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### **Financial System Reform in Trinidad and Tobago: *Realizing the Vision***

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# FINANCIAL SYSTEM REFORM IN TRINIDAD AND TOBAGO: Realising the Vision



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## Abstract

This paper outlines and reviews the key proposals for financial sector reform, as addressed in the Government's White Paper on the "Reform of the Financial System of Trinidad and Tobago", which was laid in Parliament on June 30 2004. Among the merits of the White Paper is that it recognizes and is premised on the broad assumption that effective financial sector reform and the efficient interaction of the financial sector with the rest of the economy, requires a holistic approach to policy development and implementation. In addition, the stated vision and resultant policy prescription were coined within a framework of wide stakeholder consultation, transparency and good governance, achieving international best practice, political will and leadership and intensifying regional cooperation and coordination.

In addition, the paper seeks to explore the political economy of financial sector reform as prescribed in the Financial Sector White Paper and assesses the magnitude of the proposed changes to the financial system architecture. Further, the paper inquires into the likely impact of selected policy recommendations on the development of the major institutions within the Trinidad and Tobago financial sector. Political economy considerations dictates that broad-ranging and fundamental financial sector reform requires a confluence of two key inputs: a broad-based popular sentiment that change is necessary and a leadership that is willing to translate this broad dissatisfaction into concrete programmes targeted towards resolving them. Consistent with this line of reasoning the paper asserts that any prescribed change in policy that fails to embody these two factors, falls short of targeted reform and merely seeks to effect an intended changes in policy.

**Key words:** capital market development; consolidated supervision; financial sector reform; financial sector vision; financial system architecture; political economy of reform.

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The views expressed in this Working Paper are those of the author and do not necessarily represent those of the Central Bank of Trinidad and Tobago or Central Bank policy. Working Papers describe research in progress by the author and are published to elicit comments and to further debate.

## 1. Introduction:

1.1 In October 2003, the Trinidad and Tobago Cabinet agreed to the appointment by the Minister of Finance, the Honourable Patrick Manning, of a Committee (The Financial Sector White Paper Committee) to:

- Review the Report of a previous Committee<sup>1</sup> appointed by the Cabinet to Review the Financial Sector of Trinidad and Tobago. The Report of this Committee was laid in Parliament on May 21, 2003 as a Green Paper.
- Strengthen the Report or Green Paper, so that it may serve as a blueprint or "White Paper" to reforming the financial sector in Trinidad and Tobago.
- Develop an implementation plan and schedule for the recommendations emanating out of the White Paper.
- Deliver the revised Report as well as the implementation plan and schedule -the White Paper- to the Minister of Finance not later than December 30, 2003. This deadline was subsequently extended to January 31, 2004.

1.2 The Financial Sector White Paper Committee was chaired by Mr. Kamal Mankee, Permanent Secretary Ministry of Finance and included<sup>2</sup> the Chairman of the Macro-Economy and Finance Sub-Committee Vision 2020, Dr. Terrence Farrell; as well as representatives of the Central Bank, the private sector, the Caribbean Centre for Monetary Studies (CCMS) and the University of the West Indies, St. Augustine Campus.

1.3 The 67-page Financial Sector White Paper contains a diagnostic of the financial system in Trinidad and Tobago, and extensive policy recommendations for the improvement of the financial sector. Significantly, the White Paper represents a formal attempt at strengthening, as well as streamlining and integrating a series of research activities initiated since the onset of first generation macroeconomic, regulatory, and institutional reforms undertaken between 1997 and 2004. A sizable amount of studies has been generated on the success of the country's first generation reform

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<sup>1</sup> This Committee is commonly referred to as the "Green Paper Committee."

<sup>2</sup> See **Appendix 1**.

### **Box 1.1 Institutional Developments in Financial Sector of Trinidad & Tobago**

- February 2000: Establishment of the Credit Union Supervisory Unit (CUSU) under the Ministry of Finance. CUSU is charged with developing a coordinated system of surveillance for the country's credit Unions; ensuring that credit unions comply with all regulatory requirements regarding performance and prudential practices and with monitoring the integrity of the credit union system.
- Dec. 2000: Review of the Financial Institutions Act 1993 and Financial Institutions Prudential Regulation  
Central Bank of T&T initiated a Capital Market Project with the dual objective of assessing the structural inefficiencies in the domestic capital market and arriving at a strategic framework for capital market reform and development.
- June 2001: Diagnostic study towards strengthening the Securities Exchange Commission which was established in April 1997.
- July 2001: Establishment of a Joint Central Bank /Ministry of Finance Capital Market Committee to compile a report towards outlining "A Reform Programme for Strengthening the T&T Capital Markets.
- August 2001: Closure of the Post Office Savings Bank after sixty-five years of service to members of the T&T public.  
The first reduction in the reserve requirements of the commercial bank was effected -from 21 % to 18%.
- March 2002: Appointment by the Cabinet of a Committee to review the entire financial sector of T&T in view of the continued modernization and liberalization of the domestic economy and the financial sector. The committee met over the period May to December 2002 and produced a report in May 2003, which is now referred to as the Financial Sector Green Paper.
- Dec. 2002: Building on earlier works on the status of the domestic capital market, the Government of T&T began a comprehensive programme towards a structured, efficient functioning and liquid market for central government long-term bonds.
- January 2003: Implementation of the T&T Central Securities Depository (TTCSD) charged with facilitating the efficient and accurate clearance and settlement of securities transactions on an electronic and paper-less basis, shortening the settlement cycle, reducing counter party and liquidity risks and promoting safety and soundness in the securities market.
- May 2003: Establishment of the Office of the Banking Services Ombudsman to act as a mediator between customer and the banks and render independent and sound decision based on the principles of fairness and equity, good business practices, accepted industry standards, a code of conduct and with due regard to the laws of the country.  
In October 2003, the Central Bank announced a schedule to lower the reserve requirements applicable to commercial banks from 18% to 9% on a phased basis over a period of 18 months. Equalization to be attained by Early 2005.
- May 2004: The passage of the Insurance (Amendment) Act No. 15 of 2004, which effectively transferred the responsibility to supervise insurance companies, insurance intermediaries and registered pension plans, from the Office of the Supervisor of Insurance in the Ministry of Finance, to the Central Bank.
- June 2004: Initiated the process for up-grading the Inter-bank payment systems to allow for a more efficient system of payments, clearance and settlement that permits more effective oversight and management of risk.  
Establishment of a Regional Credit Rating Agency -Caribbean Information & Credit Rating Services Limited,- (CariCRIS), with a capital base US\$ 3 million. CariCRIS is offering rating products in 19 countries and commenced operations in October 2004.  
Central Bank developed Guidelines including Corporate Governance & Fit and Proper Assessment for both banks and insurance companies.
- July 2004: On July 30 2004, the central government placed its inaugural issue of TT\$300 million in central government bonds employing a New Auction System for Government Bonds.
- Oct. 2004: Launch of the Real Time Gross Settlement System (RTGS) for the clearing of transactions valued at in excess of \$TT 500, 000.00.

experience both in terms of its macroeconomic and financial sector achievements to date. More recently however, a number of activities have been embarked upon in an effort to fill the gaps and inefficiencies identified in the financial sector and its regulatory framework. **Box 1** provides a summary of key institutional developments undertaken in the Trinidad and Tobago financial sector in the late 1990s, and which have informed the more recent Financial Sector White Paper of 2004.

1.4 In delivering on its mandate to strengthen the Green Paper Report, the White Paper Committee also reviewed a number of comments and submissions from the public and financial sector stakeholders for improving both the Green Paper and the initial drafts of the White Paper. In addition, the White Paper Committee met with key stakeholders in the financial sector and sought the input of a number of Sub-Committees of the broader Vision 2020 exercise. The White Paper Committee was of the view that this approach to the formulation of key policy measures for the financial sector would go a long way in building the consensus required for the overall success of the reformation process.

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## **2. The Vision for the Trinidad and Tobago Financial System.**

2.1 Having accessed the development of the sector a decade following the onset of financial liberalization in the early 1990s, the Financial Sector White Paper Committee observed that financial system of Trinidad and Tobago has matured in size, composition, ownership structure and complexity. The Committee also acknowledged that advances in information technology continue to engender increased competition at the domestic, regional and international levels and has led to the consolidation of services within the sector.

2.2 In recognition of the changing dynamics of the sector, the recent Financial Sector White Paper<sup>3</sup> has articulated a clear roadmap for restructuring the financial systems architecture, against a backdrop of governments stated objective towards attaining developed country status by the year 2020<sup>4</sup>. In addition, the White Paper attempts to craft a solid foundation and to chart the direction for the future development of the sector. The Report also seeks to strengthen the links between the Trinidad and Tobago financial sector and the rest of the economy. Against this backdrop, the Trinidad and Tobago financial sector reform agenda has been coined within a broader macroeconomic framework that is targeted towards developing a flexible, vibrant and diversified economy, supported by a stable and well-regulated financial services sector.

2.3 The Vision Statement as articulated in the White Paper is directed towards the creation of ***“a Pan-Caribbean Financial Centre that encompasses the entire group of ACS countries... [that] is globally competitive, well-diversified, responsive, and market-driven”***. The White Paper Committee championed the view that the Financial Centre should be regulated by a single Regulatory Authority and supported by a modern information technology architecture “capable of delivering a diversified and cost-effective menu of financial services options to domestic,

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<sup>3</sup> Short title reference to the Financial Sector White Paper which is entitled “The Reform of the Financial System of Trinidad and Tobago.”

<sup>4</sup> See **Appendix 2** for a summary of the 2020 Vision Statement.

regional and international business enterprises, the general public and the private sector". In accordance with the provisions of the White Paper, the financial architecture supporting the Pan-Caribbean Financial Centre would comprise:

- I. A well-diversified range of multifaceted and flexible financial institutions which provide rapid real-time delivery of the entire spectrum of financial instruments and services, and which are well integrated with the rest of the world.
- II. An efficient and effective payment system.
- III. Adequate, reliable and timely information to enable borrowers and investors to monitor and diagnose financial performance and hence to allocate resources effectively.
- IV. A strong legal, prudential and regulatory infrastructure that emphasizes financial soundness and stability, and the application of rules and a code of conduct that is consistent with international best practice.
- V. A modern information technology environment that enables the delivery of cost-effective services.
- VI. A well-educated, skilled and flexible cadre of professionals with training in finance, economics, business, accounting, law, regulation and information technology that is internationally recognized.

2.4 In its essence, the financial sector White Paper seeks to engender a coordinated and holistic response to the current and anticipate challenges of a burgeoning financial sector. Moreover, it attempts to provide a consensual and proactive approach to addressing the growing complexity of financial institutions that will continue to transform their product scope and their operations both domestically and regionally. The White Paper Committee considered that these developments would continue to be informed in part by the following factors: - 1) technological innovations in the sector; 2) globalization and its implications for improved competitiveness in key niches; 3) a low and stable inflation rate environment; 4) shifting demographics; and 5) the potential contagion inherent in systemic and liquidity risks.



### 3. Towards A Pan-Caribbean Financial Centre.

3.1 The White Paper outlines approximately 10 core and 47 sector-specific recommendations for the future development of the Trinidad and Tobago financial system. These recommendations were provided against the background of a number of endogenous variables and four key exogenous variables that have and will continue to exert considerable influence in reshaping the global and regional financial services landscape. The exogenous variables considered by the Committee included:

- **Technological advances in computing and communications.** The White Paper Committee acknowledged that information remains crucial to the successful completion of all and every transaction within the financial sector. Global customers are opting to access financial services electronically, through automated teller machines (ATMs), the telephone, the internet, debit cards and smart cards. The Committee considered that such advancements have enabled financial institutions to meet the needs of their customer base better, faster, and in a more cost effective manner.
- **Demographic Trends.** The Committee noted that shifting customer demographics continue to impact upon the global financial services sector. Increasing life expectancy and greater demands on public social safety nets have placed greater focus on the adequacy of retirement income. In addition, as customers become active participants in their investment and retirement planning, they are demanding inter alia, a broader range of products at more competitive prices, better service and through more convenient and electronic channels. To meet the investment needs of their expanding and more sophisticated clientele, financial service providers are offering a menu of choices, from specialized mutual funds and stock indices to derivative-based products, like equity-linked bonds.
- **Regulatory Reform.** The Committee observed that all major markets are continuously reassessing and engaging in some form of restructuring in the areas of trade, financial services and institutional reform. It is this process that has led primarily to the emergence of truly global providers by eliminating the barriers between products and countries. The Committee observed that pricing restrictions have been eliminated, geographic limitations and barriers to entry have fallen in most countries, and restrictions on the range of financial services offered are disappearing throughout most of the North American region, Europe, Asia and Australia. The Committee noted that international trade reform efforts in financial services, for example, the General Agreement on Trade in Services (GATS), are attempts to respond to these broadening winds of change.

- **Globalization.** The Committee was of the view that as economies and societies become more open and enjoys easier access and lower friction in conducting business, financial services markets become more global and evolve rapidly. The Committee noted that the foreign exchange markets meet the hallmark of a global market -a single price for the same product- in most countries of the world, the money and bond markets and to a lesser extent the global equities market were continues to move rapidly towards globalization.

3.2 The Committee was of the view that the aforementioned forces of change represent an unprecedented opportunity and challenge for consumers, financial institutions and for policymakers and regulators alike. The Committee acknowledged that at the institutional end, the traditional role and boundaries separating banks, trust companies, insurance companies and securities dealers have become blurred and are fast disappearing. The convergence of functions across financial institutions they noted, has led to conglomeration, with major banks and insurance companies moving towards building full-service financial groups.

3.3 Looking inward at the development of the Trinidad and Tobago financial sector over the past forty years, the Committee acknowledged that significant strides had been made in developing and strengthening the domestic financial system. This notwithstanding, the Committee noted further, that a number of weaknesses were still present in the legislative, regulatory and supervisory frameworks. These weaknesses included the fact that institutional changes and legislative reforms implemented in the banking sector were not mirrored across the rest of the industry. Further, the Committee was of the view that the existing legislation falls short of providing adequate powers to regulatory authorities to regulate and supervise the financial sector in accordance with internationally acceptable standards.

3.4 The Committee noted further, that the existing regulatory and supervisory framework remained fragmented and that the Trinidad and Tobago financial system is now subjected to three different Regulatory Authorities. These include the Financial Institutions Supervision Department of the Central Bank, the Commissioner of Co-operative Societies and the Securities and Exchange Commission. Moreover, the Committee found that the authorities differed in their supervisory effectiveness. Moreover, the Committee expressed some concern for the fact that not all institutions in the financial system were currently subjected to financial reporting standards that conformed to the International Financial Reporting Standards (IFRS). Other significant weaknesses found to be adversely impacting on the system included an uncompetitive taxation regime, absence of competition policy, a monopolistic telecommunications infrastructure and the lack of internationally recognized certification and accreditation requirements for persons providing financial services of an advisory, investment, consultancy or related nature.

#### **4. Policy Recommendations of the White Paper Committee.**

4.1 In light of the foregoing, and in anticipation of Trinidad and Tobago moving towards becoming a Pan-Caribbean Financial Centre that is internationally competitive and which can propel the development of the country towards attaining developed-country status by 2020, the White Paper Committee underscored the need to implement the following general and sector-specific policy recommendations:

##### **(A) General Recommendations**

4.2 **Legislative Framework:** The Committee recommended that the existing legislative framework be upgraded to ensure a sound legal basis for all areas of financial sector activity. The Committee agreed that the framework should encompass clear and concise rules for information disclosure, prudential requirements, mergers and acquisitions, electronic finance, standards for corporate governance, as well as rules to safeguard against money laundering and the financing of terrorism. The Committee was of the firm view that all such rules should be in conformity with international best practice. It was also recommended that the legislative framework make provisions for the adoption of International Financial Reporting Standards after consultation with the Institute of Chartered Accountants of Trinidad and Tobago (ICATT).

4.3 **Financial Reporting Standards:** The Committee requested that all companies engaged in the provision of financial products and services be compelled to adopt international financial reporting standards.

4.4 **Regulatory and Supervisory Systems:** The Committee was of the view that the regulatory and supervisory systems for the various segments of the financial sector, needed to be upgraded to provide for the integrated regulation of the sector. In order to give effect to the integrated regulation and supervision of the financial sector, the Committee renewed the call for the establishment of a single Regulatory Authority vested with the requisite powers and authority to function effectively. The Committee also suggested the establishment of a Regulatory Council as a precursor to the establishment of the single Regulatory Authority.

4.5 **Regime of Taxation:** The Committee requested that the government review the taxation regime for the financial sector with a view towards ensuring the competitiveness of the sector and that tax induced distortions are eradicated.

4.6 **Telecommunications Infrastructure:** The "White Paper" Committee advocated for the liberalization of the telecommunications infrastructure. This the Committee saw as a necessary precursor to ensure that the sector kept pace with technological developments and the provision of advanced telecommunication services at competitive prices.

**4.7 Competition Policy:** The Committee underscored the need for expediting the development of a competition policy for the financial services sector. The Committee was of the view that such a policy should encompass rules to deal with anti-competitive behaviour and unfair practices; rules to protect consumers, and standards to promote financial services development in the industry. The Committee also cautioned that the established rules and standards should be benchmarked against international standards and best practices.

**4.8 Trade Agreements:** The Committee identified a need for ensuring that commitments made under bilateral, regional and international financial services agreements do not adversely inhibit the development of the financial system.

**4.9 Financial Services Ombudsman:** The Committee identified the need for the Office of the Banking Ombudsman to be upgraded to that of a Financial Services Ombudsman thereby providing an alternative dispute resolution (ADR) mechanism to the formal legal system. The Committee further requested that the Office of the Financial Services Ombudsman be appropriately staffed and financially supported by the sectors it serves.

**4.10 Small Claims Court:** The Committee requested that the feasibility of establishing a "small claims court" for settling petty financial services issues that lie outside the jurisdiction of the Financial Services Ombudsman be explored.

**4.11 Human Resources:** The Committee recognized that human resource development (HRD) factor was indeed, a critical building block in the thrust towards achieving its stated long-term vision for the financial sector and for fostering the requisite degree of productivity and competitiveness. Against this backdrop, the Committee signaled the need for developing and attracting a cadre of human resource personnel, capable of efficiently managing the financial services sector. The establishing of some minimum international certification and accreditation requirements for persons involved in the conduct of financial business of an advisory, investment, consultancy or related nature were also requested.

## **(B) Sector Specific Recommendations**

### **4.12 Policy Recommendations for the Banking Sector**

- i. Accelerate amendments to the Financial Institutions Act (1993), so as to enhance supervision and strengthen the Central Bank's enforcement powers. The major amendments to the FIA include:
  - Supervising a financial institution that is part of a group or conglomerate. The suggested amendment would give the Central Bank:

- Authority to enforce reporting requirements on a commercial group to which a licensee belongs.
  - Authority to institute cross-border supervision and the sharing of information with other regulatory authorities.
  - Power to introduce measures to limit or restrict intra-group transactions beyond the licensee and related parties.
  - Authority to require adequate capital and other prudential requirements to be applied on a consolidated basis.
- Cross-border supervision to permit the sharing of information with foreign regulators and the supervision of a licensee's branch.
  - Reporting of large exposures - This provision would include not merely commercial loans but lending to insiders and related parties. Stipulated risk-related criteria for measuring exposure were also mandated.
- ii. Facilitate the development of information vendors, an independent Credit Rating Agency, and an Automated Credit Bureau that would provide information to improve the assessment of risks.
  - iii. A phased reduction of the statutory cash reserve requirement for commercial banks to reduce intermediation costs in the banking system and bring it on par with that of the non-banks.
  - iv. Accelerate the movement towards a market-based supervisory framework by:
    - Strengthening the corporate governance and risk management capabilities, and ensuring that they are benchmarked against international best practice.
    - Strengthening consolidated supervision of financial conglomerates.
    - Enhancing surveillance of the financial sector to provide early warning signals of potential distress.
    - Providing regular and reliable information to the public.
  - v. Upgrade the Inter-bank payment systems to allow for a more efficient system of payments, clearance and settlement that permits more effective oversight and management of risk.

#### **4.13 Policy Recommendations for the Capital Market**

- i. Strengthen the legal framework governing the securities market by undertaking a comprehensive review and upgrade of the Securities Industry Act (1995) to ensure that the TTSEC is given effective power to regulate the capital market in accordance with internationally accepted standards. Ensure consistency among all regulations governing activities in the capital markets.
- ii. Modernise and consolidate the regulatory and supervisory framework in accordance with international best practice, and implement outstanding recommendations for reform. Specific attention should also be placed on instituting an enforceable take-over code.
- iii. Codify standards of good corporate governance practice in accordance with international best practice and establish rules to deal with interlocking directorates, voting rights of trustees, and management of collective investment schemes.
- iv. Introduce rules and regulations in support of principles-based financial reporting in line with international financial reporting standards, after consultation with ICATT.
- v. Implement international standards for information disclosure and reporting so as to improve market transparency. Amend the relevant sections of the FIA 1993, the SIA 1995 and Insurance Act, Chap. 84:01 to allow for the effective sharing of information among all local regulatory authorities, as well as with other appropriate regional and international regulatory agencies, to facilitate effective regulation of institutions operating across markets and borders.
- vi. Encourage greater use of equity-based financing as an alternative to debt financing.
- vii. Strengthen the human resource base, management information systems and institutional capacity of institutions within the sector.
- viii. Implement a structured programme of educating investors, regulators, self-regulatory bodies, and capital market institutions on the rights and responsibilities of all stakeholders.
- ix. Accelerate efforts to establish an independent Regional Credit Rating Agency.
- x. Foster the development of commercial vendors of information.
- xi. Encourage the development of institutional relationships between the various market actors (regulators, investors, professional intermediaries and producers of services) in Trinidad and Tobago and those in regional and international financial markets.

- xii. Develop the microstructure of the primary and secondary market for government bonds by widening the primary distribution network for Central Government treasury bills and long-term bonds and redesigning the distribution channels for these securities. Adopt an auction mechanism as the main distribution channel for selling government securities.

#### **4.14 Policy Recommendations for the Insurance Sector**

- i. Revise the insurance legislation and regulations in conjunction with the industry. The revisions should:
  - Provide the Regulator with the necessary powers to intervene where necessary.
  - Be appropriate for the local industry and new complex organizations that are emerging.
  - Be appropriate and inline with the Core Insurance Principles of the International Association of Insurance Supervisors -which constitute current international best practice.
  - Be adequate to effectively address market conduct issues currently facing the industry.
  - Require more stringent capitalization, thereby ensuring that only companies that are adequately capitalized and solvent continue operations or enter the market.
- ii. The Regulator work jointly with ICATT and the insurance industry to develop appropriate financial reporting standards for use until such time as International Financial Reporting Standards for insurance entities become available and acceptable to ICATT as appropriate to the local environment.
- iii. Review the basis on which insurance companies are taxed with a view to determining whether the existing taxation regime is fair and consistent with international best practice.
- iv. Enhance the supervisory system to include a more pro-active approach to risk-based supervision, improved corporate governance, and greater disclosure and information sharing with the public and other sectors of the financial system.
- v. Work with national and regional regulators to place more emphasis on the sharing of information to facilitate efficiency in the regulatory process.

- vi. Investigate the feasibility of establishing an Insurance Fund, financed by the industry, and based on the principle of deposit insurance, to protect policyholders in the event of insolvency of an insurer.
- vii. Investigate the feasibility of establishing a Motor Insurance Bureau, financed by the industry, to deal with redress for victims of non-insured drivers.

#### **4.15 Policy Recommendations for the Pension Industry**

- i. Consolidate and modernise, where possible and practical, the various pieces of legislation and the fragmented regulations that govern the industry.
- ii. Execute the regulation and supervision of pensions within an integrated regulatory framework, so as to more effectively regulate the institutions managing these funds.
- iii. Establish the prudential criteria for the management of pension funds. These criteria should involve prudent quantitative and qualitative limits on the types of investments in which pension funds can engage, disclosure requirements buttressed by financial reporting standards, best practice, corporate governance and fiduciary standards (fit and proper management).
- iv. Undertake strict enforcement of prudential criteria and information disclosure requirements.
- v. Codify the portability of pension rights in law so that it is not left up to the discretion of the rules of individual funds. This will ensure that fund members are not constrained or lose benefits when they switch from one pension fund to another.
- vi. Ensure that fund managers are capable of implementing the required prudential criteria by adopting the most up-to-date and rigorous standards for benchmarking, portfolio insurance and for measuring and limiting the risk exposures contained in the pension portfolios under their management.
- vii. Accelerate the harmonization and administrative integration of the Old Age Pension and National Insurance Scheme.



#### **4.16 Policy Recommendations for the Mutual Funds Industry**

- i. Enact legislation that will provide a clearly defined regulatory and supervisory structure for the mutual funds industry. This legislation should map out licensing arrangements, corporate governance standards, disclosure requirements, capital requirements or guarantee funds, and investment guidelines, including on-line investment and investment in offshore funds.
- ii. Define the role of the CBTT and the TTSEC in the regulation of the mutual funds industry, or bring the regulation of the industry under the proposed single Regulatory Authority for the financial services sector.
- iii. Bring the operations of the UTC within the ambit of the proposed Mutual Funds legislation. This would require the restructuring of the UTC and the repeal of the Unit Trust Corporation of Trinidad and Tobago Act, 1981.
- iv. Encourage fund managers to continue to develop their in-house capacity for market surveillance in order to better evaluate the significance and credibility of third party information.
- v. Develop and implement new and appropriate financial reporting guidelines for market participants that are in keeping with the IFRS. This will promote transparency, foster information disclosure and provide standards for guiding decision-making by the regulatory body in determining solvency within the industry.
- vi. Specify effective prudential requirements for entry into the mutual funds industry.
- vii. Apply the “fit and proper” criteria to mutual fund managers
- viii. Streamline the taxation policies within the mutual funds industry, thereby creating a level playing field for all players.

#### **4.17 Policy Recommendations for the Credit Union Sector**

- i. Upgrade the legislation that governs the activities of credit unions so as to more effectively take account of international best practice in the sector as well as legislative changes in the broader financial system.
- ii. Draft appropriate rules for mergers and acquisitions while encouraging some degree of consolidation in the sector. Voluntary consolidation should be encouraged as the basis for creating a more competitive entity but, in cases where separate institutions cannot meet prudential standards, regulatory authorities should play a greater role in overseeing an appropriate form of consolidation.

- iii. Accelerate the development and implementation of relevant criteria based on appropriate prudential (such as the PEARLS ratios) and disclosure requirements and introduce systems for the continuous monitoring of credit unions. The Committee was of the view that the ability of the Regulator to take decisive and appropriate action against problem institutions should also form part of this framework.
- iv. Improve the standard of corporate governance in the credit union sector. The process for electing officials should be addressed and fit and proper standards should be set for credit union boards, committee members and managers.
- v. Retain the tax-exempt status of credit unions (at the corporate income tax level) so as to encourage the further development of the sector. The Committee noted however, that this status should be reviewed for relevance every five years.
- vi. Supervision of the Credit Union Sector should be brought under the umbrella of the Ministry of Finance and the Central Bank.
- vii. Give active consideration to the graduation of the very large credit unions to the same standard of supervision provided for other financial institutions. Institutions to be graduated should be given a transition period to adjust to the new standards.

#### **4.18 Policy Recommendations for Venture Capital Industry**

- i. Complete the draft legislation of the Cabinet-approved recommendations of the Venture Capital Task Force.

4.19 In support of these recommendations the “White Paper” Committee has compiled an implementation schedule detailing the key targets and accountabilities influencing the development of the financial system’s architecture. The role of government in achieving these developments is also detailed in the schedule.

### **5. Implementation Schedule.**

5.1 The implementation schedule shown in Table 5.1 provides a timeline by which activities are to be completed if the effective modernization of the financial services industry is to be successful.

**Table 5.1: Financial Sector Implementation Schedule**

<b>Task Name</b>	<b>Deadline Date</b>	<b>Implementing Agency</b>
<b>All Sectors</b>		
Create Office of the Financial Services Ombudsman	December 2004	CBTT
Establish an Interim Regulatory Council	December 2004	CBTT
Establish a Single Regulatory Authority	December 2006	CBTT
<b>Banking Sector</b>		
Commence Operations of the CRA	October 2004	CARICRA/CBTT
Commence Operations of the ACB	October 2004	CBTT/BATT
Reduce Statutory Cash Reserves Requirement for Commercial Banks	March 2005	CBTT
Amend the FIA 1993	June 2005	CBTT
Upgrade Inter-Bank Payment Systems	Mar 2006	CBTT
<b>Capital Market</b>		
Foster Development of Commercial Vendors of Information	June 2004	SEC
Commence Electronic Trading on the Stock Exchange	September 2004	SEC
Review and Upgrade SIA, 1995	April 2005	SEC
Modernize the Regulatory and Supervisory Framework	June 2005	SEC
Strengthen the TTSEC	August 2005	SEC
Improve Standards for Good Corporate Governance	December 2005	SEC
Develop the Micro-structure and Market for Government Bonds	December 2005	MOF/CBTT
Develop Institutional Relationships among Market Actors	Dec 2005	SEC
Enhance Investor Education Programme	Ongoing	SEC
<b>Insurance Sector</b>		
Investigate the Feasibility of Establishing an Insurance Fund	March 2005	CBTT/ATTIC/MOF
Investigate the Feasibility of Establishing a Motor Insurance Bureau	March 2005	CBTT/ATTIC/MOF
Implement Appropriate IFRS in Consultation with ICATT	June 2005	ICATT/CBTT/ATTIC
Review Current System of Taxation	June 2005	MOF/CBTT
Implement Modern Supervisory Practices	December 2005	CBTT
Procure Comprehensive Amendments to the Insurance Act	December 2005	CBTT/MOF
Ensure Passage of the Insurance Amendment Bill	Sep 2004	MOF/CBTT
<b>Pension Industry</b>		
Develop Prudential Criteria for the Management of Pension Funds	December 2004	CBTT
Enforce Information Disclosure Requirements	December 2004	CBTT
Consolidate and Modernise Pension Legislation	December 2005	MOF
Codify the Portability of Pension Rights in Law	December 2005	MOF
Establish an Integrated Regulatory Framework	December 2005	MOF/CBTT
Harmonize and Integrate the OAP and NIS	December 2005	MOF
<b>Mutual Funds Industry</b>		
Incorporate Effective Financial Reporting Standards in the Regulatory & Supervisory Framework for Mutual Funds	April 2005	SEC
Develop Investment/Mutual Funds Legislation	November 2005	SEC
Develop Capacity for Market Surveillance	November 2005	SEC
<b>Credit Union Sector</b>		
Draft Rules for Mergers and Acquisitions	December 2004	MOF
Transfer Supervisory Authority to MOF/CBTT	January 2005	MOF/CBTT
Develop Prudential Standards for Credit Unions	June 2005	MOF
Improve Standards of Corporate Governance	June 2005	MOF
Review the Principle of Graduation of CUs	June 2005	MOF
Upgrade Legislation Governing CUs	October 2005	MOF
<b>Venture Capital Industry</b>		
Amend Venture Capital Legislation	June 2004	MTI/MOF

ACB	- Automated Credit Bureau
ATTIC	- Association of Trinidad and Tobago Insurance Companies
BATT	- Banker's Association of Trinidad and Tobago
CARICRA	- Caribbean Credit Rating Agency
CBTT	- Central Bank of Trinidad and Tobago
CPC	- Chief Parliamentary Counsel
CRA	- Credit Rating Agency
ICATT	- Institute of Chartered Accountants of Trinidad and Tobago
MOF	- Ministry of Finance
MTI	- Ministry of Trade and Industry
SEC	- Trinidad and Tobago Securities and Exchange Commission

## **6. The Political Economy of Financial Sector Reform**

6.1 The meaning of the phrase “political economy” has changed considerably over time.<sup>5</sup> At one time, the concept denoted the entire realm of the study of economics. Today, and for most of the last century however, the phrase “political economy” has come to refer to the study of the process through which political decisions are made. The latter definition provides a fair statement of the scope of this section.

6.2 From this point forward the paper will seek to assess the processes and institutional context through which political decisions regarding financial sector reform in Trinidad and Tobago are made. In so doing, it is hoped that some light can be brought to bear on a few basic questions in the domain of the political economy including:-

- i. Why broad-based economic reform is so difficult?
- ii. Whether the reformation exercise has and could be thwarted by rent-seeking vested interest;
- iii. Has adverse initial conditions allowed vested interests to capture economic policy making?
- iv. More fundamentally, the paper attempts to assess the likely impact of selected policy recommendations on the development of the major institutions within the Trinidad and Tobago financial sector.

6.3 Political economy considerations dictates that broad-ranging and fundamental financial sector reform requires a convergence of two key inputs: a broad-based popular sentiment that change is necessary and a leadership that is willing to translate this broad dissatisfaction into concrete

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<sup>5</sup> Oates, W.E. and P.R. Portney (2003), ‘The Political Economy of Environmental Policy’, in K.G. Maler and J. Vincent (eds.), Handbook of Environmental Economics, Amsterdam: North-Holland/Elsevier Science.

programmes targeted towards resolving them.<sup>6</sup> Consistent with this line of reasoning the paper asserts that any prescribed change in policy that fails to embody these two factors, falls short of targeted reform and merely seeks to effect a premeditated change in policy. Economic reform is herein defined as a policy change directed at improving the static or dynamic efficiency of resource allocation in the economy.<sup>7</sup> Unlike economic redistribution therefore, financial reform unavoidably involves reducing rents that have built up in the economy as a whole -including rents that accrue to the “natural constituencies” of the party in power- or to reduce or modify acquired rights.

6.4 It is said that like politics, economic reform almost always end in tears. Notwithstanding the merits of the exercise, all too often, attempts at reform in the economic sphere, peter out due to internal and/or external factors. The internal factors informing failed reform efforts include, unfavourable starting conditions; a lack of enthusiasm or underlying commitment; too great an emphasis on the short term; the uncertainty phenomena that accompanies all economic policy making and the actions of dissenting rent-seeking vested interest. One scenario that lends itself to the latter analysis of stalled financial sector reform is the modernization of the trading platform of the Trinidad and Tobago Stock Exchange Limited (TTSEL).

6.5 October 26 2004, marked the twenty-third year of operation of the TTSEL as the centralized market place for the trading of public companies stocks and to a lesser extent bonds in Trinidad and Tobago. Notwithstanding preparations towards modernizing the operations of the TTSEL at the domestic and regional levels since the early 1990s, the TTSEL remains **a periodic call-over, auction, order-driven market, with a five day rolling settlement period (T+5)**. As part of a wider attempt at risk management and at improving the efficiency of trading activities, the TTSEL

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<sup>6</sup> Val Koromzay, “Some Reflections on the Political Economy of Reform”: Comments presented to the international conference on Economic Reforms for Europe: Growth Opportunities in an Enlarged European Union. Bratislava, Slovakia, 18 March 2004

<sup>7</sup> Val Koromzay, *ibid*.

was initially targeted to commence Automated Trading in October 2000. The vision then and now is for trades to be conducted electronically and reported on line, real time to the Trinidad and Tobago Central Securities Depository (CSD)<sup>8</sup> -as compared to the current practice of manual trading and secondary reporting to the CSD. Moreover, the start of electronic trading was to be supported three months later by the implementation and integration of the Central Securities Depository. Almost five years after its scheduled start date and seven years after its establishment on September 30 1998, the CSD came into operation on January 17, 2003. Interestingly also, the establishment of the TTCSD pre-dates the implementation of electronic trading of stocks and bonds on the Exchange. A factor contributing to the lack-luster approach to the entire modernization exercise at the TTSEL may be found in the ownership structure of the stock exchange.

6.6 In June 1997, the Stock Exchange in accordance with the provisions of the SIA 1995 underwent a change in its institutional and organisational structure. Government promoted in its inception, today the Trinidad and Tobago Stock Exchange Limited (TTSL) -the successor organisation to the Trinidad and Tobago Stock Exchange- may be described as a ***non-profit, private sector membership organisation*** and operates as such. The TTSL is owned jointly by the six dealing members of the exchange and the thirty-four listed companies. The board of directors of the Exchange is comprised of five representatives of the stock broking member firms, five elected individuals from among the listed companies and a managing director.<sup>9</sup> In its original form the Stock Exchange was a “para-statal” organisation operating under the majority control of the private sector and subject to ministerial and legislative restrictions. The Board consisted of two ministerial appointees, five registered stockbrokers elected by member

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<sup>8</sup> A wholly owned subsidiary of the TTSEL, the CSD is a facility charged with the holding and processing of share ownership transactions on an electronic basis, eliminating the need for the movement of physical documents.

<sup>9</sup> To assist the Management of the Exchange and the Board of Director in the conduct of the affairs, five Standing Committees have been established - Membership; Commissions and Dealings; Quotations; Finance and Audit; and Public Relations and Public Education.

companies and two elected members of the listed companies. Even then, the composition the Board of Directors was a source of contention as it was considered to have been too heavily weighted in favour of market participants and not the investing public- a position that has not been championed in the White Paper. It would appear therefore that adverse initial conditions –the composition of the Board then and even as it exists currently- has enabled vested interests to capture economic policy reform at the expense of the investing public and the development of the market. Notwithstanding the benefits to be gained from such and exercise, including greater market transparency, improved investor confidence and the enhanced competitiveness of the sector, the stock exchange modernization programme has failed to meet at least six implementation target dates including two implementation dates for the start of automated trading in 2004.

**6.7 Absence of Mutual Fund Legislation:** Since opening of the mutual fund industry in 1995, the sector has grown significantly. This notwithstanding, regulatory and supervisory control over the sector continues to be exercised through Central Bank Guidelines and a variety of statutory instruments<sup>10</sup> none of which are directly targeted towards the overall growth and development of the industry. **At the end close of June 2004 investments in mutual funds amounted to TT\$22 billion, eighty-eight (88) percent of commercial bank deposits.** By comparison in 1995 mutual funds represented a mere 12 percent of bank deposits and thirty-six per cent of bank deposits at the end of 2000. The majority of mutual fund investments (78 percent) in 2004 were held in money market funds. The market has also remained highly concentrated with the dominant firm (the Trinidad and Tobago Unit Trust Corporation) accounting for 74 percent, 39 percent and 86 percent of holdings in equity, TT-dollar money market and US-dollar money market funds, respectively.

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<sup>10</sup> The Unit Trust Corporation of T&T Act, 1981; Financial Institutions Act, 1993; the Companies Act, 1995; and the Securities Industry Act 1995.

6.8 A significant factor contributing to the eight-year long exercise includes the need at the technical level, to harmonize and streamline complementary amendments to the Companies Act, 1995, the Securities Industry Act 1995 as well as the Financial Institutions Act. The dearth of legislative drafting skills at the national level and the overwhelming pressures continuously faced by the Office of the Chief Parliamentary Council -the Legislative Drafting Department responsible for the drafting of original legislation and for amendments to existing written laws- has impacted adversely on the law making and legislative review processes. In addition, the process of moving from a draft legislative proposal (Bill) to an Act of Parliament can be an equally time consuming exercise (**See Appendix 4**).

6.9 A further impediment to the current reform initiative towards the effective regulation of collective investment vehicles in Trinidad and Tobago, include an apparent lack of agreement among stakeholders on the preferred option for restructuring and privatizing the operations of the Trinidad and Tobago Unit Trust Corporation (UTC). Indeed, in his 1998 Budget delivered in December 1997, the then Minister of Finance announced Government's intention to restructure the UTC into a public limited liability company and to subsequently listed the company on the T&T Stock Exchange. In furtherance of the same the UTC Act<sup>11</sup> was amended by the 1997 Finance Act, which widened the UTC authority to conduct additional business of a financial nature<sup>12</sup>. Six years later, the Prime Minister announced at a post-cabinet news conference held on September 18 2003, that the Government was examining a proposal to merge the First Citizens Bank and the Unit Trust Corporation. On hind sight, the announcement by the Prime Minister was ill-fated both in terms of its content or lack thereof, and in its timing.

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<sup>11</sup> The Unit Trust of Trinidad and Tobago Act, Chapter 83:02 of the Laws of Trinidad and Tobago, 1981.

<sup>12</sup> The additional functions that the UTC is now permitted to carry on are: merchant banking, trustee business, credit card business, financial services in foreign exchange and commodities business.



6.10 Indeed, the announcement came on the heels of a much heated debate played out in the media beginning 11 September 2004. The question touched and concerned an apparent political interference by the government to forcibly retire the then UTC CEO, aged 60 at the time. Following the announcement, arguments for and against the “merger” were passionately debated largely in the media. Much of the utterances were largely speculative however, as it occurred in absence of further and better particulars from the government on the objective(s) of the proposed restructuring exercise, the new institutional structure to be created, the likely costs and benefits to investors and without any discussion on the economies of scope to be so derived. The timing of the announcement and the sequence of events which proceeded had served to taint much of the discourse on the subject matter, much in favour of the dissenting rent-seeking vested interest.

## **7. LESSONS TO BE LEARNED**

7.1 The success of the current wave of reforms in the Trinidad and Tobago financial sector would undoubtedly be influenced by a host of internal and external factors. On the domestic scene, the financial sector reform exercise is but one in a series of reform initiatives all directed towards moving the country closer to achieving its millennium development goals. The approach adopted in giving effect to these initiatives appears to support the view of reformists who emphasize the importance of consensus building and a country’s ability to effectively implement broad-based economic reforms. This notwithstanding, the history of financial sector reform in Trinidad and Tobago appears to support the alternative view that financial reform is indeed swifter and more effective during times of crisis when policy makers are able to capitalize on the weakened state of rent-seeking interest groups.

7.2 Critical to the success of the reformation exercise as championed in the Financial Sector White Paper, is a firm understanding of the full scope of the reform measures that are indeed necessary to support the stability and development the financial sector both at the micro and the macro levels.

Sound corporate governance practices at the national and the corporate level are equally important to the integrity and sustainability of the system as are measures in support of continued fiscal and debt sustainability. Financial sector reform is not an event. It is a process that must be monitored, guided, managed and indeed sustained. The sustained and targeted implementation of all reform measures is critical if Trinidad and Tobago is to successfully move from reality to the Vision articulated by the Financial Sector White Paper Committee.

7.3 The momentum has waned in the equities and the mutual fund sub-sectors inter alia, but the challenges faced have provided meaningful lessons for the future and for realising the vision.

**APPENDIX 1:**

**LIST OF MEMBERS OF THE WHITE PAPER COMMITTEE**

<b>Name</b>	<b>Institution</b>
Mr. Kamal Mankee (Chairman)	Permanent Secretary Ministry of Finance
Ms. Joye Donaldson	Secretary to the Committee Divestment Secretariat Ministry of Finance
Dr. Terrence Farrell	Chairman Macro-Economy and Finance Sub-Committee, Vision 2020
Dr. Penelope Forde	Manager, Research Department Central Bank of Trinidad and Tobago
Mrs. Catherine Kumar	Inspector of Banks Central Bank of Trinidad and Tobago
Ms. Radica Maharaj	Manager, Legal Department Central Bank of Trinidad and Tobago
Dr. Shelton Nicholls	Deputy Governor Central Bank of Trinidad and Tobago
Mr. Gerard Pemberton	General Manager Development Finance Limited
Dr. Ronald Ramkissoon (declined)	Senior Economist Republic Bank Limited
Mr. Dave Seerattan	Research Fellow Caribbean Centre for Monetary Studies, University of the West Indies, St. Augustine Campus
Mr. Selby Wilson	Chairman Financial Services Sub-Committee, Vision 2020

**LIST OF PERSONS CO-OPTED TO ASSIST THE WHITE PAPER COMMITTEE**

Mr. Michael Craigwell	CLICO Investment Bank
Mr. Jason Hagley	TIDCO
Ms. Lavaughn Pritchard	Project Unit Ministry of Finance
Mr. Anston Rambarran	Research Department Central Bank of Trinidad and Tobago
Prof. Ramesh Ramsaran	Professor, Institute of International Relations, University of the West Indies (UWI), St. Augustine Campus
Mr. Kelvin Sergeant	Director, Research Securities and Exchange Commission
Ms. Sandra Swan-Daniel	Research Department Central Bank of Trinidad and Tobago
Mrs. Althea Thompson	Bank Inspection Department Central Bank of Trinidad and Tobago

## APPENDIX 2:

### VISION 2020 STATEMENT

By the Year 2020, we will be a united, resilient, productive, innovative and prosperous nation with a disciplined, caring, fun-loving society comprising healthy, happy and well educated people and built on the enduring attributes of self-reliance, respect, tolerance, equity and integrity in which:-

- Every citizen has equal opportunities to achieve his fullest potential
- All citizens enjoy a high quality of life, where quality healthcare is available to all and where safe, peaceful, environmentally-friendly communities are maintained
- All citizens are assured of a sound, relevant education tailored to meet the human resource needs of a modern progressive technologically advancing nation
- Optimum use is made of all the resources of the nation
- The family as the foundation of the society contributes to its growth development and stability
- There is respect for the rule of law and human rights and the promotion of the principles of democracy
- The diversity and creativity of all its people are valued and nurtured.

Source: VISION 2020 - Republic of Trinidad and Tobago <http://vision2020.info.tt/about/>

## APPENDIX 3:

### Central Government New Bond Auction System

- 1.1 On 30 July 2004, the central government placed its inaugural issue of TT\$300 million in central government bonds employing a New Auction System for Government Bonds. The 15-year public placement was managed by the Central Bank of Trinidad and Tobago (CBTT) and employed a single price system as against a multiple-price system, for the allocation of the bonds. The auction was oversubscribed, with bids outstripping the offer by almost 3:1 with yields ranging between 5.95 per cent and 7.50 per cent. The issue posted a fixed coupon rate of 6.15 per cent per annum and is the first of two (2) bonds to be issued in fiscal 2004, with the latter issue scheduled for September 20, 2004. Announcements of all future issues will be published in the daily newspapers and on the Central Bank website ([www.central-bank.org.tt](http://www.central-bank.org.tt)) at least one week prior to the auction date.
- 1.2 Prior to July 2004, the GOTT allocated its long-term debt securities by way of competitive tender with lead underwriter(s) - usually a merchant-bank(s) - who provided a "soft" commitment to take-up most of the issue to be marketed in the event of an unsuccessful placement of the entire issue.
- 1.3 Among the demerits of the previous system of private placement was that it did little to enhance market access of these bonds to the average citizen wanting to invest in government bonds. Second, it curtailed the development of a resale market for central government bonds. Thirdly, the old method was not sufficiently transparent to provide the signals necessary for the creation of and the efficient development of a secondary market (or after sale market) for government bonds. **In short, the previous system robbed the market and investors of the much needed liquidity and impetus for achieving a viable secondary market for central government securities.**
- 1.4 The T&T government's decision to advance towards the new auction system supports the recognition that the central government bond-market is indeed the backbone of Trinidad and Tobago's fixed-income securities market, as is also the case in most emerging markets. Indeed, it is in recognition of this fact that the government sought to rationalize the market for central government bonds and by extension the domestic market for corporate bonds. These broad policy objectives would be met by the more effective and market-oriented auction system for the issuance and allocation of central government bonds.
- 1.5 Managed by the Central Bank of Trinidad and Tobago, the government's New Auction System facilitates the dematerialized or paper less issuance of government bonds as is currently the case with government treasury-bills and treasury notes. **Participants in these auctions include government securities intermediaries as well as persons or institutions desirous of investing in central government bonds either on their own behalf, or on behalf of the public.** Small investor, that is individuals purchasing a maximum of TT\$20,000.00, will be allowed to place non-competitive bids (pay the auction determined price) for these bonds.

## APPENDIX 4:<sup>13</sup>

1.1 A proposal for a new law, or for amendments to an existing law, can be initiated in either Houses of Parliament. An Act, although assented to, does not necessarily come into immediate operation. In fact there is often a delay between the assent and when the Act comes into force.

1.2 *A bill is a draft of a legislative proposal.* Most bills introduced into the Parliament are sponsored by the Government and the majority of government bills are introduced first into the House of Representatives because that is the House where the Government is based, and where most Ministers are located. However, government bills (except "money" bills) within the portfolios of Senate Ministers are usually first introduced into the Senate.

1.3 Once a Minister sees the need for legislative action he puts the proposal to the Cabinet for its approval, together with a request that the Attorney General and Minister of Legal Affairs be directed to draft the legislation. When the proposal is accepted by the Cabinet, the Attorney General is directed to draft the legislation.

### 2.0 DRAFTING OF LAWS

2.1 Two departments, both falling under the aegis of the Office of the Attorney General and the Ministry of Legal Affairs are responsible for the drafting of Public Bills. These are the Office of The Chief Parliamentary Counsel or Legislative Drafting Department which is responsible:

- a. for the drafting of original legislation, that is, written law relating to an area of activity not already covered by existing written law; and for amendments to existing written laws.
- b. the Law 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. This includes modification of any branch of law, and the repeal of outdated laws.

2.2 In order to ensure that a Bill when enacted is legally sound and functional, before the drafting is commenced, Parliamentary Counsel undertake a detailed study of a number of factors including:

- i. the circumstances which gave rise to need for the legislation; and
- ii. the state of the existing law on the particular subject to determine whether there is a real need for additional legislation.

2.3 While the Bill is being drafted, consultation is done with the various personnel for 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 two Houses of Parliament have equal powers in respect of all proposed laws (or bills), with the exception of certain financial measures. These are specified in sections 63, 64 and 65 of the Constitution of the Republic of Trinidad and Tobago.

### 3.0 THE STAGES OF A BILL

3.1 Within each House there are steps, or stages through which a bill must pass: **first reading, second reading, committee of the whole, report from committee of the whole, third reading.** The standing orders (or rules) of each House provide for bills to be taken through the different stages on different days. The historic purpose of this was to prevent surprise, and to ensure that each bill was considered carefully and without haste. The different stages provide different opportunities to consider a bill—first overall or in principle, then in detail with opportunity for amendments to be made, and, finally, to enable reconsideration

<sup>13</sup> Adapted from <http://www.ttparliament.org/bills/lawmaking.htm>

and a “last look”. Today, while a bill still has to pass through each of the stages established by the standing orders, the provisions requiring consideration of the various stages on different days are usually suspended by motion or by leave (i.e., the agreement of the majority of Senators or Members, as the case may be, present in the chamber) in order to eliminate unnecessary delay.

**3.2** Nevertheless, unless the bill is urgent, it is still the case that usually several sitting days will intervene between the motion for the second reading and the vote on the second reading, to provide time to consider the bill. A government bills introduced in the House of Representatives, will follow the steps listed below before becoming an Act. If a bill is introduced in the Senate, then it would proceed through the various Senate stages before being read a first time in the House of Representatives.

### **I. Introduction/ First Reading of Bill**

- i.** Subject to certain conditions as outlined in the Standing Orders, any Member of the House may seek leave to introduce a Bill of which he has given notice. In the case of a Government Bill, The Cabinet (Executive Government) approves draft legislation and its introduction into Parliament. **Notice of the Introduction of a Bill on behalf of 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 may be entered on the Order Paper for the day following the day which it was received.**
- ii.** In practice, the Chief Parliamentary Counsel or Law Commission (Departments of the Office of the Attorney General) will forward copies of the Bill to Parliament and if it is not expressly stated in the Cabinet Minute, the Leader of the House will indicate when and in which House the Bill is to be introduced. The Bill will be referred to by its “Short Title” and placed on the Order Paper of the particular House under the Heading “Introduction of Bills” with the name of the Minister in Charge of the Bill written beneath it.
- iii.** A copy of the Bill is circulated to Members together with the Order Paper so that they can familiarize themselves with the proposed Legislation. The Clerk is responsible for having Bills published in the Trinidad and Tobago Gazette as soon as possible. The Gazetted copy of the Bill is also circulated to Members.
- iv.** **The First reading is a purely formal procedure.** The Clerk simply reads the name of the Bill and the Minister in Charge when the item is called. Bills are made available to the public after this stage. **In the House, an interval of not less than five days must elapse between the first and second reading of a Bill, whereas in the Senate an interval of not less than fifteen days unless the House or Senate, on motion made and question put, agrees to proceed with the Bill at an earlier date or forthwith.** In the normal course of things, the Bill will be listed on the subsequent Order Paper under the Heading “Bills Second Reading” under the Item-“Public Business, Government Business” if it is a Government Bill or under “Private Business” if it is a Private Member’s Bill or a Bill seeking incorporation for an organisation.

### **II. Second Reading of Bill**

- i.** **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 speak for a maximum period of seventy-five (75) minutes in the House and sixty (60) minutes in the Senate. At the end of the Minister’s presentation, the Presiding Officer will propose the question for debate. At this stage, members wishing to express their views on the draft legislation will get an opportunity to do so. Each person is allotted a maximum of forty-five minutes and a possible extension of thirty minutes to make their contribution. Extensions are granted by leave of the House on motion made by a member.

- ii. The debate on a Bill may go on over a week or even longer, depending on the number of members wishing to speak and the frequency of Sittings. During the debate, amendments may be proposed and circulated to other members. At the end of the debate, the Minister who originally piloted the Bill replies. In his reply, he deals with all the comments made or objections raised and seek to convince members to vote for the Bill.
- iii. The Presiding Officer then “puts the question” that the Bill be read a second time by saying “those in favour say ‘aye’. Those against say ‘noe’.” If the majority says “aye”, the Presiding Officer will then say “the ayes have it”. At this juncture, any member can call for a “division”. Once a division is called, a vote must be taken to determine how many have voted for or against. **If the House approves the second reading of the Bill, the Clerk then reads the “Long title” of the Bill.**
- iv. **At this stage, a Bill may be referred for consideration to a Select Committee or a Joint Select Committee by motion made immediately after the second reading.** When this occurs, no further proceeding shall be taken until the Select Committee has reported.
- v. When a Bill has been reported from a Select Committee **a motion has to be made for the report to be adopted and a debate can take place or if the motion is agreed to without amendment,** the House may proceed to the third reading of the Bill as reported. Normally however, when the Bill has been read a 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. The individual clauses of the Bill are examined and suggested amendments to each clause are discussed and either accepted or rejected at this stage. The Chairman, will then put the question that the bill (as amended) be reported to the House. Once this question is agreed to, the Committee’s deliberation is reported to the Presiding Officer (who has meantime will have resumed his seat) by the Minister responsible.
- vi. **Report from Committee of the Whole:** On the resumption of the House, the Minister in Charge of the Bill shall report to the House that the Bill was considered in Committee and passed with or without amendment(s). The Minister will then move that the Bill be read a third time and passed. If any Member desires to delete or amend any provision contained in the Bill as reported from a Committee of the whole House, he may at any time before the Minister rises to move the third reading, move that the Bill be either wholly or in respect of only some particular part or parts be recommitted to the Committee of the whole House. No notice of such motion is required.
- vii. **Reference of Bills to Select Committee:** 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 away from the floor of the Chamber. Further consideration of the bill is postponed until the Committee has reported. **The reference of a bill to a Select Committee is usually moved after the bill has been read a second time and before it is considered by a Committee of the whole House.** The purpose of such inquiry is to enable a small group of Parliamentarians to give more detailed consideration on a bill or certain aspects of it than is possible on the floor of the Chamber. Once a Committee has reported, its report and the bill is then considered by the House in which the Bill was first introduced. In the case of Joint Select Committees, the report will also be laid in the other House and debated.

### III. Third Reading of the Bill

- i. When the motion for the third reading of a Bill is made, no amendment(s) may be proposed and the question shall be put without debate. Corrections of errors or oversight may be made by the Presiding Officer before putting the question for the third reading. Any member can call for a division at this stage. **The Bill can be rejected by a negative vote.** If a Bill had been referred to a Select Committee of a House or a Joint Select Committee of both Houses, the Minister in Charge of the Bill will move the motion for the third reading only after the



report of the Committee has been adopted.

- ii. After the motion for the third reading has been agreed to, the Clerk reads the long title of the Bill. When a Bill has been read a third time and passed in one House, a printed copy of it is signed by the Clerk of that House and endorsed by the Presiding Officer of that House and then transmitted to the other House for its concurrence.
- iii. When a Bill originated in one House is read a third time and passed with amendment(s) in the other House, the Clerk of that House shall cause the said amendment(s) made to the Bill to be entered in the original copy of the Bill received and return the Bill with the amendment(s) for the concurrence of that House with respect to the amendment(s).
- iv. **Special Majority Vote:** Some Bills brought to Parliament infringe 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 the required majority has been obtained. **Section 64 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.**
- v. **Presidential Assent:** A Bill must pass through all these stages in each House of Parliament and any amendment(s) made in one House must be agreed to by the other House before it can be presented to His Excellency for Presidential Assent. Once a Bill has been passed by both Houses, special ASSENT copies are prepared for the signature of the President of the Republic. When the President signs, the Bill becomes an Act.
- vi. **Publication and Commencement:** Once Presidential Assent has been obtained, the Clerk of the House will have the Act printed and published in the *Trinidad and Tobago Gazette*. The Gazette notification shows the Act No., the Short Title and the date of Assent.

**NOTE:** An Act can come into effect in one of several ways, namely- a) Date of Assent; b) a date to be fixed by Proclamation; c) particular or specified date or dates, or; d) a combination of a) to c). If there is no commencement date, the date of Assent is the date the Act becomes law. All subsidiary legislation (regulations) has to be tabled in both Houses and must be published in the *Trinidad and Tobago Gazette* when laid, passed or approved as the case may be.

#### **Terms used in Respect of Documents before Parliament**

- Reports are LAID.
- Bills are INTRODUCED.
- Bills when ASSENTED TO become ACTS.
- Resolutions are PASSED.
- Orders are APPROVED when subject to AFFIRMATIVE Resolution.
- Orders are LAID when subject to NEGATIVE Resolution.
- Regulations are APPROVED when subject to AFFIRMATIVE Resolution.
- Regulations are LAID when subject to NEGATIVE Resolution.
- Rules are APPROVED when subject to AFFIRMATIVE Resolution.
- Rules are LAID when subject to NEGATIVE Resolution.

Adapted from <http://www.ttparliament.org/bills/lawmaking.htm>

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