

**PROCEEDINGS AT HEARING  
OF  
DECEMBER 10, 2020**

**COMMISSIONER AUSTIN F. CULLEN**

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**December 10, 2020**

**(Via Videoconference)**

**(PROCEEDINGS COMMENCED AT 10:30 A.M.)**

THE REGISTRAR: Good morning. The hearing is now resumed. Mr. Commissioner.

THE COMMISSIONER: Thank you, Madam Registrar. And thank you to the participants and the panelists for their patience this morning. We have had some technical tribulations that have delayed the start of this hearing, and I do understand that the connectivity issues that bothered us this morning haven't been fully resolved. So if one of you or more is dropped off from the connection please contact our IT expert Shay Matters immediately and she will get you back on or we will stop the proceedings to await your return to the feed. So her number is at the bottom of the chat sent around by our coordinator. Thank you.

So I think we are ready to proceed then,

Ms. Latimer.

MS. LATIMER: Thank you, Mr. Commissioner. This morning we have a panel of three witnesses. It's Joel Gibbons, Acting Staff Sergeant Sushile Sharma and Bryanna Gateley.

1 THE COMMISSIONER: Thank you.

2 THE REGISTRAR: May I ask the witnesses to turn on  
3 the videos and unmute yourselves. Would each of  
4 you please state your full name and spell your  
5 first and last name for the record. I'll start  
6 with Ms. Gateley. Sorry, Ms. Gateley, we can't  
7 hear you.

8 THE WITNESS: (BG) Can you hear me okay now?

9 THE REGISTRAR: It's a little bit quiet.

10 THE WITNESS: (BG) Let's see. How about now?

11 THE REGISTRAR: Still a little -- can you turn up the  
12 volume?

13 THE WITNESS: (BG) Yes, I have it turned up as far as  
14 it will go. Is that better?

15 THE REGISTRAR: Yes, thank you.

16 THE WITNESS: (BG) How about that? Perfect. My name  
17 is Bryanna Gateley. That's spelled  
18 B-r-y-a-n-n-a, first name. And last name is  
19 G-a-t-e-l-e-y.

20 THE REGISTRAR: Thank you. And Mr. Gibbons.

21 THE WITNESS: (JG) Yes. My name is Joel Gibbons.  
22 First name is spelled J-o-e-l, and the surname  
23 is G-i-b-b-o-n-s.

24 THE REGISTRAR: Thank you. And Sergeant Sharma.

25 THE WITNESS: (SS) Hello. Good morning. It's

1 Sushile Sharma. First name is S-u-s-h-i-l-e.

2 Surname Sharma, S-h-a-r-m-a.

3 THE REGISTRAR: Thank you. Ms. Gateley, can you  
4 please unmute yourself again. Thank you.

5 **BRYANNA GATELEY, a**  
6 **witness for the**  
7 **commission, sworn.**

8 **JOEL GIBBONS, a witness**  
9 **for the commission,**  
10 **affirmed.**

11 **SUSHILE SHARMA, a**  
12 **witness for the**  
13 **commission, affirmed.**

14 MS. LATIMER: Thank you. Madam Registrar, could we  
15 please have the redacted document at tab 1  
16 placed before the panel.

17 **EXAMINATION BY MS. LATIMER:**

18 Q Mr. Gibbons, do you recognize this as your  
19 curriculum vitae with personal information  
20 redacted and which was produced to this  
21 commission?

22 A (JG) Yes, I do.

23 Q And this CV accurately sets out a summary of  
24 some of your professional experiences; is that  
25 correct?

1           A       (JG) It does.

2           MS. LATIMER: Mr. Commissioner, I ask that this be  
3                    marked as the next numbered exhibit, please.

4           THE COMMISSIONER: Very well. That will be  
5                    exhibit 342.

6           THE REGISTRAR: Exhibit 342.

7                    **EXHIBIT 342: Curriculum Vitae of Joel Gibbons**

8           MS. LATIMER: Madam Registrar, I don't need that  
9                    displayed any longer on the screen.

10          Q       Mr. Gibbons, could you walk us briefly please  
11                    through your relevant professional experience?

12          A       (JG) Yes, I'd be happy to. So I have been  
13                    working with the Canada Border Services Agency  
14                    since the year 2008 in a number of different  
15                    capacities. However relevant to the testimony  
16                    today starting in the year 2010 I worked as a  
17                    strategic risk analyst for the strategic risk  
18                    determination section at the Canada Border  
19                    Services Agency and was responsible in that  
20                    capacity for producing assessments on border  
21                    related risks. And it was in that capacity that  
22                    I began to develop some understanding of  
23                    trade-based money laundering as an emerging risk  
24                    to the border.

25                    I worked in that capacity from 2010 until

1                   2016, and that at that point I moved to the  
2                   CBSA's criminal investigations division where I  
3                   was responsible for leading a small team in the  
4                   production of investigative leads regarding  
5                   trade fraud, which we'll be talking about today  
6                   in the context of TBML, and I worked in that  
7                   capacity until 2019 and actually early  
8                   January of 2020, pardon me. And at that point I  
9                   moved from the CBSA's criminal investigations  
10                  division to its intelligence and targeting  
11                  directorate as a result of the creation of the  
12                  Canada Border Services Agency's new Trade Fraud  
13                  and Trade-Based Money Laundering Centre of  
14                  Expertise. So effectively moved the work that I  
15                  had been doing within the criminal  
16                  investigations division into the as yet then not  
17                  established centre of expertise but started to  
18                  do some of the building work for that new centre  
19                  up until it formally launched on April the 1st  
20                  of 2020. And as of April of 2020 to present I  
21                  continue to be employed as a senior program  
22                  advisor or senior analyst within the Trade Fraud  
23                  and Trade-Based Money Laundering Centre of  
24                  Expertise.

25                  Q     If I could just highlight a couple other of your

1 professional accomplishments, is it the case  
2 that from 2012 to 2016 you led the CBSA's  
3 working level participation in the Financial  
4 Action Task Force mutual evaluation of Canada's  
5 anti-money laundering and anti-terrorist  
6 financing regime?

7 A Yes, that is correct.

8 Q And were you also the CBSA representative for  
9 the 2017, 2018 parliamentary review of the  
10 proceeds of crime money laundering?

11 A (JG) I was one of several representatives from  
12 the CBSA that participated in that process yes,  
13 that's correct.

14 Q And did you also lead the development of  
15 border-related proposals, including a proposal  
16 for the CBSA Trade Fraud and Trade-Based Money  
17 Laundering Centre for Expertise?

18 A (JG) I did lead in the development of a number  
19 of proposals that the Canada Border Services  
20 Agency put forward in that context; however, I  
21 was not the overall lead for the proposal that  
22 subsequently became the Trade Fraud and Trade  
23 Trade-Based Money Laundering Centre of  
24 Expertise. I contributed the original concept,  
25 but the actual memorandum to cabinet and



1                    treasurer board submission that ultimately led  
2                    to the creation of the centre was carried out by  
3                    a different area within the Canada Border  
4                    Services Agency.

5                    Q        Thanks very much.

6                                       Madam Registrar could I please now have the  
7                    redacted document which is at tab 2 placed  
8                    before the panel.

9                                       And Acting Staff Sergeant Sharma, do you  
10                    recognize this as your curriculum vitae with  
11                    personal information redacted produced to the  
12                    commission and dated September 2nd, 2020?

13                    A        (SS) I do so recognize it.

14                    Q        And does this CV accurately set out a summary of  
15                    some of your professional experiences?

16                    A        (SS) Yes, it does.

17                    MS. LATIMER: I'd ask in this be mark as next  
18                    numbered exhibit, please.

19                    THE COMMISSIONER: Exhibit 343.

20                    THE REGISTRAR: Exhibit 343.

21                                       **EXHIBIT 343: Curriculum Vitae of Sushile Sharma**

22                    MS. LATIMER: Thank you, Madam Registrar. I don't  
23                    need that displayed any longer on the monitor.

24                    Q        And Acting Staff Sergeant Sharma, could you walk  
25                    us through briefly some of your relevant

1 professional experience, please.

2 A (SS) Yes, certainly. So I started my  
3 professional policing career with being posted  
4 to Coquitlam RCMP detachment in 2004. From 2004  
5 to 2015 I was a member of the Coquitlam RCMP,  
6 but within that time frame I had various areas  
7 of responsibility and I'll just itemize and list  
8 those through. From 2004 to 2008 I was a front  
9 line uniformed police officer in the  
10 jurisdiction municipality of Coquitlam,  
11 British Columbia. From 2008 to 2015 I went on  
12 to become a plainclothes investigator in the  
13 drug section, marijuana enforcement team, and  
14 then the criminal intelligence section, all in  
15 the jurisdiction of Coquitlam with Coquitlam  
16 RCMP. Simultaneously while I was at Coquitlam  
17 RCMP's drug section and marijuana enforcement  
18 team I was also cross trained as a proceeds of  
19 crime and asset forfeiture investigator, and I  
20 held that position simultaneously from 2008 to  
21 2015. To be specific about it, as I was a CBSA  
22 investigator and a criminal code investigator I  
23 was also investigating proceeds of crime  
24 investigations within my position as a drug  
25 investigator at the local municipal level.

Bryanna Gateley (for the commission)  
Joel Gibbons (for the commission)  
Sushile Sharma (for the commission)  
Exam by Ms. Latimer

9

1 Moving on to 2016 I transferred from Coquitlam  
2 RCMP to "E" Division headquarters, Surrey,  
3 British Columbia, where I was posted to the  
4 major crime section with custody of cold case  
5 homicide investigations as well as major crime  
6 investigations across the province of  
7 British Columbia. And from 2016 until the  
8 present time I have been posted at "E" Division  
9 headquarters Federal Serious and Organized Crime  
10 section, specifically the financial integrity  
11 unit, and that is where I presently am. And in  
12 my present position I am the NCOIC or the  
13 supervisor of an investigative unit of  
14 15 investigators that had conduct of  
15 transnational organized crime investigations  
16 with a financial crime component to it. So I  
17 have oversight responsibility as a lead  
18 investigator as well as a supervisor for high  
19 priority domestic and international  
20 investigations, and we use a variety of  
21 different investigative techniques ranging from  
22 any number of common investigative techniques to  
23 some sensitive and complex areas of police  
24 investigation. Currently I have custody of a  
25 number of investigations but in experience with

1                   both handling as a lead investigator and as a  
2                   supervisor with some trade-based money  
3                   laundering investigations both within Canada and  
4                   with parallel investigations with other  
5                   agencies.

6           Q        Thank you very much. Madam Registrar, could we  
7                   please have the redacted document at tab 3  
8                   placed before the panel.

9                   Ms. Gateley, do you recognize this as your  
10                  curriculum vitae with personal information  
11                  redacted which was produced to the commission?  
12                  We can't hear you.

13          A        (BG) Yes, I do.

14          Q        Okay, great. Does this CV accurately set out a  
15                   summary of some of your professional  
16                   experiences?

17          A        (BG) Yes, it does.

18          MS. LATIMER: Mr. Commissioner, I ask that this be  
19                   marked as the next numbered exhibit, please.

20          THE COMMISSIONER: Very well 344.

21          THE REGISTRAR: Exhibit 344.

22                   **EXHIBIT 344: Curriculum Vitae of Bryanna**  
23                   **Gateley**

24          MS. LATIMER: I don't need that displayed any longer,  
25                   Madam Registrar.

1           Q     Ms. Gateley, could you walk us briefly, please,  
2                    through your relevant professional experience.

3           A     (BG) Sure. Good morning. I'm Bryanna Gateley,  
4                    a civilian member with the RCMP since 2004.  
5                    I've been a criminal intelligence analyst for  
6                    over ten years. I'm currently analyst  
7                    supervisor for the RCMP federal border and  
8                    integrity section in British Columbia. My  
9                    experience providing analytical assistance to  
10                   financial investigations started in 2013. At  
11                   that time I took a leave from the RCMP in  
12                   British Columbia and relocated to Ottawa where I  
13                   worked for FINTRAC as a financial intelligence  
14                   analyst. There I produced tactical disclosures  
15                   for our partner agencies in Western Canada,  
16                   including British Columbia. At the same time I  
17                   worked on a masters degree at Carlton  
18                   University, double majored in international  
19                   economic policy and intelligence and national  
20                   security studies. My research focus was  
21                   trade-based money laundering. At that time I  
22                   noticed TBML to be an emerging area of interest  
23                   and it was something that I wanted to get out in  
24                   front of and develop some expertise in. So I  
25                   drafted a research paper on trade-based money

1                   laundrying from a Canadian perspective with  
2                   input from practitioners at FINTRAC and CBSA,  
3                   including Mr. Gibbons, who is on the panel with  
4                   me today. This paper was reviewed by my peers  
5                   in academia and I've relied on it heavily for  
6                   portions of what I present here today and at  
7                   other presentations I've done on trade-based  
8                   money laundrying in the past. Many of the key  
9                   findings in this research paper still hold true.  
10                  Once I completed my masters degree I returned to  
11                  the RCMP and national headquarters in Ottawa and  
12                  worked as an intelligence analyst for the  
13                  Federal Policing Criminal Operations section on  
14                  their financial integrity team. Then in 2018 I  
15                  returned to the RCMP in British Columbia and  
16                  worked as intelligence analyst for the Federal  
17                  Serious and Organized Crime section. I worked  
18                  for the major projects team and was regularly  
19                  asked to provide financial intelligence and  
20                  insight to federal investigations that I was  
21                  assisting. The OAC of FSOC financial integrity  
22                  at the time was alerted to my background in  
23                  trade-based money laundrying and asked me to  
24                  participate in the trade-based money laundrying  
25                  interagency BC working group that had been stood

1 up. I was also asked to present on the  
2 trade-based money laundering topic to our  
3 national money laundering working group and then  
4 internationally as well with my colleagues on  
5 the panel here today at the first FinCEN  
6 conference on the topic in the United States.

7 Over the last few years I've presented on  
8 trade-based money laundering on a number of  
9 occasions, including to RCMP investigative  
10 teams, confidential informant handlers, federal  
11 and province RCMP analysts and students on the  
12 proceeds of crime course at the Justice  
13 Institute of BC. Although I'm now in a  
14 supervisory role for the federal border  
15 integrity team in British Columbia, I do try to  
16 keep a thumb on what's going on in trade-based  
17 money laundering and continue to receive  
18 requests to provide overviews on the topic,  
19 including to the commission here today.

20 Q Thank you. Could you tell us a little bit more  
21 about BC's interagency trade-based money  
22 laundering working group and who are the  
23 participants in that group or what's its  
24 purpose.

25 A (BG) Yeah. So that group was stood up circa

1                   summer of 2018. It was initiated or a key  
2                   player in that was the OAC of financial  
3                   integrity FSOC at the time. He is no longer  
4                   with the unit. But he had coordinated a working  
5                   group at the director level of directors from a  
6                   number of different agencies, including RCMP,  
7                   CBSA, CSIS was there as well, the CRA. I think  
8                   that was the bulk of the group. And the intent  
9                   was to come together at a senior management  
10                  level to talk about issues with trade-based  
11                  money laundering and see if there were  
12                  opportunities that our agencies could work  
13                  together on.

14                 Q     Okay.

15                 MS. LATIMER: Madam Registrar, could I have the  
16                  document at tab 4 placed before the panel,  
17                  please.

18                 Q     I put the question to the -- I guess I'll put  
19                  the question to Mr. Gibbons just for  
20                  convenience, but you recognize this as a  
21                  presentation addressing trade-based money  
22                  laundering that was prepared to accompany the  
23                  evidence of this panel today; is that right?

24                 A     (JG) Yes, I do.

25                 MS. LATIMER: And I ask that this document be marked



1 as the next numbered exhibit, please.

2 THE COMMISSIONER: Very well. That will be 345.

3 THE REGISTRAR: Exhibit 345.

4 **EXHIBIT 345: Government of Canada, Trade-Based**  
5 **Money Laundering Overview, presented April 1,**  
6 **2020**

7 MS. LATIMER:

8 Q What I'm now going to ask of the panel is that  
9 you walk the Commissioner through this  
10 presentation, please, at your own pace and just  
11 let Madam Registrar know when you need a slide  
12 advanced.

13 A (JG) Very well. It's Joel Gibbons speaking  
14 right now. If you could please, Madam  
15 Registrar, move to the second slide.

16 (BG) Hello there, it's Bryanna Gateley. I  
17 can present on this slide. So slide 2. The  
18 definition of trade-based money laundering that  
19 our panel is putting forth today is a fairly  
20 intuitive one that is really an adaptation of  
21 the FATF's TBML definition. That is to say that  
22 trade-based money laundering is the process of  
23 disguising illicit financial flows and moving  
24 their value through the trade transactions in an  
25 attempt to legitimize their origin. Essentially

1                   in a boiled down form this definition is talking  
2                   about transferring value that's packaged in a  
3                   good or service instead of money itself through  
4                   the system of trade. And that value that's  
5                   being transferred is derived from an illicit  
6                   source. And one additional thing worth  
7                   mentioning here I think, although not included  
8                   in this slide but it helps in understanding what  
9                   trade-based money laundering is, that when  
10                  considered trade-based money laundering it's  
11                  helpful to situate it within the money  
12                  laundering model of placement layering and  
13                  integration. Essentially trade-based money  
14                  laundering primarily occurs in that layering  
15                  stage, that second stage of the money laundering  
16                  model, and is just really a layering technique  
17                  that can be simple or infinitely complex, all in  
18                  an attempt to make it difficult for authorities  
19                  to follow the money and confirm it's illicit  
20                  origins.

21                               (JG) So now that Bryanna has introduced the  
22                               broad concept of the money laundering cycle I'd  
23                               like to just quickly review for the commission  
24                               the established three main money laundering  
25                               methods. There are many variants, obviously,

1 but the three broad categories of money  
2 laundering -- and this is coming from the  
3 Financial Action Task Force largely, and for  
4 your benefit, the Financial Action Task Force is  
5 the international body that's responsible for  
6 establishing global anti-money laundering and  
7 anti-terrorist financing norms and best  
8 practices. And as part of their work they  
9 produce a lot of typology documents on all  
10 manner of money laundering variants, and  
11 according to the FATF there really are three  
12 types as you can see on the screen in front of  
13 you. The vast majority of the popular  
14 conception of money laundering I think is most  
15 closely associated with number 1 and number 2  
16 that you can see on the screen. So money  
17 laundering that occurs through financial  
18 institutions. Banks more specifically I think  
19 in the popular knowledge.

20 And when we're talking about money  
21 laundering that occurs in financial institutions  
22 one thing to understand is because money  
23 laundering is very well known to be occurring  
24 within financial institutions, those financial  
25 institutions over time, independently as well as

1 operating under guidance provided by  
2 organizations like the Financial Action Task  
3 Force, have built up quite elaborate and quite  
4 robust controls to try to detect, deter and  
5 disrupt money laundering. Money laundering  
6 through financial institutions leaves a paper  
7 trail and AML controls are designed to try to  
8 pick up on those indicators and to identify the  
9 activity. The second broad money laundering  
10 method occurs more at the placement stage and  
11 that's primarily about cash smuggling, so this  
12 is the stereotypical dropping bags full of cash  
13 of proceeds of crime. Bulk cash has been  
14 occurring for many, many, many years and it  
15 occurs still to this day. The issues  
16 surrounding bulk cash from the criminal  
17 prospective is that bulk cash is really risky.  
18 And it is quite logically challenging to move  
19 proceeds of crime through bulk cash depending on  
20 the quantities of bulk cash that you're looking  
21 to move. There's a lot of risk of detection,  
22 particularly at borders when money is moved  
23 across borders because of controls that are in  
24 place at border control points looking for bulk  
25 cash. Which leads us -- and so which leaves us

1                   with the third broad category, and that's the  
2                   one we're really going to focus most of our time  
3                   on today, which is money laundering through the  
4                   international trade system. And I think as  
5                   you'll see as we go through our presentation  
6                   today, of those three options money laundering  
7                   through the trade system presents the lowest  
8                   risk and offers criminal actors the highest  
9                   potential reward. So I -- just before we finish  
10                  this slide I just wanted to briefly talk about  
11                  the definition that we're using, and it's the  
12                  definition that you see on the screen in front  
13                  of you. This is largely based on a definition  
14                  that is provided by the Financial Action Task  
15                  Force, although in Canada we've made a slight  
16                  modification to that definition. The Financial  
17                  Action Task Force uses the words "disguising  
18                  proceeds of crime" in their definition. And we  
19                  don't use that here. We actually use the term  
20                  "illicit financial flows," which is a term that  
21                  was coined by several different international  
22                  organizations to basically represent any illicit  
23                  value. So rather than strictly the proceeds of  
24                  some kind of predicate crime, this is a little  
25                  bit of a broader term, and we use that

1 intentionally because we think that when it  
2 comes to trade-based money laundering much more  
3 than just the proceeds of crime is being  
4 transferred through and legitimized through  
5 illicit trade. The definition allows us to  
6 include other forms of semi-licit and illicit  
7 activities and that would include topics such as  
8 capital flight. So when a foreign country has  
9 currency controls imposed on the regime,  
10 trade-based money laundering can be used to  
11 subvert those capital controls to move excess  
12 beyond the imposed limits outside of a given  
13 jurisdiction. And also that broader term of  
14 illicit financial flows captures the proceeds of  
15 corruption and also sanctions evasion.

16 If there are no questions we can advance to  
17 the next slide.

18 (BG) Excellent. So trade-based money  
19 laundering involves a variety of schemes that  
20 essentially range from the very basic to  
21 infinitely complex and the whole purpose, as we  
22 mentioned in the prior slide, is really just to  
23 transport value between the importer and the  
24 exporter. When we think about the most basic  
25 schemes of trade-based money laundering it's

1                   really involving the transfer of a single good  
2                   or even providing a service to finance illicit  
3                   product or activities, and this could include  
4                   activities such as sending stolen vehicles or  
5                   even legitimately purchased vehicles to areas  
6                   such as Africa to pay for illicit narcotics that  
7                   they are bringing back into Canada or  
8                   British Columbia specifically. It could also  
9                   include the sale of antiquities or oil to  
10                  finance illicit activities, and this has come up  
11                  in past years during discussions around  
12                  terrorist financing. It could also include,  
13                  say, billing me for consulting services. You  
14                  provided to me as payment for the drugs that I  
15                  received from you. And specifically in the case  
16                  of BC or British Columbia it could include  
17                  sending me precursor chemicals, so a good or a  
18                  regulated and legal good in some cases used in  
19                  synthetic drug production here as payment for  
20                  the synthetic drugs that I produce and then  
21                  export abroad. And I think at this point we're  
22                  ready to move on to the next slide.

23                                 (JG) Thanks, Bryanna, I'll take this one.  
24                                 So I'll talk now about moderately complex TBML  
25                                 schemes. And it's when we start to talk about

1                   the more moderately complex TBML schemes that's  
2                   where we start to talk about customs fraud,  
3                   which can also be known as commercial trade  
4                   fraud or trade fraud. That's really where these  
5                   terms enter into the picture.

6                   Let me start by talking about trade fraud.  
7                   What is trade fraud? It's the intentional  
8                   misrepresentation of information that is  
9                   declared to custom services like the CBSA and  
10                  often the shipping and the sales documents that  
11                  are related to those, the goods in question.  
12                  Trade fraud has really been happening for as  
13                  long as there have been customs authorities.  
14                  It's a form of crime that enables a wide variety  
15                  of criminal activity. In the more traditional  
16                  customs context trade fraud techniques are  
17                  primarily used to evade paying import duties or  
18                  to evade tariff quotas on certain goods. So  
19                  it's really to evade controls that are  
20                  established to ensure that the Government of  
21                  Canada is collecting the appropriate amount of  
22                  revenue for goods that are entering into the  
23                  country. And when we talk about trade fraud  
24                  techniques what we're primarily talking about is  
25                  misdescription. And we're talking about



1                   misdescribing a number of different elements on,  
2                   again, primarily customs documents but also  
3                   shipping documents as well. And some of the  
4                   elements that we would be talking about include  
5                   the price of goods or the value of goods, the  
6                   description of the goods both in terms of its  
7                   text-based description as well as the harmonized  
8                   system tariff classification that's applied to  
9                   those goods. We could be talking about the  
10                  quantity of the goods, the weight of the goods,  
11                  potentially even the quality of goods that are  
12                  declared on customs documents.

13                         So that's trade fraud briefly. But with  
14                         TBML we're not -- trade fraud techniques are not  
15                         really being used to evade duty, so it's not  
16                         really that classic customs-oriented trade fraud  
17                         that's occurring. With TBML in fact money  
18                         launderers would likely pay any duties on the  
19                         goods that they were seeking to, for example,  
20                         import because their goal is not really to evade  
21                         these payments. With most TBML schemes the goal  
22                         is to use those trade fraud techniques to layer  
23                         and integrate money into the legitimate  
24                         financial system through international trade,  
25                         through the trade in those goods. So let me

1                   give you a few examples of how this could work  
2                   in practice.

3                   So say you're a money launderer and you want  
4                   to move money out of Canada and you own an  
5                   import/export company. You could deflate the  
6                   real value of your goods that you're seeking to  
7                   export of -- say we'll use the example of timber  
8                   in this case. So you could deflate the export  
9                   value of your timber on customs and shipping  
10                  documents. The timber so then gets purchased  
11                  when it's received on the other end in the  
12                  foreign jurisdiction at its true value which is  
13                  higher than as declared on the customs  
14                  documents. And when that purchase goes through  
15                  you have effectively just laundered that excess  
16                  value out of Canada. You can also deflate the  
17                  real value of your export of, say -- sorry,  
18                  another way to do this would be to value your  
19                  timber correctly, but you would send more of it,  
20                  more quantity of timber than you've actually  
21                  declared on export. And again the excess value  
22                  is now out of Canada and the funds are laundered  
23                  once sold at market. So those are just a few  
24                  high level examples when the intention is to  
25                  launder funds out of Canada. But you can use

1 variants of these same techniques in reverse in  
2 order to move money into Canada. So if you  
3 wanted to move money into Canada, you would  
4 simply overvalue the timber that's entering  
5 Canada or you could just declare less timber on  
6 your customs declarations and again when the  
7 sales go through for those imported goods, the  
8 laundering has concluded and that excess value  
9 has now arrived into Canada from a foreign  
10 jurisdiction.

11 But could you also misdescribe the goods  
12 themselves. So one common example that's  
13 offered in the typologies are declaring your  
14 import of lead as gold, or you could declare  
15 your import of gold as lead, and it would really  
16 all depend on the direction that you want that  
17 dirty money to flow in, whether it's into a  
18 country or out of a country. Just to note,  
19 these same trade fraud techniques that we've  
20 just talked about, so they can be used for duty  
21 and tax evasion, they can be used to launder  
22 money, but they can also be used through  
23 misdescribing the descriptions of the goods  
24 themselves to conceal the movement of restricted  
25 or dual-use goods, and those are products or

1 technologies that generally have some form of  
2 military application. And that is known as  
3 proliferation. So not money laundering per se  
4 but another quite serious use of the  
5 international trade system that poses a lot of  
6 concern to Canada and Canadians.

7 So in many TBML schemes real goods are in  
8 play. And real sales do take place, just using  
9 fraudulent information. But what I wanted to  
10 make sure that I mentioned was that in extreme  
11 cases real goods are not even necessary, and  
12 this bring me to a key point when talking about  
13 TBML which is that shipping real goods and going  
14 to the trouble of having to sell what are  
15 effectively front goods either in Canada or  
16 abroad isn't even necessary as long as the  
17 paperwork can be generated to at least create  
18 the appearance of trade that's necessary to  
19 receive the payment for these goods. And this  
20 is commonly known as phantom shipping, sometimes  
21 referred to as well as ghost shipping. And  
22 there are many variants to phantom shipping. I  
23 think we'll talk about some of these a little  
24 bit later in the presentation, like multiple  
25 invoicing. Multiple invoicing would occur when

1           two sales invoices are being presented for only  
2           one real shipment of goods. So that second  
3           invoice is completely fictitious, but what it  
4           does is it creates enough of a pretext for money  
5           to be remitted in payment for those goods. So  
6           you've got a whole bunch of excess value that is  
7           now being remitted in payment for that second  
8           fictitious shipment of goods. And in very  
9           extreme cases customs paperwork can be filed for  
10          goods but there are no real goods that actually  
11          exist, so no physical movement of goods either  
12          into or out of a country actually takes place.

13                   And just one final note about the trade  
14          fraud techniques that I've spoken about that  
15          really do underlie most trade-based money  
16          launderers. Launderers can also misdescribe the  
17          originator and the recipients of a goods  
18          shipment. So they can manipulate who the goods  
19          appear to be coming from and who they're going  
20          to, which can help them to conceal the true  
21          parties to a laundering scheme. I don't have  
22          anything else to add on that slide. If there  
23          are no questions we can move to slide number 5.

24                   (BG) Excellent. Thank you, Joel. So now if  
25          we move along the spectrum to complex

1 trade-based money laundering schemes. The more  
2 complex schemes involve methods that are really  
3 just diverse and creative and often combine  
4 various forms of customs fraud, as Joel just  
5 mentioned, with layering, or the second stage of  
6 money laundering, which creates a complex web of  
7 transactions and movements of goods that can be  
8 very difficult to analyze and investigate. But  
9 these schemes can be further complicated with  
10 the use of shell companies, offshore accounts,  
11 nominees, legal trusts, third party payment  
12 methods, freight forwarders, transit through  
13 free trade zones or non-cooperative  
14 jurisdictions, using the use of cryptocurrency,  
15 or commingling these transactions with real  
16 estate transactions, casinos, or even legitimate  
17 goods.

18 So at this point I'd like to just make a  
19 note that despite being very difficult to  
20 analyze and investigate, which is really the  
21 essential point of trade-based money laundering,  
22 as analysts and investigators we're certainly  
23 aware of these areas of concern that could be  
24 utilized in TBML schemes and we have to work our  
25 way through addressing and reconciling them as

1                   we would do with any other challenge as we kind  
2                   of build and progress through our TBML  
3                   investigations. But by using a variety of these  
4                   methods, the TBML scheme can just become  
5                   infinitely complex very quickly. That was the  
6                   end of this slide, I think we're ready to move  
7                   on to the next one. That would be slide 6.

8                   So when we think about key features of  
9                   trade-based money laundering it first requires a  
10                  complicit seller and a buyer working together to  
11                  complete a trade transaction. Or it can also  
12                  include a dual presence of one entity but that  
13                  has tentacles in both countries. So one entity  
14                  is controlling both sides of the trade  
15                  transaction. To tie this to British Columbia, I  
16                  think some of the work that was done by my  
17                  colleagues at CISBC circa 2018 indicates that  
18                  high level organized crime groups in  
19                  British Columbia certainly operate and have the  
20                  capability of operating transnationally and are  
21                  also known to work with other organized crime  
22                  groups in other countries. So this provides  
23                  them with the capabilities to either have  
24                  potentially a dual presence in both countries  
25                  where these trade transactions are starting and

1 ending or work with a complicit seller and buyer  
2 in another country.

3 And another very important key feature of  
4 trade-based money laundering to consider is that  
5 we briefly touched on it, but not only does it  
6 include goods, which is what we often think  
7 about when we think of trade-based money  
8 laundering, but services. And trade in services  
9 is what I would consider to be a very particular  
10 concern because there is no tangible good or  
11 paper trail associated to that good to analyze.  
12 It's a service, and often you're getting the  
13 paperwork for it or the payment for it after  
14 that service has been provided. It's very  
15 difficult to verify that that service has  
16 actually occurred. And I think this is likely  
17 to be certainly a more salient issue in  
18 the years ahead as our economy continues to  
19 transition to become even more service based  
20 than it already is.

21 MR. MCGOWAN: Mr. Commissioner, I'm just going to  
22 interrupt. I have been passed a message that  
23 we're having some audio issues and it might be  
24 advisable to stand down for a few minutes.

25 THE COMMISSIONER: All right. We'll take



1 five minutes, then. Thank you.

2 THE REGISTRAR: The hearing is adjourned for five  
3 minutes until 11:16 a.m. Please mute your mic  
4 and turn off your video. Thank you.

5 **(WITNESSES STOOD DOWN)**

6 **(PROCEEDINGS ADJOURNED AT 11:11 A.M.)**

7 **(PROCEEDINGS RECONVENED AT 11:15 A.M.)**

8 BRYANNA GATELEY, a  
9 witness for the  
10 commission, recalled.

11 JOEL GIBBONS, a  
12 witness for the  
13 commission, recalled.

14 SUSHILE SHARMA, a  
15 witness for the  
16 commission, recalled.

17 THE REGISTRAR: Thank you for waiting. The hearing  
18 is now resumed. Mr. Commissioner.

19 THE COMMISSIONER: Thank you, Madam Registrar. Yes,  
20 Ms. Latimer.

21 MS. LATIMER: Thank you, Mr. Commissioner.

22 **EXAMINATION BY MS. LATIMER (continuing):**

23 Q Ms. Gateley, I think when we left off you were  
24 just walking us through your comments on this  
25 key features slide, and I'll hand it back over

1                   to you to complete that thought. I believe  
2                   you're muted.

3           A       (BG) There we go. Thank you very much. So I've  
4                   touched on two points. Hopefully my mic is  
5                   fixed now and you can hear me a little bit  
6                   better. I touched on the point number 1 and  
7                   number 2 and then Joel my colleague will touch  
8                   on the last two points of the slide.

9                   (JG) Thanks, Bryanna. Just to close off the  
10                  slide a few other things I'd like to note about  
11                  some key TBML features. And this is really just  
12                  re-emphasizing something that I've already  
13                  mentioned which is that when we're talking about  
14                  TBML, we're not talking strictly about the  
15                  movement of proceeds of crime to and from  
16                  Canada. TBML can also be a really effective  
17                  technique for evading international sanctions as  
18                  I've mentioned. It can also be used to defraud  
19                  governments of tax revenue through false tax  
20                  rebates for imported and exported goods. We  
21                  believe that professional money laundering  
22                  networks, which is something that we'll touch on  
23                  later in the presentation, see particular value  
24                  in using TBML schemes to effectively conduct  
25                  something that is known as underground banking.



1                   trafficking cartels.

2                   So using mirror trades what happens is the  
3                   money that's accepted domestically in China  
4                   never actually leaves China; it stays in a  
5                   Chinese money pool. But an associate of the  
6                   Chinese money launderer located in a foreign  
7                   country accepts to provide the equivalent value,  
8                   usually in the local currency, to the person or  
9                   group of people that the money is ultimately  
10                  destined to. So you might be asking well, where  
11                  does international trade come in here and where  
12                  does TBL come in in this context? What TBML  
13                  does is it helps both replenish and balance  
14                  these pools of dark money. So really it's a way  
15                  of balancing money launderers' ledgers. So  
16                  goods are sent to move a particular money pool  
17                  back into balance and to make sure that the two  
18                  parties to the transaction have books that are  
19                  in balance with one another. And so they're  
20                  simultaneously not only are they facilitating  
21                  capital flight but effectively what's happening  
22                  in a lot of underground banking now is the  
23                  funding for these underground banks is coming  
24                  from the proceeds of transnational organized  
25                  crime activity. That's all I have for this

1 particular slide. We can move on to slide  
2 number 7 unless there are questions.

3 So let's talk now about some key  
4 commodities. These are commodities that have  
5 been observed as being associated with  
6 trade-based money laundering schemes in Canada  
7 as well as in other jurisdictions, notably  
8 amongst many of our key allies around the world.  
9 And so I'll just quickly read through the list.  
10 We've taken some of these commodities and we'll  
11 profile them for you in a little bit more detail  
12 later in the presentation. So what you can see  
13 are a range of very different types of goods,  
14 phones and electronics, vehicles through to  
15 agrifood products. When I say agrifood you can  
16 really all manner of food products fresh and  
17 frozen. You can think meat, you can think  
18 dairy, you can think produce. That is what we  
19 mean when we say agrifood. Also used clothing,  
20 garments and textiles. Lumber and paper-based  
21 products. Scrap metal, also scrap plastic.  
22 Precious metal and stones and antiquities. So a  
23 very, very wide variety of commodities. And  
24 really one thing to emphasize is that when we're  
25 talking about trade-based money laundering and

1           the commodities associated with them, any good  
2           will do. But what we've observed over time is  
3           that the goods that are most conducive to  
4           trade-based money laundering have the  
5           characteristics that you see on the right side  
6           of the screen, which is that they can be easily  
7           sold. They're in high demand. So they can be  
8           sold quite quickly and rapidly in the target  
9           jurisdictions, so in other words, very easy to  
10          liquidate. From a customs perspective they can  
11          be very difficult to examine. So consider the  
12          customs officer's perspective with respect to a  
13          shipment of scrap metal. The customs officer  
14          has to determine whether the scrap metal meets  
15          its description on a customs declaration,  
16          whether it is correctly weighed, but even more  
17          significantly how it is valued and whether it's  
18          valued appropriately. And that can be extremely  
19          difficult to do. Another example of valuation  
20          difficulty comes up when we think about precious  
21          metals or precious stones. Again from the  
22          customs perspective when a customs officer, when  
23          a border services officer is looking at gold or  
24          silver, or what is purported to be gold or  
25          silver, or diamonds, for example, it is

1                   incumbent upon them to determine whether the  
2                   value for those goods as declared matches what  
3                   they see in front of them, and without  
4                   knowledge, experience and expertise that can be  
5                   extraordinarily difficult to do. Another key  
6                   category really is variable price ranges. So a  
7                   good example of that would be used clothing.  
8                   Now, used clothing can effectively be scraps.  
9                   It can be extremely low value, almost worthless  
10                  really, except in very, very, very significant  
11                  quantity. On the other hand it could be  
12                  actually quite high value so that the pricing  
13                  range is so large that averaging prices using  
14                  unit prices, for example, to try and detect  
15                  whether a shipment may be anomalous becomes  
16                  extremely difficult to do. Textiles are another  
17                  great example where the pricing range on, for  
18                  example, a brand-new cotton T-shirt could be as  
19                  low as pennies or even less of a penny at the  
20                  individual unit level all the way up to the tens  
21                  or even hundreds of dollars at the individual  
22                  unit level. And it can be extraordinarily  
23                  difficult to pin down a precise value and  
24                  determine whether you're looking at something  
25                  that could be indicative of trade fraud or

1 trade-based money laundering.

2 I'll leave it there unless there are any  
3 questions and we can move on to the next slide.

4 Let's step back a little bit now and talk  
5 about international context, TBML globally. The  
6 point of this slide is really just to emphasize  
7 to you all that trade-based money laundering is  
8 not unique to any one country. It is certainly  
9 not unique to Canada. It is a global problem.  
10 And while we don't know the precise scale, I  
11 don't think there are any truly accurate and  
12 reliable statistics globally on the scope and  
13 scale of trade-based money laundering. We do  
14 believe that the scale of it is extremely large.  
15 The biggest factor driving the success of -- so  
16 why is it so large? What is our reason for  
17 saying that? What's driving the success of TBML  
18 is paradoxically the success of international  
19 trade. And so as international trade has  
20 bloomed exponentially over the last 40 to  
21 50 years it's really become beyond the ability  
22 of most nations and the customs services of most  
23 nations to examine more than just a very small  
24 percentage of the goods that are actually  
25 crossing their borders, to physically examine



1                   those goods. And TBML thrives on that basic  
2                   inability to compare physical goods against  
3                   their shipping, the corresponding shipping  
4                   documents, and then corresponding customs  
5                   paperwork or financial information regarding the  
6                   payment for those goods. So that inability to  
7                   examine all but a very, very thin slice of goods  
8                   coupled with the extraordinary volume of  
9                   international trade is what creates the  
10                  conditions for TBML to thrive. So I understand  
11                  that the commission may have received testimony  
12                  from Mr. John Cassara recently. You see on the  
13                  slide in front of you the cover of his book,  
14                  which is really quite seminal, and for those  
15                  interested in the topic I would recommend  
16                  picking it up. It's a fantastic foundational  
17                  document on trade-based money laundering.

18                         And Mr. Cassara actually is one of the  
19                         experts who proclaimed trade-based money  
20                         laundering, as you see on the screen, to be the  
21                         largest money laundering method in the world but  
22                         also the least known and the least understood,  
23                         and probably one of the largest methods in the  
24                         world because of that lack of knowledge and that  
25                         lack of understanding. So there are a range of

1 estimates out there. Some of the ones that I'm  
2 a little bit more interested in come from  
3 organizations like Global Financial Integrity,  
4 and that's a non-governmental organization in  
5 the United States that does a lot of work around  
6 trade mispricing, and they've used a couple of  
7 techniques to try and elaborate estimates of the  
8 scope and the scale of that trade fraud activity  
9 that I talked to you about earlier, those  
10 misdescription techniques that enable all manner  
11 of criminal activity, including money  
12 laundering, sanctions, evasion, capital flight,  
13 corruption, terrorist financing. And they've  
14 done some excellent work estimating the amount  
15 of illicit financial flows that are emanating  
16 from developing countries in the world to  
17 developed countries. And their estimate was  
18 that in several of their reports, including most  
19 recently in early 2020, was that approximately  
20 80 percent of the illicit financial flows from  
21 developing nations are being perpetrated through  
22 those trade fraud techniques that I outlined  
23 earlier. And in terms of assigning dollar  
24 values to that, over approximately a ten-year  
25 period you're talking about very significant

1 amount of money; you're talking in the  
2 neighbourhood of a trillion dollars. So there's  
3 been some other estimates that have been cast  
4 about by various international organizations,  
5 United Nations Office on Drugs and Crime. I  
6 believe the World Trade Organization as well,  
7 and based on the figures that I've been exposed  
8 to the common consensus seems to be that  
9 approximately 1 to 7 percent of annual global  
10 GDP, gross domestic product, that's effectively  
11 the cost of trade fraud. It accounts for as  
12 much as 1 to 7 percent of global GDP. But  
13 again, these are very end high estimates. There  
14 are a range of them and they are of varying  
15 degrees of quality. I think the bottom line is  
16 that we truly -- the international community  
17 still doesn't have an accurate and precise  
18 estimate of the scope and scale of this  
19 activity.

20 I'll move on now to slide number 9. And in  
21 this slide I'll talk about some of the harms to  
22 Canada but really any country where TBML is  
23 occurring because the effect is the same  
24 regardless of the jurisdiction. The  
25 consequences of successful TBML schemes for

1 Canada and for Canadians can really be  
2 understood when categorized into four buckets.  
3 The first one is national security, and what  
4 TBML can do is it can provide criminals,  
5 including terrorists or extremists, with a  
6 relatively risk-free mechanism to repatriate  
7 their proceeds of crime. Narcotics proceeds,  
8 the proceeds of corruption, terrorist financing  
9 proceeds, many of the other illicit activities  
10 that I talked about, evading international  
11 sanctions. And the movement of these proceeds,  
12 of these criminal proceeds, is what enables the  
13 continuing activity of these very sophisticated  
14 often transnational actors, and so that poses a  
15 high degree of harm on the health, safety and  
16 security of our country as well as citizens of  
17 our country.

18 The second category that I'll talk about is  
19 really reputational harms. And Canada, I think  
20 as you're coming to learn through the course of  
21 the commission, has by various parties been  
22 branded as soft on money laundering. In fact  
23 there's a term you've probably heard through the  
24 course of your work that's been coined  
25 specifically to the Canadian context which is

1 snow-washing. Countries like the United States,  
2 in probably the most notable example through  
3 their annual International Narcotics Control  
4 Strategy Report, have identified Canada as a  
5 major money laundering jurisdiction of primary  
6 concern in every iteration of that report that  
7 I've reviewed going back to at least 2009 and  
8 that causes tremendous harm to the international  
9 reputation of our country.

10 The third category we would characterize as  
11 economic security harms to the country. So  
12 trade-based money laundering can weaken the  
13 integrity of Canadian and the reliability of  
14 Canadian financial institutions. Let's stop a  
15 moment and think about undervaluation, which I  
16 talked about earlier, where you intentionally  
17 undervalue a given good for the purposes of  
18 committing money laundering. If that happens at  
19 significant enough scale, you can imagine how it  
20 has the capability to undermine legitimate  
21 economic competition here in Canada and it can  
22 directly harm domestic industry. It effectively  
23 acts as dumping, as economic dumping. So if a  
24 whole group of commodities, if a whole sector is  
25 captured through money laundering activity it

1                   really does have the ability to undermine  
2                   Canadian industry. Not only that but  
3                   trade-based money laundering, if it's occurring  
4                   significantly enough, can actually distort the  
5                   trade data that an agency like mine, the Canada  
6                   Border Services Agency, collects and provides to  
7                   the Government of Canada and it's that data that  
8                   becomes the basis of making macroeconomic policy  
9                   decisions. So if the data has been corrupted  
10                  enough through this illicit activity and if it's  
11                  skewed enough the data is -- you're providing a  
12                  flawed foundation for your policy makers to make  
13                  decisions implicating our country.

14                  And last but certainly not least there are  
15                  revenue implications. Despite the fact that I  
16                  mentioned that the purpose of trade-based money  
17                  laundering is, as the name implies, to launder  
18                  money, it's not to necessarily evade the payment  
19                  of duties and taxes, but in certain  
20                  circumstances dutiable goods are targeted in  
21                  TBML schemes whether intentionally or not, and  
22                  when customs documents are being misdescribed to  
23                  enable the money laundering, a byproduct of that  
24                  is the potential for revenue loss to the  
25                  Government of Canada, and so there are revenue

1                   implications as well. Obviously the more a  
2                   country relies on customs duty as the basis of  
3                   its operating budget, the more of an impact the  
4                   trade-based money laundering will have on that  
5                   given jurisdiction.

6                   We can move on now to slide number 10. Here  
7                   I'll start off by quickly going through the  
8                   mandates of the relevant Government of Canada  
9                   entities. There are numerous Government of  
10                  Canada at the federal level entities that have a  
11                  stake in trade-based money laundering. We've  
12                  just really isolated sort of the four key  
13                  players at the federal level, and the first is  
14                  FINTRAC. So FINTRAC is, as you no doubt know,  
15                  Canada's financial intelligence unit. It's  
16                  mandated to detect, to deter and prevent money  
17                  laundering and terrorist financing. And it does  
18                  that in two key ways. It plays a role as  
19                  Canada's anti-money laundering and  
20                  anti-terrorist financing regulator, so FINTRAC  
21                  examines reporting entities to ensure compliance  
22                  with the *Proceeds of Crime (Money Laundering)*  
23                  *and Terrorist Financing Act*. And the second key  
24                  way that FINTRAC delivers on its mandate is  
25                  through the production of tactical and strategic

1 financial intelligence, and they do that not  
2 just for law enforcement agencies, not just for  
3 the Canadian security and intelligence community  
4 with you, but they also do this for the public  
5 and for key regime partners and decision-makers.  
6 They are able to produce at the strategic level  
7 broad trend in typology reports that assist  
8 reporting entities as well as government  
9 officials in carrying out their anti-money  
10 laundering and anti-terrorist financing due  
11 diligence efforts. That's FINTRAC in a  
12 nutshell. Again, I want to emphasize I'm not an  
13 employee of FINTRAC; I'm just speaking about my  
14 knowledge of FINTRAC as a result of working  
15 quite closely with that organization for a  
16 number of years and being a recipient of much of  
17 FINTRAC's financial intelligence outputs.

18 Let's move now to the trade dimension of  
19 trade-based money laundering, and here you're  
20 really talking about the organization that I do  
21 work for, the Canada Border Services Agency.  
22 And just at a very high level, the CBSA, as  
23 we're known, is Canada's border management  
24 agency. So our mission is to ensure Canada's  
25 security and its prosperity by managing the



1 access of people and, particular with  
2 trade-based money laundering, goods to and from  
3 Canada. So we manage Canada's ports of entry  
4 and all the various modes, the land border, air,  
5 marine, rail, postal for example. And we have  
6 approximately 117 land border crossings. We man  
7 13 international airports. We're located at 27  
8 different rail sites. And we also have staff at  
9 Canada's three major international mail  
10 processing centres in the Greater Toronto,  
11 Greater Montreal and Greater Vancouver areas.  
12 You should know that the CBSA administers more  
13 than 90 acts and regulations and international  
14 agreements, but many of those are on behalf of  
15 other federal government departments and  
16 agencies as well as the provinces and  
17 territories. And really when it comes down to  
18 it, though, CBSA, especially in the context of  
19 the topic at hand of trade-based money  
20 laundering, can be thought of as Canada's  
21 customs service. And so in fulfilling our role  
22 as Canada's custom service the primary  
23 legislative instrument that we use is the  
24 *Customs Act*. And it's really to bring it down  
25 to the specifics of the trade fraud that

1                   underlies so much trade-based money laundering,  
2                   what we administer and enforce on traders is  
3                   that requirement outlined in section 7.1 of the  
4                   *Customs Act* where any information that's being  
5                   provided to our organization to assist in the  
6                   administration and the enforcement of the act or  
7                   the tariff or the other customs-related  
8                   legislation under our purview as well as any  
9                   other act of parliament that either prohibits or  
10                  controls or regulates the import or the export  
11                  of goods must be -- and these are really the key  
12                  words -- shall be true and accurate and  
13                  complete. And that is the sort of the  
14                  fundamental section of our act that we use as  
15                  sort of the off point to the enforcement of  
16                  trade fraud, which, as I mentioned, underlies  
17                  much trade-based money laundering.

18                         What I want to emphasize for you all today  
19                         is that it may be a common misconception -- I'm  
20                         actually now sure, but there may be a perception  
21                         out there particularly because you have someone  
22                         from the CBSA talking about trade-based money  
23                         laundering, my organization does not investigate  
24                         money laundering or terrorist financing. Our  
25                         area of focus is on investigating the trade

1 fraud, that customs fraud that underlies money  
2 laundering and terrorist financing, so  
3 trade-based money laundering or trade-based  
4 terrorist financing, that's our responsibility.  
5 The enforcement of the money laundering activity  
6 itself remains the purview of the Royal Canadian  
7 Mounted Police. But you can see that because of  
8 our privileged position as effectively Canada's  
9 trade gatekeeper that there's a requirement  
10 really for the CBSA to be involved in helping to  
11 identify import or export transactions that  
12 could present anomalies indicative of money  
13 laundering activity. We have the knowledge and  
14 the experience and the expertise to detect that  
15 trade fraud that underlies the trade-based money  
16 laundering. I just want to be very clear on  
17 that front.

18 So I'll leave it there and I'll pass it over  
19 to my colleagues to speak about the RCMP and CRA  
20 mandate with respect to TBML.

21 Q Sorry, just before you move on, just one  
22 question about you've mentioned a couple of  
23 times about your organization's role in  
24 detecting anomalies in trade data and I was just  
25 wondering if you could give us a bit more of a

1 clear understanding about what resources the  
2 CBSA has to look at trade data and detect  
3 pricing anomalies and the like.

4 A (JG) Right. At this moment in time and based on  
5 my knowledge and my experience, in order to  
6 uncover trade fraud that could be characteristic  
7 of trade-based money laundering we're largely  
8 reliant on external sources of information and  
9 so one of the ways that we can come to be aware  
10 of suspected trade fraud, one of the largest  
11 sources of information for us is financial  
12 intelligence disclosures from FINTRAC. So we  
13 receive significant quantities of financial  
14 disclosures from FINTRAC on a proactive as well  
15 as a responsive basis, and that can often be the  
16 jumping off point for further exploration of  
17 instances that could be indicative of  
18 trade-based money laundering. And so key in  
19 that information really is where a financial  
20 institution has flagged certain financial  
21 transactions as suspicious. And those financial  
22 transactions purport to be in relation to  
23 international trade. So payments for goods  
24 either imported or goods exported. And when  
25 FINTRAC develops the grounds to suspect money

1                   laundrying as well as the use of the customs  
2                   process to potentially launder, they can  
3                   disclose information to us on a proactive basis.  
4                   And so that is one of the key ways in which  
5                   potential trade-based money laundrying is raised  
6                   to our attention and that, like I said, can  
7                   become the jumping off point for many  
8                   trade-based money laundrying cases. We also,  
9                   though, have a number of different areas within  
10                  the CBSA that are the eyes and ears of my area  
11                  within the organization. So what I mean  
12                  specifically by that is we have a commercial  
13                  program so we have border services officers that  
14                  are positioned at all of Canada's ports of entry  
15                  who are responsible for processing the  
16                  importation or the exportation of goods into or  
17                  out of Canada. And they can be our eyes and  
18                  ears. So when they have the grounds to suspect  
19                  that particular transactions that they may be  
20                  reviewing show some indicators of trade fraud  
21                  where a description doesn't seem to match goods  
22                  that they've examined, where the pricing doesn't  
23                  seem to match the shipments, where an importer  
24                  or an exporter who's in one business line is  
25                  presenting customs documents for goods that are

1                   in a completely separate sector, these types of  
2                   indicators, this becomes other key way in which  
3                   anomalies, trade-based anomalies, can be flagged  
4                   for what we would call lead development within  
5                   our organization as either suspected trade  
6                   fraud, that traditional trade fraud where  
7                   there's a duty and tax implication, or whether  
8                   it could be something in addition to that or in  
9                   place of that such as trade-based money  
10                  laundering. CBSA also has a trade program and  
11                  CBSA's trade program is actually quite different  
12                  from its commercial program. So the commercial  
13                  program is responsible for making determinations  
14                  on whether goods can be released into Canada,  
15                  but the trade program is responsible for the  
16                  final accounting of those goods once they've  
17                  arrived in Canada to make sure that any  
18                  appropriate duties or taxes have been paid on  
19                  those goods, and so they are the compliance arm  
20                  of the Canada Border Services Agency and they  
21                  are also a key source of information for us  
22                  within the organization. As a part of their  
23                  compliance review mandate if they develop the  
24                  grounds to suspect that the potential  
25                  non-compliance that they may have uncovered may

1                   be willful, they can make referrals to the  
2                   intelligence and the enforcement branch of our  
3                   agency, which is the branch that I work in, for  
4                   further review and for analysis. Other sources  
5                   of information can come from our law enforcement  
6                   partners whether it's at the federal provincial  
7                   or the municipal level or from our international  
8                   partners. We will sometimes receive requests  
9                   from our key international partners to take a  
10                  look into Canadian companies that appear to be  
11                  engaging in trade fraud or trade-based money  
12                  laundering activity in that foreign jurisdiction  
13                  and in some cases that becomes the jumping off  
14                  point for us to initiate a Canadian based  
15                  either intelligence probe or investigation into  
16                  those entities in partnership with that foreign  
17                  jurisdiction. So there are a number of  
18                  different potential sources of the information  
19                  that could yield anomalies that eventually  
20                  become leads and potentially downstream for the  
21                  compliance reviews or referrals for enforcement,  
22                  whether it's criminal investigation under the  
23                  *Customs Act* or potentially even under the  
24                  *Criminal Code*. We are -- also our agency is  
25                  just at the cusp of implementing some new IT

1                   systems to manage particularly imported goods  
2                   coming into the country, and this is where we're  
3                   starting to see the introduction of advanced  
4                   analysis, advanced data analysis, where  
5                   transactions can be reviewed in aggregate at far  
6                   beyond the capacity of any one or many  
7                   individuals to review manually for potential  
8                   indicators of trade fraud or trade-based money  
9                   laundering. One example could be for anomalous  
10                  unit pricing where the individual unit price for  
11                  a good that's being declared is inconsistent  
12                  with the aggregate pricing ranges for previous  
13                  importations of that same commodity. That would  
14                  be one example. Or an importer who purports to  
15                  be in one line of business but is declaring  
16                  goods that are in a completely different sector.  
17                  Just a few high level examples of some of the  
18                  capabilities that will be coming into our agency  
19                  in the near term and then increasing in their  
20                  scope and their complexity over time.

21                  Q     You are familiar with the work of Professor  
22                            Zdanowicz?

23                  A     Yes, I am, I have some familiar with his work,  
24                            not extensive, but I have reviewed some of his  
25                            publications in the past, although not recently.



1           Q     He's going to be giving evidence before the  
2                    commission this week and I'm wondering this IT  
3                    solution that you've described, is that akin to  
4                    his statistical analysis that he presents?

5           A     (JG) I'm not actually -- in my personal  
6                    experience I'm not intimately involved with the  
7                    new IT system that I just spoke about. I have  
8                    some high-level knowledge of that system and  
9                    some of the analytics capabilities that are  
10                   either being designed or contemplated for  
11                   introduction into that system. I wouldn't feel  
12                   comfortable speaking in-depth about whether  
13                   Mr. Zdanowicz's statistical analysis techniques  
14                   are specifically being contemplated or some  
15                   variant of them for incorporation into that  
16                   system.

17          Q     You mentioned that the new system is to be  
18                    applied to imports, and I'm wondering why is it  
19                    not also being applied to exports?

20          A     (JG) They're separate programs within the Canada  
21                    Border Services Agency and so CBSA's trade  
22                    program, which will be the primary users of the  
23                    system are basically assuring compliance with  
24                    revenue requirements so the duty and tax  
25                    payments that I referred to before. And duty

1                   and tax payments, duty payments are largely  
2                   collected on imported, not exported goods. It's  
3                   basically two separate operating environments,  
4                   and the export program, CBSA's export program  
5                   uses a separate system called a Canadian export  
6                   reporting system, and that's a brand-new system  
7                   that was just launched formally, I believe, in  
8                   June of 2020. So it's a separate system  
9                   entirely. This new system is focused on the  
10                  import environment.

11                 Q     Is it the case that exports, though, are more  
12                   vulnerable to trade-based money laundering than  
13                   imports already?

14                 A     (JG) It would be my opinion based on my  
15                   experience with looking at complex trade fraud  
16                   including trade-based money laundering that,  
17                   yes, the export environment would be more  
18                   vulnerable or more susceptible to trade-based  
19                   money laundering than to the import environment.

20                 Q     In that sense wouldn't it make sense if you are  
21                   going to introduce an IT solution with that kind  
22                   of analytic capacity to target it at the  
23                   exports, not the imports?

24                 A     (JG) Well, I'm not sure that -- we're talking  
25                   about two completely separate programs and



1 anti-money laundering concern?

2 A (JG) I'm sorry, could you rephrase the question.

3 I don't quite follow.

4 Q The question is are imports being targeted for  
5 the new IT solution because there's money to be  
6 captured?

7 A (JG) I would say that in my experience that  
8 would be just one of a number of factors that  
9 are being contemplated. I am aware at a  
10 peripheral level that there are some new  
11 features that are being enabled within this new  
12 system that will put our agency in a much better  
13 position to detect all manner of non-compliant  
14 activity with respect to the import of goods and  
15 not just with respect to potential for revenue  
16 evasion but also to potentially detect  
17 non-compliant activity that could be indicative  
18 of something such as trade fraud or trade-based  
19 money laundering. And the example that I would  
20 give is unit price analysis. Unit price  
21 analysis is a technique that's applied and it's  
22 really agnostic, an agnostic technique. It's  
23 not within the purview of duty or tax  
24 collection; it applies to all imported goods.  
25 And it will potentially identify anomalies

1 across a range of different fronts, not just  
2 potential revenue evasion. So one thing it can  
3 identify are extreme pricing anomalies for  
4 non-dutiable goods and it is possible that in  
5 some of those circumstances with these extreme  
6 pricing anomalies that the price irregularity in  
7 some cases was willful. So in other words a  
8 customs declaration was manipulated to either  
9 raise or lower the value potentially for the  
10 purposes of trade-based money laundering.

11 Q Thank you. I've taken you off. You were just  
12 about to pass the torch to your colleagues and  
13 I'll invite them to finish off the slide.

14 A (SS) Thank you, Ms. Latimer. Thank you, Joel.  
15 I'll just take the baton, so to speak here, and  
16 finish off the slide of intersecting mandates  
17 and talk about the criminal mandate and  
18 specifically with the RCMP, and I'll also speak  
19 a little bit about the CRA mandate.

20 As you can see from the bullet points there  
21 for the RCMP there's two bullet points there.  
22 To just sort of contextualize I'll just say that  
23 the overall slide here really points towards an  
24 intention of being a comprehensive Government of  
25 Canada approach where we're hoping that the

1 federal policing operations from the RCMP  
2 perspective are supported in form by relevant  
3 intelligence, making sure that operational  
4 decisions are really based upon the best  
5 information and intelligence provided with our  
6 agency partners wherever that's possible. It  
7 really falls in line with what I would call our  
8 scope of service elements, issues that are  
9 threats to Canada's economic integrity, and I  
10 would place the layering aspects, to which we  
11 alluded to earlier in our first few slides where  
12 trade-based money laundering primarily resides  
13 in that middle portion of layering, as a threat  
14 to Canada's economic integrity, which is one of  
15 our scope or service elements. There's threats  
16 to critical infrastructure from the lack of  
17 reporting on funds and the slippage of revenue  
18 that could be generated that supports social  
19 programs. Also talking about scope of service  
20 elements that touch on -- they're international  
21 in scope, interjurisdictional in scope and  
22 national implications. And I would be remiss if  
23 I didn't mention the longest undefended border  
24 with our biggest economy in the world, which is the  
25 United States. So trade-based money laundering

1 touches on a number of points, especially on a  
2 scope of service elements from our agency, and  
3 as well as a number of priority themes, for  
4 example for transnational and serious organized  
5 crime, which the RCMP defines as criminal  
6 activity involving organizations, networks or  
7 entities either in Canada or abroad that use  
8 Canada as a destination, transit point, safe  
9 haven or thoroughfare for illicit activities  
10 across international and/or provincial borders.  
11 So within that priority theme of transnational  
12 and serious organized crime, we're targeting key  
13 activities, organized crime, i.e., major  
14 criminal operations linked to the movement of  
15 illicit commodities and their proceeds,  
16 including but not limited to drug trafficking,  
17 human trafficking, weapons trafficking at the  
18 interprovincial and even the -- sorry, and as  
19 well the international level. So then we move  
20 on to the other key activities targeted within  
21 the priority theme of transnational, serious and  
22 organized crime, and we're talking about money  
23 laundering. Networks. We're talking about  
24 money controllers, associates involved in  
25 movement of criminal proceeds to, from or

1 through Canada as well as the transnational  
2 networks that support them. So it's quite a big  
3 comprehensive area of operations, but the  
4 intersecting mandates between FINTRAC, CBSA, the  
5 RCMP, and I'll move on to the last bullet point  
6 there with Canada Revenue Agency, what it really  
7 all points to is that this is a high volume area  
8 that requires a lot of scrutiny. And the level  
9 of scrutiny that can be applied with the  
10 different sort of skill sets with different  
11 agencies as well as their mandates all  
12 supplements a variety of responses, whether it's  
13 an intelligence probe generated to gather an  
14 insight into a certain area or enforcement level  
15 action or assisting another agency, whether they  
16 be a foreign agency that has pointed out areas  
17 of deficits and/or deficiency in our own  
18 awareness of TBML. Before I move on to the next  
19 slide I'll just talk about CRA's mandate.  
20 Again, I'm not a member of CRA. I'm  
21 representing the RCMP here today. This was a  
22 slide that we co-presented on a number of  
23 occasions with our Canada Revenue Agency  
24 colleagues. And so you'll see that they  
25 specified their mandate, investigating potential



1 criminal violations of the acts administered by  
2 the Canada Revenue Agency, focusing on promoters  
3 of sophisticated and organized tax schemes,  
4 international tax evasion and working jointly  
5 with law enforcement on money laundering.

6 Unless there's any questions I'm happy to turn  
7 it over to the next slide.

8 (JG) Thank you very much. I'll quickly go  
9 over for you, we're starting to move into some  
10 typologies with respect to trade-based money  
11 laundering. And I would just call your  
12 attention back to some of my colleague Bryanna's  
13 earlier comments about complex trade-based money  
14 laundering schemes and black market peso  
15 exchanges and that criminal trade craft is what  
16 can turn what might be a more mundane  
17 trade-based money laundering scheme into a  
18 highly complex trade-based money laundering  
19 scheme. So a black market peso exchange,  
20 sometimes just referred to as a BMPE by its  
21 acronym, are essentially what can be thought of  
22 as illicit foreign currency exchanges, and it's  
23 the trade in goods that enables the foreign  
24 exchange to take place. So what do they do.  
25 They help criminal networks to solve one of

1                   their biggest problems, and the problem is how  
2                   do you get your proceeds or your profits of your  
3                   crime that's conducted in one jurisdiction into  
4                   another with minimal risk of exposure and the  
5                   key really is in the local currency at your base  
6                   of operations so that it can be used to fund  
7                   your activities. So it might be helpful, and  
8                   the example that I'll go through here, to think  
9                   of transnational drug trafficking activity.  
10                  That's really the example I'll walk through  
11                  here. So when we're talking about profits we're  
12                  talking about either wholesale or street sale  
13                  proceeds from drug trafficking activities taking  
14                  place in this example in the United States,  
15                  although you can sub in Canada for the United  
16                  States because it happens in Canada and most  
17                  other jurisdictions, western jurisdictions, as  
18                  well. So a black market peso exchange scheme  
19                  can get US dollar proceeds of narco-trafficking  
20                  back to source jurisdictions -- typically we're  
21                  talking about Colombia or Mexico -- in the local  
22                  currency, the Colombian or the Mexican peso,  
23                  because the US dollar if that was to be moved,  
24                  say, through bulk cash smuggling across borders  
25                  and into Colombia or Mexico wouldn't be very

1 helpful to narco-trafficking cartels, especially  
2 in quantities that we're talking about with the  
3 potential proceeds. To be useful it needs to be  
4 in local currency and that's what a black market  
5 peso exchange scheme fundamentally helps.  
6 That's the problem it helps to solve for these  
7 criminal actors.

8 If I could draw your attention to  
9 approximately -- if you think of the graphic in  
10 front of you as a clock to approximately the  
11 10 o'clock position, the grey square saying  
12 "drugs are smuggled into the US and sold for US  
13 dollars." This is where our scheme starts. And  
14 so again we're talking about Mexican drug  
15 trafficking activity in the United States and  
16 then the repatriation of the proceeds. So our  
17 scheme starts with a Mexican cartel whose  
18 sending drugs for street distribution in the US.  
19 Wholesale, street sale, it doesn't really  
20 matter. Once the drugs are sold they're going  
21 to be sold in US dollars. What happens is the  
22 cartel would contact someone known as a peso  
23 broker and the peso broker will assist in  
24 brokering a deal that gets those proceeds back  
25 to Mexico, in this case in Mexican pesos. So

1                   the peso broker -- and this peso broker could be  
2                   operating in the United States but could be  
3                   operating in really any jurisdiction around the  
4                   world. What the peso broker will do is contact  
5                   either another broker or can directly contact  
6                   business owners in Mexico who are willing to buy  
7                   goods from US based vendors but they would need  
8                   US dollars, that the US vendors obviously need  
9                   US dollars to acquire the inventory to export to  
10                  Mexico. So what happens is the peso broker  
11                  would make arrangements for the proceeds of  
12                  crime, the US cash to be delivered to those US  
13                  based vendors of goods, to those US-based  
14                  import/export companies, and those vendors would  
15                  use cash. So it would get typically funneled  
16                  into US bank accounts. The US bank accounts  
17                  divided the individuals involved or the  
18                  import/export companies that they actually own  
19                  or control and those proceeds would be used to  
20                  buy goods that are conducive to TBML. And just  
21                  think back to some of the commodities that I  
22                  talked about earlier, scrap metal, garments,  
23                  some other notable examples from the US are toys  
24                  and clothing. Those are notable examples.  
25                  There's been a couple of very high profile TBML

1 schemes that were broken up in Los Angeles known  
2 as the fashion district case in particular where  
3 both clothing and toys were used as part of this  
4 black market peso exchange scheme. So the  
5 illegally obtained dollars are used to pay for  
6 the goods that are ordered by the Mexican  
7 customers, and so your US vendor ships the goods  
8 in question to Mexico and then those goods are  
9 sold by the Mexican business owners in exchange  
10 for pesos. And the proceeds of those sales are  
11 ultimately funneled back to, in this case, the  
12 Mexican cartel through the peso broker. Peso  
13 broker obviously taking a commission for  
14 transacting the deal. And that really completes  
15 the black market peso exchange scheme cycle.  
16 That's, I should just note, a very high level  
17 example. There are many, many variants to the  
18 black market peso exchange scheme and some of  
19 those variants could include things that we've  
20 either talked about before, so using customs  
21 fraud, the misdescription of goods, including  
22 phantom shipments that we talked about before  
23 and we'll talk about a little bit more coming  
24 up, the use of convoluted shipping routes,  
25 exploiting free trade zones. So this example is

1                   very simple and it shows the goods going  
2                   directly from the United States to Mexico.

3                   In my experience based on the files that  
4                   I've had the chance to review and to work on  
5                   that's rarely the case. More often than not  
6                   goods are routed through multiple different  
7                   countries all around the world, even in often  
8                   times nonsensical trading routes before they  
9                   ultimately arrive back at the jurisdiction where  
10                  the criminal proceeds are destined. And so  
11                  Canada, for example, can be used as just one  
12                  node in a very complex international black  
13                  market peso exchange scheme where the US could  
14                  be involved, Canada, and imagine any number of  
15                  countries around the world, and shipments are  
16                  broken up at specific locations around the world  
17                  to further obfuscate the trail of those goods.  
18                  And so a customs service like mine may only be  
19                  able to see just one leg in the international  
20                  routing of goods that are involved in black  
21                  market peso exchange schemes, and criminal  
22                  actors are well aware of that and they exploit  
23                  it to their advantage. So by breaking up one of  
24                  these schemes into multiple jurisdictions where  
25                  Canada or the United States doesn't really have

1                   any knowledge of how those goods are being  
2                   declared in those foreign jurisdictions, the  
3                   trail goes cold, and it's one of the many  
4                   reasons that black market peso exchange schemes  
5                   are such a concern and used to the extent that  
6                   we believe they are by criminal actors. I don't  
7                   have anything else to add to that. Sorry, yes?

8                   Q     [Indiscernible] they are used by criminal actors  
9                   from the criminal actors' perspective is a  
10                  benefit of this kind of typology that it allows  
11                  them to get the profits back into their local  
12                  currency but now in a legitimate form?

13                  A     (JG) Yes, that's correct. That's the  
14                  fundamental purpose of the black market peso  
15                  exchange scheme. So as I said at the outset,  
16                  it's about illicit foreign currency exchange.

17                  Q     And it's also a way for the money controllers to  
18                  balance their books; is that right?

19                  A     (JG) That is -- that can be the case in certain  
20                  cases, yes. It doesn't have to be, but it  
21                  certainly can be. If you have nothing further  
22                  I'll move on.

23                                 So we'll continue on with some of the TBML  
24                                 typologies. This slide, what it does is it  
25                                 really just re-emphasizes I think a pretty

1                   important point that Bryanna mentioned earlier  
2                   which is that TBML schemes require complicit  
3                   buyers and sellers or one group that's able to  
4                   control both sides of a trade transaction. But  
5                   I think what this slide also highlights are some  
6                   key vulnerabilities in the Canadian system that  
7                   allow the scheme, the trade-based money  
8                   laundering scheme, to succeed. This is not  
9                   exclusive to Canada but it is -- some of these  
10                   vulnerabilities have been observed here in  
11                   Canada. The scenario on the slide in front of  
12                   you presents an instance of suspected  
13                   overvaluation, and this is taken from a real  
14                   case. And what this situation allows for is an  
15                   excess of \$20,000 in value to be laundered into  
16                   Canada. So in this case you have an importer  
17                   and an exporter who agree that an export of  
18                   Canadian goods is going to be worth \$100,000.  
19                   An export declaration for the Canadian goods is  
20                   filed with the CBSA, but it's only filed for  
21                   \$80,000, so you've got that \$20,000  
22                   differential. However, the payment of that full  
23                   \$100,000 is sent through a wire transfer. So  
24                   the payment is made for the full \$100,000. A  
25                   declaration is made for only \$80,000 and now you



1                   have that excess of value that's being laundered  
2                   into Canada.

3                   So I want to talk about why this particular  
4                   scheme succeeded. In this case and as I've  
5                   talked about earlier in the presentation, the  
6                   CBSA only exams a very small percentage of the  
7                   goods that enter or leave the country. It's not  
8                   for lack of want, it's a matter of capacity and  
9                   it's again all about that exponential growth in  
10                  international trade that is well beyond any  
11                  jurisdiction around the world to effectively  
12                  examine any more than a small percentage of  
13                  goods that are either entering or leaving the  
14                  country. But even assuming that an examination  
15                  took place, a few things that I wanted to note.  
16                  So in this case, the commodity that was chosen  
17                  was difficult to value and it was also very  
18                  difficult to examine. And even if it had been  
19                  examined the fraud would more likely than not  
20                  have not been detected. So the CBSA doesn't  
21                  have any systematic method to learn the value of  
22                  the goods that are being declared in the foreign  
23                  country. We only know what's being presented to  
24                  us on export, and in this case we have a  
25                  declaration that says \$80,000. How those goods

1                   are presented on import in the foreign  
2                   jurisdiction is oftentimes out of our ability to  
3                   know. And typically our agency would need the  
4                   grounds to suspect some form of non-compliance  
5                   in order to request that information from the  
6                   foreign country. And so the CBSA does have a  
7                   number of what are known as customs mutual  
8                   assistance agreements with a variety of  
9                   countries around the world. But we may not in  
10                  this case have had an agreement with that  
11                  foreign country to determine the value as  
12                  declared on import, and if we had that  
13                  information, that could have been a giveaway  
14                  that there was this \$20,000 discrepancy if it  
15                  was declared at its true value in the foreign  
16                  jurisdiction. But in the absence of that  
17                  initial grounds to suspect, there would be no  
18                  reason to undertake that outreach with the  
19                  foreign partner.

20                         So we also don't have a systematic method to  
21                         determine how the goods were described to the  
22                         shipper, so the actual company that is carrying  
23                         the goods from Canada to the foreign country.  
24                         Again, generally speaking we would require some  
25                         grounds to suspect non-compliant activity to

1 request shipping documents in this instance.  
2 What we have are the customs declarations, not  
3 the shipping documents, and sometimes, and I'll  
4 talk about this a little more later on in the  
5 presentation, one of the most effective ways and  
6 really a best practice for detecting trade-based  
7 money laundering is the layering of multiple  
8 different data points from multiple different  
9 sources throughout the trade chain and it's that  
10 layering of data that can yield anomalies that  
11 are indicative of trade-based money laundering.  
12 So in this case, a layering of the customs  
13 documentation and the shipping documentation,  
14 which also lists the value of the goods, the  
15 type of goods, basically all those elements that  
16 are on the customs declaration are largely found  
17 in the shipping documentation, that could have  
18 been an opportunity to detect the anomaly, the  
19 irregularity, and to conduct further activity to  
20 build grounds to suspect some kind of  
21 non-compliant activity and to validate whether  
22 there is non-compliant activity taking place.  
23 But again without that initial grain of  
24 suspicion it would not be routine for our agency  
25 to request those shipping documents.

1                   And I would also just conclude the slide by  
2                   saying that in addition my agency does not have  
3                   a systematic method to determine the amount that  
4                   was actually wired in payment for those goods.  
5                   So in this particular case the settlement, the  
6                   payment for the goods was effected through an  
7                   international wire transfer, and my organization  
8                   does not have access on a routine and systematic  
9                   basis, without grounds we don't have access to  
10                  financial information underlying the payments  
11                  for these goods. So if we had some grounds to  
12                  suspect, we could certainly put in a request for  
13                  financial information and intelligence from  
14                  FINTRAC on the Canadian entity or even the  
15                  foreign entity in this case, but matching in  
16                  this case the wire transfer information, the  
17                  payment for the goods with the data for the  
18                  goods themselves is not straightforward and not  
19                  possible without that grain of suspicion.

20                Q     Just addressing the first information gap that  
21                  you identified which was about not having the  
22                  information from the other jurisdiction, the  
23                  foreign jurisdiction, and you had earlier talked  
24                  about Mr. Cassara's work and you are aware I'm  
25                  sure that Mr. Cassara is a proponent of a trade

1 transparency units; correct?

2 A (JG) Yes, I am aware.

3 Q Is that a kind of gap that would be filled by  
4 having a trade transparency unit in Canada?

5 A (JG) It's possible that a trade transparency  
6 unit would fill a gap, theoretically speaking.  
7 Practically speaking I don't think a trade  
8 transparency unit would be possible as currently  
9 conceived in Canada, and I can explain what I  
10 mean by that. A trade transparency unit, just  
11 for the benefit of the commission and for the  
12 benefits of the Commissioner, is a United States  
13 Homeland Security investigations initiative  
14 that's been in place for approximately 15 to  
15 20 years. I apologize. I'm not sure precisely  
16 when the first trade transparency unit was  
17 created. But it operates under the premise of  
18 an exchange of primarily customs data from the  
19 US government and the foreign government who has  
20 entered into a trade transparency unit agreement  
21 with the United States. So these are bilateral  
22 agreements that the US strikes with foreign  
23 countries. I haven't looked at the total number  
24 of these trade transparency units in some time.  
25 It's been a number of years. The last I recall

1                   was that there were approximately 18 to 20 of  
2                   these bilateral agreements that had been struck  
3                   by the US and foreign countries since the  
4                   concept originated. And the way they work is  
5                   that the US and the foreign country make an  
6                   agreement to exchange their customs data. So  
7                   import and export data pertaining to one  
8                   another's countries. And the method of exchange  
9                   is through an advanced analytic system. It's  
10                  called DARTTS. I apologize. I forget what the  
11                  acronym stands for. It's data analytics for  
12                  trade transparency. Not precisely that but  
13                  something along those lines. And the DARTTS  
14                  system has the ability to automatically cross  
15                  compare trade transactions. An example I often  
16                  give when talking about trade transparency units  
17                  are banana exportations from Colombia. So think  
18                  of a marine container that has bananas in it  
19                  that's destined for the United States, it's  
20                  destined for the port of Miami. The Colombian  
21                  government gathers export information on the  
22                  bananas that are departing Columbia and that are  
23                  outbound for the United States, and on the US  
24                  side the US government gathers import data for  
25                  that same transaction. And what DARTTS does



1                   distinction between trade fraud and trade-based  
2                   money laundering is a custom service or a law  
3                   enforcement agency won't necessarily know just  
4                   because there's an irregularity between import  
5                   data and export data that trade-based money  
6                   laundering is happening. What we know is that  
7                   there's an anomaly with the trade data and it's  
8                   possible that that anomaly could be generated  
9                   for all manner of different reasons, not just  
10                  something untoward. It could be a data error in  
11                  the export filing. It could be a data error in  
12                  the import filing. It could be a mistake that's  
13                  being made by a customs broker. It could be  
14                  attributable to differences in the way in which  
15                  the values for those goods was actually  
16                  calculated because there are several different  
17                  methods for how goods are valued and that are  
18                  recognized internationally by the World Trade  
19                  Organization. And so I do want to emphasize  
20                  that anomalies are not synonymous with trade  
21                  fraud or trade-based money laundering. It's the  
22                  human effort that comes in after those anomalies  
23                  have been detected that will determine whether  
24                  in fact you're looking at, for example, trade  
25                  fraud for the purposes of duty evasion if that



1 happens to be the case or trade fraud for the  
2 purposes of trade-based money laundering. So  
3 really just want to re-emphasize that point.  
4 Anomalies are just anomalies. It means that  
5 something has been identified that doesn't  
6 match. But back to the trade transparency unit  
7 concept and your question of could it be  
8 effective in Canada, and it's my considered  
9 opinion that yes, it could be in principle  
10 effective in Canada. However, the reason that  
11 Canada has not -- one of the key reasons that  
12 Canada has not engaged in a trade transparency  
13 unit concept is that we don't have the actual  
14 means to. There are technical limitations that  
15 are preventing us from considering that as a  
16 potential one tool amongst many analytics-driven  
17 tools that could identify trade fraud, including  
18 trade-based money laundering. To be more  
19 specific, the limitation is that when we're  
20 talking about Canada's trading relationship with  
21 the United States I'm sure everyone can  
22 appreciate that as significant trading partners  
23 with one another we have a unique relationship  
24 between Canada and the United States, and one of  
25 the unique elements of that relationship

1 involves exports to one another's countries.  
2 And essentially the two countries agreed back in  
3 the late 1980s to enter into a memorandum of  
4 understanding that was signed by at the time the  
5 equivalent of the CBSA and the equivalent of  
6 what is now the customs and border patrol in the  
7 US and the two statistics agencies, the Census  
8 Bureau in the US and Statistic Canada, or as  
9 they were known at that time. So this  
10 four-party MOU basically led to a decision to  
11 only gather aggregate information on exports for  
12 goods that originate in Canada that are destined  
13 to the United States and for goods that  
14 originate in the United States that are destined  
15 to Canada. And so unlike every other country in  
16 the world where the CBSA under most  
17 circumstances -- there are some exceptions, but  
18 under most circumstances the CBSA would mandate  
19 that a Canadian exporter provide an export  
20 declaration. That's not the case with the vast  
21 majority of Canadian exports destined to the US  
22 or for US exports that are destined to Canada.  
23 So we don't actually gather sufficient export  
24 data between one another's countries to enable a  
25 system like the trade transparency unit, like

1                   DARTTS to work because for DARTTS to work you  
2                   need unique sets of import data for both  
3                   countries and unique sets of export data for  
4                   both countries. And when we're talking about  
5                   Canada and the United States, we each have  
6                   unique import data sets, but we don't have the  
7                   corresponding export data. So recall my banana  
8                   example from earlier, the Colombia to US  
9                   example, the detection of that anomaly occurred  
10                  when the Colombian export data was matched  
11                  against the US import data and it was that data  
12                  matching that resulted in the anomaly. Whether  
13                  it was trade fraud or not, we don't know in this  
14                  case, but we don't have that same data to enable  
15                  that same data matching in Canada. All we would  
16                  have is an import of bananas, let's say, from  
17                  the US, but we wouldn't have the corresponding  
18                  export data to -- the export data to match that  
19                  import transaction. So the idea of a TTU I  
20                  think in principle has merit, but in  
21                  practicality there are some structural barriers  
22                  between Canada and the US that are preventing  
23                  that from occurring.

24                  Q       But just like with the United States Canada  
25                  could have is a trade transparency unit with any

1                   other jurisdiction except with United States;  
2                   correct?

3           A       (JG) It is conceivable that Canada could because  
4                   with most other countries we have much more  
5                   robust export data. We have more than just  
6                   aggregate data on exports. We have unique  
7                   transactions, in other words. So it is  
8                   hypothetically possible that a tool like that  
9                   could be entertained.

10          Q       Okay. Thank you. I didn't mean to take you off  
11                   your presentation.

12          A       (JG) It's no problem at all. I had concluded my  
13                   last point on the slide, so if there are no  
14                   other questions or no comments from my  
15                   co-panelist, we can move on.

16                   So continuing on with typologies. I want to  
17                   get back to the concept of the phantom shipment  
18                   scheme. And I talked about phantom shipments  
19                   earlier where in that case when I talked about  
20                   them I talked about paperwork that's being  
21                   submitted to the CBSA, so a declaration is being  
22                   made to the CBSA but there's no corresponding  
23                   shipments of goods. I want to talk about one of  
24                   the variants because it's something that has  
25                   been observed in Canada and it's an emerging

1 concern I think from a TBML perspective here in  
2 Canada, and that's more the concept of the  
3 financial phantom shipment because it really is  
4 at the extreme end of the phantom shipment  
5 method that's employed in trade-based money  
6 laundering. So in this particular scheme the  
7 phantom shipping is occurring purely in the  
8 financial realm. So as you can see from the  
9 chart here there's no actual goods being  
10 shipped. What you have is money that's being  
11 routed from a foreign company in US dollars via  
12 a trading company located in a free trade zone  
13 in the United Arab Emirates that is then being  
14 routed, those US dollars are being routed  
15 through corresponding banking relationships to a  
16 Canadian beneficiary bank. So money is coming  
17 from a foreign jurisdiction, it's cycling  
18 through the United Arab Emirates. It's ending  
19 up back in Canada. And then if you look at the  
20 extreme right side of the graphic you'll see  
21 that the money is received in the US dollar  
22 business account of the Canadian entity and then  
23 it's wired out to a US business bank account.  
24 So that's what's actually happening here.  
25 What's not happening here is there's no movement

1 of actual goods. So in addition to the lack of  
2 the physical shipping it's gone even further  
3 where the fraudsters haven't even gone to the  
4 trouble of filing customs declarations. So  
5 there's no paperwork of any kind from a customs  
6 perspective. There's no customs declarations.  
7 There's no shipping documents. All we have is  
8 the movement of money. You've got those US  
9 dollars that are wired from the foreign importer  
10 to your exporter in Canada, and those wire  
11 instructions indicate -- so in wire transfers  
12 there's a free text, what's called a remittance  
13 field, and basically a note section of the wire  
14 transfer where the sender can indicate any note  
15 that they really want to place into a wire, and  
16 it's usually what we'll typically see are  
17 payment instructions, something to the effect of  
18 this is to settle invoice 1, 2, 3, 4, 5. As  
19 simple as that, typically. And because the  
20 payment method is it's to settle a trade on open  
21 account through a wire transfer, banks have very  
22 limited stake in that transaction. So they're  
23 not extending any kind of financing to either  
24 the Canadian exporter, the foreign importer.  
25 All they're doing really is collecting a small

1 fee to facilitate the wire transfer itself. So  
2 from the bank's perspective unless there's some  
3 form of automated risking taking place on the  
4 transaction and there are flags that go off  
5 because of a potential red flag identified in  
6 the system, there's no real due diligence that's  
7 being placed on that transaction. And in the  
8 absence of any other strong indicators it  
9 wouldn't necessarily raise red flags from the  
10 financial institution's perspective.

11 Now, in this case, the CBSA is never going  
12 to know about the purported trade because no  
13 declaration is ever being filed, and as I  
14 mentioned earlier, we don't have that routine  
15 access to wire transfer information. In order  
16 to meet FINTRAC's information disclosure  
17 thresholds, in order to obtain financial  
18 intelligence, my agency has to meet their dual  
19 disclosure threshold, so we already have to have  
20 a suspicion of money laundering or terrorist  
21 financing, and then one of sort of three  
22 categories that pertain specifically to the  
23 CBSA. So the money has to be in service of some  
24 form of immigration inadmissibility, or there  
25 has to be some kind of an allegation of

1                   smuggling or of non-compliance with the filing  
2                   of customs declarations. And we have to meet  
3                   that dual disclosure threshold, albeit just that  
4                   the grounds to suspect to enable any information  
5                   to come back to us from FINTRAC. A long-winded  
6                   way of basically saying unless we ask for it, we  
7                   don't already have it, and we would already need  
8                   to have that information in order to potentially  
9                   detect the suspicious transaction, but in this  
10                   case we wouldn't be able to because we don't  
11                   even have any customs documents that are being  
12                   filed. So this is a phantom shipment that's  
13                   occurring strictly from the purview of the  
14                   financial institution, no actual goods being  
15                   shipped and no customs declarations that are  
16                   being made. I'm hoping that I'm giving you an  
17                   appreciation for just how complex these schemes  
18                   can become and the many different variations of  
19                   these schemes. So we've already talked about a  
20                   couple of different phantom shipment schemes.  
21                   This is another one that is quite sophisticated  
22                   because to complicate matters further the US  
23                   dollars for these non-existing goods is coming  
24                   from an anonymous UAE-based company in a  
25                   free-trade zone, but the recipient of these



1 non-existent goods is not located in the UAE,  
2 which is very odd and doesn't really make any  
3 business sense for that to be happening.  
4 Typically the money to pay for the goods would  
5 be coming from the company receiving the goods,  
6 and that's not happening here. It's coming from  
7 a third party in a third country. And not only  
8 that, so this is odd and it's a manner of  
9 distancing potentially and concealing the true  
10 beneficiaries to that potential trade-based  
11 money laundering scheme, but furthermore you'll  
12 note that once those US dollars come into Canada  
13 they're immediately wired out to bank accounts  
14 in the US, and that's sometimes called  
15 pass-through or flow-through activity where  
16 money is wired in and very quickly same day or  
17 the next day wired out, which is another key  
18 indicator of trade-based money laundering. And  
19 so the money only stays in Canada in this case  
20 for a very, very limited period of time, which  
21 further obfuscates the paper trail, but because  
22 the money has now gone to another jurisdiction,  
23 it can potentially complicate any downstream  
24 investigative efforts on the part of the  
25 Government of Canada because you now in order to



1 criminal records in Canada and we can't link  
2 them to established organized crime groups.  
3 What we do know is that they do not appear to be  
4 generating the illicit funds. We can't find any  
5 ties to the commission of, for example, a  
6 predicate crime, drug trafficking, for example.  
7 They appear to be cycling the money as we see  
8 increasingly through import/export companies  
9 that they either own or control. So  
10 professional money launderers can be -- often  
11 they can be accountants or they can be lawyers.  
12 I'm sure you've heard some of that discussion  
13 throughout the commission's activities thus far.

14 In the TBML context professional money  
15 launderers are often in our estimation the  
16 owners or the controllers of import/export  
17 companies or they position themselves as custom  
18 service providers. So, for example, a freight  
19 forwarder. And a freight forwarder is merely  
20 responsible for the logistics of getting a  
21 shipment from point A to point B in a timely  
22 manner.

23 So all of the professions that I just  
24 mentioned are susceptible to money laundering  
25 because they offer the ability and they offer

1                   the means to launder based on their very  
2                   inherent nature. And why suspected professional  
3                   money launderers are such a concern, in the  
4                   Canadian context it's because investigating them  
5                   can be exceptionally difficult in the absence of  
6                   a clear link to a predicate crime. So if  
7                   they're not involved in the predicate crime they  
8                   can be very, very difficult to try to enforce  
9                   and to even build a money laundering case in the  
10                  first place. So we sometimes see professional  
11                  money launderers that are linked to informal  
12                  value transfer service networks, so you may have  
13                  heard of hawala or Fei-chien, flying money,  
14                  perhaps when Mr. Cassara testified. And  
15                  professional money launderers -- and that's  
16                  really about mirror transfer. It's about money  
17                  being transferred from one country to another  
18                  without physical money actually leaving that  
19                  jurisdiction. And professional money launderers  
20                  can employ those mirror transfer methods while  
21                  at the same time operating, for example, an  
22                  import/export company to conduct trade-based  
23                  money laundering. As I was talking about  
24                  earlier with underground banking, trade-based  
25                  money laundering then being used to basically

1                   reconcile and balance the books between the two  
2                   sides of the informal value transfer service.

3                   I'll move on to the next slide. This is  
4                   picking up from my previous example about the  
5                   financial phantom shipments. So this is third  
6                   party invoice settlement. And this is a real  
7                   key in trade-based money laundering typology.  
8                   When I think about top indicators of trade-based  
9                   money laundering, this is really one them. This  
10                  would be top three or top five in my personal  
11                  opinion in terms of indicators to look for.

12                  So third party invoice settlement, as I said  
13                  this slide's similar to, it sort of builds on  
14                  the financial phantom shipment scheme that we  
15                  talked about earlier, but it's highlighting a  
16                  different concern, and that's the threat actors  
17                  who are actually behind the third party payments  
18                  themselves. So in this scheme, as you'll recall  
19                  from our earlier slide you've got a third party  
20                  -- you've got a United Arab Emirates-based  
21                  general trading company and actually a fourth  
22                  party, a United Arab Emirates-based money  
23                  exchange house, that has no apparent business  
24                  connection to either the importer or the  
25                  exporter. So there's no legitimate reason that

1                   can be determined for why a payment would be  
2                   cycling through these third and fourth parties  
3                   located in a separate country from the vendor of  
4                   the goods and the recipient of the goods, from  
5                   the importer and from the exporter. So we're  
6                   talking about three different countries that are  
7                   at play here. And a more legitimate trade  
8                   transaction, typically the payment would be sent  
9                   from the company that received the goods, so it  
10                  would be originating from that country, not from  
11                  a third or a fourth country. So why is this  
12                  happening? Well, that third party plays a key  
13                  role and this has I think come up on some of the  
14                  previous slides. Oftentimes we believe those  
15                  third parties are linked to international money  
16                  controller networks and these are the global  
17                  networks who broker large-scale international  
18                  laundering deals. They're the ones that can  
19                  facilitate -- I talked about capital flight  
20                  earlier, because they have access to these large  
21                  pools of dark money that's sort of sitting  
22                  outside the legitimate financial system. And  
23                  it's these third parties that are often playing  
24                  a role as international money controllers. They  
25                  are the representatives, you can think of them

1                   that way, of international money controller  
2                   networks. So they receive and they transfer  
3                   oftentimes vast sums of illicit money from a  
4                   variety of different sources. It could be from  
5                   proceeds of crime. It could be from money  
6                   that's subject to sanctions. It could be  
7                   subject to capital controls. It could be the  
8                   proceeds of corruption. And this is a really  
9                   big concern because oftentimes these entities  
10                  are really difficult to learn about. They're  
11                  located in jurisdictions that aren't necessarily  
12                  cooperative to law enforcement where beneficial  
13                  ownership, real true beneficial ownership can be  
14                  difficult to determine so we've not sure who  
15                  we're dealing with and therefore not sure of the  
16                  source of the funding that is sustaining those  
17                  financial transactions. But one of the key  
18                  goals of the Government of Canada is to work  
19                  with our international partners when we identify  
20                  suspected international money controllers to try  
21                  and identify who they are and to try and build  
22                  up the ability to dismantle those international  
23                  controllers because they act as the key hubs of  
24                  these vast and sprawling international money  
25                  controller networks, so if you can go after them

1           as a key node, you would have potentially a  
2           greater ability to effect lasting change on a  
3           network's ability to launder money.

4           On the next slide, if there are no  
5           questions, this is a real example. It's drawn  
6           from a suspicious transaction report that shows  
7           how the Government of Canada is able to initiate  
8           either intelligence probes or investigative  
9           leads into these types of activity. So, what's  
10          happening here is you've got a bank that's  
11          providing FINTRAC with information through a  
12          suspicious transaction report, and they're  
13          essentially highlighting what I just profiled on  
14          the previous slide. So the reporting that their  
15          client has received two wire transfers that came  
16          in from the UAE. But the client doesn't trade  
17          with the United Arab Emirates. The bank did  
18          some due diligence. They questioned their  
19          client, who advised that that UAE company is in  
20          fact a regular customer but they normally  
21          operate out of their Colombian affiliate. They  
22          just didn't happen to in this case. But  
23          basically the client was not able to explain why  
24          they were -- to really substantiate why they  
25          were getting funds from the UAE and that was



1                   enough for the anti-money laundering arm of the  
2                   bank to file an STR with FINTRAC. This is a  
3                   perfect example of how an STR, that financial  
4                   intelligence that the Government of Canada is  
5                   receiving from financial institutions, can be an  
6                   initiator, can be a lead generator for potential  
7                   intelligence or investigative activity into  
8                   trade-based money laundering.

9                   We can move on to the next slide. So I  
10                  wanted to talk in a little bit more detail about  
11                  a few of the commodities that I profiled  
12                  earlier. And I'll just run through this  
13                  quickly, but I welcome any questions you may  
14                  have of course. We'll talk about mobile phones.  
15                  So why specifically are mobile phones attractive  
16                  for trade-based money laundering? And I've  
17                  outlined all of those factors on the screen. So  
18                  briefly they're very portable products. They're  
19                  very easy to ship. As I mentioned earlier, many  
20                  trade-based money laundering related commodities  
21                  are easy to sell. Smartphones, mobile phones,  
22                  they have a high value; they have a high demand  
23                  globally. Certain brands more than others have  
24                  extremely high value and brand cachet that makes  
25                  them attractive. They're easy to sell at their

1 destination markets. But their descriptions can  
2 be very easily manipulated, getting back to that  
3 core trade fraud. Values can be adjusted. You  
4 can adjust the size of the memory in a  
5 particular Smartphone, and I think any  
6 Smartphone purchaser who has bought a phone  
7 recently realizes there are many memory  
8 configurations in your phones and the more  
9 memory you have the expensive the device is.  
10 Well, you can manipulate that description on  
11 your customs declaration to lower the overall  
12 value of the good so it becomes an 8-gigabyte  
13 hard drive instead of a 64-gigabyte hard drive  
14 built into the phone, or you can do the reverse.  
15 So it's just as an example of how you can  
16 manipulate the description and use that to  
17 either inflate or deflate the value of these  
18 goods. So you can take a used phone, you can  
19 sell it as new. You can take a new phone or  
20 shipments of phones and sell them as used. I  
21 mentioned the memory size manipulation. You can  
22 recycle shipments, so if you're a launderer you  
23 don't have to go out and constantly be seeking  
24 new stocks of phones. If your only intention is  
25 to launder you can just have the phones cycling,

1                   the same shipment of phones cycling around the  
2                   earth and just declared as a different set of  
3                   phones with each subsequent trade transaction.  
4                   So with very limited inventory costs to the  
5                   criminal network you can achieve maximum  
6                   laundering potential on laundering value.

7                   What we've seen in Canada is mobile phones  
8                   being quite attractive, so we're seeing  
9                   inventories that are being acquired by networks  
10                  of domestic straw buyers. So a criminal  
11                  network, a professional money launderer will  
12                  recruit individuals to go out and purchase  
13                  inventories of Smartphones using their personal  
14                  credit cards and in certain cases the personal  
15                  credit cards are being reimbursed with proceeds  
16                  of crime. The phones are then taken and they're  
17                  exported out of the country and helping to  
18                  complete the laundering cycle. I want to  
19                  emphasize that this is very much a global  
20                  problem. It's well known to many governments  
21                  around the world as a method as well as to  
22                  financial institutions around the world, and  
23                  thankfully because of the awareness we do  
24                  receive quite a bit of information about this  
25                  particular commodity and it helps us to build up

1 a picture of what may be happening.

2 MS. LATIMER: Mr. Commissioner, Mr. Gibbons, if  
3 you're finished with this slide, then I was just  
4 going to suggest, Mr. Commissioner, just for the  
5 comfort of the panelists if we could just take a  
6 short break. I believe you're on mute.

7 THE COMMISSIONER: I'm sorry. That took me a little  
8 longer than it should have. I was on mute.  
9 Yes, I think that's a good idea. Why don't we  
10 take ten minutes.

11 THE REGISTRAR: This hearing is adjourned for a  
12 ten-minute recess until 12:53 p.m. Please mute  
13 your mic and turn off your video. Thank you.

14 **(WITNESSES STOOD DOWN)**

15 **(PROCEEDINGS ADJOURNED AT 12:43 P.M.)**

16 **(PROCEEDINGS RECONVENED AT 12:52 P.M.)**

17 THE REGISTRAR: Thank you for waiting. The hearing  
18 is now resumed. Mr. Commissioner.

19 **BRYANNA GATELEY, a**

20 **witness for the**

21 **commission, recalled.**

22 **JOEL GIBBONS, a witness**

23 **for the commission,**

24 **recalled.**

25 **SUSHILE SHARMA, a**

1 **witness for the**  
2 **commission, recalled.**

3 THE COMMISSIONER: Yes, thank you, Madam Registrar.

4 MR. MCGOWAN: Yes, Mr. Commissioner. I'm just  
5 looking at the time and noting that we lost an  
6 hour today. It doesn't appear that we're going  
7 to conclude by 1:30. Commission counsel are  
8 certainly prepared to carry on and continue with  
9 the witnesses after 1:30, but I thought it might  
10 be appropriate to canvass your availability and  
11 the witnesses' availability.

12 THE COMMISSIONER: Yes, that's fine. I'm certainly  
13 available, Mr. McGowan, but we should make sure  
14 that each of the witnesses, some of whom may be  
15 on a different time frame, I'm not sure of that,  
16 are available and counsel. Are there any  
17 difficulties with any of the three panel  
18 members, Mr. Gibbons, Ms. Gateley or Staff  
19 Sergeant Sharma, if we were to carry on beyond  
20 1:30?

21 THE WITNESS: (JG) Mr. Commissioner, sir, I would be  
22 comfortable and able to continue to testify as  
23 late as 2:30 Vancouver time. I'm in Ottawa with  
24 the three-hour time difference. I could  
25 continue if additional time is needed beyond

1           that, but I would just ask if possible to take a  
2           break at around 2:30 just for some personal  
3           commitments for 20 to 30 minutes.

4           THE COMMISSIONER: Thank you. Ms. Gateley.

5           THE WITNESS: (BG) Hi there. Yes, I'm available for  
6           as long as need be.

7           THE COMMISSIONER: And Staff Sergeant Sharma.

8           THE WITNESS: (SS) Mr. Commissioner, panel, I have no  
9           issues or concerns. I'm very flexible.

10          THE COMMISSIONER: All right. Thank you. Any of  
11          counsel have difficulty? I think, Mr. Gratl,  
12          you're are the only one scheduled to be  
13          cross-examining. Is that problematic for you?

14          MR. GRATL: No, I have no difficulty with that.  
15          Thank you.

16          THE COMMISSIONER: All right. Thank you. And if  
17          anyone else has a difficulty with that, just  
18          please let us know. All right. Ms. Latimer, I  
19          expect we'll be able to finish by approximately  
20          2:30; is that fair?

21          MS. LATIMER: I will do my very best,  
22          Mr. Commissioner. I hate to be pinned down like  
23          that. I'll do my very best.

24          THE COMMISSIONER: No, I'm not actually trying to pin  
25          you down too much. Your questions so far

1           haven't been very lengthy. All right. Thank  
2           you.

3           **EXAMINATION BY MS. LATIMER (continuing):**

4           Q     I think when we left off you had just finished  
5                 with this slide, Mr. Gibbons. So I'll invite  
6                 you to carry on to the next one if that's where  
7                 you are in your presentation?

8           A     (JG) It is indeed. We can move on to the next  
9                 slide, thank you. Thank you. So I finished  
10                talk about mobile phones. I'll just quickly  
11                move on to the agrifood sector. When we're  
12                talking about agrifoods, again some  
13                commonalities with the other commodities that  
14                we've talked about. Agrifoods are a typical  
15                export from Canada. They are typically easy to  
16                sell. They have those variable price ranges  
17                that can be attractive to launderers. They  
18                typically have quite high demand and service  
19                markets around the world, which can be  
20                convenient depending on where launderers are  
21                seeking to move value, to move laundered funds.  
22                Again the descriptions and the weights of these  
23                types of goods can be very easily manipulated to  
24                adjust values. For example if we're talking  
25                about meat, well, is it a cheap cut of meat, is

1           it offal, is it even truly rotten food that's  
2           described as fresh or a very cheap cut described  
3           as a much higher cut of meat or vice versa, just  
4           to give you a sense of how easy it can be to  
5           manipulate descriptions.

6                     Another key factor behind agrifoods is that  
7           they are subject to spoilage if they are not  
8           transported appropriately and in a timely  
9           manner, and that makes it very difficult for a  
10          customs service to examine at the border and  
11          makes it very attractive, therefore, as a  
12          commodity to use in a laundering scheme.  
13          FINTRAC has provided reporting that's revealed a  
14          number of instances where this commodity appears  
15          to be featuring in our assessment as part of  
16          black market peso exchange schemes, which I  
17          talked about earlier. And I believe that  
18          FINTRAC shares that judgment; that is my  
19          understanding. So what has been observed in  
20          some of the financial intelligence is that the  
21          entities that are involved in the schemes are  
22          receiving payments for these goods from  
23          unrelated third parties, which we talked about  
24          earlier. The trade is being settled through  
25          these third parties. What is also notable is



1           that a lot of the goods themselves are being  
2           shipped to oftentimes drug source countries, so  
3           can be conducive to the movement of contraband  
4           and narcotics as well as a mechanism or a  
5           vehicle for laundering itself. And so the  
6           example that I would offer at a very high level  
7           stemming from that suspicious transaction report  
8           that we looked at earlier in the presentation  
9           where your Colombian client is paying the  
10          Canadian exporter through a general trading  
11          company in the Emirates, and your Canadian  
12          exporter in this case didn't question -- so a  
13          bank may have posed questions to their client,  
14          but the Canadian exporter did not question the  
15          payment method, so in a certain number of these  
16          cases we have to ask ourselves whether there's  
17          an amount of willful blindness on the part of  
18          Canadian import/export companies when some of  
19          these TBML typologies and red flags are making  
20          themselves known.

21                 We can move on to slide 19 now. I'll pass  
22                 the floor to my colleague Sushile.

23                 (SS) Thank you, Joel. I appreciate that.  
24                 Mr. Commissioner, panel, the next three slides  
25                 really kind of turn our minds towards the

1 enforcement aspect as well as to a view towards  
2 how global the commodity exchange is. So we'll  
3 go from general to specific over the next three  
4 slides, but this slide in particular, although  
5 the slide is titled "Canadian Schemes: Cars"  
6 what this actually is is just sort of a topical  
7 overview of the United States investigation. In  
8 fact it was the United States Drug Enforcement  
9 administration investigation and the graphics  
10 are provided by FinCEN, which as you may or may  
11 not know FinCEN is an arm of the United States  
12 Department of Treasuries and it's their  
13 Financial Crimes Enforcement Network, shortened  
14 title of FinCEN, and they provide intelligence  
15 as well as operational alerts not just to the  
16 Americas but to their four law enforcement  
17 agency partners, of which we are one.

18 So what this is is a graphic that explains  
19 movement from North America to Africa of goods,  
20 movement from South America of narcotics, the  
21 exchange of goods and commodities in Africa, the  
22 transfer of drugs from Africa to Europe and from  
23 Europe over to North America. But as you see on  
24 far right there, the side bar issue is how that  
25 money is moved between different financial

1 institutions in Central Asia, Asia and then  
2 eventually repatriated back to North America.  
3 At any point it is a loop and money and capital  
4 can be taken out and either reinvested into the  
5 cycle or it's taken out ostensibly to be used as  
6 a profit for the bad actors. But I'll just go  
7 into a little bit more detail here to explain  
8 the first just in terms of explanation here. So  
9 this graphic really is part of the United States  
10 Drug Enforcement, DEA's exposure of a massive  
11 money laundering scheme operated by Hezbollah  
12 for major drug cartels in South America. The  
13 scheme involved Lebanese banks wiring money to  
14 the United States for the purchase of used cars.  
15 These were transported to West Africa, which is  
16 known as a springboard location for the delivery  
17 of European-bound drug shipments and sold for  
18 cash. The cash from the used cars was mixed  
19 with drug proceeds and laundered using -- from  
20 their investigation and from the details there,  
21 from using Hezbollah-controlled hawalas. Now,  
22 I'm sure the panel has either heard of hawalas  
23 before and my colleague Joel mentioned it a few  
24 slides ago. It's really an informal method of  
25 transferring money without any physical money

1                   actually moving. It's defined as money transfer  
2                   without money movement, basically on a principle  
3                   of trust. A pot of money in one geographical  
4                   location, a pot of money in another location,  
5                   and at some point if there's any restitution or  
6                   settlements that need to occur then some sort of  
7                   value transfer would be required, and we talked  
8                   about it a little bit, a few slides about how  
9                   that value transfer can occur by either  
10                  exporting goods out or importing goods in,  
11                  whichever way those accounts need to be settled.

12                  Just coming back to the graphic there and  
13                  explanation. We left off at the drug proceeds  
14                  being laundered using Hezbollah controlled  
15                  hawalas and exchange houses. From here the  
16                  money was deposited into accounts at Lebanese  
17                  Canadian banks, the branches in Lebanon, which  
18                  has strong links with the Hezbollah. A portion  
19                  of the funds that were deposited into these bank  
20                  accounts were then wired back to the US to  
21                  continue the trade of used cars to West Africa,  
22                  and this all sustained the convoluted money  
23                  laundering loop.

24                  So as you can see, there's a number of  
25                  things happening here from this graphic, this

1 slide. We're talking about drug trade. We're  
2 talking about the movement of vehicles from  
3 North America to Africa. We're then talking  
4 about the purchase of drugs on the continent of  
5 Africa and then the movement of those drugs into  
6 Europe. And as we'll see in the next couple of  
7 slides when I give a more specific example of  
8 this from a Canadian perspective, the one that I  
9 have experiential knowledge of having handled an  
10 investigation of that kind, the movement of  
11 those drugs back into North America is yet  
12 another arm of that. So unless there's any  
13 questions about that, this slide was just to  
14 show the panel and Mr. Commissioner that this is  
15 a very global and integrated sort of a model of  
16 criminality. There's a number of things  
17 happening at the same time in addition to the  
18 layering aspect which you can see on the far  
19 right there, which makes the matter even more  
20 convoluted for our investigators as well as  
21 regulatory agencies to detect. I'll just pause  
22 there for a moment if there's any questions for  
23 the panel.

24 Okay. Thank you. We can move on to the  
25 next slide, please. Okay. So this next slide

1 is titled "Tangled Web," and it's the first of  
2 two. And in this slide what's happening here is  
3 an example of an investigation that I can speak  
4 to as being the primary investigator of, and it  
5 does share some nuances of what we talked about  
6 in the previous slide. So the takeaway from  
7 this slide and the next one is, what I discussed  
8 in the previous slide that we talked about, the  
9 Hezbollah and the drugs moved from South America  
10 into Asia and Africa, is that there are a number  
11 of different criminal actions occurring here at  
12 the same time that we were alerted to and then  
13 started to investigate. Makes for a very  
14 complicated scheme that investigators have to  
15 unravel and the next extrapolation from that is  
16 a convoluted criminal enterprise is one thing  
17 but attributing knowledge and control to an  
18 entity or a number of entities is the next step,  
19 and then knowledge and control of the assets is  
20 the tertiary aspect of it, and all it points  
21 towards a very complicated endeavour. So in  
22 unpacking this slide what I'm going to talk  
23 about is first you'll see that there is a green  
24 arrow that originates from the Lower Mainland  
25 here in Vancouver and goes towards East Africa,

1 primarily to the region of Tanzania. And what's  
2 happening here is something that we were not  
3 initially -- when I'm saying "we" I'm talking  
4 about the RCMP having conduct of an  
5 investigation that spanned a number of years.  
6 Initially we were alerted to a group that was  
7 engaged in drug trafficking activity. So our  
8 first point of reference was a group of  
9 individuals that was ostensibly dealing in drugs  
10 in the Lower Mainland and so we started to  
11 initiate our investigative actions through  
12 routine investigative techniques. What we saw  
13 was that this group was not so much engaging in  
14 typical drug trafficking behaviour such as, you  
15 know, street level trafficking. We saw them  
16 actually not do too much of that and a lot of  
17 gathering vehicles, electronics, commodities and  
18 putting them into sea containers, loading them  
19 up from areas on the Lower Mainland and then  
20 finding out through some investigative  
21 techniques that we employed that those sea  
22 containers full of vehicles and commodities were  
23 leaving Canada and destined for East Africa.  
24 Tanzania, Nigeria, et cetera.

25 As we were investigating our primary CBSA

1 investigation, employment of other investigative  
2 techniques made a case, primarily intelligence  
3 analysis, and our ADOs, analysts deployed  
4 overseas, alerted us to the fact that what was  
5 happening in Africa was the commodities were  
6 being offloaded, sold locally and why that's  
7 unique is because while we would consider no  
8 longer high value items older vehicles -- it  
9 could be luxury vehicles; they could be, you  
10 know, your regular factory stock vehicles that  
11 have just five to ten years old -- while they  
12 may not hold their value in the North American  
13 market they certainly do hold a value in that  
14 part of the world because of the principle of  
15 scarcity. So we have a -- the principle of  
16 scarcity meaning there's not many of those types  
17 of vehicles over there. We could be talking  
18 about used BMW, Mercedes, luxury vehicles, and  
19 over there because of the principle of scarcity  
20 they still hold quite a significant value. So  
21 these items were being sold in Africa and these  
22 same bad actors with ties that we were able to  
23 connect from various sources of intelligence and  
24 information from our analysts deployed overseas  
25 as well as from law enforcement agencies that



1                   were communicating with us, we found that these  
2                   bad actors had associates that were working in  
3                   that part of the world in East Africa and these  
4                   items were being sold, and some of the profits  
5                   were being used to purchase kilo level heroin on  
6                   the east coast of Africa. Why is that  
7                   important? That comes into play because it's  
8                   just good business. Kilo level heroin purchased  
9                   off the east coast of Africa can run anywhere  
10                  from 15- to \$18,000 per kilo, whereas the kilo  
11                  level price of heroin in North America would be  
12                  anywhere from 55- to 70-, sometimes even \$80,000  
13                  per kilo. So from a business perspective if you  
14                  are in the business of drug trafficking it makes  
15                  a lot of sense to purchase your heroin off the  
16                  east coast of Africa and then transport it as  
17                  need be for the purposes of your drug  
18                  trafficking operation.

19                         So what's happening from that green arrow in  
20                         Africa and then to the red arrow where we took  
21                         some of the profits out of the vehicle sales and  
22                         then translated those into the purchase of  
23                         heroin, was that same group was now also  
24                         employing employees, I'll call them. In drug  
25                         trafficking jargon they're referred to as mules.

1           These people were hired specifically for the  
2           purpose in Canada to travel to Africa and then  
3           transport the drugs on their person in their  
4           luggage and over into Europe. Quick stop in  
5           Europe and then from Europe over into North  
6           America back towards Lower Mainland where they  
7           were met by other agents of the same criminal  
8           organization and the drugs were then handed over  
9           to be packaged, processed for street level drug  
10          trade.

11                        So that was the transfer of commodities from  
12          North America to Africa, the translation of some  
13          of those commodities into the drug trade, the  
14          drug trade coming over into Europe and then into  
15          North America, particularly back to the Lower  
16          Mainland, and that completed one aspect of the  
17          loop. While all this was happening and we were  
18          still investigating our main CSA investigation  
19          but now being surprised by the fact that these  
20          vehicles were being offloaded and some of these  
21          sales were being used to purchase heroin, we  
22          were alerted to the fact that our same bad  
23          actors or same criminal organization, especially  
24          the ones that were primarily operating out of  
25          the Lower Mainland, were also involved in an

1 extensive mass marketing fraud type of a ring  
2 that was communicating with different satellite  
3 agencies throughout the major metropolitan hubs  
4 of Canada. So we're talking Vancouver, Toronto,  
5 Montreal, but they also had connections and  
6 communications with the other major hubs in  
7 North America, specifically New York, Boston,  
8 Houston, St. Louis, Chicago and a number of  
9 other cities. So all this was part and parcel  
10 of an understanding that this investigation was  
11 using a number of different criminal  
12 initiatives, heroin trafficking, as well as mass  
13 marketing fraud, and superimposed on top of that  
14 was this value transfer of commodities that the  
15 same group was collecting and then transporting  
16 to Africa and then using some of the funds to  
17 either invest back into the local economy in  
18 Africa or to purchase heroin. So I'll just stop  
19 right there. I know that was a lot to unpack.  
20 Are there any questions for the panel before I  
21 move on the next slide?

22 Q This was an investigation that you had carriage  
23 of; is that correct?

24 A (SS) That's correct.

25 Q Did this investigation result in money

1                   laundrying charges?

2           A       (SS) No. The short answer is no, but I can  
3                   qualify that by saying that the next slide, I'll  
4                   also delve into the fact that a number of issues  
5                   came up in this file and some of the similar  
6                   files have come up since that time that have  
7                   prevented the investigators from attributing  
8                   knowledge and control of the assets or the money  
9                   to those bad actors. So while we were able to  
10                  have tangible evidence, whether through  
11                  surveillance or whether through sensitive  
12                  investigative techniques, we were able to  
13                  attribute that direct knowledge and control of  
14                  their handling of the drugs, the trafficking and  
15                  even sometimes with the mass marketing fraud  
16                  initiatives we were not able to attribute the  
17                  knowledge and control of their handling of the  
18                  money and how it moved through bank accounts  
19                  because of the different levels of layering that  
20                  occurred. As well as the difficulties, I'm  
21                  going to call them geopolitical for lack of a  
22                  better term, the distance between the recency of  
23                  the information that we were receiving from  
24                  overseas and be able to act upon it as well as  
25                  being able to confirm, corroborate it, find that

1                   the information was credible and then dealing  
2                   with the time delays of foreign law enforcement  
3                   agencies being able to receive that info and  
4                   send it to us and other instances we just didn't  
5                   get that information because of geopolitical  
6                   issues. To wit, sometimes there were bad actors  
7                   directly employed with the authorities and there  
8                   were some issues of corruption. So a bit of a  
9                   long-winded answer, but the short answer was no,  
10                  we could not attribute any money laundering  
11                  connectivity, especially with the issue of  
12                  knowledge and control. So if there's no further  
13                  questions on that slide, I'll move on to the  
14                  next slide, which is "Tangled Web: 2."

15                  So here I'm just going to go into a little  
16                  bit more detail. I kind of alluded to some of  
17                  this already. I'm going to give the entity, the  
18                  primary bad actor, the suspect involved, the  
19                  monicker of X. So if you look at symbol  
20                  number 1 and I'll cycle all the way through to  
21                  the five stages here. X was observed on  
22                  surveillance shipping used cars/furniture,  
23                  electronics into sea containers destined for  
24                  Africa. So this came as a bit of a surprise to  
25                  us and this will come in basically in the

1                   oversaw context here of as investigators we were  
2                   not alive to the issue from 2014 onwards to  
3                   about 2017 as to what was occurring here. Our  
4                   perspective bias, if you can call it that, as  
5                   investigators was geared towards behaviour that  
6                   we thought would be indicative of drug  
7                   trafficking, so we were looking at behaviours  
8                   that that we thought would support our  
9                   investigative hypothesis of clandestine leaks  
10                  and everything else that would be part and  
11                  parcel of a, quote/unquote, normal drug  
12                  investigation. So when we observed this  
13                  individual collecting vehicles, electronics,  
14                  furniture and loading sea containers up in the  
15                  Lower Mainland, we were initially dismissive of  
16                  that as a side legitimate business. We came to  
17                  the investigative hypothesis that perhaps their  
18                  legitimate business was as mechanics, as  
19                  collectors of used goods and shippers of these  
20                  items back to different areas, especially  
21                  Tanzania and Nigeria. They were of East African  
22                  origin, so it seems as if it was a legitimate  
23                  business. So while we focused on our main drug  
24                  trafficking investigation we were initially  
25                  dismissive of that anomaly sort of observation

1           that we saw. It was only after a few months and  
2           through intelligence as well as analysts  
3           deployed overseas and communications with law  
4           enforcement agency partners in that part of the  
5           world that we were able to attribute some sort  
6           of confirmation and credibility to the fact that  
7           there was more going on here, especially when we  
8           attributed the nexus of those goods now being  
9           sold. I'm talking about the vehicles and  
10          furniture being sold in East Africa for capital  
11          and that same capital being invested into  
12          purchase of heroin and sometimes back invested  
13          into the local economy there in East Africa,  
14          that we thought now we have an investigation  
15          that is linked to the predicate offence of CBSA  
16          but just something that we initially were  
17          dismissive of because it didn't fall within our  
18          perspective bias of what would be normal for a  
19          drug trafficking investigation. So we move into  
20          part 2. And I talked about this in the previous  
21          slide. The goods were sold in Africa and for a  
22          considerable profit, but the profit was either  
23          used to provide capital infusion locally or to  
24          purchase heroin off the east coast of Africa.  
25          It was considerably cheaper rates per kilo

1           there, as I described earlier, about \$17,000 per  
2           kilo versus the amplified and more expensive  
3           rate of anywhere between 55- to 70-, sometimes  
4           even \$80,000 per kilo if you're buying it in  
5           bulk off the coast of North American from  
6           whatever clandestine sort of shipment or  
7           trafficking mechanism made its way over here.

8                         So now we're talking about the movement of  
9           those funds and those -- sorry, those  
10          commodities into funds that we used to purchase  
11          heroin move on to phase number 3. Our X's  
12          associates used female drug mules to transport  
13          heroin from Africa to Canada via flights  
14          transiting through Europe, and then over to  
15          point number 4 where X received the drug mules  
16          themselves or members of its close-knit crime  
17          group and then was able to receive the narcotics  
18          and specifically the heroin, and then there was  
19          those packages of heroin offloaded into stash  
20          houses and then trafficked in the local street  
21          trafficking economy.

22                         So as this was happening, that was one  
23          complete loop, none of this existed in silo.  
24          Coincidentally we were contacted by a foreign  
25          law enforcement agency. We were able to say



1 through deconfliction that we had similar  
2 targets and what ended up happening was that we  
3 associated X as well with his named associates  
4 that were dealing with the heroin trafficking as  
5 well as the movement of goods here from the  
6 Lower Mainland into Africa with a very, very,  
7 very sophisticated and far reaching mass  
8 marketing fraud ring operation extending from  
9 the west coast from Los Angeles to the midwest  
10 as well as the eastern seaboard of America.  
11 Those funds were making their way from America  
12 into the hands of X and his associates and those  
13 same funds were believed to be used to  
14 accumulate more goods, vehicles, furniture and  
15 then continue that loop, sustaining that cycle  
16 of goods as well as the value transfer from  
17 Canada, Africa, purchase of drugs back over into  
18 North America.

19 So the takeaway, I just reiterate here, is  
20 that there was a number of different criminal  
21 initiatives happening and the difficulty that we  
22 had as an investigator was unravelling that for  
23 the first instance from our initial perspective  
24 bias and then with the geopolitical factors  
25 involved with the attributing knowledge and

1 control to the money movement and the transfer  
2 of that, we did know that the -- we did have a  
3 closed loop, so to speak, of the goods. I'm  
4 talking about the vehicles moved from point A  
5 Canada to point B Africa, but what happened with  
6 the money aside from the drugs being purchased  
7 and where they moved, we were ostensibly removed  
8 from that and the intelligence just was not  
9 timely enough for us to act upon it in any  
10 fashion. The information by the time we  
11 received it, just the recency aspect wasn't  
12 there. The credibility of it sometimes was an  
13 issue, and it was not compelling enough. By the  
14 time that info got to the investigators it  
15 simply wasn't compelling enough for us to  
16 attribute knowledge and control. So I'll stop  
17 there.

18 Q Sorry, so is this another example of an  
19 investigation that did not result in a money  
20 laundering charge?

21 A (SS) That's correct.

22 Q It didn't result in a money laundering charge in  
23 Canada. You noted that it was tied to this  
24 other illicit activity in other countries. Are  
25 you aware whether it resulted in a money

1           laundrying charge in any of those other  
2           jurisdictions?

3           A   (SS) No, it has not. There are still aspects of  
4           that that are continuing, but as far as I can  
5           tell at this point there is not any attribution  
6           of money laundrying charges at this point for  
7           the same reasons, the geopolitical issues,  
8           recency, the ability to confirm and corroborate  
9           that bad actors' direct involvement as a  
10          recipient were having active control over those  
11          assets.

12          Q   I want to make sure I understand the  
13          geopolitical issues. The last tangled web we  
14          were looking at you mentioned one of the issues  
15          was that there was corruption in law enforcement  
16          in some of these other jurisdictions, or that's  
17          what I understood you to say. Was that the  
18          geopolitical issue here as well, or was it  
19          something else?

20          A   (SS) Yes, it was very similar. Yes, it was very  
21          similar facts.

22          Q   Corruption?

23          A   (SS) As one part of it, not wholly but as one of  
24          the constellation of factors that resulted in us  
25          not being able to communicate effectively with

1           the law enforcement agency partners in that part  
2           of the world. I'm referring to east Africa.

3           Q     Okay. Thank you.

4           A     (SS) And if you have no further questions we'll  
5           on move on to the next slide.

6                     (JG) Thanks, Sushile. I'll pick things up  
7           now, and we're going to turn our attention to  
8           some emerging issues. And when I say "emerging  
9           issues" I think what we're really talking about  
10          here are some emerging capability gaps that are  
11          coming to light as we pay more attention as a  
12          country to trade-based money laundering. So we  
13          talked earlier about those open account wire  
14          transactions. And we talked about how they can  
15          be very, very difficult to actually reconcile  
16          against the movement of goods, the import or the  
17          export of goods and that's what often makes that  
18          financing mechanism so easy to abuse for  
19          [indiscernible] against money laundering. So  
20          recall that banks don't see when settlements are  
21          by open account and when wire transfers are  
22          being used they're not seeing sales documents,  
23          they're not seeing shipping invoices, they're  
24          not seeing any form of customs documentation.  
25          It's a bit of a different story when we talk

1                   about trade finance where a bank is actually  
2                   extending credit, some kind of financial service  
3                   to facilitate trade because that's when the bank  
4                   actually has, for lack of a better word, skin in  
5                   the game and there's due diligence and know your  
6                   customer obligations that come into that. With  
7                   wire transfers it's very transactional and it's  
8                   making a small amount of money to facilitate the  
9                   movement of funds. And recall that customs  
10                  authorities, most customs authorities don't see  
11                  that wire transfer information or most sales or  
12                  shipping invoices unless there's reason to  
13                  request them because of some kind of suspicion  
14                  of non-compliance with regulations or  
15                  legislation. One of the ways that our US  
16                  counterparts have tackled this challenge is  
17                  through leveraging wire fraud offences under the  
18                  US code. And so the wire fraud that's taking  
19                  place in a lot of these circumstances, recall  
20                  the phantom shipment scenario where money is  
21                  flowing but no goods are moving. It's all under  
22                  the pretense of trade that never actually takes  
23                  place. Our US counterparts can leverage wire  
24                  fraud offences in a circumstance like that  
25                  creating that necessary criminal predicate



1 additional source of information that can be  
2 leveraged for the purposes of a trade-based  
3 money laundering investigation. So another  
4 capability that we are lacking in Canada here.  
5 Another gap that I'll mention, and I hinted at  
6 this in the previous slide when I talked about  
7 payments settled on open account terms versus  
8 trade financing. Our colleagues at FINTRAC in  
9 the course of their work and as authorized under  
10 the PCMLTFA have the ability to access financial  
11 transactions pertaining to international  
12 electronic funds transfers or wire transfers as  
13 they're colloquially known. The same is not  
14 true when we're talking about trade transactions  
15 that are settled through -- not settled through  
16 open account where there's usually some kind of  
17 trade finance product that's involved like a  
18 letter of credit. So wire transfer information  
19 is available within the FINTRAC domain and that  
20 information can be made available to law  
21 enforcement partners, FINTRAC's law enforcement  
22 partners, when that disclosure threshold is met.  
23 In the CBSA's case I mentioned the suspicion of  
24 money laundering plus three specific provisions  
25 that are unique to our mandate as the border

1                   agency. Same cannot be said for trade finance  
2                   because FINTRAC doesn't have access to that  
3                   information. That's not to say that FINTRAC  
4                   doesn't have any insights or views into the  
5                   world of trade finance, which is a distinct,  
6                   very distinct entity within financial  
7                   institutions. There is still the obligation of  
8                   trade finance units at Canadian and  
9                   international banks. I'll only speak to the  
10                  Canadian context because it's the one that I'm  
11                  familiar with. Trade finance arms do have that  
12                  obligation through the course of their due  
13                  diligence activities and their know your  
14                  customer requirement that if they develop  
15                  grounds to suspect potential money laundering to  
16                  file what is typically known internally to banks  
17                  as unusual transaction reports. So these are  
18                  the reports that are written internally by one  
19                  of the arms of a bank, in this case the trade  
20                  finance arm of a bank, to flag to the anti-money  
21                  laundering division of a bank that there may be  
22                  concerns about a particular transaction, group  
23                  of transactions or around a client. And we  
24                  do -- as a government FINTRAC does receive  
25                  suspicious transaction reports that do originate



1 from trade finance arms pointing out  
2 irregularities in trade financing arrangements  
3 that could be indicative of trade-based money  
4 laundering. And that's useful and that's very  
5 helpful. It does require officers within in  
6 this case the trade financing arm to have a lot  
7 of knowledge about trade-based money laundering.  
8 I think that's an area that we are actively  
9 exploring with our private sector counterparts  
10 and looking to build up. I think there's a lot  
11 of pre-existing knowledge. We're moving into a  
12 space now where we're trying to exchange with  
13 them a little bit more in terms of typologies in  
14 terms of how we're viewing trade-based money  
15 laundering just to make sure, you know, that  
16 those unusual transaction reports when anomalies  
17 are detected are being filed. But not to say  
18 it's not happening; it is happening. What we're  
19 lacking, though, is the underlying financial  
20 information that we would typically get. When  
21 it's a wire transfer we would receive suspicious  
22 transaction reports from FINTRAC for entities  
23 that are of concern to us, but we would also  
24 receive the underlying financial transactions  
25 that are associated with those entities, so not

1                   just what's suspicious but a pattern of all of  
2                   the wire transfers over the period of time that  
3                   we've requested. And what that gives us a  
4                   really good sense of is it helps us further  
5                   identify indicators of trade-based money  
6                   laundering, and that's what absent in the case  
7                   of trade financing here. We can't do the  
8                   equivalent. So still getting those suspicious  
9                   transaction reports but missing some of that  
10                  information that gives us a sense of the real  
11                  pattern of activity of some of the entities we  
12                  may be looking at if they are using trade  
13                  finance vehicles to finance their shipments of  
14                  goods.

15                Q    When you say --

16                A    (JG) Yes.

17                Q    Sorry, when you say you can't do the equivalent  
18                  that's because -- do I understand you correctly  
19                  that's because FINTRAC does not have the  
20                  legislative authority to collect that  
21                  transaction information linked to trade  
22                  financing?

23                A    (JG) That is my understanding.

24                Q    And is that a significant gap to your  
25                  understanding?

1           A       (JG) Well, we're still receiving, like I said,  
2                   we still are receiving those suspicious  
3                   transaction reports. I think we've noticed that  
4                   it could be somewhat of a gap, as I've said, in  
5                   the sense of determining patterns of activity  
6                   surrounding those entities, being able to  
7                   potentially identify additional indicators over  
8                   and above any suspicious transaction reports  
9                   that have been filed. Like, using our own  
10                  unique knowledge and experience. So to that  
11                  extent from my perspective and based on my  
12                  experience that is somewhat of a gap, but in the  
13                  absence of that what we've recognized is that  
14                  there is that need for more proactive and back  
15                  and forth communication with our colleagues in  
16                  the financial sector, including in the trade  
17                  finance divisions of banks, and we are taking  
18                  steps to make sure that we're communicating and  
19                  beginning to speak about trade-based money  
20                  laundering and what mechanisms there may be for  
21                  knowledge sharing and collaboration.

22                         So just a few other capability gaps that I  
23                         wanted to mention. Traders, and what I mean by  
24                         traders, not a formal term but really just  
25                         anyone who facilitates, as I say in the slide,

1           the exchange of goods across national borders,  
2           so it could be an importer, an exporter, a  
3           customs broker, a freight forwarder. They don't  
4           have any obligations as our colleagues in the  
5           financial world and financial institutions do to  
6           file suspicious transaction reports. So if they  
7           are entertaining a trade transaction, if they  
8           are a freight forwarder who notices some  
9           suspicious patterns in good transactions that  
10          they're facilitating, they're making logistical  
11          arrangements to move goods and they notice  
12          irregularities, there isn't necessarily a portal  
13          into the Government of Canada, a formal and  
14          established mechanism to provide that  
15          information, but there's also no regulatory  
16          obligation for them to do that. Again, compare  
17          and contrast against the financial institutions  
18          which have quite extensive obligations in that  
19          regard, regulatory obligations in that regard.  
20          And that leads to a bit of a gap from our  
21          perspective because it would be of tremendous  
22          value to an organization like mine and to my  
23          FINTRAC and RCMP colleagues and CRA to be able  
24          to learn from the trading community and to have  
25          them be able to provide us with their unique

1           knowledge and insights and to be able to flag to  
2           us based on their own experiences they're  
3           observing transactions that could be suspicious.  
4           Again I think one of the ways we're trying to  
5           overcome that is developing, starting to  
6           contemplate now some more targeted outreach to  
7           specific sectors within trade chains, freight  
8           forwarding communities, customs brokerages and  
9           so forth. So that will be a big part of the  
10          continuing work that our community within the  
11          Government of Canada will be obligated to do on  
12          a continual basis over time.

13                   Lastly, I just wanted to flag that -- and  
14                   it's really a bit of a repetition of what I  
15                   mentioned before that FINTRAC doesn't collect  
16                   all of the necessary data [indiscernible] any  
17                   international wire transfers that are under that  
18                   \$10,000 threshold FINTRAC doesn't necessarily  
19                   receive unless it's been flagged in a suspicious  
20                   transaction report. Similarly domestic wire  
21                   transfers, so where there isn't that transborder  
22                   dimension, again unless they are noted in a  
23                   bank's suspicious transactions reports to  
24                   FINTRAC. And last but not least transactions  
25                   that may be brokered by lawyers. So those are

1           some of the information and capability gaps that  
2           we're coming to learn as we increasingly focus  
3           our attention on the problem of trade-based  
4           money laundering.

5           Q     I just wanted to return to the earlier slide and  
6           you had mentioned that basically that there was  
7           no customs information available within a wire  
8           transfer. I'm just wondering do you know why  
9           that isn't mandated, some sort of customs  
10          reference to be embedded within that wire  
11          transfer remittance. Would that --

12          A     (JG) I'm sorry, I didn't mean to cut you off. I  
13          don't know the answer to that question. From my  
14          experience what we observe with wire transfer  
15          information, the wire transfer information we  
16          obtain from FINTRAC is to the extent there is  
17          any references to trade -- to the trade in goods  
18          it's typically contained within the remittance  
19          field. So the international system that's used  
20          to conduct most wire transfer activity, the  
21          SWIFT system of money settlements, these wire  
22          transfers fall under the 103 series of SWIFT  
23          messages, and in those 103 messages there is  
24          that remittance field that's sort of an open  
25          text field that allows for some information to

1                   be entered and oftentimes we'll see blank feeds,  
2                   so there's nothing in those fields. Other times  
3                   what we'll see are cryptic references that we  
4                   can't really parse out. They're just numbers  
5                   that are not familiar to us. Could be bank  
6                   account numbers or some other form of numbering.  
7                   Other times what we'll see are references to,  
8                   you know, settling sales invoices. But that's  
9                   really the limits of what we see. And why that  
10                  is that there aren't any mandatory obligations  
11                  there to make a link to an actual movement of  
12                  goods to a customs declaration or to a bill of  
13                  lading, I cannot answer.

14                Q     But I guess if that was a mandatory field that  
15                      would fill that gap; is that fair?

16                A     (JG) It would be an effective tool for us to use  
17                      in our efforts, yes.

18                                If there's no other questions about that  
19                                slide we can move on now to slide 24.

20                                (BG) I'll pick up here. On this slide this  
21                                slide talks about key operational challenges and  
22                                it's a little bit of a change to what we've been  
23                                chatting about but still on the topic of  
24                                challenges, looking at the intelligence aspect  
25                                and then the investigative aspect and then

1 moving on to the prosecutorial aspect of a  
2 potential TBML investigation.

3 So some of these challenges essentially due  
4 to the sheer volume of trade transactions and  
5 the impossibility of checking every single  
6 transaction, it's relatively easy for TBML to  
7 hide in plain sight. We're looking for a  
8 particular trade transaction or a small number  
9 of trade transactions that might flesh out a  
10 larger scheme, and it really is, it's been  
11 described in academia as looking for a needle in  
12 a stack of needles just due to the sheer size of  
13 trade. Compounding this is how complex foreign  
14 exchange transactions can be and layered and  
15 involve different countries and different  
16 entities, different jurisdictions that are both  
17 cooperative and non-cooperative. Also  
18 opportunities to commingle illicit funds with  
19 legitimate business transactions. Adding to the  
20 challenge is difficulty in getting information  
21 from your traditional kind of non-cooperative  
22 jurisdictions or those with very differing  
23 governance or legal regimes from ours. And the  
24 fact that neither of the good nor the associated  
25 trade document in and of itself might appear



1 suspicious. It's only when its examined  
2 together or in conjunction with other data that  
3 an otherwise innocuous shipment appears  
4 suspicious.

5 Additional challenges are that, as you would  
6 expect, the trade system is very opaque. It's  
7 often paper based. There's very long supply  
8 chains where you see various documents,  
9 including manifests, bills of lading, invoices  
10 moving around with the shipment and being  
11 processed by various entities, including ports,  
12 customs authorities, banks. Though trade data  
13 might be collected, the information needed can  
14 be buried within multiple databases that's  
15 really not readily available to analyze or it's  
16 not in a format that can be analyzed, especially  
17 if it's paper based. Or the trade data arrives  
18 just before or even after the product has been  
19 delivered, so it's as my colleague Sushile has  
20 mentioned, it's kind of a day late and a dollar  
21 short. It's difficult to ascertain what  
22 actually happened because it's after the fact  
23 and verify what happened. Or additional  
24 challenges are software to analyze aggregate  
25 data might not be compatible between agencies,

1           so it's a puzzle piece that we have that needs  
2           to be shared amongst agencies so that we can  
3           build this larger puzzle of what the scheme is  
4           and who's involved. But if our basic software  
5           systems aren't compatible to be able to analyze  
6           that across various platforms that various  
7           agencies have that creates a bit of an issue and  
8           an information silo. So essentially the upshot  
9           here is that we're missing a lot of these  
10          foundational pieces that are really needed to  
11          build the picture of what our TBML scheme is and  
12          who the threat actor is involved, in that  
13          information sharing at the domestic and  
14          international level is typically very ad hoc,  
15          case by case based, very target specific and  
16          very manual. So this can make it very difficult  
17          to take a macro look or step back as an analyst  
18          and extrapolate broader trends, indicators or  
19          determine the scope or the true scope of the  
20          issue. So those are some of the challenges from  
21          an intelligence analysis perspective when we're  
22          looking to put together our TBML investigation.  
23          I'll turn it over now to my colleague here Sushile  
24          who will touch on the investigative and  
25          prosecutorial aspects.

1           Q     Thanks. Just before you do that, I have a  
2                   question. I just want to make sure I understand  
3                   what you've said about the difficulty with the  
4                   data collection. I think I understood your  
5                   point about why it's difficult with your  
6                   international partners, but I mean within  
7                   Canadian agencies do we understand is it your  
8                   evidence that there is no integrated system  
9                   within and amongst Canadian agencies to detect,  
10                  deter, investigate and collect data and share it  
11                  in an integrated way? Is that your evidence?

12          A     (BG) An integrated system like in terms of a  
13                  software perspective or like a technology  
14                  perspective or platform that we can ...

15          Q     I mean a single integrated platform that these  
16                  agencies can access each other's data that they  
17                  are collecting compatible data or is each agency  
18                  off on its own doing its own thing?

19          A     (BG) Yeah, essentially each agency -- this is my  
20                  kind of personal opinion and individual take on  
21                  it, but I can put my FINTRAC hat on for a little  
22                  bit and then my RCMP hat. There's information  
23                  sharing processes in place and each agency has  
24                  its kind of piece of the puzzle and information  
25                  to provide, and that's why cooperation in this

1 area is so important, multi-agency cooperation  
2 because no one agency has access to all the  
3 various pieces of the puzzle. And it's probably  
4 most salient when you think about FINTRAC and  
5 the way that FINTRAC was set up. In some ways  
6 it's I guess what you consider to be its ace in  
7 the hole is that it has these international wire  
8 transfers that as a reporting requirement that  
9 very few countries in the world actually have,  
10 but because of that FINTRAC is  
11 capturing millions and millions of reports  
12 within in reports on Canadian transactions that  
13 really have no -- there's nothing that they're  
14 doing that's illicit, but it's within their  
15 repository so there's privacy issues there. So  
16 the way that we've set up our FIU, FINTRAC and  
17 our legislation supporting that is that  
18 FINTRAC's financial data really has to be --  
19 it's held within FINTRAC, no RCMP analyst or  
20 investigator can reach into it and grab it out  
21 like they can in the United States. FinCEN is  
22 able to provide their financial platform to law  
23 enforcement and other agencies to look at their  
24 financial data. But the only way for FINTRAC to  
25 actually relay the information within its

1 repository is to provide a disclosure, proactive  
2 or otherwise. So the information held within  
3 its repository is so highly protected. So it  
4 creates challenges when you want to look at the  
5 various pieces that would contribute to  
6 identifying a TBML scheme or a sector or  
7 commodity that's vulnerable to TBML because the  
8 way our system is created, especially financial  
9 data must be hived off because of privacy  
10 concerns. And so that information will always  
11 in some ways be very case-by-case manual. We  
12 might be able to share it aggregately, but it  
13 would be certainly sanitized where you might not  
14 have -- like, you know, you might have broad  
15 trends but not individual names that would help  
16 you to identify a threat group that's operating.  
17 And there's certainly software challenges as  
18 well between sharing data and information just  
19 by virtue of we're all different agencies who  
20 have procured different software that don't  
21 necessarily speak to each other very well so  
22 there's a lot of manual cleaning and data  
23 manipulation that we have to do just so that we  
24 can all be looking at the same pieces of the  
25 puzzle in the same way essentially.

1                   (JG) If I might, I'd like to just add in  
2                   that I would echo all of Bryanna's comments with  
3                   respect to the customs information that runs  
4                   alongside of FINTRAC information or criminal  
5                   intelligence being provided from the RCMP.  
6                   There's a reason why we don't have one  
7                   integrated system and that's to ensure that  
8                   we're only communicating about cases where at a  
9                   minimum we have those grounds to suspect that  
10                  there's money laundering taking place, and  
11                  that's a safeguard that's built into FINTRAC  
12                  legislation, RCMP legislation, CBSA legislation  
13                  in terms of the *Customs Act* to ensure that the  
14                  information for individuals and entities that  
15                  are not germane to trade-based money laundering  
16                  are kept protected. And, you know, there's  
17                  potential privacy implications under the charter  
18                  there and we're very mindful of that. But we do  
19                  have protocols in place under the information  
20                  sharing components of our legislation, whether  
21                  we're talking about the *Customs Act* or the  
22                  *Proceeds of Crime (Money Laundering) and*  
23                  *Terrorist Financing Act* that establish -- that  
24                  puts safeguards in place but that at the same  
25                  time when justified and when thresholds are met

1 allow for the right information to be provided.

2 (BG) Great. If there's no additional  
3 questions there then my counterpart Sushile will  
4 be able to pick up on the investigative and  
5 prosecutorial challenges.

6 (SS) Thank you, Bryanna. So I'm just going  
7 to pick up where Bryanna left off with the  
8 second and third pillars there, the  
9 investigative and prosecutorial. And some of  
10 the concerns we've already alluded to in some of  
11 the previous slides. So if we move to the  
12 middle pillar there in that slide, and we're  
13 talking about the operational challenges  
14 specifically in relation to investigative  
15 concerns, by this time if we haven't conveyed it  
16 let me just reiterate one more time that these  
17 are complex schemes that we're trying to unravel  
18 as investigators and they do require subject  
19 matter expertise. I believe Mr. Cassara  
20 probably -- I think he was up on the testimony  
21 schedule yesterday and having sat through some  
22 of his presentations previously as well as  
23 presented with him with this panel as well, I  
24 know that he's talked at least for decades about  
25 emphasizing the fact that we're missing the

1                    telltale signs of TBML by focusing on one half  
2                    of the problem and not on the other. And what I  
3                    mean by that that we're focusing on the product  
4                    and people but not, quote/unquote, following the  
5                    goods or following the money. There needs to be  
6                    an emphasize shift towards that so we'll be able  
7                    to articulate the fact that how that value  
8                    transfer is moving from, if I can be colloquial  
9                    for a second, from bad guy to bad guy through  
10                    the use of value transfer through the trade  
11                    mechanism.

12                                       So what I'm trying to say here is that these  
13                    are complex schemes. There's a lot of layering  
14                    involved. We've seen it already with a number  
15                    of slides we've presented here today, not just  
16                    the geographical layering but also the process  
17                    layering that occurs from different financial  
18                    institutions and different entities handling  
19                    those commodities, whether it's under-invoicing,  
20                    over-invoicing, phantom shipments. Going  
21                    through different financial institutions in  
22                    different parts of the world in various other  
23                    forms of informal value transfer as well,  
24                    whether hawalas or different other remittance  
25                    forms. Long story short we're simply picking up



1                   on these things very recently. I'll use myself  
2                   and an example from that case study that I talked  
3                   about in slides 19, 20 and 21. I will call it  
4                   perspective bias and say while we were looking  
5                   at a drug trafficking investigation we were not  
6                   alive to the other horizontal initiatives, we'll  
7                   call them, the criminality that was occurring  
8                   with that same crime group. I think had we been  
9                   a little bit more alive to that and perhaps more  
10                  communicate with our law enforcement agency  
11                  partners as well as being able to use our  
12                  analysts in a more effective manner we would  
13                  have been perhaps better suited to unravel these  
14                  complex schemes and leaned upon subject matter  
15                  expertise such as people like Mr. Cassara who  
16                  have had familiarity with these sorts of models  
17                  for a number of years. But all that to say is  
18                  that we are still in the process of picking up  
19                  on these anomalies, learning from them and being  
20                  able to articulate them as part and parcel of a  
21                  money laundering investigation or a drug  
22                  trafficking investigation that has components  
23                  that then become enmeshed within money  
24                  laundering investigation. Which leads me to the  
25                  next point there, which is that more often than

1 not because of the difficulties of associating  
2 knowledge and control to the transfer and value  
3 we often end up falling back to the predicate  
4 offence of drug trafficking alone as we cannot  
5 directly tie in the money laundering to the drug  
6 trafficking offence for that matter.

7 I'll just skip over one point here and come  
8 back to it. The other difficulty we have from  
9 the investigative standpoint is -- and I talked  
10 about this in that case study, was international  
11 request for information. I called them  
12 geopolitical concerns but, Ms. Latimer, I think  
13 when you had your clarifying question we nailed  
14 down one factor of that which is there's issues  
15 of corruption, there's issues of ambivalence  
16 sometimes; sometimes there's just blind  
17 ignorance of the fact this is happening for the  
18 same reasons that our agency and our  
19 investigators are -- there's something that they  
20 have not seen before, so they're not alive to  
21 the signs and indicators. So international  
22 requests for information go through the spectrum  
23 of difficulty of dated information being  
24 received and then when we do have the process in  
25 place for an investigation where we're reliant

1                   upon foreign law enforcement agency partners,  
2                   the process of an MLAT, a mutual legal  
3                   assistance treaty, can sometimes take many, many  
4                   months, if not years, depending on the  
5                   complexity of the ask. Where we have found some  
6                   successes when we have a parallel investigation,  
7                   and if I can use the colloquial term is when we  
8                   have a parallel investigation with a foreign law  
9                   enforcement agency, say for the sake of example  
10                  in a hypothetical with our American counterparts  
11                  with the department of Homeland Security, the  
12                  walls come down, so to speak, and we're able to  
13                  have that exchange of information because of the  
14                  commonality of effort looking after -- looking  
15                  towards suspects that may be acting both in  
16                  America and Canada. So that provides a little  
17                  bit of a respite from the usual struggles and  
18                  concerns of having to deal with the dated  
19                  information and the difficulties and  
20                  communication with law enforcement agencies, but  
21                  overall those are the main challenges from the  
22                  investigative standpoint. The bullet point that  
23                  I skipped over was talking about more of a  
24                  revised approach, and I'll lean a little bit on  
25                  my friend Joel here just to add into it, where

1                   we're leveraging customs and tax designated  
2                   offences as basis for charges and working  
3                   together to be able to build up a TBML  
4                   investigation. And, Joel, I'll just get you to  
5                   assist me here in just talking a little bit of  
6                   the articulation about the tax fraud as a  
7                   predicate offence from which we can step well  
8                   over it to more of a built up TBML  
9                   investigation.

10                   (JG) Yeah, absolutely. So one of the  
11                   approaches that we are contemplating and  
12                   discussing and trying to put into practice  
13                   wherever possible in terms of that whole  
14                   government collaboration comes into play when  
15                   we're looking at particularly at suspected  
16                   professional money launderers, and again  
17                   individuals, groups of individuals, networks  
18                   that do not appear to be engaged in your typical  
19                   predicate crimes, your typical proceeds  
20                   generating crimes; they just appear to be  
21                   laundering money, whether it's an as accountant  
22                   or a lawyer or whether it's through the  
23                   import/export companies that they have under  
24                   their control. Investigating and contemplating  
25                   money laundering investigations in this context

1 is extremely challenging because there is no  
2 clear traditional predicate crime to make as the  
3 basis for subsequent money laundering  
4 investigation. So one of the things that we've  
5 been discussing and between the organizations  
6 and are looking I suppose for the right  
7 opportunities in some of these files to actually  
8 test them out in practice is to leverage *Customs*  
9 *Act* offences and potentially *Income Tax Act*  
10 offences. I won't speak to the income tax  
11 offences, it's not my area of knowledge or  
12 expertise, but with respect to the *Customs Act*,  
13 using those potentially as where we have grounds  
14 to suspect or perhaps even grounds to believe  
15 that there are offences occurring under the  
16 *Customs Act*, use the example of trade fraud,  
17 there are provisions, there are offence  
18 provisions within the *Customs Act* where those  
19 offences are indictable, and indictable offences  
20 meet that threshold under the criminal code to  
21 be considered as a designated offence. So the  
22 thinking is that it may be possible in cases of  
23 professional money laundering in particular to  
24 try to leverage those other acts of parliament,  
25 the *Customs Act*, the *Income Tax Act*, other acts

1 of parliament where it meets that threshold of  
2 being considered a designated or an offence that  
3 can be prosecuted by indictment as your basis  
4 for money laundering. And that could be a  
5 potential to reduce some of the challenges that  
6 we're experiencing on the investigative front.  
7 So using, for example, section 153 of the  
8 *Customs Act* which can be prosecuted as an  
9 indictable offence and that's really for willful  
10 evasion or non-compliance with the *Customs Act*,  
11 so failing to truly and accurately describe your  
12 goods, whether it's on import or export. If  
13 that is proven to be willful it is an offence  
14 under the *Customs Act* and that could potentially  
15 open the door to working closely with our RCMP  
16 partners and allowing them to contemplate  
17 initiating a money laundering investigation.

18 Q This is being contemplated and discussed at the  
19 moment, but has this ever occurred, a *Customs*  
20 *Act* offence being used to ground a money  
21 laundering charge?

22 A (JG) To the point of going through and being  
23 accepted for prosecution and having charges  
24 laid, no. That has not occurred to this point.  
25 Keeping in mind, though, that so much of this

1 collaborative effort around trade-based money  
2 laundering is very, very new within the  
3 Government of Canada and really having this  
4 awareness even of trade-based money laundering  
5 is so new. It's very early days with respect to  
6 investigative strategy in that regard when we're  
7 looking at professional money launderers.

8 Q I wanted to just return to some of the  
9 challenges that you were discussing, Acting  
10 Staff Sergeant Sharma, about the -- well, you  
11 mentioned some of the difficulties in how  
12 complex these investigations are, and because  
13 you've mentioned Mr. Cassara a couple of times I  
14 want to put some his ideas to you to see what  
15 you thought about them. One thing he urged this  
16 commission to do was find out how many  
17 trade-based money laundering charges had ever  
18 been pursued in British Columbia, and I'm  
19 wondering given the two examples you gave to us  
20 didn't result in a money laundering charge is  
21 there any trade-based money laundering charges  
22 that have ever been laid in British Columbia?

23 A (SS) Short answer is no.

24 Q Another idea that Mr. Cassara had was that there  
25 should be a specialized unit within the RCMP to

1           investigate money laundering, including  
2           trade-based money laundering. Do you agree that  
3           that would be a beneficial development to get  
4           some of that expertise so recognize these  
5           complex schemes?

6           A     (SS) Again, I'll present my opinion, again it's  
7           based upon experiential knowledge, and I'll say  
8           I don't believe that we need to reinvent the  
9           wheel, so to speak. I believe -- let me  
10          rephrase that. We do have money laundering  
11          investigators and the concept of TBML is just  
12          now being underscored and realized that it needs  
13          to be examined a little more closely. As we  
14          said right at the very top of the presentation  
15          that TBML doesn't need to be looked at as some  
16          sort of alien entity. It is just a form of the  
17          overall money laundering process in part of that  
18          layering, three-part process of placement,  
19          layering and integration. It's just a more  
20          specialized manner of layering that  
21          investigators now need to be alive to and  
22          perhaps more familiarized with. So I understand  
23          what Mr. Cassara is saying and I'm not  
24          disagreeing with him that we shouldn't have more  
25          of an emphasis and an awareness point about it,



1 but insofar as having a specialized unit or  
2 investigators solely dedicated to it, I would  
3 say that respectfully to the panel and with  
4 respect to my agency as a whole, and quick  
5 caveat this is one individual investigator's  
6 submission here, I think that would be  
7 redundant. I think we have investigators that  
8 are already involved in the money laundering  
9 portfolio that need to perhaps be more alive to  
10 the recency and the typologies and the  
11 techniques that are happening and become better  
12 equipped as subject matter experts through  
13 familiarity and exposure to this and they would  
14 be well on their way towards progressing and  
15 making effective inroads towards TBML as an  
16 aspect of money laundering in general.

17 Q Is this an area that you think requires more  
18 training from the law enforcement perspective?

19 A (SS) Yes, I do. I definitely think that it  
20 requires training, but not just from the law  
21 enforcement perspective but with all of our  
22 agency partners as well as the participants in  
23 the overall regulatory business. Basically  
24 anybody that has a stake in the trade and the  
25 economic sector, whether we're talking about

1 compliance, financial institutions, regulatory  
2 agencies, law enforcement, customs border,  
3 et cetera, I think we all need to have an  
4 awareness point of it and see what the  
5 difference nodes and the exits and entrance  
6 points are so we can have a bit more of a  
7 combined comprehensive assessment of where we  
8 can use our agencies' strengths, our skill sets  
9 to be able to adapt and effectively address the  
10 issue. So I don't think it's a specific law  
11 enforcement lift. I do think that it's  
12 definitely a law enforcement involvement in  
13 participating [indiscernible] and significantly  
14 we do have a large say in it in terms of the  
15 affecting of the recommendation of charges, but  
16 it's a fairly comprehensive involvement piece.

17 Q You've described some of the investigations that  
18 you've been involved in that have looked at  
19 trade-based money laundering. Are you aware of  
20 any investigations that have looked at  
21 service-based money laundering originating in  
22 British Columbia?

23 A No, I have not. I know of the concept. I know  
24 just in professional discourse with my colleague  
25 Bryanna we discussed how the fact that if you

1 look at the horizon of issues and concerns with  
2 TBML service-based, it poses such an  
3 extraordinary challenge because you can't even  
4 quantify or even have a tangible link to what is  
5 attributed to the value transfer. So the short  
6 answer is no. I haven't had any exposure to it,  
7 but definitely it's out there. We just need to  
8 be alive as to how we can address it and be able  
9 to attend to it.

10 Q Thank you.

11 A (SS) If there's no further questions I'll just  
12 turn to the last pillar, which is kind of more  
13 of a segue to the hand-off of the investigative  
14 to the prosecutorial. So we've already talked  
15 about the dearth of subject matter expert  
16 experience at the investigative level. Well,  
17 it's no shock that the fruits of the efforts  
18 that are handed off to the prosecutors for  
19 charge approval from the recommendation stage  
20 are highly reliant upon us as investigators  
21 articulating the grounds of belief, the  
22 confirmation of identity and the attribution of  
23 knowledge and control, whether it's assets or  
24 the handling of the different pieces of the  
25 elements of the offence. And so just as we are

1           limited in our experience as investigators to  
2           TBML and our articulation of it, on the  
3           receiving end there's very limited -- we found  
4           through articulation in some of the feedback  
5           that we've gotten as investigators that there's  
6           limited financial crime prosecutorial expertise  
7           as well in the area of TBML.

8                     Just from past experience I can tell you  
9           that you when you try to unravel the different  
10          layering sometimes it's just -- the usual  
11          question is well, this seems as if it's  
12          legitimate trade, but the explanation of it  
13          requires a far more solidified understanding  
14          from the investigators relayed to the  
15          prosecutors as well and their awareness of all  
16          the elemental pieces of what TBML consists of,  
17          whether it's the invoicing, the actual value  
18          transfer system, the connection of where the bad  
19          actors translate their wealth into goods and  
20          commodities and then translate that wealth back  
21          from the foreign country back into or repatriate  
22          back into Canada. That's a very complex and  
23          convoluted sort of sequential process. So as  
24          difficult as it is for investigators to  
25          investigate and articulate it, I can only

1            imagine how it is for prosecutors to receive  
2            that, and so from their end of it at least I can  
3            say that I've received feedback that they need  
4            to be a little bit more educated as well.

5                       The second point there in that pillar for  
6            prosecutorial is that it really falls from hand  
7            and glove with what I've been saying so far is  
8            when we can't articulate the connectivity to the  
9            money laundering aspect of it, the TBML aspect,  
10           that we fall and regress back to what we can.  
11           In the case study that I gave we were able to  
12           have tangible connectivity to the heroin  
13           trafficking and the mass marketing fraud but not  
14           so much with the TBML, so we fell back to the  
15           favouring of the predicate crimes because they  
16           were -- I hesitate to say easier but the  
17           connectivity was there. We were able to  
18           articulate that. So it's not as if that they're  
19           easier, as if it was just less effort to do so.  
20           It's just the connectivity, the articulation was  
21           far clearer in comparison to what we could even  
22           allude to for TBML and the reasonable and  
23           probable grounds for the predicate offence were  
24           far more evident than what we could allude to  
25           for TBML. So I'll leave it at that point for



1 challenges associated to trade-based money  
2 laundering that have to be unpacked and  
3 addressed and a number of them we've discussed  
4 in quite a bit more detail, but just to really  
5 hammer home some of the key key key structural  
6 challenges that come up again and again are that  
7 we have multiple stakeholders both domestically  
8 and internationally that are absolutely required  
9 to work together so that we can effectively  
10 tackle a trade-based money laundering case, and  
11 this presents significant coordination,  
12 information sharing logistical challenges. As  
13 well there's the challenges associated to  
14 tackling trade-based money laundering when you  
15 have invoices coming in from multiple countries  
16 with very different governance and legal  
17 regimes. But a key point I think that could be  
18 fleshed out a little bit more is that within  
19 Canada we have multiple agencies that have very  
20 differing but overlapping mandates and this  
21 presents a unique challenge. So we have our  
22 information consumers, so such as my own  
23 organization, the RCMP, that are involved in  
24 investigating a specific part of trade-based  
25 money laundering, but we've got other

1 information consumers who are consuming the  
2 information and intelligence that's being put  
3 out there in that fora, and we're connecting the  
4 cookie crumb, so to say, or the pieces to try to  
5 form the bigger puzzle. So that's CBSA, as well  
6 as ourselves and FINTRAC, CRA, and to some  
7 extent even CSIS if it pertains to terrorist  
8 financing. But there's also information  
9 providers out there who hold information that  
10 may be pertinent to a TBML investigation that  
11 really aren't traditionally leveraged for the  
12 information that they provide. And we've  
13 touched on a few, but others that we haven't yet  
14 touched on would be potentially Export  
15 Development Canada, Global Affairs Canada,  
16 Industry Canada, or provincial agencies such as  
17 BC Lottery Corporation. All these different  
18 agencies have bits of information that could  
19 totally be relevant to a trade-based money  
20 laundering investigation and to understand what  
21 the scheme is and who the players are that are  
22 involved. But one thing that I guess could be  
23 highlighted when you think about these  
24 information providers, so folks with information  
25 to provide that haven't traditionally been



1 leveraged, is that they tend to be focused on  
2 trade promotion and making markets work and are  
3 often less concerned about problems associated  
4 or pathologies with the international trade  
5 system such as those posed by trade-based money  
6 laundering. So sometimes practically getting  
7 information it might be that there's just no  
8 information sharing mechanism in place, but it  
9 might be a challenge to get information from  
10 some of these organizations because they don't  
11 traditionally think of the issues associated  
12 with trade. They're looking to promote trade.  
13 So that can be a challenge as well. And then  
14 just finally something that we've touched on to  
15 a great extent is that there are certainly  
16 stakeholders within the private sector who have  
17 information to provide as well but aren't  
18 included in our current anti-money laundering  
19 regime, and that the key ones there just being  
20 entities involved in the trade chain, so our  
21 importers, exporters, customs brokers, freight  
22 forwarders and shippers. At this point we can  
23 move on to the next slide. And in fact this is  
24 one, Joel, if you have some comments on you  
25 can -- he was going to present it, but in the

Bryanna Gateley (for the commission)  
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Sushile Sharma (for the commission)  
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Discussion re scheduling

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1 interest of time we can probably move on to the  
2 next one. It was just kind of hammering home  
3 the same point about all of these intersecting  
4 mandates and that there really needs to be a  
5 collective effort to try to effectively tackle a  
6 TBML investigation.

7 Did you have any additional comments on  
8 that, Joel?

9 (JG) No, I think you summarized it very well  
10 Bryanna. Nothing to add there.

11 (BG) Okay. Sounds good. So we can turn to  
12 the next slide. That will be slide 27.

13 MR. MCGOWAN: Mr. Commission, I wonder if I might  
14 just interject. I apologize for interrupting  
15 the panel, but I wonder if we've reached a stage  
16 where it might be appropriate to canvass timing  
17 and options. I know one of the panelists has an  
18 engagement that they have to deal with at least  
19 briefly in a few minutes. I'll just say for  
20 looking at how much is left in the PowerPoint  
21 presentation and I know Ms. Latimer has some  
22 questions, I anticipate it would be at least an  
23 hour, perhaps 90 minutes more that would be  
24 required. So I think the options are carry on  
25 to 2:30, take a brief break and come back, break

1 at 2:30 with a view to coming back or break at  
2 2:30 with a view to reassembling the panel on a  
3 different day, which of course presents its own  
4 challenges.

5 THE COMMISSIONER: Right. Ms. Latimer, without  
6 wanting to pin you down can you give us a bit of  
7 an estimate as to how much longer you think we  
8 are going to be with respect to the panelists.  
9 You know, I don't in any way want to inhibit a  
10 full canvassing of their evidence because it's a  
11 very important piece of the puzzle. So let me  
12 know what you think.

13 MS. LATIMER: Mr. Commission, I think if we had for  
14 both myself and the TI coalition if we had two  
15 hours that would get that done. I know they  
16 have 20 minutes and I will not be more than an  
17 hour and a half. I will ensure that.

18 THE COMMISSIONER: All right. In terms of tomorrow,  
19 if we were to adjourn to tomorrow would we be able  
20 to conclude matters with -- is it Mr. Zdanowicz  
21 tomorrow?

22 MR. MCGOWAN: Yes, I do have a concern about  
23 overloading you with a PowerPoint presentation.  
24 He has quite a lengthy PowerPoint presentation  
25 to give on the topic of trade-based money

1           laundrying but really more on some statistical  
2           analysis that he does that relates to that. I  
3           would expect his presentation will take two  
4           hours. I have some questions for him but they  
5           will be completed -- in addition to the  
6           PowerPoint, but they will be less an half an  
7           hour. And I believe we have Transparency  
8           International seeking to question him for  
9           20 minutes. So that will occupy approximately  
10          three hours, maybe a little bit more. The  
11          challenge of course that comes with bringing the  
12          panel back tomorrow is that we have special  
13          measures in place that have to be addressed,  
14          technological measures flowing from you ruling  
15          and what's displayed on the live stream. But we  
16          can't -- transitioning from the Zoom where  
17          everybody is in to the special limited  
18          invitation Zoom is something that we would have  
19          to accommodate.

20          THE COMMISSIONER: Right, right. So what we're  
21          looking for, then, is either the ability to  
22          accommodate tomorrow or a separate date.

23          MR. MCGOWAN: Yes, unless there's an appetite to  
24          carry on after a break today, and I don't have a  
25          preference of any of those three options.

1 THE COMMISSIONER: All right.

2 MR. MCGOWAN: I wonder if Madam Registrar can  
3 indicate whether it would be possible to split  
4 tomorrow and re-engage all of the special  
5 precautions we have in place today.

6 TECHNICAL COORDINATOR: Yes, from a technical  
7 standpoint it is possible.

8 THE COMMISSIONER: And are the panelists available  
9 tomorrow? It would be 9:30 Pacific time or we  
10 could start a little earlier. Mr. Gibbons?

11 MR. MCGOWAN: It would make sense to canvass the  
12 panelists for their preference and maybe  
13 Ms. Davis who is counsel for Canada.

14 THE COMMISSIONER: Yes.

15 THE WITNESS: (JG) Mr. Commissioner, I am available  
16 to meet at the commission's discretion tomorrow.

17 THE COMMISSIONER: Thank you very much. Ms. Gateley.

18 THE WITNESS: (BG) Yes, flexible to whatever is  
19 decided. I can continue on today or tomorrow  
20 would be fine as well.

21 THE COMMISSIONER: Right. Staff Sergeant Sharma.

22 THE WITNESS: (SS) Mr. Commissioner, panel, I'm  
23 absolutely flexible for whatever we need.

24 THE COMMISSIONER: All right. Well, I think given  
25 the amount of time we have consumed today it

1           might be better to adjourn until tomorrow. I  
2           think we should start at 9:00 tomorrow rather  
3           than 9:30 just to give a little extra lead time  
4           to be able to conclude with matters that are  
5           also scheduled for tomorrow in a relatively  
6           timely way. I think this is important evidence  
7           and I think I'm hesitant to have it rushed to a  
8           conclusion simply to fit a time frame. So I  
9           think rather than carrying on at this stage the  
10          better course of action is to adjourn until  
11          tomorrow morning at 9 o'clock. Is there any  
12          issue with any of counsel for either the  
13          panelists or alternatively any other counsel at  
14          starting at 9:00 tomorrow?

15          MS. DAVIS: Mr. Commissioner, it's Hanna Davis here,  
16          counsel for Canada. I can advise that that is  
17          appropriate from our perspective and we have no  
18          concerns about continuing tomorrow starting at  
19          9:00 a.m.

20          THE COMMISSIONER: All right. Thank you. That is  
21          helpful. All right. I think what we'll do,  
22          then, is maybe carry on for another ten minutes,  
23          Ms. Latimer, and then adjourn until tomorrow  
24          morning at 9:00. Thank you.

25          MS. LATIMER: Thank you.

1           **EXAMINATION BY MS. LATIMER (continuing):**

2           Q     Ms. Gateley, I believe you were about to tell us  
3                     about this next slide.

4           A     (BG) Sure. Okay. So this slide is a little bit  
5                     different. It's a change of pace, but it  
6                     demonstrates how a hypothetical trade-based  
7                     money laundering case would be built. So when  
8                     we're looking at that very first pillar there of  
9                     targeting identification, within law enforcement  
10                    intelligence analysts are the conduit for  
11                    incoming intelligence and information related to  
12                    trade-based money laundering from a variety of  
13                    sources. So this could include incoming  
14                    intelligence, tips, referrals from our current  
15                    investigations, from our domestic and  
16                    international partners such as maybe proactives  
17                    on trade-based money laundering as well as  
18                    information that's coming in that my colleague  
19                    Sushile has mentioned from liaison officers that we  
20                    have posted abroad and analysts as well that we  
21                    also have posted abroad.

22                    So from all of these various pieces of  
23                    information and intelligence we get those and we  
24                    analyze them to identify potential trade-based  
25                    money laundering schemes or look at indicators

1 of where something just doesn't seem right there  
2 and there's certainly the potential for a scheme  
3 and possible targets associated to that. We  
4 would then when we have kind of something to  
5 spring off from or something to work with we  
6 would engage in an intelligence gathering phase,  
7 and I would consider this to be like an  
8 analytical intelligence probe. And we would do  
9 additional queries to augment, confirm or refute  
10 what were the set of facts that we're starting  
11 to look at and kind of build our puzzle of what  
12 really could be going on there. So we would do  
13 some open source queries, query close sources,  
14 police databases to reconcile our remaining  
15 intelligence gaps and start to put together a  
16 package on a viable target and a TBML scheme  
17 that's involved, that this target is involved  
18 in. For the investigative team we'd do a  
19 briefing and then they would consider if that's  
20 something that they would have the capacity to  
21 pursue.

22 So this phase could include sending kind of  
23 secondary analytical intel probe intelligence  
24 gathering phase. Could include sending a  
25 request, proactive request to FINTRAC for



1 additional information or to our other partners  
2 such as CBSA for customs trade data. And then  
3 we would also leverage our open source  
4 intelligence capacity and in some cases open  
5 source analysts to query information that they  
6 have access to and then query information within  
7 our databases. So that brings us up to the  
8 point where we've identified a possible target  
9 and started to put the pieces together so that  
10 we can then do a handoff to the investigative  
11 team to consider either an investigational  
12 intelligence probe, to make sure that intel  
13 package that we're putting out there is  
14 accurate. That address that we say this  
15 individual is associated to or this business,  
16 they can actually go past and do surveillance  
17 and see if it checks out and it supports our  
18 theory as to who this group is and what they're  
19 involved in and what they're doing. So at this  
20 point I'll pass the slide over to my colleague  
21 Sushile who will walk you through the evidence  
22 gathering component of a trade-based money  
23 laundering case.

24 (SS) Thank you, Bryanna. So that kind of  
25 ties into what we talked about. I think it was

1 earlier in the first third of this presentation  
2 where we talked about the various mandates and I  
3 discussed from the RCMP perspective about our  
4 reliance on foundational intelligence, and what  
5 Bryanna just talked about was indeed that  
6 foundational intelligence, which for us is  
7 necessary so that we can have support and an  
8 informed foundation from which to base our  
9 operational decisions on. And I'm talking about  
10 operational decisions which meet our scope of  
11 service element, and I talked about that earlier  
12 about threats to Canada's economic integrity,  
13 national security, international scope,  
14 et cetera, involving the Canadian/US border.  
15 And not to reiterate the same points again, but  
16 once we've taken the buildup of the entity, the  
17 subject and the MO of this person and it  
18 conforms with our foundational expectation of  
19 the intelligence as being relevant and confirmed  
20 and/or able to be confirmed and it's credible  
21 and it's compelling, then we move towards the  
22 actual securing of the evidence and our  
23 investigative techniques that we would employ,  
24 and those can be anywhere from securing our  
25 grounds of belief through judicial

1 authorizations, 487 search warrants, production  
2 orders, data records. And use other I'm going  
3 to call them quote/unquote overt investigative  
4 techniques such as interviews, door knocks that  
5 would also include some of our more sensitive  
6 investigative techniques, because let's call it  
7 what it is here. A lot of these activities are  
8 clandestine in nature and do involve very, very  
9 specific information and the ability to confirm  
10 and corroborate that is highly reliant upon  
11 very, very detailed and specific information.  
12 So it would employ sensitive investigative  
13 techniques such as, you know, undercover and/or  
14 wire tap. But all of these sorts of  
15 investigative techniques in development of the  
16 intel that we had received from, you know,  
17 analysts from Bryanna's perspective there would  
18 help us to build our grounds upon a suspect or  
19 an entity or a group working -- or bad actors, I  
20 should say, working towards whether it's  
21 predicate offences and attached to potential  
22 money laundering and trade-based money  
23 laundering. But where we run into the  
24 confirming with forensic evidence -- or forensic  
25 evidence confirming is with use of FAMG,

1 forensic account management group, and our  
2 forensic accountants assisting us as well as our  
3 partner agencies from Canada Revenue Agency  
4 assisting us with the ability to look at this  
5 from a forensic perspective and assisting us  
6 with their lens. And then it comes down to not  
7 just using the *Criminal Code* but also using  
8 multiple legislation, and Joel kind of talked  
9 about this earlier where we talked about that  
10 slide for the predicate offences of trade fraud.  
11 We're looking at multiple legislations to be  
12 able to see how we can most leverage our  
13 abilities as law enforcement to make an  
14 effective -- to have the most effective tools to  
15 gather the evidence and secure that evidence to  
16 be able to articulate in a manner that is  
17 acceptable to Crown so that we can take this  
18 matter for not just a recommendation of charges  
19 but for its progression through the court  
20 system. I'm going to stop that articulation on  
21 that slide. If there's any further questions.

22 MS. LATIMER: No, I don't have of any further  
23 questions on that. Mr. Commissioner, I note the  
24 time now.

25 THE COMMISSIONER: Yes, all right. Well, we'll

Bryanna Gateley (for the commission)  
Joel Gibbons (for the commission)  
Sushile Sharma (for the commission)  
Exam by Ms. Latimer (continuing)

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1                   adjourn now until tomorrow morning at 9 o'clock  
2                   to resume with this panel of witnesses'  
3                   evidence. Thank you.

4                   THE REGISTRAR: The hearing is now adjourned until  
5                   December 11th, 2020 at 9:00 a.m. Thank you.

6                   **(WITNESSES STOOD DOWN)**

7                   **(PROCEEDINGS ADJOURNED AT 2:32 P.M. TO DECEMBER 11, 2020)**

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