

**BELIZE**

**No. 26/1/13**

**SENATE**

**Monday, 17<sup>th</sup> December 2018**

**10:09 A.M.**

Pursuant to the direction of Mr. President, in writing, dated 12<sup>th</sup> December 2018, the Senate met in the National Assembly Chamber in Belmopan on Monday, 17<sup>th</sup> December 2018, at 10:09 A.M.

\*\*\*\_\*\*\*

Members Present:

Senator, the Honourable Lee Mark Chang – President  
Senator, the Honourable Godwin Hulse – Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees  
Senator, the Honourable Dr. Carla Barnett – Vice-President and Minister of State in the Ministry of Finance, Labour, Local Government, Rural Development, Energy, Public Utilities, Public Service, and Election and Boundaries  
Senator, the Honourable Michael Peyrefitte – Attorney General and Minister of Legal Affairs  
Senator, the Honourable Macario Coy Sr.  
Senator, the Honourable Stephen Duncan  
Senator, the Honourable Aldo Salazar  
Senator, the Honourable Eamon Courtenay  
Senator, the Honourable Valerie Woods  
Senator, the Honourable Paul Thompson  
Senator, the Honourable Markhelm Lizarraga  
Senator, the Honourable Rev. Ashley Rocke  
Senator, the Honourable Osmany Salas

Member Absent:

Senator, the Honourable Elena Smith

MR. PRESIDENT *in the Chair*.

PRAYERS *by Senator Rev. Ashley Rocke*.

**ANNOUNCEMENT BY THE PRESIDENT**

**MR. PRESIDENT:** Senator Hulse, you said you would like to say a couple words.

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** Mr. President, colleagues, Senators, good morning. I rise simply to ask Senators to kindly rise for a moment in honour of a stalwart in this country, Madam Dr. Jane Usher, who served this country with integrity, dignity in many capacities. Not only as a Minister of Government, I think she was also a former Senator, and the Representative for the Pickstock Area, but carried on the work in the Credit Union, and made that institution into a formidable true Belizean Bank that served all the people of Belize who could not, in those days, have access to banking. So, Colleagues, can we spend a moment in silence in honour of her memory.

(A moment of silence was observed.)

**MR. PRESIDENT:** Honourable Members, by letter dated 12<sup>th</sup> December 2018, Cabinet's recommendation has been signified to the following:

1. Income and Business Tax (Amendment) Bill, 2018;
2. Stamp Duties (Amendment) Bill, 2018; and
3. International Business Companies (Amendment) Bill, 2018.

#### **BILLS BROUGHT FROM THE HOUSE OF REPRESENTATIVES**

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** Mr. President, I rise to take charge of the following Bills:

1. Designated Processing Areas Bill, 2018;
2. Income and Business Tax (Amendment) Bill, 2018;
3. Stamp Duties (Amendment) Bill, 2018; and
4. International Business Companies (Amendment) Bill, 2018.

Mr. President, in accordance with Standing Order No. 49 (1), I move that the Bills be taken through all their stages forthwith.

**MR. PRESIDENT:** Honourable Members, the question is that the Bills be taken through all their stages forthwith.

All those in favour, kindly say aye; those against, kindly say no. I think the ayes have it.

#### **MOTIONS RELATING TO THE BUSINESS OR SITTINGS OF THE SENATE**

**SENATOR G. HULSE (Leader of Government Business and Minister Agriculture, Forestry, Fisheries, the Environment, Sustainable Development and Immigration):** Mr. President, I move that at its rising today the Senate adjourn to a date to be fixed by the President.

**MR. PRESIDENT:** Honourable Members, the question is that, at its rising today, the Senate adjourn to a date to be fixed by the President.

All those in favour, kindly say aye; those against, kindly say no. I think the ayes have it.

## **I BILLS FOR SECOND READING**

### **1. Designated Processing Areas Bill, 2018.**

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** Mr. President, I rise to move the second reading of a Bill for an Act to repeal and replace the Export Processing Zone Act, Chapter 280 of the Substantive Laws of Belize, Revised Edition 2011; to facilitate investment, production of value adding of enterprises in Belize in national priority sectors; and to ensure compliance with regulations and standards; and to stimulate employment, transfer of technology and economic development; and to provide for matters connected therewith or incidental thereto.

**SENATOR M. LIZARRAGA:** Good morning, Mr. President. Because this is most likely our last session for this year, I want to take this opportunity before we commence, Mr. President, to wish everyone a Merry Christmas and a Happy New Year. Mr. President, we have before us today a Bill to repeal and replace the Export Processing Zone Act, and to facilitate investment, production of value adding of enterprises and national priority sectors; and to stimulate employment, transfer of technology and economic development. I must start off by saying that I fail to see how this Bill will achieve many of its stated objectives. It is absolutely not clear how this Bill is going to stimulate employment, facilitate the transfer of technology or even economic development. It's very questionable. Mr. President, the Prime Minister himself has said that it is quite possible that we will need to be back in this very House in the near future to make more amendments, because, Mr. President, in reality the very stated purpose for us having to deal with this Bill may not have been met. If the defacto reality is to limit benefits only to exporters, we believe it will not satisfy the ASCM Standards. We question, Mr. President, why did we not just change the tax laws and do the extensive tax reforms that the business community has been championing for, or screaming for, for ages. And we believe we will still have problems after this Act is passed.

Mr. president, we have received submissions from several, many, in fact, as the Prime Minister rightly said, there's been lots of hurried consultation in this matter, trying to see if we could address all the concerns of the business community. And I want to highlight some of those, I want to highlight a lot of the uncertainties that still remain with this piece of legislation. The legislation in section 10 (3), speaks of prescribed standards. Standards, Mr. President, that have not been identified, that have not been articulated, have not been agreed with the

industry, and there are concerns that there may be situations where you might have different standards for different markets. So, this whole section of standards is a very complicated issue that we need to sit down with stakeholders and clearly iron out and work out. There are many that believe that these standards will, in fact, be used to keep certain people out, and it will be used as a non-tariff barrier, so to speak, as something to take certain people out of this segment or having access to these benefits. And in the absence, again, of details we can understand why many people would say that. While it is claimed, or it was claimed in the House that the business community has, in fact, been satisfied with 90% of their concerns, we beg to differ, that is absolutely not true.

Mr. President, if you look at part 5, section 18 of the law, it states that an approved company shall be issued a DPA status for a period of not more than 10 years. Mr. President, I don't know if we all know it, but under the EPZ laws that we are repealing today, many companies had, in fact, enjoyed certain benefits and had been given benefits for periods up to 20 years. Now, those benefits have been swept away by this piece of legislation. And yes, there will be those that will argue that after the 10-year period you can reapply, but that reapplication is not guaranteed, it is at the discretion and at the will of the DPAC, the committee. And we believe, Mr. President, that we are entering legally, a tricky area, it's a slippery slope because we could possibly be in breach of contract. We have had contracts with these people that give them certain rights for up to 20 years, like I said, earlier, and now we are limiting them to 10 years with no guarantee of that ten-year period being extended. And, we might say that this amendment to the law was not a requirement by the WTO, or the European Union. So we question, why was this provision, or why was this limitation put into law?

If you look at section 18 (4), Mr. President, it reads, a company that applies to the DPAC, to renew a DPA status may not be eligible to all the benefits granted by the DPAC, or for benefits for a period of up to 10 years. So, again, that contract that companies had, that contract that they made all their calculations with, am coming to invest in this jurisdiction because I will enjoy certain benefits for a period of 20 years, and all my return on investments was calculated based on those assumptions, now the assumptions have changed. Belize, once again, becomes less attractive with more uncertainty for investors. The laws can change, the rules can change any moment. That is the message that we are sending today. And, again, I repeat, quite possibly with more changes in the nearer future. These were the words of the Prime Minister. So, we have an addition now to what has already been a serious erosion of investor confidence in our jurisdiction.

Mr. President, while originally this piece of legislation did not make allowances for an Appeal's Board, we are happy to see that, in fact, after consultation that the Appeal's Board was included. However, Mr. President, there still remains some serious concerns about the fundamental set up of this Appeal's Board. Because, Mr. President, and I quote, as the law stands, "an aggrieved applicant would have to resubmit to the very same body that it is trying to get an appeal ruling on." We would have to go back to the very same DPAC, before that appeal could be heard. And, Mr. President, resubmission would need to be accompanied by a \$2,000 fee. Why we ask, are we forcing the people to return to the same group of people that had previously rejected the application in this case? So, if you go to the DPAC, and your application is refused, and you want to make an appeal, you have to go back to the very same DPAC, who just refused you, and pay \$2,000. How does that make sense, and what is the main reason for this to be like this? Again, we wonder if this is not another insert to be able to screen out certain people from benefitting, and for us to be able to pick the winners and not the priority sectors.

Mr. President, I would like to take this opportunity, with your permission, to quote from a letter that the Chamber of Commerce wrote to our Clerk, and I am not sure if we have all received copies of it. But in it, the President of the Chamber makes three recommendations, and with your permission I would like to read them. Recommendation number one is, and I quote, “There is an inherent matter of investor, confidence, erosion, as most EPZ Awardees have entered into legitimate agreements with the Government of Belize that serve to inform investment decisions. However, the proposed changes are likely to significantly undermine the very foundation of those decisions. While it is acknowledged that the objective of the Bill is to bring Belize into legislative conformity with international obligations to avoid the afore mentioned erosion of confidence, it would be expedient for the existing EPZ Certificate of Compliance to be allowed to expire as per their original agreements. Naturally this would only apply to existing contract holders as new beneficiaries would fall within the confines of the DPA regime.” Again, remember that limitation on the 10 years, it is something that was not demanded by the WTO or the E.U., and we question why were these people not given the remainder of their benefits that they had under the EPZ?

Recommendation number two states, there is also the conspicuous attempt within the Bill to provide only an appearance of compliance with the international obligations. It is highly unlikely that lawyers associated with organizations such as the World Trade Organization would fail to notice what the business persons in stakeholder’s sessions with the representatives from the ministry had observe, that provisions such as that found in section 9(7) of the Bill, is designed to remove the exports subsidy orientation in law but preserve it in fact. If G.O.B. cannot bring itself to comply in both law and, in fact, to avoid a repeat of the current threats of block listing, it is advised that the government expedite the process towards a complex tax reform in which the tax legislations are amended in such a way to provide the benefits to the priority sectors without the need for specialized regimes such as the DPAs or the like.

Recommendation number three, Mr. President, reads, “Section 18(3) of the DPA Bill only provides a ten-year exemption from taxes such as taxes on dividends. If recommendation number two is not doable in this short to medium term, it must be emphasized that on average, profits are not likely achievable for the first five years of new investments. Therefore, a company may only be able to utilize this benefit to half of the time given. To address this, it is recommended that the Bill be amended to allow for the benefits to only be applied when dividends are actually issued by the DPA business.”

Mr. President, we also had extensive submissions from the BPO sector. And with your permission, I would like to read some of those. They claim that this is a sector, Mr. President, with very little environmental foot print, but a large and positive impact on employment and on foreign exchange earnings. And we all know, we desperately need employment in this country, and this sector has been growing and has been providing a lot of employment for our citizens that are desperately in need. And now, Mr. President, they stand to be affected. Presently they employ over 3,100 Belizeans. And this does not include, Mr. President, the employment from other benefits and other spin off benefits from the businesses that they do business with. They claim, Mr. President, that the BPO sector has grown on the physical incentive infrastructures. In other words, they invested because they had contracts. They invested because they were promised certain things under law. Certain conditions were promised, and it’s based on those conditions that the investments in Belize became attractive. They claim, and I quote, “It is very likely that these investments would either have not been made, or would have been made to much lesser extent, if the EPZ Act did not exist.” They go on to say, Mr. President, that the sector is now faced with the

unthinkable, the prospect of operating now in an atmosphere of uncertainty. We hear this again from yet another sector in our country, uncertainty. And this uncertainty, of course, is because the EPZ Act is being repealed and it is being replaced with a severely, their words, gutted substitute called the Designated Processing Area Bill, 2018. The concerns of this sector they say are extreme, especially in the wake of government's recent decision to target the BPO sector and subject it to paying the General Sales Tax on local inputs. This was done with little to no private sector consultation to better assess the financial impact. So, this industry has received a double whammy, a left and a right. Their inputs did not attract GST. Recently we passed legislation, now they have to pay GST on inputs and now, bam, the right. They lose that certainty that they had. They lose that contract that they had with us. And, again, we question, are we opening up ourselves to more litigation, which the Belizean people will always have to pay the bill for that, I remind.

And, importantly, they say that they do not believe that the repeal and replacement of the EPZ Act with the DPA Act will be adequate to satisfy the demands of the E.U. or the WTO. So, again, there is doubt as to whether, in fact, the legislation will achieve what it is that we say that it is going to achieve. Their recommendation for this, Mr. President, was if it is the intention to shield certain sectors from direct or indirect taxation, then the specific tax legislation should be amended to reflect this intention. This would negate the need entirely for the legislation, like the EPZ or DPA, that seems to be creating special enclaves only because taxes were imposed, without exception in the specific tax legislations. The concern of the E.U., and WTO seems to focus on these special carve out such as the EPZ. They make a recommendation in the issue of exemptions from excise and consumption taxes on inputs that the BPO sector be allowed to register under zero rated status for both foreign and local inputs. As this, they claim, would allow the sector not to seek, to avoid making local purchases in effect disadvantaging local suppliers. In the issue of the 20-year tax holiday and replacing it with ten years under the new Act, they recommend that if the 20-year tax holiday cannot be maintained, then the 10 years should not be calculated in a consecutive manner but only for the years in which the benefit is actually only utilized, in those years when they only make profits. Because it is normal, Mr. President, for companies like this to make investments that will not generate a profit to the investors, perhaps until 5 years or after.

Mr. President, they also sought clarity on a number of issues. They sought clarity on the application process and requirements for current EPZ holders and new potential DPA applicants. They sought clarity regarding the fees attached to both processes along with the annual zone fees. They sought clarity about what is being done to help make the application process less time consuming and cumbersome, and thus facilitate doing business in Belize? What type of reporting will be required and what is the time frame for such reporting? And what is expected following the 10-year period in terms of the incentives to reapply, and what does partial benefits represent? What should we expect to lose?

Again, Mr. President, another repeating message that we heard from the sectors was that, yes consultation was done last minute, but these things we knew were coming upon us for a longtime, and that we should have had more consultation over a given period of time. And that it is a travesty that we seem to be passing legislation all the time at the 11<sup>th</sup> hour, and in a rush, or such a rush. When you are affecting people's livelihoods, you are affecting investor's confidence, and the investor climate. Mr. President, these people had legitimate expectations of being granted benefits under contracts. And we are seriously concerned, again, that we have not opened up ourselves to massive litigations. But I'll leave that for the attorneys to discuss.

Mr. President, there are many items, as I said, that have not been spelt out in this law. There are many items that, in fact, and I will highlight them, I will highlight some of them in the other related pieces of legislation that we will discuss today. But there are many items that are open to interpretation, we believe and litigation. There are many items that will need to be communicated and need to be interpreted by the Commissioner of Income Tax, for the Commissioner to explain what her take on it is because the law is unclear. We have not seen the regulations. We don't know, in many instances, how the Commissioner is going to interpret some of these new laws. And, again, because of the lack of clarity in legislation that we are passing today, we could again, be setting ourselves up for another challenge, and I know that the government feels that it can wipe away these liabilities if they should occur by passing retrospective legislation, but that is not the point. The point is that when you have legislation that is less than clear, and is left up to interpretation, not by the law makers, but by the enforcers, we have seen what has happened. So, why did we not take the time to make this piece of legislation as clear as it should have?

There are things, for example, Mr. President, that we have not seen but have raised concerns. For example, the application cost for an EPZ was US\$1,000.00. Now the application fee, we are told, is BZ\$5,000.00. So where is the incentive? How are we proposing then? Again, like I said, well, like the preamble states: to facilitate investment, stimulate employment by raising fees. Fees that were not, by the way, dictated by the WTO, or the E.U. There is still the matter of industrial roof space that these people have to pay. There is still the matter, again, of fees, DPAs now have to pay their application fee, as I said, of \$5,000.00, and then \$15,000 if your investment is between \$500 and \$1 million; \$20,000 if your investment is between \$1 million and \$5 million; \$30,000 if your investment is above \$5 million, which by the way, I don't understand the rhyme or reason of this thing, because the rate then changes, if you have a small investment, your rate there is between 3% and 1 ½ %. If you have a \$1 million to \$5 million, then your rate is between 2% and 0.4%; and if you have an investment above \$5 million, your rate is between 0.6% to 0.3%. Again, how do we arrive at these sums? What is the logic that is applied here? And, again, these fees are not requested, or demanded by the WTO. No regulations we have not seen, and we all know the devil is in the details and how you interpret it. We just were in this House, not too long ago, passing legislation to negate our responsibility and our liability, all because we need to erase due to confusing legislation and confusing interpretation. This is a disservice. Yes, consultations were made at the 11<sup>th</sup> hour. Yes, some changes were made. Yes, we had to address it, but let's do it good man. Let's do it good. Let's really and truly, or otherwise take out these things. Facilitate investment, production of value adding, stimulate employment and the transfer of technology. I still don't see how this law is going to do that. In fact, we are making our jurisdiction less and less attractive. And we have to come to terms with that. We have to come to terms with that, Mr. President, because we need to create jobs. We need to stimulate employment. We need to facilitate more investment. We all know that FDI, Foreign Direct Investment has been dismal in this country recently. We need to identify national priority sectors and give them the tax advantages that they will need to create that employment. And we have to work together, seriously work together, not rush, rush. We need to focus on intensive, extensive tax reform legislation that will for these things so that we are not on the edge of some block list.

Mr. President, the law leaves room, again, for interpretation and for conflict within several pieces of legislation. I'll give you one example. Let's look at the sugar industry, and perhaps the Leader of Government Business can lend some clarity to this when he makes his presentation. But I understand that the

Sugar Industry Act, for example, only allows for sugar from the factory in the north to be sold locally. Santander cannot sell locally. But under this piece of legislation it's very confusing to say, or silent, in fact, that they might have the opportunity now to sell sugar locally under this DPA Act. Is that true? I don't see anything that would prohibit them. And when we come to the income tax portion, I will discuss some other anomalies, and I will highlight some other things.

So, in recap, Mr. President, we need to be very clear what the standards are, what standards are going to be applied. Those standards need to be designed and implemented as a tool to encourage participation, not to discourage participation. The standards need to be identified not only for local, the law is not even clear who is going to be responsible for applying the standards. Again, uncertainty. These things are important, Mr. President, because it all affects the investment climate, it all lends to uncertainty. And when you are investing your money, you don't want to be in an uncertain climate. We are fast becoming known as a jurisdiction of uncertainty. If we truly want to stimulate employment in this country we have to be able to provide our investors with legal certainty, with confidence, and wipe away this trend that we have demonstrated that is filled with uncertainty. And I certainly don't think that when we speak in this Honourable House, that we should be talking, especially at this time, about our Foreign Masters and that sovereignty is overrated. What sort of message are we sending to our people that we are not capable? We are not capable of devising our own path? These laws that affect us today, we entered in to agreements with the WTO. We should have known, we should have planned, we should have had strategy to deal with them. It's nothing new, it's nothing that the WTO or the E.U. or other people popped on us overnight. We signed those agreements. Nobody placed a gun to our head to sign those agreements. And, if so, we should have begun addressing those concerns from then. We can't choose to comply with certain laws and not comply with other laws. If there are obligations, there are obligations, but we have to find a way to carve our own future, to be masters of our own destiny and to work together to achieve that man. It's only by working together seriously and making it a priority. How do you think I feel when I hear legislatures come to this House and say they have not even completely read the pieces of legislation before them, and they are not familiar with it? That should never have happened.

We see so many instances of sloppy drafting, as well. Just this morning we had to be presented with another paper, and another piece of legislation. Who is taking these things seriously man? You are talking about the future of our country, you are talking about investment, you are talking about jobs, and we rush them at the last minute, and we send pieces of legislation that we don't even read. But we have all the beautiful buzz words. It is an Act to do so, and so, and so, and so. But where is it really, really effectively going to achieve what we say we want to achieve in the preamble? We have to do better, Mr. President, we have to do better. If we don't do better together, if we don't work together, seriously in earnest to address these matters, we will be left behind. That is why we have missions abroad, that's why we spend millions, and millions, and millions of dollars on foreign missions. We have to work with our partners in the Caribbean. Someone gave me a beautiful example recently that we are leading, we are championing this charge in climate change with our partners in the Caribbean. Belize is taking the initiative and leading, having these big countries contribute. The same thing, if the rules have changed, the environments have changed, we have to learn how to pull resources not only at home, but in the region, to find solutions to these problems imposed upon us as they claim. We cannot just sit down and cry, well, sovereignty is overrated. Well, we have masters. Well, I haven't read the legislation. Well, we have to do it. Well, shouldn't we be saying, well, let's start doing our jobs! Well, let's start putting Belize first! Well, let's start protecting investment! Let's stop looking at the business community only as a



source of income, but as source of development.

I understand that the ministry that gave the most trouble with getting feedback on this piece of legislation was the Ministry of Finance. That is what I understand. I understand that there was a lot good communication with other ministries, and, you know. And yet, the Ministry of Finance, but because they are only concerned with one thing, more revenue. Let's get serious man! Let's get serious. This is an important piece of legislation. We are at an important time in our country where we need to encourage business. We need to encourage more investment. We need to create more jobs. It cannot be something that we continue to leave for the 11<sup>th</sup> hour and don't do our homework, and don't give it our best. We have to find solutions for this country, nobody else will find it for us, we have to find it. Let us begin, Mr. President, seriously to find solutions that our country need. Let us begin to do our jobs. That is what the people sent us to do. We have a job, we have a responsibility. And I hope, in earnest, that the recommendations and the concerns from this sector, at least, are taken seriously and not responded to or replied to by some political mudslinging, because this is not about partisan politics, this is about the politics of the people of this country and the politics of creation of employment and investment in this country. Thank you, Mr. President.

**SENATOR O. SALAS:** Yes, Mr. President, thank you very much. I rise to share a few comments on this Designated Processing Areas Bill. Along the lines of legislation being rushed, like my colleague just now, I am also very concerned when these things occur, and then we are obliged to come back and see how we can amend and make corrections. And yes, in the Lower Chamber, last week, we heard that we must pass this legislation by the end of this month, by the end of this year, or else our country will face consequences. We have a consequence such as risking the loss of correspondent banking relationships. So, as has been said earlier, it was acknowledged in the Lower Chamber that we will need to come back and revisit this Act by early next year with a view to making necessary amendments. I want to refer to a decision by the WTOs Subsidies and Countervailing Measures Committee, adopted in July 2007, 11 years ago, for the extension of export subsidies. There were several countries including Belize that benefitted from this extension. But, I point that out to say that we had 11 years to think about what now is upon us. And yes, when I looked at this Bill, I did see a need, I saw many areas that need to be significantly revised and I just want to point out a few of these. You know, starting from the interpretation section for Designated Processing Area, it says that a DPA, or Designated Processing Area means a geographic area within Belize that receives benefits for economic activity in a national priority sector. I assume that when it refers to benefits, its referring to the benefits listed under part 5, section 18(3), the benefits granted by the Designated Protected Areas Committee, which includes exemptions from various forms of taxes and duties. So, I am pretty sure that the interpretation that was meant is that, who would receive benefits would be the company or companies that have been issued the PA status; but that is not stated in the definition of the DPA. So, if you read this the way it is stated, it is that the geographic area within Belize will receive benefits. So, an oversight we might say, but an example of what happens when we rush through legislation.

Another one I want to point to is under Part 3, section 8, which reads, "The Minister may by Order, declare a sector to be a national priority sector in accordance with the national plan." My question is, which national plan? There could be many national plans. I can think of many national plans. So, if a specific national plan was intended then, I believe that should have been in the interpretation section, at least.

Another one I want to refer to is under Part 4, Administration of DPA,

section 11(e), that reads, “Ensure that persons employed in a DPA who are not nationals of Belize or another CARICOM Member State, are employed a senior management or technical staff.” What do we mean by that? As it reads, you get the impression that this is saying that senior management or technical staff should be assigned to persons not nationals of Belize or another CARICOM Member state. I am sure that was not the intention. But unless I am completely misreading this, it gives a different impression. Another one that we might say is minor, but it is under section 12, the Obligations of a DPA Developer, section 14(b), under Obligations of a DPA Business, there’s something missing. It says that one of the obligations is to conduct only those that are activities approved by the DPAC. Those what, I am not sure. I have to guess what that could have meant.

And another minor one, and there are more, but I’ll just refer to these for now. On page 17, section 27, the DPAC shall not be liable for any injury or damages to any person in a DPA that is caused by the negligence of the person. This subheading refers to supplies. Again, we might say its minor, but these are examples of what can happen when we rush through legislation, when, as I pointed out earlier, we had years to think about this and to be better prepared for this month that is upon us. Thank you, Mr. President.

**SENATOR V. WOODS:** Thank you, Mr. President. Mr. President, I’ll be brief in my remarks. In reading the Bill that was sent to us in our packages, one can’t help but think of the cliché of haste makes waste. It does appear that this was rushed, but more importantly, I think the Prime Minister of the country basically admitted as much in the House. While I do recognize that many hours must be spent on legislation, I was particularly surprised to the extent in which that haste that this appeared to have been done with, so much so that these Bills were presented pretty much on the day of the House. And if I am not mistaken, as I listened to the Prime Minister, really not much time was given to either side of the House to properly appreciate what was before them.

I do associate myself with the comments of Senator Lizarraga and Senator Salas, because those are the same observations that anyone of us would make reading these Bills, objectively. I do question, and if the Leader of Government Business can shed some clarification on it, that would be great. Which national plan, indeed, is being referred to? There is no reference to it in the interpretation section in the definition of terms. There are several “national plans” that are still valid, Horizon 2030, comes to mind, but is it that that they are referring to? It really is unclear. In addition to that, I note at the back it does refer to the fact that the existing companies that are registered under the EPZ Act that is now going to be repealed, they should continue or be grandfathered in for the lack of a better term, I believe, until 2021. And it cites, it was specific there, casino, hotel, and a couple other. Yet, not so specific in listing what the sectors are in this new DPA Act. Again, I am asking for clarification, why is there not some listing of the sectors? And, if any of those listed at the back are intended now not to be considered in the DPA meaning, casinos or hotels, for example.

I also question, or seek clarification on this in the Act that, let me refer to the sections specifically. Under section 6, or Part 6, sorry, and we are looking at number 20, it refers to a prescribed fine. I am having difficulty finding where is the reference to those finds, unless my package is not complete, I cannot find the reference to the finds. And in many other pieces of legislation, one knows what the fines are. So, Mr. President, I am concerned because it is clearly a legislation, perhaps as the other that we will look at today, that appears to have been very rushed. We obviously will be coming back here to amend because of errors, or areas that will, perhaps lead to misinterpretation that needs to be corrected.

The other question that I have, and I am seeking clarification is, can the Leader of Government Business then, at least, explain how this corrects the breach that has been cited under the Code of Conduct and the other measures by WTO? What specifically has this now done to have corrected that? I have had difficulty over the last couple of days finding that. When I called the respective ministries, there was difficulty in articulating exactly how, and there was also difficulty in citing priority sectors and which specific national plan. Thank you, Mr. President.

**SENATOR E. COURTENAY:** Thank you, Mr. President. Mr. President, first of all, I would like to associate myself with the comments made by the Senators who have spoken before me. Again, it is incumbent on us to point out that it is regrettable that we are being forced to consider this legislation which clearly has not been thought out very carefully. There has been insufficient consultation with the private sector and those who are impacted by this piece of legislation. But, Mr. President, one of the issues that concerns me is the role of the Minister that is being given to the Minister responsible for Designated Processing Areas under this piece of legislation. And if we take a look at clause 3 of the Bill, it says, the DPAC shall consist of no more than 10 person who shall be appointed by the Minister as representatives of the following, and then it lists a number of ministries. And then when it comes to the private sector, one representative from the Chamber of Commerce, but it is not nominated by the Chamber of Commerce, so it's the Minister being given power to choose and say that person will represent the Chamber of Commerce. The same applies to the DPA Developers, the DPA Businesses, and special DPAs. And one representative from the industrial sector, and one from the services sector all within the discretion of the Minister. You go down to clause 6, it says, the Minister shall appoint from among the Members, one Member to be the Chair to preside over meetings. But the very next clause says, the Committee shall, at its first meeting select from among its members a Deputy Chair. Why can't the Committee select its Chair? Why must the Minister have the right to choose who should be the Chairman of this Committee?

Again, when you go over to clause 6, I believe Senator Salas has already pointed out the difficulty with no personal liability shall attach to any member of the DPAC for any act or omission of the DPAC, or anything done or permitted in good faith in the course of the operations of the DPAC under this Act. We have a Public Authorities Protection Act, Mr. President, which deals with the liability of persons and the non-liability of persons for their acts. And I don't think that we want to be putting this type of exemption in this piece of legislation, where you are talking about the possible impact on commercial activities of investors. You go down to clause 7, the DPAC shall be managed by a secretariat, which shall serve as the technical arm of the DPAC. The members of the DPAC, shall be selected by the Minister. Now why is a Minister selecting from among employees of a Ministry who should serve in a secretariat? A member of the secretariat shall be selected by the Minister to be the coordinator of the secretariat. What is the role of the CEO of this Ministry? Why is the Minister choosing who is going to act in a secretariat?

You go over, Mr. Chairman, clause 9(7), the DPAC may refuse an application if it determines that the activity of the company will distort competition in the market. Which market? What is the extent of the distortion? The fact that you export, produce something and exporting to a market creates distortion. So what is the extent of the distortion? And if you are exporting, why is it the concern of Belize if there is going to be distortion in a foreign market? That country has to have the ability to deal with that distortion in their market when a goods goes in there. But it continues, or be inconsistent with fair-trade practices. Which fair-trade practices? Is it that the DPAC is going to sit down and make a

determination that if you export shrimp, or if you should export fish, or whatever it may be, you are violating fair-trade practices? But what is even more alarming is 7(b), for any reason, as determined by the DPAC, where you have legislation that prescribes under clause 10, what is required to be eligible for designation. Why would you then provide a clause that says, for any reason that this Committee decide that it is appointed and controlled by the Minister, I can refuse your application. It is inconsistent, Mr. President, with giving confidence to the business community. It is once, again, establishing in statute, the role, the centrality, the influence, and the pervasive influence of Ministers. And it has nothing to do with the current Minister, it has nothing to do with the PUP or the UDP. It has to do with us trying to move away from ministerial discretion in the giving of licenses, permits and permissions.

Again, when you look at clause 18 (2), or 18 (1), an approved company shall be issued a DPA status for a period of not more than 10 years. Then it goes to 2, a company that applies to the DPAC for a DPA status, on the first occasion, shall be eligible for all benefits listed in subsection 3, for a period of up to 10 years. But how are we going to determine if it is 2 years, 5 years, 7 years, 8 years? Does it depend on who you are? Does it depend on whether you are a friend of the Minister? Why is this legislation not prescribing that in the first instance, if your investment is of such, and such a size, you get a particular group of benefits, and if it is more, you get another set of benefits. We need certainty and not discretion given to the Minister with respect to that type of thing.

Mr. President, as has been pointed out again, clause 20, I have not been able to find any fine in the legislation, and it seems that there was something wrong there. Establishment of an Appeal Board, and perhaps the Attorney General can assist us with this. There is an establish Appeal Board which shall be appointed by the Minister by Order and consist of 2 representatives from the Attorney General's Ministry. We are dealing with Designated Processing Areas. We are dealing with investments. We are dealing with fiscal incentives. We are dealing with attracting investment. Why do we have 2 representatives from the Attorney General's Ministry on an Appeal Board? Then the President of the Chamber of Commerce, and a representative from the private sector. I thought the President of the Chamber of Commerce was representing the private Sector. Mr. President, there is a difficulty with establishing boards like this to make decisions in respect of massive investments by people. And when you look at the board and you ask what are the skill set that the person serving on the board bring to the Appeal Board, and you have to ask yourself the question, there is no clarity, what is the purpose of this membership? Is this something that has been hurriedly put together? You will notice that the Minister shall appoint a member of the Appeal Board to be the Chair, and at 4, the Minister may terminate the appointment of a member of the board for inability, or misbehavior, or on the ground of any employment or interest which appears to the Minister to be incompatible with the functions of a member of the board. That doesn't give confidence to people that their appeal is going to be heard by a board over which the Minister has this power to remove these persons virtually within her or his discretion.

Mr. President, like those who has spoken before me, all I can say is, if it is, indeed, that we are passing this legislation to meet some deadline, and the government has determined that it wants to meet that deadline, I think that we should take up the promise of the Prime Minister, that more than likely these pieces of legislation will come back before these Chambers in the not too distant future when we can have sober discussion and debate about it and fix the things that appear to us not to be perfect. Thank you, Mr. President.

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** Thank you, Mr. President. Mr. President, I thank colleagues for the comments. Several things have been raised, I won't take the time to go through all of them, I think actually, quite frankly Senator Courtenay, in the spirit of the Christmas summed up for me that, in fact, yes, there are going to be some tweaking here and there. But the main thing I wanted to say, this issue of section 20, that Senator Salas brought it up, if you look at section 31, it will say that he DPA, with the approval of the Minister, again, may make regulations for better carrying out of the provisions. And it states prescribing the criteria, and prescribing fees and costs. So those will come in Regulations.

Senator Woods raised the issue of the hotels, etcetera. It is my understanding, and I was not the one who did the communication that the team that was working was in constant communication with the E.U. and it was a E.U. prescribed recommendation that says that these hotels and casinos, etcetera, should be out of this by 2021. And there are several other things that came up. But the bottom line to it is this, Mr. President, and I think Senator Lizarraga continues to put his figure on it, it's time, and time, and time. Many years ago, under the leadership of Senator Courtenay when he was Minister of Foreign Trade, I was privileged to go to Geneva, in the team of the National Trade Negotiating Committee, together with my current CEO, both of us were co-chairs, to make countries presentation. And I always brought back one thing from it, the panel up there I don't remember the full panel, but it had Japan, the US, the E.U., I think China, South Africa, and somebody else. And they were questioning us, and various members of the team made excellent presentations. On that day it was ourselves and, I think it was Suriname, making the presentations. But what I brought back from it, particularly when we talked about the trade in sugar, one little issue stood out, it was our size. It was so miniscule, and it was so undistorting to international trade that people were not too concerned. The signal was there, however, that some time down the road we would have to be taking these into consideration. And the buzz word now seems to be harmful tax regimes. The OECD countries, the E.U., and them were saying, our regimes have harmful tax practices to them, to them. So our endeavor and our effort under the entire team in the Ministry of Trade that has been working on this, and holding several consultations with the BPO people and all of that has been to see how this can be addressed to satisfy the requirements of the OECD, requirement of the E.U., requirements while at the same time not bringing down the mall on top of the heads of those people who operate EPZs in Belize. So, it's been a delicate tiptoeing march, the result of which you have before you.

And so, I will close by simply saying yes, there will be some amendments, I am sure. We raised a lot so those of us who work in the Committee and thank you Senator for talking about leading in climate change. There are a lot of things that we have to put a tremendous amount of effort in. In the Ministry of Agriculture, we are concerned about this Bill ourselves, and our team put forth a lot of recommendations and suggestions to find their way into this Bill, because we are concerned about those things. And believe you me, it's not the final end of this casting stone. Like all legislation, they are subject to amendments and subject to amendments. One of the principal one that keeps jumping out at us all the time is the simple matter of gun control. So on that note, I want to thank colleagues for their comments and I move the Bill.

**MR. PRESIDENT:** Honourable Members, the question is that the Bill for an Act to repeal and replace the Export Processing Zone Act, Chapter 280 of the Substantive Laws of Belize, Revised Edition 2011; to facilitate investment,

production of value adding of enterprises in Belize in national priority sectors; and to ensure compliance with regulations and standards; and to stimulate employment, transfer of technology and economic development; and to provide for matters connected therewith or incidental thereto, be read a second time.

All those in favour, kindly say aye; those against, kindly say no. I think the ayes have it.

Bill read a second time.

## **2. Income and Business Tax (Amendment) Bill, 2018.**

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** Mr. President, the following three Bills, well all of them basically are related today, but the Income and Business Tax, the Stamp Duties, and the International Business Companies are all tightly connected.

I rise to move the second reading of a Bill for an Act to amend the Income and Business Tax Act, Chapter 55 of the Substantive Laws of Belize, Revised Edition 2011; to make provision for a tax regime for companies engaged in certain business activities; to set the rate of tax for these companies; to exempt from tax the interests and dividends from certain trade or business; and to provide for matters connected therewith or incidental thereto.

Just briefly, a little background, as you know, Mr. President and Colleagues. Belize acceptance of the OECDs invitation to take part in BEPS, which is that harmful tax issue, inclusive framework, we undertook a review of the entire package, and considered the mechanism of implementing and recommending changes. The action points arising from those fell into 4 keen minimum standards and several recommended standards that are voluntary, but which are considered effective measures. The general aim of the forum and harmful tax practice, the FHTP was to revamp the work on harmful tax practice with a priority on improving transparency, including compulsory spontaneous exchange on rulings related to preferential regimes, and on requiring substantial activity for any preferential regime. What they call the Action 5, Final Report, provide the recommendations in the following areas: requirements for substantial activity, to ensure preferential regimes, align the taxation of profits with the substantial activities that they generate; 2, improving transparency through spontaneous exchange of information on any relevant tax rulings; and 3, ensure that the forum and harmful tax practice continues to review and monitor the preferential regimes.

This is the last Bill we will read in this slew of Bills, but it's the IBC one, and I will just say it here. The IBC regime, one of the issues with that one was that it permits IBCs, to pay a very low rate of tax in Belize thereby creating a preferential regime for a class of companies. It also excludes resident tax payers from the benefits of the regime, as well as, excluding IBCs access to domestic market, ring fence they call that. And most companies incorporated under IBC regime lacks substantial activities. And the OC determined that since the IBC regime can be used for any legally permissible person can't be used for holding IP assets thereby making it an IP regime. Therefor the IBC regime allows a tax payer that is the IBC to benefit from an IP regime even though the tax payer itself has not incurred qualifying R&D. Expenditure that give rise to IP. IP means intellectual property. The fact that Belize does not gave formal transfer pricing relations has also cited as a potential cause for concern. And we, the Government of Belize gave an undertaking to the OECD that these regimes will be amended to

remove these harmful features before the end of this year.

**SENATOR M. LIZARRAGA:** Mr. President, just for clarity, am I to understand that we will be debating the following three Bills?

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** No, no, I just gave a background.

**SENATOR M. LIZARRAGA:** Okay. So we are just limited to the Income and Business Tax (Amendment) right now, is what you are saying? Okay.

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** Are you objecting that we talk about all 3?

**SENATOR M. LIZARRAGA:** No, no, I just wanted clarity because I heard you talk about the IBC and I was wondering if...

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** I simply said they are all connected.

**SENATOR M. LIZARRAGA:** Okay, okay, just for clarity.

**MR. PRESIDENT:** Well, if you would like to talk about all 3 and move it together, it's all up to you.

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** No one is objecting.

**MR. PRESIDENT:** Well, let's move on, its Christmas guys.

**SENATOR M. LIZARRAGA:** Your ruling, okay.

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** Well in which case, let me read the other two.

**MR. PRESIDENT:** Yes, Sir.

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** Is that acceptable?

Stamp Duties (Amendment) Bill, 2018. Mr. President, I rise also to move the second reading of a Bill for an Act to amend the Stamp Duties Act, Chapter 64 of the Substantive Laws of Belize, Revised Edition 2011; to exclude a certain category of international business companies from the charge of duties applicable under Part IV; and to clarify the interpretation of a Belizean company in regards to the excluded category of international business companies; and to provide for matters connected therewith or incidental thereto.

And Mr. President, the International Business Companies (Amendment) Act, 2018, I rise to move the seconding reading of Bill for an Act to amend the International Business Companies Act, Chapter 270 of the Substantive Laws of Belize, Revised Edition 2011; to eliminate ring-fencing by extending the regime to Belizean residents, removing the restrictions from international business companies to carry on business with Belizean residents, removing the prohibitions in relation to owning of real property, and removing the exemptions from taxes and duties; to provide for physical presence by international business companies; and to provide for matters connected therewith or incidental thereto.

**SENATOR M. LIZARRAGA:** Thank you, Mr. President. Mr. President, while I heard the Leader of Government Business make reference to the fact that we will be back, and the Prime Minister has even said we will be back. I have heard that we will be back to make amendments to legislation before. And, if I can recall, I don't think, and I stand to be corrected, we've been back to make any of those amendments we've been promised. But, maybe we might be forced to be back shortly.

Mr. President, I would like to question some things in this Bill for an Act to amend the Income and Business Tax Act, Chapter 55. And if we look at section 4 of the principal Act, again, there are lots of uncertainties, in my laymen's view, and even with those none legal persons that I have spoken to, that lends to uncertainty again. And I am going to try and explain. But let me read first, Mr. President. Section 4(a)(b)(i), it says the rate of tax for international business companies shall be as follows: one point seventy-five *per centum* of the chargeable income amounting to a sum greater than three million Belize dollars. Well the first question is, and it's a very serious question is, what is the definition of chargeable income, because this piece of legislation has no definition of chargeable income. And chargeable income, Mr. President, basically means taxable income, but is this a taxable income on sales or profits? Because while the rates are aligned of those with business tax, which is calculated on gross sales, the impression I'm getting from many in the field, in the industry, so to speak, is that the intent is for it to be on net profit. A big difference. I would like some clarity, because whether you going to charge the rate on your net profit, or on your gross receipts is completely different. It's not the same. I am not talking about the choice, I am talking about the rate. You have a choice, but the tax on net profit is different than the tax on gross receipts. This does not address the rate on net profits. Again, the reason I am raising this, is again, I don't want us to run into problems when we get into the interpretation of these things. It could have been clarified with a simple, I am reading section 4 (a), where it says deleting the Proviso, below you look at subsection (b)(i).

In the following section (ii), now, remember the first one said 1.75% of the chargeable income amounting to a sum greater than \$3 million. So, if you have \$3 million in income or more, you pay 1.75% of your chargeable income, whatever chargeable income is. In (ii) two says, three *per centum* of the chargeable income amounting to the sum of three million of a lesser amount in Belize dollars. I humbly submit that that is a typo, and it should have been, or, if I am reading it properly, it should read three *per centum* of the chargeable income amounting to the sum of three million or a lesser amount in Belize dollars. So, we question, why this regressive thinking? Why is it that you are penalizing people at 3% if your sales are less than three million, and then the bigger company that has more sales, more than \$3 million is only paying 1.75%? How is that progressive? How are you encouraging small companies? How are you creating more employment, encouraging more employment? So, why penalize the smaller operations? That is our question. What is the definition of chargeable income, and why was it not



included?

Then if you look at subsection (c), it says the rate of tax for companies operating in a designated processing area shall be the rates specified in paragraph (b); and, I don't know why that and is there, but, (b) says, again, to me, it appears to be a sloppy legislation, but paragraph (b) says, by inserting after subsection (5) a new subsection (6), as follows. And then subsection (6) says, for purposes of the *Proviso* paragraph (b), which speaks to the rate for companies operating in the DPA. It says, where a company is engaged in a trade, business, or profession where the revenue or income is derived outside of Belize, the company shall not be liable for payment of income tax in Belize. So, they are exempt for export sales. Now, remember the DPAs are now allowed to do business in Belize, to have sales in Belize. While this legislation speaks to business tax, if these people operating in a tax-free environment, I mean, tax free from the importation of goods, raw materials, etcetera, are allowed to sell in Belize, why do we not see a *Proviso* in here stating that we are now operating in a territory that's not a tax free zone, so to speak. This new animal has the capacity, first the EPZs, that's a total separate area, right, apart from the custom territory, let's say that. Now this DPA can exist, so to speak, within the customs territory. What happens now if the DPA starts selling in Belize? Well, the way I read it, those sales in Belize will certainly attract the business tax, and I need clarity, and perhaps the Honourable Attorney General can lend that clarity. But if I am to understand, subsection (b), (i) and (ii), at different rates, now, and those rates are set by your volume, that is not so in the business community today. The rate is fixed regardless of your quantum of sales, 1.75%, if that is the number they are using here. And that rate carries through no matter how much you sell.

But because they are operating in a zone that is now a custom zone, and a none custom zone, so to speak, I don't see any provisions in this law for them to pay the taxes, that is the customs taxes now we are talking about, when they do local sales. The law is silent on that and perhaps, again, some clarity can be lent there. Customs Tariff aside, it appears that companies under the DPA now will be more advantageous because they will have a lesser tax burden than companies in the territory if chargeable income is defined as net income. If chargeable income is gross income, then they would be on the same playing field, so to speak, except that you would be charging companies with a lesser amount of sales, \$3 million, if it's a lesser amount than \$3 million, you would be charging them 3%. So, this whole 2 sections to me are extremely lacking in clarity. And I'll tell you why it's important. Let us look at a juice company for example, and we have juice companies in this country that are EPZs. Now, supposedly, they will be given DPA status, so they will fall under this, if sales are greater than, they'll pay 1.75% of their chargeable income. And if chargeable income is going to be gross income, then that's fine, they will be paying the same as the Belizean company who is not operating on an EPZ that sells juice. But if chargeable income means net profit, the local companies is already at a disadvantage, again, not even talking about the customs zone. So you would have one company doing business in Belize and selling to Belizeans and paying on net profits, and one company paying on gross income. It's a big difference. The company that's not doing business as a DPA in Belize would have had to have paid all his duties on all his capital investments. All the capital infrastructure. The company doing business in a DPA or formerly a EPZ would not have paid import taxes on the capital infrastructure, and yet would be in a position to compete with the smaller companies that paid all their taxes. Something is wrong.

Now the Commissioner, section 6 of the principal Act has been amended to insert this new 32A, where the Commissioner, and I assume they are talking about the Commissioner of Income Tax, shall have the power to require the following companies to be audited by an independent audit firm in accordance with IFRS. But

the law is very silent on who pays for that audit. The Commissioner could demand an audit, but who will pay for it? And he/she can demand an audit every month, technically because the reporting period for business tax is monthly. Who pays for that audit? And I don't know why there was a limitation on the receipts. It says, an international business company, now these are the situations where the Commissioner can call for an audit right, (a) an international business company with receipts of at least US\$6,000,000; and a company operating in a designated processing area with receipts of at least BZ\$500,000. So, why are we limiting the Commissioner, who, as I understand now, has the right to call for an audit at any time, any size company? Why are we seeking to limit her ability to audit? If she believes that you are not paying your taxes, she has the right, and should have the right to audit you. But it goes on, we harness the Commissioner even more. If you look at subsection (c), (i), (ii), (iii), (iv) and (v), and I will read them. But it says, any other appropriate entity which meets at least two of the following criteria, and it goes to list them. And it ends by saying and any other business entities, which to me covers all of them, so why list the criteria, because she can audit any other business entities. So why list a list of restrictions and then have a section that says and other business entities? Why didn't we just say, she has the right to audit anyone, and just say who will pay for it so there's clarity? I don't know if I am reading this wrong, but, on one hand, it seems the legislation wanted to shackle her and to put conditions as to who she can audit, and then on the end says, and other business entities. Again, uncertainty.

Again, in subsection 4 of section 6 it says, every person who contravenes any of the provisions in this section commits an offence. But again, as Senator Courtenay pointed out in the previous piece of legislation, there are no fines, that I can see, that are outlined for these offences. What offences being committed and how much are the persons going to be liable for if they breach? Mr. President, again, I believe that this amendment, this Bill for an Act, is one of those that after careful scrutiny will need to be revised. And I am saying, it is not clear, it is open for a lot of interpretation and I am looking forward, perhaps for input from the attorneys here today to see if they can lend some clarity, because the way I read it, it certainly isn't.

Mr. President, I must confess that I understand the reason for the Stamp Duties Bill, and it follows similarly to what we've been looking at here today, except that I could not, Honourable Attorney General, find in that lovely cd you gave me with the laws of Belize, find section 72 (5), or 14 (4a). Even though this Act was amended, I think in 2011, it was not on the CD with the Laws of Belize that I have, so I am not able to contribute significantly there, and I still look forward to the promise of the updated revised laws of Belize as promised by the Attorney General. It was updated, those sections were updated in 2011, it claims, but the subsections that were amended were not on the CD. The CD only had up to 72, 1 and 2. It didn't have 72 (5) as this portion refers to, and 14 (4a) were not on the CD. But I think I understand the spirit in which the law is being amended. That will not apply.

Now, I am going to be very brief on the final one, the International Business Company (Amendment). But I must raise some major areas of concern here. This was an industry that was, at one time, a national priority. It was one of those areas that we had identified as a national priority sector for growth. And I understand not too long ago, probably last year, there were some 300 and odd practitioners in this thing, and now its cut almost by half. I understand that this industry, beside direct employment generated close to some \$40 million in tax revenue from the different entities involved to the Government of Belize. And, I remind that we still have some pending litigation in this industry referenced the IMMARBE Acquisition, and it concerns me that we have to protect, and preserve, and grow this. And I must say from the outset that, in speaking to many people, that there is a general feeling that we need to be a lot more proactive in this industry, and I am talking here about the regulator and the industry, that there needs to be more cooperation and planning, and that was the general sentiment that I got. I think that many in the industry feel that the Bill confirms with the pressures that were being put on us, and that those foreign powers, so to speak, using their words, are not done with us yet, that they will be coming back.

And there is the general feeling that there is a lot of hypocrisy from these foreign powers, because they have not, themselves, addressed many of the core problems in their own jurisdictions. So, again, I caution that we have to put Belize first. We have to be proactive. We have to seek to work, both industry and government in protecting those important areas that we once promoted. It's a thriving, budding, contributed a lot to the local economy as well, because I understand that a lot of the monies from these IBCs have been used to stimulate not only the tourism sector, loans to the tourism sector, but I understand, even loans to the sugar industry. And they have contributed significantly, the money is sitting in the local banks here from the offshore, has contributed significantly to the development and the access of capital for the development to many industries in this country. So, it is a nationally important sector. Some people say it contributes almost to 5% of our GDP. I don't know how true those figures are, but those are the figures that were thrown my way in consultations. So, it is something that we have to stand up and fight for again, and we have to find ways for this thing to work. So, all I ask, Mr. President, is that we take a more proactive approach. And I think even people in the industry will admit, and many of them have admitted, again, that this is something that needs to be adopted not only by the regulator but by the industry players themselves. Our country needs that revenue. We cannot be affording to lose any of our sectors right now, especially one that contributes that much revenue, as I said, \$40 million was the number I got for last year, and it creates employment for over 200 people directly, and indirectly there are many others.

Mr. President, I understand, as well, that it is a tool now available for Belizeans to utilize, especially if the Belizean companies want to expand its operations and sales to other jurisdictions, which is a good thing, and I understand that there are no immediate tax disadvantages, on the contrary, they may even be tax advantages for doing so. So that is a good thing that we've now allowed Belizean companies to use that tool. So, Mr. President, I think with those comments, I seriously request, again, that, you know, maybe the country needs to set up a permanent mechanism to allow for constant dialogue and constant formulation of strategies to deal with this matter, because again, this matter is not going to go away anytime soon, as you know that. So we have to preserve and protect what we have. Thank you very much, Mr. President.

**MR. PRESIDENT:** One second, Senator Salazar.

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** Mr. President, in accordance with Standing Order 10 (8), I move that the proceedings on the Order Paper may be entered upon and proceeded with at this days sitting, at any hour though opposed.

**MR. PRESIDENT:** Honourable Members, the question is that the proceedings on this Order Paper may be entered upon and proceeded with at this days sitting, at any hour though opposed.

All those in favour, kindly say aye; those against, kindly say no. I think the ayes have it.

**SENATOR A. SALAZAR:** Obligated, Mr. President. Mr. President, I wasn't going to say anything on this, but I feel compelled to address one thing which has been said by, Senator Lizarraga. I need to clarify something that he said, because he made a big deal about it and I don't think that it should go unchallenged, or it should go without mentioning anything. The issue of

chargeable income, this Act is an amendment to the Income and Business Tax Act. Chargeable income is defined in the Act. So, whenever you use the phrase chargeable income, it refers to the definition which is in the Act. So, the definition of chargeable income can be found at section 5. Sorry, it's in the definition section. Chargeable income means, this is section 2, and I think we are talking about here, the second part of the definition, the first part deals with natural persons. In the case of any person other than an employed person, the aggregate amount of the income from the applicable sources specified in section 5 of this Act remaining after allowing the appropriate deductions and exemptions under this Act. Section 5 gives you a list of deductions that can be made by anybody, as it exists now, you can make deductions pursuant to section 5, which talks about the charge of income tax. Sorry, section 5 talks about the charge on income tax, section 11 speaks about deductions and allowances from your chargeable income. Section 5 elaborates on the charge of income tax, section 11 elaborates on how you ascertain the chargeable income of any person. And it allows you to deduct certain things, interest upon any rent paid by the tenant, and several other things.

So, the fact that chargeable income is not defined in this, is nothing. It is of no consequence. You don't need to define chargeable income here. Chargeable income is defined in the Act itself. So, how you determine what you are going to tax is based on what the Act says, based on what chargeable income is, that's how you determine what you are going to tax. You apply the rate that is in the amendment to chargeable income. I don't understand what the big deal is. Chargeable income means all your income, and you determine the chargeable income just like any company that operates in Belize. The chargeable income is the same for and IBC now, as it is for a regular company. The definition is the same. There's nothing being changed. I don't understand what the big deal is. If you read section 3 of the Act, along with section 5 and section 11, you will get your answer. The answer is, read section 3, along with 5 and 11, and you will get your answer. The thing is, what most people don't know is that at the end of the year you can net off, if the chargeable income is in excess of that which you paid as business tax, then Income Tax Commissioner remits that. So, basically it doesn't make sense, and what you work with is the business tax for companies. What you work with is the business tax, because if there is an excess on the income tax, then the Commissioner remits that and that's neither here nor there. The bottom line is that the chargeable income is defined in the law. When there is a reference in the amendment to chargeable income, it is referring to something that existed from 1999. And it applies to the IBCs as it applies to 250. So, I don't see what is the reason for confusion. Obligated.

**SENATOR V. WOODS:** Mr. President, it would have been remiss of me to at least not comment on the disappointment I have in all of these, having to have to come to debate all these Bills, including the one that we debated earlier, being the purpose of the last meeting of the Senate. And I put it on record, my disappointment. One, because of the haste, I know we did have some time to do this better throughout the year. But two, and more importantly it underscores that we really are not operating with a legislative agenda in this country. And given the pressures as the Prime Minister puts it by our so-called "Masters", which we all are aware of because of the various conventions and treaties signed on to, one would hope that we can be more proactive in 2019. I particularly, if you allow me, want to quote what the Prime Minister said. "The people in Europe are our masters, which is, perhaps a more better term, he said, and this is one of those circumstances in which it appears that sovereignty is much overrated because we don't have much other choice." Mr. President, we may not have a choice, in the fact that one has to amend, but we do have a choice in what those amendments can be in properly consulting on those, but we also have a choice to bring domestic legislation that reaches a wider audience.

And I close, Mr. President, in citing the reasons, or names of persons why we should have had more than just this legislation in this last final months of 2018. And those are, Josephine Hamilton, age 30 of Punta Gorda; Maria Yasmin, 34, of Trial Farm; Roxanne Pop, age 33, Belize City; Marcia Downs, age 37, Belize City; Hermelinda Emmanuel, age 46, Belize City; and prayers and thoughts, of course, going out to the young, Anisha Young, age 23. Mr. President, I cite that because this has been a year where we've been called to Senate Meetings with the extreme difficult environment, social environment, and legislation is not coming before this Senate to address those. I hope, and I put on record that for 2019, we can all do a better job to encourage legislation to address domestic issues, as much as we must address the issues of foreign. Thank you.

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable Development, Immigration Services and Refugees):** Thank you, Mr. President. I want to thank Senators for their comments. I heard that Senator Salazar cleared up the issue of chargeable income, which was a question being asked. Well, quite frankly it's in the legislation as he has said. But the whole idea of these Bills, especially the last one, is to bring, we under one hand applaud the fact that we were having all these investments and we are giving all these preferences, etcetera, etcetera. And on the other hand we are complaining with kind of easing it in. It's an attempt to do the minimum that satisfies without upsetting the sector. And so, I would like to just close with a statement. I had first started, and this is the second time I am calling Senator Courtenay's name, but I had first heard it from him many years ago, where he said, let the perfect not be the enemy of the good, I think that's the quote. I think its attributed to Voltaire and repeated by Honourable Senator Courtenay. And this is what we are trying to do, we are trying to do the good here. The taxation, you see, is very light and small, but I understand it satisfies the OECD Secretariat, it satisfies the E.U. There has been continuous consultation with them, so we are doing the kind of basic minimum.

In Belize we have a habit, and I will close with this, and this is culture, I always say we should work within our culture. And we do have a European imposed system, but we have a Belizean culture too, and I always go back to this. I was shocked and amazed at the ability of the people who went to take these war criminals in Germany for having violated the Jews. The records showed that they had counted every louse in the Jews head and measured the size and recorded it. That's a level of perfection that only they have. And Milosevic and all of those countries are able to try those people. In Belize, boy we don't have record, you know, Mr. President, we learnt this from the British, I guess, good amount, enough, sufficient, adequate, plenty, etcetera. So, we say, boy, a lot of people are out there selling things. What is a lot of people? And somehow that finds itself into our legislation as well.

I close by thanking Senator Woods, for highlighting the issues of those women. This is a serious thing. We now have another woman again, young girl who they are looking everywhere for. I saw, even when I was in the River Valley, a lot of people looking. This is sad. It is very, very, sad in our country. I am sure that the Attorney Generals Ministry has been working on some of these legislations. There is a whole slew of them that's coming up to try to address some of these things, but it goes a little bit beyond that. It goes to the consents and the concept of our people and how we train our people, and how we are bringing up young people. Over this Christmas season, as I always have the opportunity to hang around with some people my age and reflect on when we were little boys and my sisters, what could happen and what couldn't happen. And then, somewhere along the line, we dropped the ball that we are now seeing what's

happening and what's not happening. The comment came as a result of a Christmas party that a niece of mine went to and commented about how people were dressed. And I simply made the statement, that, when I was a young man, and my sister could have left the house looking like that. So we have to add all of that in, and we have to really, kind of recapture some of the values we have, the values of the village looking out for the child. We don't look out for one another anymore. We used to look out for one another too, and when little boys and little girls are running down the street, anybody could stop them and ask, where are you going? Does your mother know where you are? Those things have all been quickly dissipating. And so, this is a whole society matter, it's not only legislation. Legislation starts it, yes, everything can be legislated, but the practice is the responsibility of each and all, and every one of us.

And I remember, one of my neighbors way down in Mile 8, and that's a little mile and a half from where I live, I think, Senator Thompson is a little higher. I remember one night, he came to my house, must have been about 12:30 A.M. or 1:00 A.M. in a car, blowing like crazy. So, I went out to find out what on earth was that. He was looking for a car that had passed with a young lady in it screaming like hell, and she was screaming at the top of her voice and he wondered if we had heard it, or if they had pulled on our little road, or etcetera. No, no, no, we didn't. We didn't hear anyone pulled in. And he was on his way to report to the Hattieville Police, and he was hoping that they would have a checkpoint somewhere so that they could see why this young lady was screaming. Nobody knows what the situation was, but that's a neighbor looking out for people too, and this was late in the night that he heard the screaming, and he took it upon himself to go out, and more of us needs to do that too.

I move the question, Mr. President.

**MR. PRESIDENT:** Honourable Members, the question is that the Bill for an Act to amend the Income and Business Tax Act, Chapter 55 of the Substantive Laws of Belize, Revised Edition 2011; to make provision for a tax regime for companies engaged in certain business activities; to set the rate of tax for these companies; to exempt from tax the interests and dividends from certain trade or business; and to provide for matters connected therewith or incidental thereto, be read a second time.

Bill for an Act to amend the Stamp Duties Act, Chapter 64 of the Substantive Laws of Belize, Revised Edition 2011; to exclude a certain category of international business companies from the charge of duties applicable under Part IV; and to clarify the interpretation of a Belizean company in regards to the excluded category of international business companies; and to provide for matters connected therewith or incidental thereto, be read a second time.

Bill for an Act to amend the International Business Companies Act, Chapter 270 of the Substantive Laws of Belize, Revised Edition 2011; to eliminate ring-fencing by extending the regime to Belizean residents, removing the restrictions from international business companies to carry on business with Belizean residents, removing the prohibitions in relation to owning of real property, and removing the exemptions from taxes and duties; to provide for physical presence by international business companies; and to provide for matters connected therewith or incidental thereto, be read a second time.

All those in favour, kindly say aye; those against, kindly say no. I think the ayes have it.

Bill read a second time.

## II COMMITTEE OF THE WHOLE SENATE ON BILLS

**MR. PRESIDENT:** Honourable Members, in accordance with Standing Order 68A, the Senate, without question put, resolved itself into the Committee of the whole Senate to examine and consider the Bills that were read a second time.

Members of the media in the gallery, can you please excuse us. Thank you.

Honourable Members, I will now take the Chair as the Chairman of the Committee of the whole Senate.

(In the Committee of the whole Senate)

MR. PRESIDENT in the Chair.

**1. Designated Processing Areas Bill, 2018.**

Clauses 1 to 31 agreed to.

Bill to be reported back to the Senate without amendment.

**2. Income and Business Tax (Amendment) Bill, 2018.**

Clauses 1 to 9 agreed to.

Bill to be reported back to the Senate without amendment.

**3. Stamp Duties (Amendment) Bill, 2018.**

Clauses 1 to 3 agreed to.

Bill to be reported back to the Senate without amendment.

**4. International Business Companies (Amendment) Bill, 2018.**

Clauses 1 to 14 agreed to.

Bill to be reported back to the Senate without amendment.

## III REPORTING AND THIRD READING OF BILLS

**1. Designated Processing Areas Bill, 2018.**

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, and Sustainable**

**Development, Immigration Services and Refugees):** Mr. President, I rise to report that the Committee of the whole Senate has considered the Designated Processing Areas Bill, 2018, and passed it without amendment.

I now move that the Bill be read a third time.

**MR. PRESIDENT:** Honourable Members, the question is that the Bill for an Act to repeal and replace the Export Processing Zone Act, Chapter 280 of the Substantive Laws of Belize, Revised Edition 2011; to facilitate investment, production of value adding of enterprises in Belize in national priority sectors; and to ensure compliance with regulations and standards; and to stimulate employment, transfer of technology and economic development; and to provide for matters connected therewith or incidental thereto, be read a third time.

All those in favour, kindly say aye; those against, kindly say no. I think the ayes have it.

Bill read a third time.

## **2. Income and Business Tax (Amendment) Bill, 2018.**

**SENATOR G. HULSE (Leader of Government Business and Minister Agriculture, Forestry, Fisheries, the Environment, Sustainable Development and Immigration):** Mr. President, I rise to report that the Committee of the whole Senate has considered the Income and Business Tax (Amendment) Bill, 2018, and passed it without amendment.

I now move that the Bill be read a third time.

**MR. PRESIDENT:** Honourable Members, the question is that the Bill for an Act to amend the Income and Business Tax Act, Chapter 55 of the Substantive Laws of Belize, Revised Edition 2011; to make provision for a tax regime for companies engaged in certain business activities; to set the rate of tax for these companies; to exempt from tax the interests and dividends from certain trade or business; and to provide for matters connected therewith or incidental thereto, be read a third time.

All those in favour, kindly say aye; those against, kindly say no. I think the ayes have it.

Bill read a third time.

## **3. Stamp Duties (Amendment) Bill, 2018.**

**SENATOR G. HULSE (Leader of Government Business and Minister Agriculture, Forestry, Fisheries, the Environment, Sustainable Development and Immigration):** Mr. President, I rise to report that the Committee of the whole Senate has considered the Stamp Duties (Amendment) Bill, 2018, and passed it without amendment.

I now move that the Bill be read a third time.

**MR. PRESIDENT:** Honourable Members, the question is that the Bill for an Act to amend the Stamp Duties Act, Chapter 64 of the Substantive Laws of Belize, Revised Edition 2011; to exclude a certain category of international



business companies from the charge of duties applicable under Part IV; and to clarify the interpretation of a Belizean company in regards to the excluded category of international business companies; and to provide for matters connected therewith or incidental thereto, be read a third time.

All those in favour, kindly say aye; those against, kindly say no. I think the ayes have it.

Bill read a third time.

#### **4. International Business Companies (Amendment) Bill, 2018.**

**SENATOR G. HULSE (Leader of Government Business and Minister Agriculture, Forestry, Fisheries, the Environment, Sustainable Development and Immigration):** Mr. President, I rise to report that the Committee of the whole Senate has considered the International Business Companies (Amendment) Bill, 2018, and passed it without amendment.

I now move that the Bill be read a third time.

**MR. PRESIDENT:** Honourable Members, the question is that the Bill for an Act to amend the International Business Companies Act, Chapter 270 of the Substantive Laws of Belize, Revised Edition 2011; to eliminate ring-fencing by extending the regime to Belizean residents, removing the restrictions from international business companies to carry on business with Belizean residents, removing the prohibitions in relation to owning of real property, and removing the exemptions from taxes and duties; to provide for physical presence by international business companies; and to provide for matters connected therewith or incidental thereto, be read a third time.

All those in favour, kindly say aye; those against, kindly say no. I think the ayes have it.

Bill read a third time.

### **A D J O U R N M E N T**

**SENATOR G. HULSE (Leader of Government Business and Minister of Agriculture, Forestry, Fisheries, the Environment, Sustainable Development, Immigration Services and Refugees):** Mr. President, before I move the Motion, may I request your permission to extend a very heartfelt greetings to all my colleagues in here for a very Merry Christmas, a very productive and prosperous New Year, indeed the media and all the wider Belizean family listening, that we may have a safe and peaceful time during these holidays.

I move that the Senate do now adjourn.

**SENATOR E. COURTENAY:** Mr. President, this side of the House crave your indulgence to share the sentiments of the Leader of Government Business, to wish the Clerk, the Deputy Clerk, all the Members and Staff of the National Assembly, a very happy and blessed Christmas and a safe New Year. We do the same to my colleagues on the other side, and for other Senators in the Chamber, to the media, and to the wider Belizean public, that we have a very blessed

Christmas and a Happy New Year. Thank you, Mr. President.

**MR. PRESIDENT:** I would also like to the do the same. I was preparing to do the same, but I guess the Leader of Government Business and yourself did it for us, but Merry Christmas and a Happy New Year to everyone here, all the media, and, of course, to the entire nation of Belize. Please, please drive safe for the holidays.

Honourable Members, the question is that the Senate do now adjourn.

All those in favour, kindly say aye; those against, kindly say no. I think the ayes have it.

The Senate now stands adjourned. Merry Christmas everyone, and Happy New Year.

The Senate adjourned at 12:25 P.M. to a date to be fixed by the President.

PRESIDENT

\*\*\*\*\*