelihood of unforeseen or undesired consequences
6. Restrictions proportionate to intended benefits; fair in application between different groups
7. Legally sound; consistent with the Constitution, treaties and existing law
8. Clearly drafted and reasonably comprehensible, especially to those affected or interested
9. Published promptly and readily accessible

⁶ This is partly a reflection of the lack of resources and technical capacities in the legislature. However, there are also good reasons why the executive should be better equipped than parliaments to develop legislation, particularly of a technical nature. In almost all countries the executive is organized into ministries which gather together expertise on their subject area. This is essential because it is for the executive to execute policy and programmes. Therefore, by default, ministries have the critical mass of subject expertise necessary to understand both the policy issues that need to be legislated on and the likely impact of legislative changes on programme delivery in their area.

⁷ European Commission, *Engaging and Supporting Parliaments Worldwide. Strategies and methodologies for EC action in support to parliaments*, Reference Document N.8, Brussels, October 2010, p. 105.

In this chapter of the baseline assessment, we will review the legislative role of the Parliament of Trinidad and Tobago and its committees. The assessment will be conducted against ten questions, which are deriving from IPU's Self-Assessment toolkit⁸, USAID's Handbook on Legislative Strengthening⁹ and parliamentary strengthening work in other jurisdictions. Combined, these ten questions cover all relevant issues required to make an assessment of the legislative work of the Parliament of Trinidad and Tobago and its committees. The ten questions are:

1. How independent is the parliament in its legislative work?
2. What are the procedures for subjecting draft legislation to full and open debate in parliament?
3. What are committee procedures and its role for scrutinizing and amending draft legislation?
4. What are parliament's sources of information in its legislative work?
5. What is the parliament's infrastructure for law making?
6. What are procedures and opportunities for consultation with relevant persons, groups and interests in the course of legislation?
7. What are the opportunities for individual members of parliament to introduce draft legislation?
8. What are mechanisms for parliament in ensuring that legislation enacted is consistent with the constitution and the human rights of the population?
9. What are mechanisms for parliament in ensuring a gender-equality perspective in its work, in particular the legislative work?
10. In which way does parliament pay attention to the issue of implementation of legislation?

Assessment:

1. How independent is the parliament in its legislative work?¹⁰

To analyze the independency of parliament in its legislative work, one needs to look at the origins of legislation, which laws are introduced at which time and in which House of Parliament. One needs to take note of the powers of parliament to amend legislation and the role of staff in the legislative process as well.

In Trinidad and Tobago, as in most Westminster style parliaments, the majority of legislation considered by parliament is introduced by the Government. A proposal for a new law, or for amendments to an existing law, can be initiated in either House (except for “money” bills). The majority of government bills are introduced first into the House of Representatives because it is the House where the Government is based, and where most Ministers are located. It is also the House with the financial initiative in respect of “money” bills. However, government bills (except “money” bills) within the portfolios of Senate Ministers are usually

⁸ The questions mentioned in the IPU self-assessment toolkit are: 1. how satisfactory are the procedures for subjecting draft legislation to full and open debate in parliament? 2. how effective are committee procedures for scrutinizing and amending draft legislation? 3. how systematic and transparent are the procedures for consultation with relevant groups and interests in the course of legislation? 4. how adequate are the opportunities for individual members to introduce draft legislation? 5. how effective is parliament in ensuring that legislation enacted is clear, concise and intelligible? 6. how careful is parliament in ensuring that legislation enacted is consistent with the constitution and the human rights of the population? 7. how careful is parliament in ensuring a gender-equality perspective in its work ? See: Inter-Parliamentary Union, *Evaluating Parliament. A self-assessment toolkit for parliaments*, Geneva, 2008, 32 p.

⁹ <http://www.usaid.gov/sites/default/files/documents/2496/200sbb.pdf>

¹⁰ For a review of the formal powers of the Parliament of Trinidad and Tobago, compared to other parliaments: Fish, S. & Koenig, M., *The Handbook of National Legislatures: A Global Survey*, Cambridge University press, 2009, p. 676-680.

first introduced into the Senate. The Leader of the House indicates in which House of Parliament the Bill is to be introduced. During the 10th legislature so far, 96 bills were introduced to the House and 30 bills to the Senate.

Two departments within the Office of the Attorney General and the Ministry of Legal Affairs are responsible for the drafting of government-sponsored Bills. These are (1.) the Office of The Chief Parliamentary Counsel (CPC) or Legislative Drafting Department which is responsible for the drafting of original legislation, secondary legislation and for amending existing laws; and (2.) the Law Reform Commission, the function of which is to keep all law applicable to Trinidad and Tobago under review by inviting suggestions from the public, with a view of development and reform.¹¹ The bills are drafted based upon the Cabinet Note, which in most cases refers to a specific policy as developed by a ministry. While the Bill is being drafted, consultation is done with the Ministry at whose request the Bill is being prepared. When the draft Bill meets with the satisfaction of that Ministry, the approval of the Cabinet must be sought before it is sent to the House of Representatives or the Senate. The Legislative Review Committee (LRC), which is chaired by the Attorney General, consist of Cabinet members and the CPC and is charged with reviewing all pieces of legislation before they go to Cabinet and then Parliament. This is often a detailed and lengthy process.

Currently, there is no annual legislative plan submitted by the Executive to the Parliament. The main communication are the Cabinet decisions resulting in a “Cabinet Notice” coming to Parliament that a Bill was approved to be introduced in Parliament. In previous years and under the previous administration, the legislative agenda was presented in parliament on an annual basis. The current administration has not done so as systematically, and instead presented its legislative priorities¹², which are currently the legislation to fight criminality and financial legislation. An annual legislative agenda could be compiled and presented to parliament based upon the information of the ministries submitted to the Chief Parliamentary Counsel (CPC) on the instruction of the Attorney General related to the ministries' legislative agendas for the upcoming year.

BOX 2

■ Requirements for legislative programming

- A body (e.g. a Committee of the Cabinet) is responsible for working out with Ministries the forthcoming program of legislation, for approval by the Cabinet/Council of Ministers;
- Regulations prescribing the procedure to be followed by Ministries in submitting claims for inclusion of projects in the program and by the programming body for determining priorities between those claims;
- A timetable for completing the program annually, sufficiently ahead of forthcoming session of the Legislature to allow sufficient time for the draft laws to be completed;
- Approval of the negotiated program by the Cabinet;
- Procedures for dealing with urgent projects that arise after the legislative program has been approved;
- A requirement that Ministries are not to proceed with the preparation of draft laws that have not received approval by inclusion in the program.

The status of the preparation of specific legislation, based upon the approved Cabinet Note, is monitored every month by the CPC through the drafters' status reports to the CPC. The status of the preparation of

¹¹ Sayers, M., *Law Reform in the Commonwealth, in small states and in the Caribbean*, in: Commonwealth Law Bulletin, Vol. 35, No. 1, March 2009, p. 69-82.

¹² Interview with Dr. Roodal Moonilal, Leader of the House, December 2014.

legislation remains unknown to parliament. Sometimes a Minister makes a statement in parliament that a specific law will be in parliament by a set date. However, no comprehensive overview is provided to parliament of the state of affairs of the drafting of legislation.

With the aim to enhance parliament functioning, the recently adopted Parliament's Strategic Plan recommended the adoption of a Parliamentary Calendar based upon the governments annual legislative agenda. To this end, it is recommended that the Parliament of Trinidad & Tobago should work with the Office of the Attorney General in order to move towards the development of new procedures for cooperation and communication between the Parliament and the Government.¹³

The autonomy of parliament in the legislative process also depends on its powers to amend legislation and the role and status of staff in the legislative process, amongst others. In Trinidad and Tobago, parliament is entitled to amend proposals of the executive and the relevant procedures are foreseen in the Parliament's Standing Orders. The staff involved in the legislative process, firstly the drafters of legislation, are mostly government staff since most legislation originates from the Executive. Staff of CPC and Ministry staff are present at parliament when bills are discussed and amended. The parliament's staff resources related to the legislative process are vested in the Legal Advisor who is in charge for the "bill essentials" (see further in this text).

2. What are the procedures for subjecting draft legislation to full and open debate in parliament?

One of the key-roles of parliament is foreseeing plenary debates between the MPs belonging to the government and MPs belonging to the opposition on proposed legislation and the policies underpinning them.

In Trinidad & Tobago, the full and open parliament debate on draft legislation takes place after the second reading of the bill. The first reading is a short, more formal procedure by which the name of the Bill and the Minister in Charge are read when the item is called and included in the Order Paper. Prior to that, the Notice of the introduction of a bill on behalf of the Government, that is the Cabinet decision to introduce a particular piece of Legislation, is conveyed to the Clerk of the House by means of a Cabinet Minute and it is then entered on the Order Paper. Once the Cabinet made the decision to introduce a piece of legislation, the CPC or Law Commission forward copies of the Bill to the Parliament. The Leader of the House indicates when the Bill is to be introduced.

The motion for the second reading is usually moved by the Minister in Charge of the Bill. In support of the Motion, the Minister makes a speech in which the principles and purposes of the Bill are outlined. The Minister may also indicate which consultations with stakeholders and interested parties have been conducted. At the end of the Minister's presentation, the debate on the bill starts. The debate on a Bill may go on for over a week or even longer, depending on the number of members of parliament wishing to speak and the frequency of sittings. During the debate, amendments may be proposed and circulated to other members.

3. What are committee procedures and its role for scrutinizing and amending draft legislation?

After the second reading, a Bill may be referred to a Select Committee for consideration or a Joint Select Committee for an in-depth discussion. When a Bill has been referred to a Select Committee, no further proceeding are taken until the Select Committee has reported. Normally however, when the Bill has been

¹³ Staddon, A., *Activities on strengthening parliamentary practices in Trinidad and Tobago. Study on Parliamentary Scrutiny and Existing Parliamentary Practice*, Port-of-Spain, February 2012

read in second time, the Minister responsible will move that the House resolve itself into a Committee of the whole House to consider the Bill “clause by clause”. Here the members of the House become a Committee which examines the Bill more closely. In either House, a bill may be referred to a Special Select Committee of the particular House or to a Joint Select Committee of both Houses for detailed inquiry.

In its Strategic Plan¹⁴, the Parliament of Trinidad & Tobago recognizes that in order to provide enhanced in-depth scrutiny of proposed legislation, all bills need to be reviewed by a Committee with external input from CSOs, experts and stakeholders within a specific timeframe. This provision follows CPA Benchmarks¹⁵ and would apply to all proposed legislation in Trinidad & Tobago, unless decided otherwise by the Speaker of the House, President of the Senate or a Committee under their leadership. However, currently, very few bills are reviewed by a Committee with external input from CSOs, experts and stakeholders.

To enable in-depth scrutiny of proposed legislation, the Parliament of Trinidad & Tobago and its Committees, in line with international best practice, need sufficient time and resources. The scrutiny needs to look at the content and likely impact of the Bills and be based on sufficient time for members and staff to study the text. In Trinidad and Tobago, an independent impact assessment by parliament of the bills submitted by the government, whether it is financial impact or whether it is policy impact, is a practice still to be established.

BOX 3

■ Impact assessment of a bill

Will the bill meet the policy objectives? Accordingly, determine e.g.

- any counterproductive side effects,
- possibilities of non-compliance,
- possible misuses,
- whether the benefits and burdens are justifiable, consistent with the objective and fairly distributed.

What will implementation cost? Accordingly, assess e.g.

- the likely costs in terms of capital costs and recurrent costs - short term and long term
- the likely costs for affected businesses and members of the public in complying with the bill
- any indirect social or environmental costs or burdens adversely affecting the economy or employment
- likely savings that may offset the costs, whether the costs are proportionate to the expected benefits, whether the draft can be revised to reduce costs without significant loss in effectiveness

Are the arrangements for administering the bill practicable? Accordingly, check that e.g.

- the bill can be effectively implemented in the way provided
- the bodies responsible for the administration are clearly defined, capable and sufficiently resourced
- the administrative requirements are no more than is necessary
- the arrangements for the transition from the replaced scheme are provided for and workable.

¹⁴ Parliament of Trinidad and Tobago, *Strategic Plan Of The Parliament Of The Republic Of Trinidad And Tobago 2013-2018*, Port-of-Spain, September 2013.

¹⁵ "There shall be a presumption that the legislature will consider legislation in detail and/or refer it to a committee, and any exceptions must be transparent, narrowly defined and extraordinary in nature." (3.2.1). "Committees shall scrutinize legislation referred to them and have the power to recommend amendments. " (3.2.2). "The legislature shall provide adequate mechanisms to encourage wider consultations and public submissions on Bills introduced" (6.3.1).

4. What are parliament's sources of information in its legislative work?

The first source of information for MPs in reviewing the proposed legislation are the 'Bill Essentials'. Prepared by Committee staff, they inform on the purpose of the Bill, compare the Bill to similar legislation internationally and highlight salient aspects of the Bill. The Legal Unit of the Office of Parliament ensures the quality of the Bill Essentials. Bills Essentials are uploaded on the parliament website and inform Members and the general public about the legislation being reviewed and processed.

The Bill Essentials in Trinidad and Tobago are comparable to, for instance, the Legislative Summaries prepared by the Library of the Parliament of Canada.¹⁶ The Canadian Legislative Summaries are based upon a fixed structure, which includes a section with Background Information, Description and Analysis, and Commentary (where issues of consistency and the reactions of the public, CSOs and interest groups on the bill or the related policy are mentioned). While the Canadian Parliament document has an approximate length of between 15 and 40 pages per law, including footnotes and references, the Bill Essentials are usually shorter, less detailed, and mostly without a "commentary".

Additional sources of information are the Committee and parliament plenary records, which are available on-line, adequate and retrievable. Also the Parliament Library can to a certain extent provide further materials on issues under debate.

However, the Parliament of Trinidad and Tobago lacks a properly staffed Research Unit. While the Executive branch of the Government has access to professional staff, researchers and legal experts with specialization in various thematic areas, the Parliament has few professional staff that can support the oversight of the Government. International best practice requires Parliament to have its own dedicated Parliamentary Research Unit that has the professional staff to answer the questions of Members of Parliament and Committees as they arise, including on legislation under review. In May 2014, a Note was submitted to Cabinet requesting authorization for the establishment of a Research and Development Unit in the Office of the Parliament, which foresees eight research officers, four senior researchers and one director.

When parliament discusses legislation, the information provided is often incomplete. Although the Explanatory Note informs on the general purpose of the law, very rarely there is any cost assessment available. The cost assessment should focus on the impact of the legislation on the budget of the State as well as of other governmental authorities' (e.g. local governments) budgets. The cost assessment would be a responsibility of the ministry in charge for implementation of legislation. However, it is understood such assessment is rarely done and never requested by the Cabinet when the Cabinet Note is approved and the bill is introduced to parliament. The Financial and General Purpose Committee at Cabinet does not look into the costs related to implementation of legislation. If Cabinet would address the financial aspects of implementation of legislation, and include the related information in the Explanatory Note, the review of the bill in parliament would gain in relevance and substance.

As point of comparison, the Parliamentary Budget Office of Canada regularly publishes cost estimates of government policies or specific aspects of the policy.¹⁷

In case of very specialized legislation, the government of Trinidad and Tobago sends a draft bill to international organizations for comments, e.g. the intellectual property legislation, financial legislation or anti-doping in sports bill. Members of Parliament usually don't ask to receive a copy of the opinion of the international organizations. Minister sometimes make a statement in parliament that the bill was forwarded to international organizations, received approval or a statement on its compatibility with an international

¹⁶ <http://www.parl.gc.ca/Content/LOP/ResearchPublications/lr412-e.htm>

¹⁷ http://www.pbo-dpb.gc.ca/files/files/AOPS_EN.pdf

convention. Under the Freedom of Information legislation, the correspondence with international organizations can be received and is thus accessible. While a Minister doesn't lay in parliament the correspondence, it would be appropriate to attach such correspondence to the Explanatory Note for the Bill.

5. What is the parliament's infrastructure for law making?

A pre-condition for an in-depth legislative review is the availability of a central registry of legislation in force. Currently, there exists no central and standardized database.¹⁸ The Revised Laws of Trinidad and Tobago are consolidated and are readily available on the website of the Ministry of Legal Affairs.¹⁹ There exists the website of the Law Revision Commission (which is updated every couple of months), the web-site of Parliament which includes all Acts post-1999, and the web-site of the Ministry of Communication (with the secondary legislation as well). The Government Print House is the central registry for hard-copy laws. While there is currently no central registry, the Law Revision Commission will soon launch the "digital law library", including all legislation from 1887 onwards, including adopted legislation, legal notices, acts and ordinances. In addition, the (future) Legislative Information Management System (LIMS) will be a tool to standardize the legislative process in Trinidad and Tobago within Ministries and the Parliament; and will bring additional benefits by (1.) formatting of legislation, (2.) speeding up the publication of legislation, (3.) facilitating the database of various versions of bills as a historical resource for the bills; (4.) assisting with the consolidation of legislation for parliamentary debates and for purposes of revision of legislation; (5.) developing a central database of all acts and all subsidiary legislation.

However, ICT tools and computer systems adequate for research and bill tracking, in and of themselves, do not change parliament nor bring about accountable governance. The investment in the mentioned ICT tools and systems can contribute to wider availability of information, and thus help to create a political incentive to a system of checks-and-balances and thus accountability in governance.

Another instrument of parliament's infrastructure in law making is a properly staffed and functioning legal department. Currently, the main input of the Office of Parliament's Legal Unit in terms of review of draft legislation concerns the review of the "Bills Essentials" as prepared by Committee staff. The Legal Unit, which is comprised of a business operations and research officer, a legal officer, and a senior legal officer, does not have the capacity to function as a fully fledged Legal Department, assisting MPs with independent and in-depth advice and legal analysis on draft legislation.

Advance planning through a legislative agenda agreed upon by the Parliament and the Executive will facilitate more opportunities and time for in-depth prior research on the draft law for preparing the Bill Essentials and for organizing consultations with relevant stakeholders. The Parliament's Strategic Plan also outlines the need to offer training to MPs on the methodology of legislative review and legal practices.

6. What are procedures for consultation with relevant persons, groups and interests in the course the legislative process?

On the side of the government, a draft law is prepared based upon a Note to the Cabinet, as drafted by the ministry staff, outlining the rationale for legislation and sometimes accompanied with a policy paper based upon the research conducted.²⁰ When the Ministry prepares the policy, it is responsible to consult with

¹⁸ Interview with the Chief Parliamentary Counsel, Mr. Ian Macintyre, September 2014.

¹⁹ http://www.legalaffairs.gov.tt/Laws_listing.html

²⁰ It is a truism of legislative drafting that determining exactly and in detail what policy is to be achieved by the legislation is the most difficult and important, and often the most time-consuming aspect of the preparation of legislation. It is an initial task and one that is often subject to refinement during preparation. The next aspect of the

relevant stakeholders. Sometimes, draft legislation is sent to selected stakeholders for comments, e.g. when legislation affects a particular industry or sector or beneficiaries. The Ministry is then expected to report to the Legislation Review Committee (LRC) on the stakeholder consultation. In his speech to parliament, the Minister sometimes discloses which stakeholders were consulted; though that is not a requirement. It is advisable that the Explanatory Note to the Bill includes a mandatory section with an overview of the stakeholders and other interested persons and institutions consulted, the way the consultation was conducted and the results/assessment of the consultation. This information would be of particular use to parliament in determining the type of public hearing it can consider on the bill introduced to parliament.

On the side of Parliament, bills are made available to the public after the first reading. A bill is posted on the web site and it would be useful if the general public could give comments online.²¹ However, to implement such provision requires that someone in parliament has been designated to deal with the comments. The line ministry should then look at the comments and take a position on them.

Currently, JSC or Select committees very rarely take evidence from officials, experts or members of the public when considering a bill. In the last four years, this was the case - for instance - for: the Insurance Act, the Securities act (stock market), the securities amendment bill, the planning and development of land bill, Houses of Parliament authority bill, etc. These were complex bills and therefore referred to select committees. Out of a total of 76 laws approved during the 10th Parliament (so far), there were 11 bills on which evidence was sought through hearings and in-person consultations. While there are not too many public hearings held, bills are sent for written comments slightly more regular: for 16 bills on a total of 76 laws approved. For instance, on the insurance bill there were many written comments submitted by interested persons and companies. Nevertheless, the consultation with stakeholders, civil society and the public remains largely insufficient and it is not practiced as a matter of routine.

Table 1: Legislative work of the Parliament of Trinidad and Tobago, 2010-2014

Sessions of 10th legislature	Number of bills introduced by government		Total number of Bills Approved by Parliament	Bills on which collected evidence through hearings & consultations	Bills on which collected evidence through written contributions
	Bills introduced per House	Total			
First Session 2010/2011	HOR 30 SEN 10	40	25	4	5
Second Session 2011/2012	HOR 18 SEN 6	24	17	1	3
Third Session 2012/2013	HOR 20 SEN 4	24	16	3	4
Fourth Session 2013/2014	HOR 23 SEN 6	29	16	3	4
Fifth Session 2014/2015 (in progress)	HOR 5 SEN 4	9	2	0	0
TOTAL	HOR 96 SEN 30	126	76	11	16

process is to decide how what has to be achieved can be achieved by the legislation. Then follows the drafting. The more careful the first stages have been conducted the easier the drafting will be.

²¹ Interview with the Chief Parliamentary Counsel, September 2014.

In line with best international practices, the Parliament of Trinidad and Tobago can aim towards more regular hearings with relevant stakeholders on draft legislation.²² These hearings should be open to the public, announced in a timely fashion and its findings and conclusions should be made available on the Parliament website. In this way, the Parliament of Trinidad & Tobago will follow-up to one of the CPA 'Benchmarks for Democratic Parliaments' which states that the "legislature will provide adequate mechanisms to encourage wider consultations and public submissions on Bills introduced" (6.3.1). In any case, the organization of public hearings will always be subject to the availability of human resources.

A question can be raised if there should be a formal obligation or requirement for the Parliament and its committees to conduct a public hearing on draft legislation, and if so, in which circumstances or for which legislation. One can consider a requirement or formal obligation to hold a public hearing for bills which require a special majority, when the constitution is amended, and when the bill deals specifically with human rights issue, as it directly affects the citizens.

Enhanced involvement of stakeholders in consultations in preparing policies by ministries and more regular public hearings on bills by parliament is in line with the Open Government Partnership, which was endorsed by Trinidad and Tobago in February 2012.²³

7. What are the opportunities for individual members of parliament to introduce draft legislation?

The Parliament of Trinidad and Tobago has the right to initiate bills in all policy jurisdictions. Hence, on a regular basis, various institutions, sporting bodies, charitable organizations and various churches have been seeking incorporation by Acts of Parliament. A Member of the House then presents a petition on their behalf and introduces a Private Bill related to the particular organization.

This is different from a Private Member's Bill. In Trinidad and Tobago, there is very little practice for Members of either House to introduce Private Member Bills. During the current legislature, from 2010 to today, no private member bills were introduced. This is due to the limited number of sitting days and the amount of government sponsored bills. An exception occurred in the 1994-1995 Session of the Fourth Parliament when Senator Diana Mahabir-Wyatt successfully introduced a Private Member Bill entitled "The Household Survey and Counting Unremunerated Work Bill, 1995". This Bill was passed in the Senate but lapsed upon dissolution of Parliament with effect from October 6, 1995. It was reintroduced and passed later that year.

²² In developed and developing democracies, there is an increasing emphasis in the legislative process on consultation with civil society and relevant stakeholders. This stems not only from a recognition of the value of such participative democracy but also from an appreciation that it improves the quality and effectiveness (implementation) of legislation. There is equally a recognition that, while such consultation has value at each stage of the legislative process, consultation at the stage of policy formation and prior to a draft legislative text being received for parliamentary consideration is a particularly effective time for the consultation. It is institutionally easier to take account of the product of consultation at preliminary stages before there is a firm internal consensus on policy and text. There is thus a premium on early consultation. However, it is in the nature of the legislative process that the full implications of a legislative initiative do not become apparent until policy is reduced to a legislative text and amendments to it are proposed, so consultation continues to have a value throughout the legislative process. Finally, in this regard, consultation not only has a value for primary legislation, it has a particular value for subordinate legislation. Subordinate legislation tends to be more technical and detailed, and commonly it is not, or little, exposed to the public and political nature of parliamentary scrutiny but is largely the product of purely internal government development. Consequently, consultation with civil society on subsidiary legislation has particular value.

²³ <http://www.opengovpartnership.org/country/trinidad-and-tobago>

8. What mechanisms are available for parliament to ensure that legislation enacted is consistent with the constitution and the human rights of the population?

Some Bills brought to Parliament infringe upon the rights established in the Constitution and must be passed with a special majority. At the end of such a Bill, there is a certificate which clearly states that the required majority has been obtained.

As the CPC receives policy proposals from the ministry, the legislative drafters may advise the ministry that the legislation requested is inconsistent with the constitution and that the legislation therefore needs to be passed with a special majority to alter the constitution. If the legislation is inconsistent with human rights provisions, there is need for a 3/5 majority in both Houses of parliament. Depending on which provision of the constitution is to be altered, one needs a simple majority, or 2/3 majority in both houses or 3/4 majority in the House and 2/3 majority in the Senate. Section 54 of the Constitution of the Republic of Trinidad and Tobago spells out the types of majorities required for laws infringing various sections of the Constitution.

If the legal drafter identifies a constitutional issue, it is discussed with the CPC. Also at the Pre-legislative review committee (PLRC) stage or Legislation Review Committee (LRC) stage a constitutional issue can be identified. When that is the case, the bill is drafted in a different way, since it requires a different preamble and different certificate at the end. Currently, the PLRC or LRC cannot rely on a committee of lawyers or retired judges to advise on the constitutionality of a draft bills. The CPC can refer a constitutional issue to the Solicitor General for advice. The Solicitor General is the official legal advisor of the AG and the Government. The advice of the Solicitor General can be attached to the note to the Cabinet, though it does not go to parliament. Every Act of Parliament as passed by parliament goes to the Solicitor General who gives a legal report to the President to assent. If the Solicited General would advise the President that there are issues preventing him from giving ascent, the Attorney General advises the President not to assent.

A question can be raised if there should be a potential added value to a parliament independent review of the constitutionality of draft legislation, and in which context would that be most useful. One can consider it a useful additional step for parliament to independently review if a special majority is required²⁴; and it would probably be most useful in the context of very complex legislation. If parliament desires to review this issue, it can consider a specialized comparative study on parliamentary mechanisms to review the constitutionality of draft legislation in different countries and political systems.²⁵

9. What are mechanisms for parliament in ensuring a gender-equality perspective in its work?

Currently, parliament does not have specific mechanisms available to ensure a gender-equality perspective in its work. In 2014, the House revised its Standing Orders and decided to create a Committee on Human Rights, Diversity, the Environment and Sustainable Development, which shall have the duty of considering, from time to time, and reporting whenever necessary, on all matters related to the compatibility of Acts of Parliament with human rights, and any matters relating to human rights in Trinidad and Tobago (but excluding consideration of individual cases). This is a good basis for developing a specific gender-equality perspective to its work. Best international practices indicate possibilities to look into gender-impact assessment of draft legislation and an enhanced role of parliament in various activities of gender awareness and for equal opportunities.

²⁴ Interview with the Chief Parliamentary Counsel, September 2014.

²⁵ Interview with Senator Anthony Viera, chairperson of JSC-III.

10. In which way does parliament pay attention to the issue of implementation of legislation?

Many countries face considerable challenges with the implementation of legislation. Due to the lack of administrative infrastructure, lack of, or late secondary legislation or lack of knowledge on the scope and details of the legislation, the implementation of legislation remains dead letter or is delayed.

So far, the Parliament of Trinidad and Tobago has not yet extensively addressed the question of implementation of legislation. There is no systematic evaluation of the extent to which legislative goals have been achieved.

Ministries are responsible for ensuring all required actions needed for the implementation of legislation. Some ministries have a Monitoring and Evaluation Unit which follows the implementation of specific projects, though not solely the implementation of legislation. Ministries do not specifically report to Parliament on the progress of implementation of legislation adopted by Parliament. The Law Reform Commission has a responsibility to look into specific legislative areas.²⁶

As far as Parliament is concerned, it has a specific responsibility as part of its oversight role. In 2011, the Caribbean Commonwealth Parliaments adopted Benchmarks for Democratic Parliaments, based upon a document developed by CPA in 2006. It includes in Part 7 specific points on the role of the Parliament in oversight. The Parliament of Trinidad and Tobago was at that meeting and endorsed this document.²⁷

²⁶ Relevant reference materials have been published by, e.g. the Law Reform Commission of Australia: <http://www.alrc.gov.au/sites/default/files/pdfs/publications/ip28.pdf> and the Law Reform Commission of England and Wales: <http://lawcommission.justice.gov.uk/>

²⁷ CPA, *Recommended Benchmarks for the CPA Caribbean, Americas and Atlantic Region's Democratic Legislatures*, published by CPA Secretariat, Dec. 2011, http://www.cpa-caaregion.org/media/get_media.php?mediaid=caa4fafb-a31

5. Oversight role of Parliament of Trinidad and Tobago through the Joint Select Committees (JSCs)

Oversight refers to parliament's role in monitoring government activities and ensuring that they are consistent with the legislation and that resources are being used efficiently.

Although governments around the globe have made great efforts to increase internal accountability, these systems cannot take the place of parliamentary oversight, which is generally carried out in public and includes representatives of different political tendencies with a strong interest in ensuring that issues and problems are brought into the public domain.

Parliamentary oversight can be carried out in a number of different ways. As with other areas of parliamentary activity, oversight procedures and tools vary from parliament to parliament, and particularly depend on the type of parliamentary system. In principle, systems based on the separation of powers, as is the case with most parliaments in francophone and lusophone countries, are in a somewhat stronger position to carry out oversight because there is minimal or no overlap between executive and legislative institutions, although this is not always the case in practice. In Westminster-style systems, ministers usually sit in parliament and there may appear to be a conflict of interest, in oversight in case Cabinet ministers are also members of (Joint) Select Committees. In most Commonwealth countries this issue is somehow addressed through Public Accounts Committees, which review how government programmes have been implemented and which are often chaired by a member of the parliamentary opposition. The following are some of the different vehicles for carrying out parliamentary oversight.²⁸

- Parliamentary committees. These scrutinize the activities of the ministry or ministries covered by their mandate. They may call ministers and government officials to account for their activities. They may commission research into the functioning of particular government programmes from either the parliamentary secretariat or outside consultants. They may call expert witnesses to gather their views on the functioning of particular programmes, and/or conduct hearings into specific issues so that representatives of interest groups can have their concerns recorded and considered. Committees often produce reports on specific issues based on studies they have undertaken.
- Special committees. In most parliamentary systems, special committees can be established to look into issues of particular concern. These might be subcommittees of standing (permanent) parliamentary committees, or they might be special committees established by parliament as a whole to address a single key issue.
- Questions to ministers. In almost every system, there is provision to question ministers, who are ultimately accountable for everything that goes on within their ministry. In the Westminster model where the minister is a member of parliament, ministers are expected to speak to legislation and respond to questions on a regular basis. The Prime Minister Question time has recently been created in Trinidad and Tobago.
- Written questions. Questions can usually be posed either verbally or in writing. Where technical answers are required, such as the number of people in a particular area benefiting from a particular programme, the written question format is used, allowing the minister time to gather the necessary data and respond. A well-organized opposition will use written questions to gradually build up a case to challenge government activities in a particular area. Questions of all kinds bring attention to an issue, even if the information requested of ministers is already in the public domain.

²⁸ European Commission, *Engaging and Supporting Parliaments Worldwide. Strategies and methodologies for EC action in support to parliaments*, Reference Document N.8, Brussels, October 2010

- Parliamentary inquiry. Most parliamentary systems provide for a parliamentary inquiry to be set up to look at particular problems or scandals. This provides a formal method of dealing with major issues. Usually, a parliamentary inquiry will produce a report into the issue, with recommendations for changes.
- Party caucuses. Party caucuses play a key role in oversight. In liberal democracies the opposition's role is two-fold: to represent an alternative government and to hold the current government to account. In most parliaments any political grouping comprising a set percentage of parliamentarians can join together as an official parliamentary group and receive certain privileges, which might include office space, the right to hire some staff, recognition in debates, the right to propose legislation, a budget for caucus activities, and so on. In some countries, including Trinidad and Tobago, there is an official opposition, which is the largest of the opposition parties. It may have certain rights under the country's constitution, subordinate legislation or the internal rules ('standing orders') of parliament, including the right to be consulted before major executive decisions are made such as the declaration of war, or even the right to regular general briefings about the affairs of state.

In this chapter of the baseline assessment, we will review the oversight role of the Parliament of Trinidad and Tobago through the work of the Joint Select Committees (JSC). Only operational since 2002, the JSCs are a relatively new feature in the Parliament's system of scrutinising and overseeing the activities of the Executive. Along with the Public Accounts Committees, these departmental JSCs are empowered and aim to *inter alia* hold the Executive accountable for the use of public funds, inquire into their systems of management and into issues which may be affecting their operation. The ultimate purpose of these Committees is to highlight and rectify shortcomings in the administration and delivery of public goods and services. Committees are key instruments in achieving parliamentary oversight over the government and enhanced accountability in the governance system of Trinidad and Tobago.²⁹

The assessment of the JSCs will be conducted against eight questions, which cover all relevant issues required to make an assessment of the oversight work of the Parliament of Trinidad and Tobago and its JSCs. The eight questions are:

1. How does the membership, composition and attendance rate affect the functioning of the JSCs?
2. What are the mandate and powers of JSCs?
3. How is the work of the JSCs managed and supported?
4. How regular do JSCs receive administrative reports from state institutions and entities?
5. How do JSCs prepare oversight hearings?
6. How do JSCs conduct oversight hearings?
7. How do JSCs ensure follow-up and impact of oversight hearings?
8. How do JSCs ensure openness, transparency and outreach to the public?

Assessment:

1. How does the membership, composition and attendance record affect the functioning of the JSCs?

Under this question, three issues will be discussed: size of the committees; attendance at meetings; and quorum; followed by a series of suggestions to overcome current challenges.

²⁹ However, the Leader of the Opposition, Dr. Keith Rowley, stated that in Trinidad and Tobago today "*Committees act more as protectors of ministers instead of agents for accountability.*" (Interview in December 2014).

The size of the committees might account substantially for their effectiveness. Most committees currently have 12 members. In case of a JSC, it includes six members of the House and six for the Senate. However, in the current institutional set-up the Parliament of Trinidad and Tobago does not have enough members making sufficient time available for parliamentary work in a way that it enables more regular meetings of committees. There are currently 18 backbench Members of the House (14 opposition members and 4 members from ruling parties). This is the result of the large size of the Executive as compared to the overall limited size of the House of Representatives. As more committees are being established, more members will be expected to serve simultaneously in more committees, if the size of the committees remains unchanged.

The attendance of members at Committee meetings is a second important aspect to review the functionality of the JSCs. We have reviewed attendance records of the three JSCs for the entire 10th Parliament (2010-2014). Over a period of four years, the JSC-1 conducted 30 meetings, the JSC-2 conducted 33 meetings and the JSC-3 (MCSC) conducted 32 meetings. The average is thus eight meetings a year, or less than one meeting per month.

To analyze the attendance at Committee meetings, we bring together the data on the number of persons (current and past members of the committee) and the number of meeting each of them was invited to. This total number is called "person meetings". Comparing the total number of person-meetings with the actual attendance enables to calculate an accurate attendance percentage. The attendance rate for the three JSCs is very similar, between 64 % and 67 % over the period of last four years.

Analyzing the attendance records in further detail, one can make a breakdown for Members of the House and Senators, and for MPs of the Government, Opposition and Independent MPs. A couple of specific trends can be identified for the period of the last four years. In JSC-1 and JSC-2 the participation of government representatives is considerably lower as compared to participation by the opposition and independent senators. In JSC-2 the attendance from government side is close to 50%, which can be considered problematic. In JSC-3 (MCSC) the attendance from the opposition is equally close to 50% and can be considered problematic. In the three JSC's the attendance is strongest by the independent senators, who are responsible for chairing and vice-chairing the meetings, and which demonstrate attendance records around 90%.

Analyzing the attendance records through a breakdown for each of the two Houses of parliament, it is clear that Senators do more regularly attend JSCs (more than 70%) than Members of the House of Representatives (around 60%). The difference is explained by the excellent attendance by the independent senators.

Table 2: Parliamentarians' attendance rate in three JSCs for 2010-2014

Totals 2010-2014			Members of Parliament			Houses of Parliament	
	Number mtgs	Person mtgs Attend. / Total	Governmt	Oppos.	Indepen.	House	Senat
		% of attend.					
JSC-1	30	244 / 361	129 / 211	62 / 90	53 / 60	115 / 180	129 / 181
		67.6 %	61.1 %	68.8 %	88.3 %	63.8 %	71.2 %
JSC-2	33	254 / 394	120 / 229	73 / 99	61 / 66	140 / 231	114 / 163
		64.4 %	52.4 %	73.7 %	92.4 %	60.6 %	70 %
JSC-3 MCSC	32	234 / 361	144 / 224	52 / 96	38 / 41	120 / 207	114 / 154
		64.8 %	64.2 %	54.1 %	92.6 %	58 %	74 %

The question of quorum is third issue to consider in analyzing the functionality of the JSCs. Above numbers of Committee meetings and attendance records do not take into account the number of meetings which had to be cancelled due to the lack of quorum. If one would take into account the cancelled meetings due to lack of quorum, the overall attendance figures would most likely be lower. In JSC Group 1, 2 and JSC 3 a quorum of five members has been agreed which must include at least one government and one opposition member; at least one member from each House; and either the Chairman or the Vice-Chairman in attendance. JSC 3 (Municipal Corporations and Service Commissions) has amended this formula with effect from December 05, 2014. The new quorum requirement for JSC 3 is 5 with the condition that there must be at one member from each house and the Chairman or vice-chairman must be present.

What are the possible ways of overcoming the mentioned challenges ?

1. One way forward would be to reduce the overall membership of the JSCs. The Standing Orders of the House stipulate that there should be "no more than six" Members in a Joint Committee (SO House, § 97.1). In other words, the SO enable establishing JSCs with fewer members than the current, longstanding practice of 12 members. In view of the creation of the new select Committees according to the revised SO of the House, it is worth considering a reduced total membership of the new committees and of the JSCs (possibly as of next mandate of parliament). A smaller sized committee would alleviate some of the pressures on parliamentarians and help make the new committees fully functional. In his 2012 report³⁰, Mr. Anthony Staddon outlined the possible composition of the joint committees, in case the total number would be 11, 10 or 9 members. During our consultations with members of parliament in October 2014, the proposal to reduce the number of members of Committees, including the JSCs, found wide support and endorsement.

Table 3: Composition of JSCs with reduced membership

Committee size	House	Senate	Government	Opposition	Independent
12 (currently)	6	6	7	3	2
11	6	5	7	3	1
10	5	5	6	3	1
9	5	4	5	3	1

2. A second way forward is to adjust the practice of quorum. One can either reduce the quorum to four or three members; or one can distinguish between the quorum to hear evidence and the quorum for taking decisions and adopting the conclusions of hearings. In this case, one can establish that hearing evidence and interacting with the persons which the JSC has invited to parliament no longer requires the presence of five persons including one person for the government and one person of the opposition (even though that remains desirable), while adopting the report on the hearing and taking other decisions in Committee will continue to require the attendance of at least one person from the government, one for opposition and the chair / vice-chair from independent senators.

3. A more delicate question is whether sanctions should be applied if a member does not attend a committee meeting. Standing Orders of the House 116.1 state that if a Member fails to attend four consecutive meetings of a Committee of which he is a member, without the permission of the Chairman of

³⁰ Staddon, A., *Activities on strengthening parliamentary practices in Trinidad and Tobago. Study on Parliamentary Scrutiny and Existing Parliamentary Practice*, Port-of-Spain, February 2012.

the Committee, such absenteeism shall be referred to the Business Committee by the Chairman. Currently, non-attendance of members is being minuted but this information is not made public. To publish records of attendance and non-attendance on the Parliament website can be considered a useful practice which will contribute to enhanced transparency. A system of financial rewards or sanctions related to Member's attendance or absence from committee meetings can be considered in the context of the ongoing discussion about a more appropriate financial remuneration for MPs, aimed at having more MPs on full-time basis active for parliament, and in the context of the process of giving parliament more substantial autonomy.

4. Another possible option to enhance the functionality of Committees would be include non-Members in the work of committees, something which is used in jurisdictions such as Guernsey, Jersey, Papua New Guinea, Kiribati, Denmark and Finland.³¹ However, finding qualified non-members with the required expertise might be faced with the same challenge of time availability as is the case for members of parliament. Instead of bringing non-MPs as members in Committees, it would be more appropriate to improve the institutional and financial framework of the functioning of MPs. In addition, it might be useful to have external experts serving as advisors to the Committees on long-term basis, including the right to attend all meetings of the committees.

5. If one wants to make the JSCs more independent in their oversight role over the executive, the question of the membership by Cabinet Ministers needs to be discussed. The Standing Order of the House (98.2) mention that "as far as possible Cabinet Ministers should not be Members of the Committees established under paragraph (1): the Public Accounts Committee; the Public Accounts (Enterprises) Committee; and Departmental Committees appointed pursuant to section 66A of the Constitution. Where the circumstances require a Cabinet Minister to be appointed to such Committees any such appointment should be so made as to avoid occurrences of conflict of interest." The practice is currently different, and Cabinet ministers are appointed to all three JSCs. In other jurisdictions, government members are usually only allowed to participate in committee work at the request of the committee or the government. Taking into account the specific context in Trinidad and Tobago in which there is strong connection between the executive and legislature, one can restrict Committee membership to Ministers of State and Parliamentary Secretaries.

2. What are the mandate and powers of JSCs?

According to the Standing Orders 101 of the House the JSCs are empowered to investigate, enquire into and report on the administration, the manner of the exercise of the powers, methods of functioning and any criteria adopted by the Ministry or body which is assigned to it by the House in the exercise of its powers and functions. In general, the Committee shall be severally empowered to review and report on (a) the statute law relating to the Ministry/body assigned to it; (b) the programme and policy objectives of the Ministry/body and its effectiveness in the implementation of same; and (c) other matters relating to the management, organisation of the Ministry/body, as the Committee deems fit. As such, the description of the powers of the JSCs in the Standing Orders are sufficiently comprehensive to allow the full exercise of the role and responsibility of the JSC, and to ensure a degree of autonomy of the committees to set their own agenda.

Reviewing how Ministries, Statutory Authorities, State Enterprises, Municipal Corporations and Service fall under the purview of the JSCs, it is clear that the ministries have been split equally between JSCs 1 and 2 along with their relevant statutory authorities and state enterprises. This division seems to be calculated on an alphabetical basis without attempt to group similar ministries together or to consider the number of

³¹ Staddon, A., *Activities on strengthening parliamentary practices in Trinidad and Tobago. Study on Parliamentary Scrutiny and Existing Parliamentary Practice*, Port-of-Spain, February 2012.

statutory authorities and state enterprises falling under those ministries. The third JSC is devoted to Municipal Corporations and Service Commissions (with the exception of the Judicial and Legal Service Commission). In preparation for the functioning of the next parliament, it would be appropriate to develop another distribution of ministries along with relevant statutory authorities and state enterprises between the first two JSCs. Another distribution which attempts to bring together ministries and entities with related areas of responsibility will make it possible to assign parliamentarians to the JSC-1 or JSC-2 according to their expertise or professional background. For instance, it makes sense to bring together in one JSC the Ministry on Energy and Energy Affairs (JSC-1) and the Ministry on Trade and Industry (JSC-2); or the Ministry on Education (JSC-1) and the Ministry on Science, Technology and Tertiary Education (JSC-2).

3. How is the work of the JSCs managed and supported?

The management of the work of the JSCs is the primary responsibility of its chairperson, with the support of the staff, based upon the rules in place. The chairperson and vice-chairperson of each of the three JSCs are independent senators. This has contributed to the effective functioning of the committees and enabled the chairmanship to remain as consensus-oriented as possible, above partisan politics. The chairmanship and vice-chairmanship by independent senators has enabled a political culture conducive for in-depth work at the meetings of the JSCs.

Adequate staff resources are pre-requisites to any effective committee system. In the Parliament of Trinidad and Tobago, the Committee Office ensures the following support offices:

- Provision of advice on committee practice and procedure
- Provision of administrative and secretarial services
- Co-ordination of research and analytical support to the Committee; and
- Management of the interaction of the Committee with stakeholders

The Committee Office currently consists of eight staff persons: one Head of the Committee section (Secretary), two assistant-secretaries, two graduate research assistants, two clerk-typists, and one intern. Considering the current work pressure and the need to produce reports of the hearings in a more timely manner, there is need for at least one more well qualified assistant-secretary.

In addition, there is a team of five persons working for the PAC-PAEC: one PAC-PAEC secretary, one assistant-secretary, one graduate, one intern, and one clerk-typist.

During our interviews, Members of the House and Senators expressed strong and unanimous appreciation for the high quality work of the staff in support of the Committees, executed in a very professional and politically-neutral way.

Once the new Departmental Select Committees are operational, there will be need for additional staff to assist in research and secretariat function for these Committees. In addition, it is worth mentioning that the Parliament of Trinidad and Tobago has conducted a Parliamentary Internship Program on a couple of occasions. Interns apply through the Human Resources of parliament. It is an unpaid internship. There are very good experiences with the quality of their work; though it is not easy to retain them for continued work in parliament.

When needed, the Committees can rely on the advice of the Parliament's Legal advisor. For instance, in cases when entities question if they should share their accounts or express doubt that they are under the remittance of a committee, the Legal Advisor provides advice and conducts research of the laws under which the entities have been created, the statues and the international examples.³²

³² Interview with Ms. Chantal A. La Roche, Parliament Legal Advisor, September 2014.

The general rules for the management of proceedings of committees are included in Appendix III of the Standing Orders. The Standing Orders, or its Appendix III, could be more comprehensive on the work of the committees, by outlining the need for a Committee quarterly and annual work plan and calendar with the overview of entities to be examined at which date during the quarter / year ahead, and outlining the need for an annual performance report or Legacy Report, follow-up correspondence and status updates on Committee reports and other issues related to holding public hearings (discussed further in this document).

The agenda setting in the JSCs is based on the practice that JSCs usually meet on Friday or on Wednesday, prior to plenary sessions of either the House or the Senate. According to the Standing Orders, Committees have the power to “adjourn from place to place” (i.e. to meet away from Parliament and to travel within Trinidad and Tobago) and to “report from time to time” on subjects of their choosing, rather than on specific matters referred to them by the House. Currently, committees meet at the Parliament Building in the facilities provided for them. Although committees can travel to other centres for the purpose of gathering evidence related to their study, this practice has been very limited. Committees are also entitled to undertake a site visit relevant to their items of business. The decision to travel is made by the committee and cannot be decided by the Chairman alone. When Committees hold hearings elsewhere in Trinidad and Tobago, they ought to do so in the same manner as at the Parliament Building. According to the Standing Orders, it is the responsibility of the chairperson to take care of strategic planning decisions, including site visits and public hearings outside of Port-of-Spain. A committee quarterly and annual work plan will have the possibility to schedule site visits and public hearings outside of Parliament premises well in advance.

4. How regularly do JSCs receive administrative reports from state institutions and entities?

The oversight work of the JSCs over the ministries, state companies and entities under their purview is to a large extent based upon the annual administrative reports received from these institutions. However, in many instances, entities do not submit a regular report. Sometimes, entities seem not aware of the requirement to submit a report, or there is an unwillingness on the part of ministries and their agencies to submit the reports required to be submitted or requested by parliament.³³

The following is the summary of the state of play regarding the backlog of reports as of September 2014. JSC-II and JSC-III (MCSC) has the best response rate; between 48.4 % and 86.5 %. However the percentage of reports received by JSC-I is extremely low: only 20.5 % for ministries and as low as 17 % for other entities reporting to parliament under JSC-I.

Table 4: Reports to be received by three JSCs for 2010-2014

For period 2010-2014	JSC - I		JSC - II		JSC - III (MCSC)	
	Ministries	Other entities	Ministries	Other entities	Service Commissions	Municipal Corporations
Total reports required	68	540	64	89	16	56
Reports received	14	92	31	77	11	29
Reports pending	54	448	33	12	5	27
% of reports received	20.5 %	17 %	48.4 %	86.5 %	68.7 %	51.7%

³³ Staddon, A., *Activities on strengthening parliamentary practices in Trinidad and Tobago. Study on Parliamentary Scrutiny and Existing Parliamentary Practice*, Port-of-Spain, February 2012.

Section 66B of the Constitution of Trinidad and Tobago, the Service Commissions are required to send their annual administrative report to the President of the Republic by 1st of October. Ministries, Municipal Corporations, Statutory Authorities and State Enterprises are required to send their annual administrative report to the President of the Republic by 1st of July. There is then a period of maximum 60 days for the President to forward the reports to Parliament. There is need to look into the most efficient way for parliament to receive the reports from the Office of the President in a more timely manner; and the Parliament might discuss with the Office of the President this issue further.

Because forwarding the reports to parliament does not constitute an endorsement by the President in any way, we recommend that the reports are laid in Parliament within 48 hours after they are received by the Office of the President.

As Parliament staff currently follows up with ministries, entities and corporations which are late in submitting any reports, it is useful if they continue sending out a reminder to all entities one month prior to the deadline. This reminder might contribute to a higher rate of number of reports submitted on annual basis by the legal deadline.

So far, very few means of pressure have been employed to ensure greater response to the annual reporting requirement. Parliament can consider issuing a press release detailing which entities failed to submit their annual report. In addition, the parliament website can publish and regularly update an overview table of entities which have submitted or have failed to submit their annual report.

In addition to the timing, it is important to also look at the quality of content of the annual administrative report. The report is supposed to cover how the ministries and entities exercise their mandate and powers, the functioning of its administration, its achievements and performance. However, the quality of the reports is often uneven. Without a quality analytical and informative report, it is almost impossible for the JSC to ask further questions or hold an Inquiry to seek justifications and explanations for action. While Ministries and entities have received a template for reporting with guidance on the structure and methodology of the annual administrative report, a similar guidance to municipal corporations will be useful as well.

5. How do JSCs prepare for oversight hearings?

In this section, we will review the process which JSCs follow to exercise their oversight role through oversight hearings. The process involves various stages, including selecting the entities to be examined, preparing an Inquiry Proposal, collecting written submissions, organizing the hearing, drafting the report of the hearing, requesting ministerial response to the reports, a follow-up to the reports laid in parliament and their recommendations, making use of the report in the operations of parliament.

-- Selecting the entities to be examined. The JSC decides which entities will be called for an inquiry. The selection is made based upon proposals of the chairperson and members of the JSCs taking into account the political relevance, financial amounts involved, information available on the state of affairs in management of the entity, availability or lack of annual administrative reports, findings emerging from the reports.³⁴

-- Preparing an Inquiry Proposal. The Secretariat drafts an Inquiry Proposal (IP) on the entities identified for examination for the consideration of the Committee. IPs contain background information on the entity to be examined. This information is mainly sourced from Annual Administrative Reports on the entity in question, Draft Estimates and other related budget documents. An IP outlines the objectives of the inquiry and may also contain questions associated with each inquiry objective. The objectives and associated questions are

³⁴ Interview with Mr. Julien Ogilvie, Procedural Clerk Committees Unit, Parliament of Trinidad and Tobago, September 2014.

communicated to the entity concerned in writing in the form of a request for written submissions. This is done prior to the public hearing (as termed ‘pre-hearing submissions’).³⁵

In preparing this report, we have analyzed a sample of IPs and found them to be of high quality, detailed and particularly useful in the questions they suggest to the MPs. Reviewing the JSC-1 IP for the hearing with the Anti-Corruption Investigation Bureau on 6 June 2014, the IP was affected by the absence of annual administrative reports by the Anti-Corruption Investigation Bureau, which resorts under the Attorney General, for the last four years. The latest available Annual Report was for the period 2008-2009. This was one of the reasons why the hearing with this entity was called for. The first objective of the inquiry was to gain an understanding of the relationship between the Bureau and other related agencies such as the Integrity Commission, Fraud Squad, DPP, Financial Intelligence Unit, Transparency International, Police Complaints Authority and other regional and international organizations. However, these institutions were not included in the list of possible sources for oral evidence during the hearing. The Transparency Institute was invited to send a written submission. The IP for JSC-2 inquiry into the Government Human Resources Services Company Limited (GHRS) elaborated in detail on the mandate and core functions of the entity, core services, initiatives and activities. The objectives of the inquiry stated in the IP were detailed and the list of possible questions and issues was also extensive. The same applies when reviewing the IP for the on the Tunapuna/Piarco Regional Corporation by JSC-3. As mentioned, the IPs seem to be well researched. On specific occasions, it can be useful to also review the minutes of board meetings of some of the entities, as they provide useful data and analysis for further examination during the hearing.

-- Collecting written submissions. When a Committee has commenced an inquiry into the administration and operations of a Ministry, Statutory Body, State Enterprise, Municipal Corporation or Service Commission the Secretariat of the office of the Parliament posts news of this inquiry on its website and social media pages. This is done to engender written submissions from public stakeholders in the entity subject to inquiry. The Secretariat also posts letters to particular stakeholders (including Ministries) usually identified in the Committee's IP to invite written submission from. The process of eliciting public submissions from stakeholders of entities is dynamic. Therefore, the stakeholders targeted by the Committee are not fixed and depend on the nature of the entity subject to the scrutiny. It would be useful to develop for each of the JSCs a comprehensive database of experts, stakeholders and the final beneficiaries of the services provided by the entities, which can be called upon for written submissions or in-person participation at hearing.

For example, the following is the record of written submissions of the JSC-2 for the fourth session of the 10th Parliament (2013-2014). As can be noticed, not all requests for written submissions received a response. In addition, submissions were received beyond the stakeholders invited to do so.

Table 5: Written submissions to JSC-2 in 2013-2014

Area of Inquiry	No. of agencies written to	Submissions received
<i>National Commission for Self Help Limited</i>	0	0
<i>Trinidad and Tobago Blind Welfare Association</i>	0	1
<i>Government Human Resources Services</i>	0	0
<i>Port Authority of Trinidad and Tobago</i>	13	5
<i>Evolving Technologies & Enterprise Development Company Limited</i>	8	1

³⁵ Parliament of Trinidad and Tobago, *Draft Guidebook for Parliamentary Committees*, Port-of-Spain 2004 - updated 2010, 32 pg.

<i>Community Improvement Services Limited</i>	4	2
<i>Telecommunications Services of Trinidad and Tobago</i>	2	3

6. How do JSCs conduct oversight hearings?

-- Organizing the hearing. The Committees usually meet in private before the commencement of a public hearing to discuss the issues to be raised during the hearing. During these private deliberations, Members discuss the details of pre-hearing submissions and also pronounce on the adequacy or lack thereof of these submissions. Inquiries regarding the jurisdiction of the Committee, request for private audience with the Committee and the presence of appropriate witnesses are also the subject of discussions at this stage. Following this in-camera part of the meeting, the hearing by the JSCs take place in public and are open to attendance by members of the public including members of the media. The JSC might resolve to receive evidence in private if it believes that the nature of such evidence requires that it be received in private. It may also consider a request of a witness for evidence to be classified as “secret evidence”. Although it goes without saying, it is important to confirm that witnesses are interviewed by members of the Committee on matters/issues which concern the administration and operations of the entity in question, and questions are expected to be linked to the objectives of the inquiry. Where a witness is unable to provide an appropriate oral response to a question, that response may be provided to the committee in writing after the meeting.

A number of challenges to the conduct of the hearings have been observed. Firstly, some of the entities being questioned bring a huge number of witnesses along and sometimes they were not in a position to provide all information requested, hence the committee had to accept that written clarification or information be provided later on. The JSCs may wish to consider limiting the number of witnesses to the key people responsible for that entity and insist that the persons attending are well prepared and informed.³⁶ A second question is to what extent final beneficiaries of public services are invited as witnesses to public hearings. So far, hearings are organized with the entities and the supervising ministry. Public hearings can gain added value by additionally inviting relevant stakeholders and final beneficiaries of the public service companies, municipal corporations and entities. For instance, an inquiry on the Anti-Corruption Investigation Body would gain relevance by hearings the testimonies of the Integrity Commission, Fraud Squad, Police Complaints Authority, etc. An inquiry on the Environmental Management Authority would gain relevance by hearings the testimonies of environmental NGOs or academic experts. Some of our interlocutors mentioned that special care should be taken that personal issues between the persons in charge of entities and final beneficiaries do not negatively affect the process of evidence gathering from external stakeholders.³⁷

-- Drafting the report. Reports of the JSCs are comprised of an inquiry background, a summary of evidence, findings and recommendations along with appendices containing Minutes, Notes of Evidences and other records related to the inquiry. During the current mandate of parliament (2010-2014) there is a sharp increase in the number of inquiries conducted and reports laid. While in the 8th parliament only six reports were laid and in the 9th parliament only one report, during the 10th parliament 38 reports have been laid so far. A number of draft reports of inquiries are to be considered and approved by the JSCs before presentation to Parliament: five for JSC-1, seven for JSC-2 and six for JSC-3 (MCSC). It is worth noting that in recent years the parliament and its JSCs have shifted from omnibus reports at the end of each session to a report on each inquiry. This has helped to have a more timely and focussed attention to the issues at hand in

³⁶ Staddon, A., *Activities on strengthening parliamentary practices in Trinidad and Tobago. Study on Parliamentary Scrutiny and Existing Parliamentary Practice*, Port-of-Spain, February 2012.

³⁷ Interview with Dr. Victor Wheeler, Chairperson of JSC-II.

the inquiry. Particularly challenging is the time it takes to finalize and approve a draft report. It is understood that it takes up to six months: receiving additional information after the hearing counts for 2 to 3 weeks; assistant secretary preparing a first draft counts for 1 month; reviewing, rewriting and finalising the draft by the Secretary counts for 2 months; Members reading and approving the report counts for two months; signing the report count for one week; tabling the report in the House counts for another week; and tabling it in the other House counts for another two weeks. Possible ways to speed-up this process and shorten the 6 months time frame include: assistant secretary preparing a first draft within one week; reviewing, rewriting and finalising the draft by the Secretary within two weeks - provided an additional secretary or assistant secretary can be made available; Members reading and approving the report within two weeks; simultaneously tabling the report on both Houses. In this way, the time required to finalize and table the report can be reduced from six months to two months.³⁸

Entities that are subject to a Committee inquiry have 60 days to provide response to the report's observations and recommendations. The purpose of the response is to get a documented reply of the entity on the observations and recommendations, which are then laid in parliament.

-- Requesting government responses to the reports. The Standing Orders place an obligation on the Minister responsible for an entity reported on by a JSC to present a paper to Parliament in response to the findings and recommendations contained in the report. Responses submitted by Service Commissions are not laid in the name of a Minister, since these bodies were established independent of the Executive. The following table outlines the number of Committee Reports and Ministerial/Service Commission responses laid during this parliamentary term.

Table 6: Ministerial/Service Commission Responses laid, June 2010 to June 2014

	<i>No. of Reports tabled</i>	<i>No. of responses received</i>
JSC-1	9	7
JSC-2	15	12
JSC-3 (MCSC)	14	10

7. How do JSCs ensure follow-up and impact of oversight hearings?

-- Follow-up to the reports laid in parliament and their recommendations. This is one of the key tasks of parliament administration to ensure a certain level of policy impact of the work done in the JSCs. Therefore, the Secretary writes to Ministries/entities who would have submitted a Response to a Report at least a year ago, requesting a status update on the implementation of the Committee's recommendations or an update on the fulfilment of the assurance given in their response.³⁹ However, on many occasions, the government's response to the reports is often limited to expressing the stand that the government "takes note of" the committee recommendations, but there is no commitment or assurance that the executive will consider, take into account or review the content of the recommendations in further detail. It seems reasonable to establish an obligation on the side of the executive to consider the content of the reports and their recommendations and to report to parliament, at least once a year, on the government's action in this respect. While there can be no requirement for the government to *implement* committee recommendations,

³⁸ The feasibility of this proposal depends on additional human resources for the Committee Unit and the proposed time-management, including shortening the response time for feed-back at various stages.

³⁹ Parliament of Trinidad and Tobago, *The operations of oversight Departmental Committees in Trinidad and Tobago: issues and recent developments*, prepared by Julien Oglivie Procedural Clerk, 30 June 2014, 14 p.

accountability requires the government to *consider* and formally *respond* to them in a timely manner.⁴⁰ If JSC recommendations were not adopted, the Government should provide reasons as to why that is the case.

Nevertheless, the impact of a Committee in influencing policy making could be measured by the proportion of its recommendations that are accepted and implemented.⁴¹ Currently, there is no comprehensive overview of the total number of recommendations made by the three JSCs and a tracking of how many are accepted and effectively implemented.

In annex to this report, a sample of 16 effected recommendations by the three JSCs has been made available. The following are some examples of recommendations made by the various JSCs that have been effected. They are clear proof of the policy impact of the inquiry work of the JSCs. [1.] The first report of the JSC Group 1 on the Ministry of Health and its management of vector borne diseases (2011) recommended that the Ministry of Health should transpose to Trinidad, the *Water Barrel Replacement Programme* that has been implemented in Tobago for the last five years, to address the vector-breeding conditions which exist in areas without a pipe-borne water supply. On the recommendation of the JSC, the Health and Public Utilities Ministries agreed to join forces in tackling the problem that barrels pose in the breeding of mosquitoes. Particularly those that transmit dengue haemorrhagic fever. [2.] The third report of JSC-2 on the Sport Company of Trinidad and Tobago recommended *“the completion of a strategic plan within in the next three (3) months which will facilitate the alignment of responsibilities and prescribe yearly operational goals. As such, consultations in this regard should be speedily concluded to advance the implementation of the strategic /operational plan based on the recommendations of the Australian Sports Commission.”* In addition, the Committee recommended that the Anti-Doping Legislation should be introduced in Parliament as soon as possible. In response, it was noted that SPORTT’s Strategic Plan (2012-2016) was submitted to the Ministry of Finance and the Economy on July 18th 2012. The Ministry of Finance and the Economy acknowledged receipt of this report via correspondence dated August 28th 2012. As well, some recommendations were indicated to be similar to that of the Australian Sports Commission. The Anti-Doping in Sport Act, 2013 was passed in both houses of parliament on April 12th, 2013 and May 14th, 2013 respectively and assented to on July 10th, 2013. [3.] The eleventh report of the JSC-3 (MCSC) on a re-evaluation of the Efficiency and Effectiveness of the Public Service Commission recommended a ‘special project’ to fill vacancies be continued as well as the implementation and utilization of the ‘Information Chart’ developed to indicate all vacancies filled, unfilled, and ‘unfillable’ for all the Ministries. Accordingly, it was noted in the Ministerial Responses that the Service Commissions Department has continued with the ‘Special Project’ to fill vacancies. It also has developed a database which indicates all vacancies filled, unfilled, and unfillable for all Ministries/Departments and according to its last report, an additional one thousand, one hundred and thirty-two vacancies (1,132) have been filled as a result of the ongoing project.

-- Making use of the reports in the operations of parliament. In view of the demonstrated policy impact of the work of the inquiries by the JSCs, the Secretariat of Parliament can consider several more initiatives with a view to address some of the mentioned challenges to the committee oversight work. To ensure a content-based and timely response from the Executive to JSC reports, Mr. Anthony Staddon recommended establishing a MoU between the Parliament of Trinidad and Tobago and the Permanent Secretaries of the ministries. Another option is to recommend reviewing the Standing Orders of the Government with a view to incorporate an obligation to consider and respond to the reports of parliament. A third option is to establish

⁴⁰ Staddon, A., *Activities on strengthening parliamentary practices in Trinidad and Tobago. Study on Parliamentary Scrutiny and Existing Parliamentary Practice*, Port-of-Spain, February 2012.

⁴¹ *Strengthening Parliamentary Committees Background Note for the Conference on Effective Legislatures*, PRS Legislative Research, Centre for Policy Research, New Delhi, November 2011.

a shared tracking system of ministry follow-up to the recommendations of the reports. While the Secretariat of Parliament inserts the JSC recommendations in the tracking system, the Permanent Secretaries of the Ministries are required to fill in their response and follow-up to the report and recommendations; and update at regular times (e.g. once per month).

At the political level, there are more opportunities for parliamentarians to make use of the analysis and recommendations in the JSCs. During their interventions in plenary debate, the chairpersons and members of the JSCs can make more active use of the findings of the JSCs. For the opposition there remain unused opportunities in referring to the functioning and malfunctions of ministries and entities as analyzed in the JSC reports.

The JSC can invite the Minister/Permanent Secretary/Chairman to give evidence on the progress made in implementing recommendations, undertaking a follow-up Inquiry with a further report or to ask a ministry/body for progress reports on recommendations previously made by them. A further option would be to seek a debate in the House or Senate. Following UK practice reports could also be considered on substantive motions expressing the agreement or disagreement of the House with the report as a whole or with certain paragraphs of it, or agreeing to the recommendations contained in the report generally or with certain exceptions. Motions could also be made which are founded upon, or enforce, the resolutions of the committee, or are otherwise relevant to the subject of the report or the business of the committee.⁴² Debates on select committee reports could also take place upon motions to take note of a report. A further option would be for the House/Senate to schedule debate on a set number of days each session on subjects arising from select committee work.⁴³

8. How do JSCs ensure openness, transparency and outreach to the public ?

During the last year, the Parliament of Trinidad and Tobago has undertaken a number of initiatives to promote the work of the JSCs, such as regular social media updates for each meeting of the JSC, a press conference on the findings of a particular Committee inquiry, quarterly interviews with the Chairmen of the Committees to be aired on the Parliament Channel, targeted electronic distribution of Committee Reports.⁴⁴ In addition, the Library Unit has distributed committee reports both in hard copy and via email to selected libraries. In addition, it is clear that live broadcast of oversight Hearings has increased public knowledge of parliamentary processes and the business of government.

The outreach can still be improved and upgraded in various ways. Suggestions are the broadcast of the Executive Summary of Committee Reports; press releases announcing the tabling of Committee Reports; involve CSOs, interest groups and academics as a source of expertise for the work of Committees; tailored communication strategy for each inquiry. In addition, and as mentioned before, an annual and publicly accessible Committee report or Legacy Report to Parliament which shows the output of each committee, the number of meetings, member attendance and the main findings of the Committee for that Parliament. A “legacy” report can be a useful tool for passing on experience to successor committees. Such reports have proved useful in Scotland, for example.

⁴² Interview with Senator Anthony Viera, chairperson of JSC-III.

⁴³ Staddon, A., *Activities on strengthening parliamentary practices in Trinidad and Tobago. Study on Parliamentary Scrutiny and Existing Parliamentary Practice*, Port-of-Spain, February 2012.

⁴⁴ Parliament of Trinidad and Tobago, *The operations of oversight Departmental Committees in Trinidad and Tobago: issues and recent developments*, paper prepared by Mr. Julien Oglivie Procedural Clerk, 30 June 2014, 14 p.

6. The oversight role of the Parliament of Trinidad and Tobago through the PAC and PAEC

The Public Accounts Committee (PAC) and the Public Accounts Enterprises Committee (PAEC) are established according to section 119 of the Constitution of Trinidad and Tobago. The PAC is charged with the responsibility of examining the appropriation accounts of moneys granted by Parliament to meet the public expenditure of Trinidad and Tobago. The PAC therefore examines the audited accounts of government ministries and departments, paying close attention to the comments made by the Auditor General which relate to financial management. The PAEC examines the audited accounts, balance sheets and other financial statements of all enterprises that are owned and controlled by, or on behalf of, the state and determines whether the affairs of these institutions are being managed in accordance with sound business principles and prudent commercial practices. Both committees play an ex-post scrutiny role in the parliamentary budget cycle. They provide parliamentary control of public finance by ensuring the budget was implemented in accordance with the approvals granted by parliament.

In this chapter of the baseline assessment, we will review the oversight role of the Parliament of Trinidad and Tobago through the PAC and PAEC. The PAC/PAEC will be reviewed against six questions:

1. How does the structure and composition of the PAC & PAEC affect its functioning?
2. What are the rights of access and powers of PAC and PAEC?
3. What are the human resources supporting the work of the PAC and PAEC?
4. How do the PAC and PAEC perform their duties on daily basis?
5. How does Parliament proceed with PAC/PAEC reports?
6. Do the PAC and PAEC achieve successful outcomes?

Assessment:

1. How does the structure and composition of the PAC & PAEC affect its functioning?

Reviewing the composition and structure of the PAC and PAEC⁴⁵, the following observations can be made.

- Both the Constitution, section 119, and the Standing Orders of the House of Representatives state that the PAC in Trinidad and Tobago shall consist of not less than six, and not more than ten members inclusive of the Chairperson. Currently, there are 10 members in both PAC and PAEC.
- The composition of the PAC/PAEC is proportionate to the party membership in the House and there is representation from the Senate foreseen. As a best practice, Cabinet ministers should not be member of the PAC due to its crucial oversight role. It is advisable to restrict government membership of PAC/PAEC to Ministers of State and Parliamentary Secretaries, rather than Cabinet ministers.
- As is the case in many jurisdictions in the Commonwealth and as foreseen in the Constitution of Trinidad and Tobago, the chairpersons of the PAC and PAEC belong to the opposition.
- Membership of PAC/PAEC is normally for the entire term of Parliament; and changes should be avoided.
- The quorum for a Joint Standing Committee such as the PAEC is now three persons including the chairperson, unless it would be decided otherwise; reference SO 112(5).
- PAC and PAEC meetings are normally attended by representatives from the Finance Ministry, staff from the Auditor General Office (who provide notes for Members to formulate questions) and guidance/clarification on matters presented in the AG reports.

⁴⁵ Stapenhurst, Sahgal, Woodley & Pelizzo, *Scrutinizing Public Expenditures: Assessing the Performance of Public Accounts Committees*, Policy Research Working Paper No. 3613, 2005, World Bank.

- Considering some previous practices, it is only prudent and a matter of avoiding conflict of interest that no member of the PAC should participate in its consideration of any matter if he or she was at the relevant time a Cabinet minister.

2. What are the rights of access and powers of PAC and PAEC?

The scope of the mandate and powers of a PAC is central to its institutional capacity. Hence, we will discuss the mandate and powers of the PAC and PAEC in Trinidad and Tobago based upon the assessment criteria included in the recently published book "Following the Money", which makes a comparative analysis on parliamentary PACs in over 70 countries.⁴⁶ The criteria are listed in the following two tables.

Table 7: Right of access under PAC / PAEC mandate in Trinidad and Tobago

	Right of access under PAC / PAEC mandate	Yes, unconditionally	Yes, conditionally	No
1.	Government agencies within the finance portfolio	PAC		
2.	Government agencies outside the finance portfolio	PAC		
3.	Statutory authorities	PAC		
4.	Government owned corporations	PAC		
5.	Local government authorities	PAC		
6.	Parliament and its expenditures	PAC		
7.	Parliamentarians' expenditures			x
8.	Government service providers	PAEC		
9.	Government-funded non-governmental organizations			x

The mandate of PAC / PAEC is very much determined by its access to various areas of the public and private sector. As indicated in above table, one can identify nine potential sectors or areas. The PAC and PAEC in Trinidad and Tobago have access to seven out of the nine areas: government agencies within the finance portfolio, Government agencies outside the finance portfolio, Statutory authorities, Government owned corporations, Local government authorities, Parliament and its expenditures, and Government service providers. Reviewing the list of entities which fall under the PAC and PAEC, it seems that the only two sector areas where both committees seem not to have access are Parliamentarians' expenditures and Government-funded non-governmental organizations.

Table 8: Powers of the PAC and PAEC of Trinidad and Tobago

	PAC and PAEC Powers	Yes, unconditionally	Yes, conditionally	No
1.	Examination of accounts and financial affairs	x		
2.	Consideration of budget estimates (other than Audit Office)			x
3.	Efficiency, economy and effectiveness of government policy			x
4.	Efficiency & economy of policy implementation (value for money)	x		
5.	Effectiveness of government implementation (delivery of outcomes)		x	
6.	Undertake self-initiated inquiries	x		
7.	Examine AG compliance reports	x		
8.	Examine AG performance reports	x		
9.	Refer matters to the AG	X		

⁴⁶ Stapenhurst, R., Pelizzo, R., Jacobs, K., *Following the Money. Comparing Parliamentary Public Accounts Committees*, Commonwealth Parliamentary Association & World Bank Institute & Pluto Press, London, 2014, 152 p.

In addition to the scope of the mandate of the PAC and PAEC, also their powers can be categorized into nine areas, as stated in the mentioned book "Following the Money". Our review learns that the PAC and PAEC in Trinidad and Tobago have power over six areas.

The functions and powers of the PAC and PAEC reflect normal practice in having unrestricted access to examine public accounts and financial affairs.

In 2014, the House of Representatives revised its Standing Orders and strengthened the powers of the PAC and PAEC. In particular, Standing order 99(2) and 100(2) empower both Committees to consider whether policy is carried out efficiently, effectively and economically and whether expenditure conforms to the authority which governs it. This is directly in line with the value for money audits. Hence, in theory both Committees can consider issues of efficiency and economy of program implementation. Yet the practice of performance auditing and review of effectiveness of policies and their implementation is only starting to be addressed in Trinidad and Tobago.⁴⁷

The PAC and PAEC can undertake self-initiated inquiries, as is the practice elsewhere in other jurisdictions. The Trinidad and Tobago PACs can refer matters to the AG for investigation, examine the AG's performance and compliance reports. As with most other jurisdictions the PAC has unrestricted access to examine their AGs' reports.

Currently, the PAC and PAEC in Trinidad and Tobago do not address the other areas mentioned in the list of criteria of PACs: consideration of budget estimates and the efficiency, economy and effectiveness of government policy.

3. What are the human resources supporting the work of the PAC and PAEC?

Compared with other smaller Parliaments, the Parliament of Trinidad and Tobago is fairly well established in terms of human resources for PAC and PAEC. The parliamentary staff support to the PAC/PAEC includes currently one parliamentary clerk, two research staff, and financial and administrative officers. In addition, from time to time the PACs have called upon the assistance of external consultants for specialized technical advice. This model has been considered useful and will be continued in the future as well. If the Parliament wants to increase the number of meetings and the entities being reviewed or called in and the number of reports issued, the human resources will need to be strengthened as well. It is advisable to aim for human resources which consist of two clerks, two research persons, administration officer and an financial person on a full basis to be able to advise both committees.

In addition, it might be useful to prepare for specialized training for new PAC/PAEC members (including orientation briefings and forms of mentoring or coaching), in particular for the newly elected members at the next elections.

4. How do the PAC and PAEC perform their duties on daily basis?

In this section, we will examine how the PAC and PAEC perform their duties on daily basis. Hence, we will discuss the number of meetings conducted and the way in which entities are examined.

-- *Number of meetings conducted.* The below two tables provide information on the number of meetings conducted by the PAC and PAEC during the first four sessions of the 10th legislature. PAC conducted 18 meetings, while PAEC conducted 28 meetings. The discrepancy in the number of meetings by PAC and PAEC is remarkable. The low number of PAC meetings is a result of the large time gaps between the meetings, for

⁴⁷ Johnson, C. and Talbot, C., *The UK Parliament and performance: challenging or challenged*, in: International Review of Administrative Services, London, 2007, Vol. 73(1), p. 113-131.

instance, most recently no meetings took place between May and October 2014. The frequency and timing of meetings are mostly determined by the committee chairperson. The PAC/PAEC secretariat usually proposes to conduct the PAC meeting on the second Tuesday of each month and the PAEC meeting on the third Tuesday of the month; however the ultimate decision lies with the chairperson.

It is worth reiterating that the recently adopted Parliament Strategic Plan determined that the *"Parliament will take initiatives aimed at strengthening accountability of public expenditure, in particular through the work of the Public Accounts Committee (PAC) and the Public Accounts and Enterprises Committee (PAEC). Being aware of the backlog of accounts to be reviewed (...) the Parliament aims at regular meetings of the PAC, possibly leading to a schedule of two-weekly or weekly meetings."*⁴⁸

Table 9: Work conducted by the Public Accounts Committee (PAC) during 10th Parliament

Public Accounts Committee (PAC)				
Sessions of 10th legislature	Number of meetings	Entities examined	Reports laid	Reports outstanding (Oct. 2014)
First Session 2010/2011	2	0	0	0
Second Session 2011/2012	6	3	0	0
Third Session 2012/2013	6	5 (incl. 1 cont.)	0	1
Fourth Session 2013/2014	4	2 (incl. 1 cont.)	4	2
TOTAL	18	8	4	3

Table 10: Work conducted by the Public Accounts Enterprises Committee (PAEC) during 10th Parliament

Public Accounts Enterprises Committee (PAEC)				
Sessions of 10th legislature	Number of meetings	Entities examined	Reports laid	Reports outstanding (Oct. 2014)
First Session 2010/2011	7	3	0	0
Second Session 2011/2012	6	2 (incl. 1 cont.)	0	0
Third Session 2012/2013	7	2 (incl. 1 cont.)	2	0
Fourth Session 2013/2014	8	2 (incl. 1 cont.)	2	2
TOTAL	28	6	4	2

--- Entities examined. The legal framework and governance system of Trinidad and Tobago has foreseen in an unwieldy and extra-ordinarily large number of public institutions, state companies and entities.⁴⁹ Based upon our calculation, there are 238 institutions and entities under the purview of the PAC and 74 entities under the purview of the PAEC. A feasibility study on the issue how to considerably reduce the number of

⁴⁸ Parliament of Trinidad and Tobago, *Strategic Plan Of The Parliament Of The Republic Of Trinidad And Tobago 2013-2018*, Port-of-Spain, September 2013, p. 26.

⁴⁹ Interview with the President of the Senate, the Hon. Timothy Hamel-Smith, September 2014.

institutions, corporations and entities would make sense. In the current context and according to applicable legislation, each entity is mandated by the Ministry of Finance and Economy (MFE) to submit audited financial statements to the MFE within four months of their financial year end. The backlog of accounts has been a pressing issue facing Trinidad and Tobago for some time. The reasons why the Auditor General and the PAC/PAEC are struggling with this backlog are manifold. (1.) A significant number of entities submit no accounts or submit them to the AG long after the end of the financial year; (2.) Capacity constraints within the AG's Department to deal with the amount of accounts to be reviewed; (3.) Priority setting at the side of the AG. It is understood that the AG currently submits auditing reports on government ministries covering years 2001-2007; although the PAC has set a cut-off date of 2008. This type of working practice defeats the purpose of relevant auditing work.

It would thus make sense to ask the Auditor General to provide auditing reports from the most recent financial statements of ministries and entities, and gradually go back in time based upon the human resources available. In addition, it is useful to continue the practice of the AG providing a recommendation which entities and audited financial statements (if available) the PAC can review in more depth.

As the Office of the Auditor General is currently still "at arms length" from the work of the PAC/PAEC -- although the Auditor General is an "Officer of Parliament", it would make sense to enhance the interaction between the two institutions by appointing a "liaison person" at both Parliament and O/AG to increase interaction and establish regular liaison between both institutions (as is the case in e.g. Jamaica).

As mentioned, the PAEC has 74 entities under its purview to examine. The financial statements of the entities are often audited by private audit companies. While the Auditor General is empowered to audit state owned enterprises, the tendency is for these entities to be audited by private audit firms because of the resource constraints on the AG. Therefore the AG does not have much contact with the PAEC. There is often no contact between the state enterprises and the AG. The audited financial accounts of the state owned enterprises are laid in parliament and referred to the PAEC for consideration and report.

To overcome the current "arms length" between the AG and parliament, we recommend that the AG employs a full-time Senior Policy Officer to work with parliament, PAC and PAEC on daily basis.

For many years, one of the main challenges of the PAC and PAEC were the number of outstanding audited financial statements of entities and state companies. While there is some interaction between the MFE and part of the entities and companies, there does not appear to be a regular and systematic review of the entities which fail to submit financial reports in accordance with the Exchequer and Audit Act. The PAEC would be advised to inquire with the MFE how they ensure that entities submit financial reports including the Ministry's role to surcharge persons and entities which do not comply with applicable legislation.⁵⁰

Due to regular reminders by the PAEC secretariat, state companies are now more forthcoming to submit their audited financial statements. While in April 2013, there was a backlog of more than 60 outstanding audited financial statements covering a period of three to four financial years, currently the backlog has dropped to 25 outstanding audited financial statements covering the previous financial year. To further reduce the backlog, the PAEC Secretariat can consider publishing on its website a regularly updated table of outstanding financial statements; thus providing more transparency on the way how entities comply with their obligation to submit audited financial statements.

So far, the PAC and PAEC managed to consider and report on only a couple of audited financial statements a year. During the 10th legislature the PAC and PAEC reviewed the audited statements of 6 to 8 entities, as indicated in above tables. This means that the PAC and PAEC did not succeed in meeting their constitutional

⁵⁰ Exchequer and Audit Act, chapter 69:01, article 27.1

mandate successfully.⁵¹ This is a result of the large number of institutions and entities under their purview, the low frequency of meetings (of PAC) and its practice to rely largely or almost exclusively on in-person hearings with entities prior to finalizing a report.

The previous work approach of the PAEC entailed that the Committee would select a limited number of entities and invite them for an in-person hearing before the Committee. In preparation for the hearing, the Secretary to the Committee wrote to the entity to obtain management letters for the period to be examined and to the Permanent Secretary of the MFE to obtain the notes to the financial statement of the entity. The entity was then invited to appear before the Committee at a meeting usually held in public and where Members asked questions based upon the information received and reviewed by the PAEC Secretariat. Sometimes, through correspondence after the meeting additional information was gathered, which served as further input to the report on the hearings and its recommendations.

In July 2013 a new work approach has been decided by PAEC.⁵² After obtaining the management letters from the entity for the period to be examined and the notes to the financial statements of the MFE, the PAEC based upon a proposal of the PAEC Secretariat will adopt an Inquiry Proposal including objectives and detailed questions and ask the entity for written responses. Based upon the responses received, the Committee will determine if there is a need to examine the entity in public or whether a report with findings and recommendations can be finalised based solely on written responses. The PAEC determined that a report solely based on written evidence will apply in case (1.) the issues have little public interest, (2.) the response provided is sufficient, (3.) issues identified require the urgent attention of parliament, (4.) to comment on an aspect of an entity's response to a previous report of the Committee.

The new approach enables the PAEC to work more efficiently, examine an increased number of entities, identify trends across entities and sectors, conduct more focussed hearings, reduce the number of times and the length of time that the committee is required to meet with an entity in public, and allows for a general call for evidence to be issued, allowing interested persons and stakeholders to submit evidence that may be useful for the Committee's inquiry.

BOX 4

PAC and AG in British Columbia

About twelve months after an audited organization's appearance before the committee, representatives of the Auditor General's office will request representatives of the audited organization that a progress update be provided to the Office of the Auditor General within a period of time (usually one month). Audited organizations must prepare a written response and direct it to the Office of the Auditor General. All written responses submitted by audited organizations are reviewed by the Office of the Auditor General to confirm the fairness of information about the progress made in implementing the recommendations contained in the Auditor General's report. After completion of the review, the Auditor General issues a report to the Legislative Assembly, which includes the Auditor General's opinion on the status provided by the organization. The report is referred to the Select Standing Committee of Public Accounts.

Following review of the Auditor General's report, the committee may request that representatives of the audited organization appear before the committee to provide further information, or that further information be provided to the committee in written form.

Source: Johnston, N., *Financial Oversight: A Handbook For Parliamentarians*, World Bank Institute and GOPAC, Ottawa, 2007.

⁵¹ Staddon, A., *Activities on strengthening parliamentary practices in Trinidad and Tobago. Study on Parliamentary Scrutiny and Existing Parliamentary Practice*, Port-of-Spain, February 2012.

⁵² Parliament of Trinidad and Tobago, *PA(E)C Work Programme*, prepared by PAEC Secretariat, 9 December 2013, 4 p.

5. How does Parliament proceed with PAC/PAEC reports?

As is the case for the JSC reports, the PAC and PAEC reports are prepared by the staff. The committee then reviews and ratifies the draft report through a consensus decision. During the 10th legislature, PAC and PAEC have approved four reports each, while three PAC and two PAEC reports are pending approval by the Committee. Under the revised Standing Orders, ministerial responses to reports of the PAC and the PAEC are now mandatory. A minister responsible for a Ministry or body under review is required to present a paper to Parliament responding to any recommendations or comments contained in the report which are addressed to it. The minister needs to present the paper within 60 days after a report related to the ministry or body under review has been laid in parliament. Currently, the Parliament of Trinidad and Tobago has no institutionalized mechanism to monitor and follow-up the implementation of government responses to committee recommendations. It is worth mentioning Anthony Staddon's recommendation that the Ministry of Finance provides progress reports to the PAC and AG on the implementation of PAC recommendations across all ministries and agencies (as is the case in Jamaica).

While all PAC reports are tabled in parliament, Parliament rarely takes the issue further in its own proceedings. Although there is no need for every report to be debated, it would be useful to consider at least one annual plenary debate on the work of the PAC and PAEC. In specific circumstances, chairpersons of PAC / PAEC can take the initiative to request a debate or move a motion on specific reports during the course of one session.

As this legislature approaches the end of its mandate, it is advisable that the staff prepares a "legacy report" of the work of the PAC and PAEC. Such a "legacy report" will be a useful tool for passing on experience to successor committees, a practice in place in other jurisdictions as in Scotland. It is advisable to make the "legacy report" publicly available on the website of Parliament.

Finally, it is important to mention that accountable public financial management can best be achieved through results-oriented planning and the development of a system of performance information. However, *"the current system of input or line budgeting is accounting-oriented, but allows Parliament to hold Departments and Agencies to account in terms of whether the money has been spent, but not necessarily on what was achieved with the money that was spent; in other words the end result rather than the process. Reviews of financial and management systems are important, but a movement towards results-based auditing could produce more effective accountability in future."*⁵³ In our final report as part of this assignment, we will discuss in further detail the implications of results based budgeting and value-for-money auditing for the oversight role of parliament, in particular the PAC and PAEC.

6. Do the PAC and PAEC achieve successful outcomes?

The real test of the influence of a PAC is not simply whether its recommendations are accepted by the Executive but whether they are implemented, effectively and in full, and, most importantly, whether they make a positive difference to financial efficiency and quality of service.⁵⁴

This may often involve the Auditor-General in reporting back to the PAC on the process of implementation. In some jurisdictions, the Auditor-General publishes an appendix to the annual report which details the progress or otherwise of PAC recommendations.

The six criteria to assess the impact of the work of PAC and PAEC are as follows:

⁵³ Staddon, A., Activities on strengthening parliamentary practices in Trinidad and Tobago. Study on Parliamentary Scrutiny and Existing Parliamentary Practice", Port-of-Spain, February 2012, p. 70.

⁵⁴ The Fiscal Maze, Hansard Society, 2006

- Recommendations Accepted
- Recommendations Implemented
- Legislation Modified
- Information Improved
- Legal Action Taken
- Disciplinary Action Taken

In Trinidad and Tobago, there are no formal processes in place to monitor and follow-up implementation of government responses to committee recommendations. So far, the PAC/PAEC does not adopt a formal mechanism for measuring its performance. It would thus be useful, similarly as suggested for the JSCs, to create a tracking mechanism on follow-up to PAC-PAEC recommendations, in cooperation with the MFE.

7. The new Committees of Parliament

According to the revised Standing Orders of the House of Representatives, six new Joint Select Committees will be created. The Senate Standing Orders are still being reviewed. However, a report was submitted to the Senate last session and it was agreed that the Senate would appoint members to the new Joint Committees established in the House Standing Orders. There is no apparent contention with their establishment.

The six new Committees are: Governance Assurance; Public Administration and Appropriation; National Security; Energy Affairs; Foreign Affairs; Human Rights, Diversity, Environment and Sustainable Development; Parliamentary Broadcasting.

In this chapter of the baseline assessment we will discuss some of the features of the first two new Committees, as this was a request by the Speaker of the House. We will also provide information of some relevant best practices in other Westminster-style parliaments.

7.1. Committee on Governance Assurances

The revised Standing Orders of the House (art. 108) stipulate that the Committee on Government Assurances "shall scrutinize the assurances, promises and undertakings given by Ministers from time to time on the floor of the House and report on— (a) the extent to which such assurances, promises and undertakings have been implemented; and (b) when such assurances, promises and undertakings have been implemented and whether such implementation has taken place within the minimum time necessary for the purpose. (2) The Speaker of the House of Representatives shall be a Member of the Committee." The Committee was created as it was observed that assurances and commitments were made by ministers during plenary or committee meetings without proper information and capacity to verify on its follow-up.

It is expected that this Committee will be constituted during the 2014/2015 session of Parliament. The Standing Orders are silent on the number of members of this Committee, which means that general rules for Select Committees apply. More detailed Terms of Reference of the new Committee will be prepared by the Administration as part of the "Compendium"; and can probably be reviewed after an initial two years of functioning. Parliament can consider organizing an induction program for this new committee, and the other new Committees.

It is understood that the Parliament of Trinidad and Tobago made the decision to create this committee based upon the experience of similar committee in the Parliament of India. It was constituted for the first time in the Rajya Sabha in 1972. It has ten members, nominated by the Chairperson of Parliament.⁵⁵

The functions of the Committee are to scrutinize the assurances, promises, undertakings, etc. given by the Ministers, from time to time, on the floor of the House and to report on (a) the extent to which such assurances, promises, undertakings, etc. have been implemented; and (b) when implemented, whether such implementation has taken place within the minimum time necessary for the purpose.

It is worth noting that the Indian Committee has the power to require attendance of persons or the production of papers or records, if such a course is considered necessary for the discharge of its duties, provided that the government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety and interests of the State. The Indian Committee also has the power to summon a witness by an order signed by the Secretary-General and thus has to produce the documents as are

⁵⁵ <http://www.rajyasabha.nic.in/rsnew/manual/2002/12.14.pdf>

required for the use of the Committee. It shall be at the discretion of the Committee to treat any evidence tendered before it as secret or confidential.⁵⁶

The Indian Parliament has approved a standard list of expressions which are regarded as constituting an assurance. It has also developed a system of computerisation of assurances. A client server based software with web-enabled outputs containing all the relevant details relating to assurances, e.g. assurance no.; question no. and date; subject; extent of assurance implemented; reasons for pendency; extension no. with date; search facility; date of laying of implementation reports and date of dropping of assurances, etc. has been developed to monitor the progress of implementation of assurances.⁵⁷

BOX 5

■ The functioning of the Committee on Governance Assurances in the Indian Parliament

The Committee determines its own procedure in respect of all matters connected with the consideration of any question of assurances, promises, undertakings, etc. in the Committee. The Committee has laid down rules for its internal working. The various procedural stages of the working of the Committee are the following:

- *Culling of assurances:* The Secretariat goes through the verbatim record of the daily proceedings of the House to cull assurances, etc., if any, on the basis of a standard list of expression, constituting assurances. This list of statement of assurances is checked with the statements which are received from the Ministry of Parliamentary Affairs.
- *Decision as to whether a statement constitutes an assurance:* The comments of the Ministry are brought to the notice of the Chairman of the Committee. He may either dispose of the matter himself or, if he considers it necessary, place the matter before the Committee for its decision as to whether a particular statement by a Minister is or is not to be treated as an assurance. All requests from Ministries/Departments of the Government of India for dropping of assurances are placed before the Committee for its consideration. The Committee Chairman has been authorised to scrutinize and grant extension of time for implementation of assurances in respect of cases where requests of the Ministries for such extensions from time to time do not exceed the period of one year.
- *Examination of statements showing action taken by the Government:* The Minister of Parliamentary Affairs lays on the Table of the House, from time to time, statements showing action taken by the Government in implementation of the assurances, etc. These statements are examined with a view to identifying those assurances which do not appear either to have been fully or satisfactorily implemented, or where inordinate delay, considering the nature of the assurances, has occurred in its implementation. All such assurances are placed before the Committee for its consideration.
- *Preparation of memoranda:* The Secretariat prepares memoranda on the various items to be considered by the Committee. The memoranda state briefly the assurance given by the Minister, action taken by the Government to implement the assurance, the extent to which it has actually been implemented and whether such implementation has taken place within the minimum time necessary for the purpose.
- *Sittings, etc. of the Committee:* If considered necessary, the Committee summons Secretaries of the Ministries concerned to give evidence about the action taken by Government for implementing the assurances. In certain cases, the Committee Chairman may ask the representatives of the Ministries to appear before him to explain the progress made or difficulties being experienced by them in implementing an assurance pertaining to their Ministries. The Committee also undertakes on-the-spot-study in order to ascertain the facts relating to the implementation of an assurance.

⁵⁶ *Rajya Sabha At Work*, chapter 25: http://rajyasabha.nic.in/rsnew/rsat_work/main_rsatwork.asp

⁵⁷ Information on the project of computerisation in the Rajya Sabha can be found at: http://rajyasabha.nic.in/rsnew/publication_electronic/Computerisation%20Rajyasabha.pdf

- *The report of the Committee* is presented to the House by the Committee Chairman or, in his absence, by any member of the Committee.

Some important recommendations

(1) In order that assurances, etc. given by Ministers from time to time on the floor of the House are implemented as expeditiously as possible, the Committee has prescribed a time limit of three months for their implementation by the Government, as any inordinate delay is likely to make some of the assurances, etc. obsolete and by delayed implementation all their significance is lost.

(2) As regards to treating certain statements as assurances even though they do not conform to the standard list of expressions constituting assurances, the Committee has clarified that the list is not exhaustive but only illustrative and an expression synonymous or analogous to an expression in the list or any other expression having the slightest semblance of an assurance will be treated as such. It is within the exclusive jurisdiction of the Committee to decide whether or not a particular reply constitutes an assurance and the Ministry/Department concerned is not competent to question such a decision.

(3) Ministries should take all care and circumspection while formulating implementation statements so that the entire spectrum of the issues involved in the assurance is covered and the main thrust of the information sought for in the question is not side tracked.

(4) Ministry of Parliamentary Affairs which has the nodal responsibility should conduct Ministry-wise quarterly reviews and submit to the House quarterly Ministry-wise status notes on assurances of the Ministry pending implementation.

In respect of dropping of assurances, the Committee has observed:

- ✓ Ministries should not approach the Committee in the matter on the plea that investigations will take considerable time or it is not practicable to foresee how long it will take to fulfil an assurance.
- ✓ Merely informing the Committee that expeditious action is being taken in furtherance of the assurance is no substitute for, and in no way wipes out, the imperative need for action in concrete terms to fulfil an assurance.
- ✓ The omnibus plea of public interest is by itself not sufficient grounds for not giving information needed to liquidate or drop an assurance.
- ✓ Ministries/Departments should desist from approaching the Committee for dropping of an assurance on flimsy grounds, more so in respect of those which have already been considered and not agreed to by the Committee. Requests for dropping of assurances should be made only in very genuine cases where it is practically not possible to fulfil them. It should be an exception and not a rule.
- ✓ If there are any genuine and practical difficulties in fulfilling the assurance within the stipulated period of three months, Ministries/Departments should make a reference direct to the Committee with a copy to the Ministry of Parliamentary Affairs.

Book "*Rajya Sabha At Work*": http://rajyasabha.nic.in/rsnew/rsat_work/main_rsatwork.asp

■ Standard list of expressions constituting assurances in the Indian Parliament

The Committee has approved the following standard list of expressions which are regarded as constituting an assurance:

- *The matter is under consideration;*
- *I shall look into it;*
- *enquiries are being made;*
- *I shall inform the hon'ble Member;*
- *this is primarily the concern of State Government but I shall look into it;*
- *I shall write to the State Governments;*
- *I assure the House that all suggestions by hon'ble Member will be carefully considered;*
- *I shall study the conditions on the spot during my tour;*
- *I shall consider the matter;*
- *I will consider it;*
- *I will suggest to the State Government;*
- *we will put the matter in the shape of resolution;*
- *I shall see what can be done about it;*
- *I will look into the matter before I can say anything;*
- *the suggestion will be taken into consideration;*
- *the matter will be considered at the conference to be held on...;*
- *the matter is still under examination and if anything is required to be done it will certainly be done;*
- *the matter will be taken up with the Government of...;*
- *I have no information, but I am prepared to look into the matter;*
- *efforts are being made to collect the necessary data;*
- *the suggestion made will be borne in mind while framing the rules;*
- *if the hon'ble member so desires I can issue further instructions;*
- *copy of the report when finalised, will be placed in the Parliament Library;*
- *I shall supply it to the hon'ble Member;*
- *I think it can be done;*
- *if the hon'ble Member's allegation is true, I shall certainly have the matter gone into;*
- *we shall have to find that out; I*
- *will draw the attention of the...; Government who, I hope, will take adequate steps in this direction*
- *it is a suggestion for action which will be considered;*
- *all the points raised by various Members will be considered and the result will be communicated to each Member;*
- *information is being collected and will be laid on the Table of the Rajya Sabha;*
- *I am reviewing the position.*

Besides, directions by the Chairman, Deputy Chairman or the Vice-Chairman involving action on the part of Ministers and all specific points on which information is asked for and promised also come under the category of assurances, etc.

7.2. Public Administration and Appropriation Committee

The revised Standing Orders of the House (art. 102) stipulate that the Public Administration and Appropriation Committee (PAAC) shall have the duty of considering and reporting to the House on (a) the budgetary expenditure of Government agencies to ensure that expenditure is embarked upon in accordance with parliamentary approval; (b) the budgetary expenditure of Government agencies as it occurs and keeps Parliament informed of how the budget allocation is being implemented; and (c) the administration of Government agencies to determine hindrances to their efficiency and to make recommendations to the Government for improvement of public administration.

The creation of a new JSC on Public Administration and Appropriation is thus aimed at strengthening the tools and capacity to examine and monitor the budgetary expenditure of Government Agencies and enquire into their administration in order to make recommendations to the Government for improvement of public administration.

The above mentioned ToR of the Committee is identical to the one mentioned in the Standing Orders of Jamaica. The Committee is part of the accountability framework in Jamaica, whose aim is to clarify responsibilities, expectations and reporting relationships for government's senior executive officers.⁵⁸

In 2012, the powers of the PAAC were substantially upgraded, making it the most powerful committee in parliament. Until that time the oversight role of the PAAC was activated after the House of Representatives approved the annual estimates of expenditure and extended through any changes to the budget, including the tabling of supplementary estimates. In 2012 the role of the PAAC was broadened to the period prior to the tabling of the annual estimates of expenditure and the Committee expand edits parliamentary oversight to ensure that Government expenditure is done in accordance with what has been approved by Parliament. Concretely, a bi-annual report on the performance of the economy for each fiscal year is presented to the PAAC, in the context of the medium term economic programme (MTEP). The PAAC then needs to indicate its view of spending priorities, borrowing and revenue needs for the ensuing fiscal year.⁵⁹ The PAAC in Jamaica counts 17 members, including 5 members which also serve at the PAC (which counts 12 members). The chairperson of the PAAC is member of the PAC and the chairperson of PAC is member of PAAC.

The Australian Parliament also has a Committee with the name "Appropriation and Administration". However, its role is to consider estimates of the funding required for the operation of the Department of the House of Representatives for each year and provides to the Speaker for presentation to the House and transmission to the Minister for Finance and Deregulation, estimates of amounts for inclusion in the appropriation bills for the Department.

Based upon the ToR included in the Standing Orders of the House of Representatives of Trinidad and Tobago, the most relevant example is the Committee in Jamaica. In terms of relevant lessons from other jurisdictions, one needs to look at best practices for monitoring appropriations by PACs. In the context of Trinidad and Tobago, the Committee on Public Administration and Appropriation can play an important role if the political will and resources exists to make it operational, and if it can report to the Standing Committee on Finance and/or to the House as a whole at the time of the main budget and any supplementary Appropriation Bill.

⁵⁸ The Jamaica Accountability framework addresses three main elements: The Government-wide Accountability Environment; Government's Senior Executive Officers Accountability Arrangements; Supportive and enabling Performance Management and Evaluation Systems.

<http://www.cabinet.gov.jm/files/Jamaica%20Accountability%20Framework%20ver%2011%20Final%20March%202010.pdf>

⁵⁹ http://www.jamaicaobserver.com/news/More-powers-for-PAAC_11555304

8. Conclusion

This baseline report on the Committees and the legislative functions in Trinidad and Tobago Parliament has aimed to propose a picture as factual as possible and an analysis as explanatory and forward looking as feasible.

In addition to most of the above mentioned managerial, procedural and human resources issues deriving from this Committee assessment, three slightly different conceptual challenges are emerging. These conceptual challenges go to the heart of the political and parliamentary system in Trinidad and Tobago, and thus require a more in-depth and essentially political response.

1. Should the Parliament of Trinidad and Tobago become the highest and ultimate democratic authority of the country? If so, should the Parliament become an institution where parliamentarians perform their duty on full-time basis (and are remunerated accordingly), including by holding to account - in a fair check-and-balances system - the Executive which is fully responsive to parliament and does not, in terms of its numbers and procedures, dominate the Parliament?
2. How can the Parliament of Trinidad and Tobago follow through on the reports and recommendations of its committees (JSCs, PAC/PAEC)? There is a need for formal mechanisms to monitor and follow-up on implementation of government responses to committee recommendations. One way forward is to establish, in cooperation with the Executive, a tracking mechanism related to Committee recommendations, and in addition for PAC/PAEC recommendations to verify whether they make a positive difference to financial efficiency and quality of service.
3. How will the Executive and the Parliament of Trinidad and Tobago take on board the challenge of performance management and performance review?⁶⁰ Reviewing departmental performance will thus have an impact on budgetary allocations. Reviewing performance of policies and post-legislative scrutiny will then inform the legislative agenda of the executive and assist in a better-informed review process of bills or amendments in parliament. Performance management and performance review can be based upon some of the existing policy tools, such as National Performance Framework 2012-2015 and related Annual Reports on Performance.

Some of these issues and in particular the managerial, procedural and human resources issues mentioned in this report will be discussed in further detail in the subsequent reports produced through the project.

⁶⁰ Johnson, C. and Talbot, C., *The UK Parliament and performance: challenging or challenged*, in: *International Review of Administrative Services*, London, 2007, Vol. 73(1), p. 113-131.

Annex 1: DEPARTMENTAL JOINT SELECT COMMITTEES RECOMMENDATIONS IMPLEMENTED BY ENTITIES

JOINT SELECT COMMITTEE GROUP 1

NAME OF THE REPORT	RECOMMENDATION	ACTION TAKEN	REMARKS
<p>First Report of the JSC Group 1 on The Ministry of Health and its management of vector borne diseases</p> <p>Dates Laid HOR: 25.03.2011 Senate: 22.03.2011</p>	<p>Recommendation No.3 of the Committee suggested that the Ministry of Health should transpose to Trinidad, the <i>Water Barrel Replacement Programme</i> that has been implemented in Tobago for the last five years, to address the vector-breeding conditions which exist in areas without a pipe-borne water supply.</p>	<p>On the recommendation of the JSC, the Health and Public Utilities Ministries agreed to join forces in tackling the problem that barrels pose in the breeding of mosquitoes. Particularly those that transmit dengue haemorrhagic fever</p>	
<p>Third Report of the JSC (Group) I on the Administration of the Legal Aid and Advisory Authority</p> <p>Dates Laid HOR: 15.06.2012 Senate: 05.06.2012</p>	<p>The Committee recommended the Establishment Of Duty Counsel.</p>	<p>In response, the Legal Aid and Advisory Authority stated that "The Duty Counsel Scheme was implemented in June of 2012. It provides legal advice at police stations or other places of detention and representation at the initial hearing of a matter, for minors detained on suspicion of having committed any offence and for adults detained on suspicion of having committed a capital offence."⁶¹</p>	
<p>Eighth Report Of the JSC on Ministries, Statutory Authorities and State Enterprises (GROUP 1) on Primary School Education</p>	<ul style="list-style-type: none"> It was recommended by the Committee that an appeals process be implemented to allow for remarking or reassessment. Further, it was suggested that the MoE conduct a reconciliation to determine the 	<ul style="list-style-type: none"> The MoE has since developed an appeals process which was communicated to its stakeholders and has been activated in the release of the 2014 SEA results. The MoE has engaged in a reconciliation to 	

⁶¹ Ministerial Response LAAA

<p>Dates Laid HOR: 16.05.2014 Senate: 13.05.2014</p>	<p>schools in need of additional resources to support the roll out of the Continuous Assessment Component (CAC).</p>	<p>ensure that all primary schools are equipped to proceed with the CAC in the 2014/2015 academic year.</p>	
<p>Ninth Report of the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises on the Administration and Operations of the Housing Development Corporation (HDC)</p> <p>Dates Laid HOR: 25.06.2014 Senate: 24.06.2014</p>	<p>It was suggested by the Committee that the HDC re-evaluate the performance of its Project Management and oversight Division (PMOD) with a view to strengthening its capacity to provide sound quality control and management of projects.</p>	<p>Accordingly, the Corporation's PMOD and the Construction Management and operations Division (CMO) produced a Quality Assurance Manual Checklist which is based on the Master Specifications document developed by the PMOD to be used when performing quality assurance checks on construction sites. As well, the PMOD implemented the following initiatives to strengthen its capacity to improve the framework for the delivery of quality housing units and Land Development :</p> <ol style="list-style-type: none"> a. Implementation of Codes, Standard and Specifications b. Design reviews; c. Inspections and oversight d. Implanted Primavera Contract Manger (PCM) and Primavera P6 software as tools or the management and oversight of projects by the PMOD 	

JOINT SELECT COMMITTEE GROUP 2

NAME OF THE REPORT	RECOMMENDATION	ACTION TAKEN	REMARKS
<p>First Report of the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group 2) on Palo Seco Agricultural Enterprises Limited (Psael)</p> <p>Dates Laid HOR: 09.11.2011 Senate: 20.10.2011</p>	<p>It was recommended that the Ministry of Local Government consider and approve initiatives relating to the Large Farm Project and the Strategic plans for the revitalization of the Forestry Industry as proposed by PSAEL, by June 2011.</p>	<p>In the 2015 Budget it was stated that <i>“the commercial large farm programme is being rolled-out with the establishment of 8 large farms; the agri-business investors are already increasing the quantity, the quality and the reliability of domestic food supply in a wide range of commodities, including rice, onions, hot peppers, sweet corn, a range of citrus and aquaculture. By the end of 2015, 4 additional large farms will become operational;”</i>⁶²</p>	
<p>Third Report of the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group 2) on the Sport Company of Trinidad and Tobago</p> <p>Dates Laid HOR: 16.03.2012 Senate: 13.03.2012</p>	<p>Recommendation 1 of the Committee’s report suggested <i>“the completion of a strategic plan within in the next three (3) months which will facilitate the alignment of responsibilities and prescribe yearly operational goals. As such, consultations in this regard should be speedily concluded to advance the implementation of the strategic /operational plan based on the recommendations of the Australian Sports Commission”</i></p> <p>In addition, the Committee recommended that</p>	<p>In response, it was noted that SPORTT’s Strategic Plan (2012-2016) was submitted to the Ministry of Finance and the Economy on July 18th 2012. The Ministry of Finance and the Economy acknowledged receipt of this report via correspondence dated August 28th 2012. As well, some recommendations were indicated to be similar to that of the Australian Sports Commission.</p> <p>The Anti-Doping in Sport Act, 2013 was passed in both houses of parliament on April 12th, 2013 and</p>	

⁶² Budget Statement 2015 pages 13-14

	the Anti-Doping Legislation should be introduced in Parliament as soon as possible.	May 14 th , 2013 respectively and assented to on July 10 th , 2013.	
Fifth Report of the Joint Select Committee On Ministries, Statutory Authorities And State Enterprises (Group 2) on The Tobago Regional Health Authority (TRHA) Dates Laid HOR: 12.09.2012 Senate: 13.09.2012	It was suggested by the Committee that <i>“More attention should be given to providing basic facilities at health centres and the requisite staff of nurses, doctors and pharmacists.”</i> Further it was stated in the report that there was <i>“an urgent need for a cardiology department and the purchase of an echo-cardiogram machine.”</i>	Accordingly, the TRHA responded that the recruitment for more nurses, doctors and pharmacists were in progress. As well, the TRHA established a cardiology clinic at Scarborough General Hospital equipped with an echo cardiogram and stress testing machine and indicated that a cardiologist was soon to be recruited.	
Seventh Report of the Joint Select Committee of Parliament on Ministries, Statutory Authorities and State Enterprises (Group 2) on the National Drug Council Dates Laid HOR: 16.01.2013 Senate: 25.01.2013	<p>The Committee advised that there must be close partnership with the Ministry of Education through the Student Support Services until every child in every school throughout Trinidad and Tobago can become exposed to material and lessons on the importance of not using drugs, and the dangers that are associated with their use.</p> <p>As well the Committee recommended that a survey be done at the beginning of the year 2013 to reflect more recent changes in drug</p>	<p>Accordingly, the National Drug Council has engaged in the following activities:</p> <ul style="list-style-type: none"> (i) Be Trinity-SMART"- Pre-school Education Programme; (ii) Primary School Survey; (iii) Secondary School Survey; (iv) Drug Education presentations to schools and universities; and (v) Proposed longitudinal study on the impact of the pre-school programme on drug use in secondary schools. <p>As indicated at (ii) and (iii) above, surveys for both primary and secondary schools have been completed, and the final reports with detailed</p>	

	abuse among school-children.	analysis and recommendations were said to be in their finalisation stages. As well, a drug use survey was conducted in the nation's prisons in collaboration with CICAD in 2013. The final report was expected to be available by mid-May 2014.	
<p>Tenth Report of the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group 2) on the Government Assistance for Tuition Expenses (Gate) Programme</p> <p>Dates Laid HOR: 03.07.2013 Senate: 09.07.2013</p>	<ul style="list-style-type: none"> The Committee recommended that <i>“consideration should be given to the longer term issue of sustainability of GATE as a financial support system and investment in higher education in Trinidad and Tobago.”</i> Furthermore, the Committee recommended, that a comprehensive review of programmes that may be classified as Technical and Vocational Education and Training (TVET) programmes be conducted in order to determine whether they are of strategic socio-economic importance to the country and should therefore be approved for GATE funding.” 	<ul style="list-style-type: none"> In his 2015 Budget Statement⁶³ the Minister of Finance and The Economy assured that <i>“this Administration will keep the GATE programme secure and sustainable.”</i> <i>In the Budget Statement 2014 it was indicated that the GATE programme was expanded to include technical and vocational Training: 59,476 students are now in the GATE Programme.</i> <i>Likewise, the following was highlighted in the Social Sector Investment Programme 2015, “For the period October 2013 to March 2014: A total of 25,191 persons (8,061 male and 17,130 female) received funding under the Programme.</i> <p><i>The number of private/public institutions providing tertiary educational services under the programme was as follows:</i></p>	

⁶³ 2015 Budget Statement page 20

		<p><i>Local Public Institutions – 13</i></p> <p><i>Local Private Institutions – 39</i></p> <p><i>Additionally, 25 new programmes have been granted GATE approval within the period. (20) in public tertiary institutions and 5 at private institutions.</i></p> <p><i>The total number of Technical, Vocational Educational and Training (TVET) programmes receiving GATE funding was recorded at 71, with 5 of these being new TVET programmes.”⁶⁴</i></p>	
<p>Thirteenth Report of the Joint Select Committee of Parliament on Ministries, Statutory Authorities and State Enterprises (Group 2) on the Commissioning Process for the New Scarborough General Hospital</p> <p>Dates Laid HOR: 13.11.2013 Senate: 19.11.2013</p>	<ul style="list-style-type: none"> • The Committee recommend that <i>“immediate action be taken to speedily rectify the issues with the printer(s) in the imaging department.”</i> 	<p>TRHA reported that the connectivity issue with the printer was resolved in June 2013. Furthermore, in the TRHA in October 2013 commissioned a Picture Archiving Communications System (PACS) to allow for remote communication of scans/images taken to doctors on/off site. Also, it was reported that the TRHA's Information Communication & Technology (ICT) department was near to completing the installation of a Wide Area Network (WAN) which would allow for the deployment of PACS to TRHA Health Centres.</p> <p>Additionally, in Appendix II of the Public Sector Investment Programme – Tobago it was stated that \$20. Million was allocated towards the purchase of a Magnetic Resonance Imaging Unit (MRI) and Containerised Housing for the New Scarborough General Hospital.</p>	

⁶⁴ Social Sector Investment Programme 2015 Pg. 149

	<ul style="list-style-type: none"> The Committee also recommend that given the general shortage of pathologists in Trinidad and Tobago in contrast to the increasing demand for forensic autopsies and general pathology services that the Ministry of Health in collaboration with the University of the West Indies Faculty of Medical Sciences develop an incentive regime in order to encourage aspiring doctors to specialise in this area. 	<p>The TRHA reported that it was presently in discussions with the Faculty of the University of the West Indies (UWI) with respect to the Scarborough General Hospital being an approved training site for graduate medical education and training and that these discussions were very fruitful with all parties aiming for the first intake of students by February 2014.</p>	
<p>The Fourteenth Report of the Joint Select Committee of Parliament on Ministries, Statutory Authorities and State Enterprises (Group 2) on the Administration and Operations of the Trinidad and Tobago Police Service (with specific focus on efforts at maintaining law and order)</p> <p>Dates Laid HOR: 22.11.2013 Senate: 26.11.2013</p>	<p>The Committee recommend that <i>“the necessary renovations and refurbishment be undertaken in order to provide recruits and staff with a modern and OSH compliant training facility.”</i></p>	<p>According to the Three Year Public Sector Investment Programme 2015-2017 “Expenditure of \$51.8 million will facilitate the construction of a new facility at the Police Training Academy. This Academy when completed, will be expanded to include a 200-bed dormitory, a Simulation Centre, a Mock Court Room, eight classrooms and an indoor firing range.”</p>	

JOINT SELECT COMMITTEE MUNICIPAL CORPORATIONS AND SERVICE COMMISSIONS

NAME OF THE REPORT	RECOMMENDATION	ACTION TAKEN	REMARKS
<p>Eleventh Report of the Joint Selection Committee appointed to inquire into and report to Parliament on Municipal Corporations and Service Commissions on a re-evaluation of the Efficiency and Effectiveness of the Public Service Commission</p> <p>Dates Laid HOR: 13.11.2013 Senate: 19.11.2013</p>	<p>The Committee suggested that 'special project' to fill vacancies be continued as well as the implementation and utilization of the 'Information Chart' developed to indicate all vacancies filled, unfilled, and 'unfillable' for all the Ministries.</p>	<p>Accordingly, it was noted in the Ministerial Responses that the Service Commissions Department has continued with the 'Special Project' to fill vacancies. It also has developed a database which indicates all vacancies filled, unfilled, and unfillable for all Ministries/Departments and according to its last report, an additional one thousand, one hundred and thirty-two vacancies (1,132) have been filled as a result of the ongoing project.</p>	

Committees Unit

October 3, 2014

Annex 2: List of boxes and tables in the report

Boxes:

- Box 1: The objective: characteristics of “good” legislation
- Box 2: Requirements for legislative programming
- Box 3: Impact assessment of a bill
- Box 4: PAC and AG in British Columbia
- Box 5: The functioning of the Committee on Governance Assurances in the Indian Parliament
- Box 6: Standard list of expressions constituting assurances in the Indian Parliament

Tables:

- Table 1: Legislative work of the Parliament of Trinidad and Tobago, 2010-2014
- Table 2: Parliamentarians' attendance rate in three JSCs for 2010-2014
- Table 3: Composition of JSCs with reduced membership
- Table 4: Reports to be received by three JSCs for 2010-2014
- Table 5: Written submissions to JSC-2 in 2013-2014
- Table 6: Ministerial/Service Commission Responses laid, June 2010 to June 2014
- Table 7: Right of access under PAC / PAEC mandate in Trinidad and Tobago
- Table 8: Powers of the PAC and PAEC of Trinidad and Tobago
- Table 9: Work conducted by the PAC during 10th Parliament
- Table 10: Work conducted by the PAEC during 10th Parliament

Annex 3: List of names of persons interviewed (in order of agenda)

Sen. the Hon. Timothy Hamel-Smith	President of the Senate
Dr. Ellis Burris	Permanent Secretary, Ministry of Tobago Development
Mrs. Jacqui Sampson-Meiguel	Clerk of the House
Mr. Vishnu Dhanpaul	Permanent Secretary, Ministry of Finance
Dr. Linda Baboolal	Former President of the Senate
Mr. Barendra Sinanan	Former Speaker of the House
Mr. Danny Montano	Former President of the Senate
Ms. Chantal A. La Roche	Legal Officer
Mr. Anthony Vieira	Senator, Chairperson JSC-3
Mr. Julien Ogilvie	Procedural Clerk Committees Unit
Dr. Victor Wheeler	Senator, Chairperson JSC-2
Mrs. Patricia Macintosh	Senator
Ms. Jenelle Smith	Legal Officer, Ministry Legal Affairs
Mr. Ravi Heffes-Doon (three representatives)	The Law Association of Trinidad and Tobago Law Reform Commission
Mr. John Gilette	Management Specialist, Ministry of Public Administration
Mrs. Claudette Mc Kellar	Ag. Director, Ministry of Public Administration
Mr. Wade Mark	Speaker of the House
Mr. Ian Macintyre	Chief Parliamentary Counsel
Mrs. Nadia James-Reyes Tineo	Director Legal Unit, Ministry of Justice
Ms. Arlene Mc Comie	Permanent Secretary, Ministry of Planning and Sustainable Development
Mr. Maurice Suite	Permanent Secretary, Ministry of the Arts and Multiculturalism
Ms. Keiba Jacob	Procedural Clerk PAC and PAEC
Mr. Stephen Boodhram	UNDP Project Manager, Strengthening of Parliament
Dr. Roodal Moonilal	Leader of the House
Dr. Keith Rowley	Leader of the Opposition
Mrs. Gillian Macintyre	Permanent Secretary, Ministry for Public Administration.
Dr. John Patterson	Advisor on Parliament Functional Autonomy, UNDP Trinidad and Tobago
Mr. Kevin Deveaux	Parliamentary Development Advisor (consulted on the Indian Parliament, p. 44-45 of the report)

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