

**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 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 laundering 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 laundering 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 laundering and asked me to
24 participate in the trade-based money laundering
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

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

31

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 And when we're talking about underground banking
2 we're primarily in this context talking about
3 capital flight, which I touched on earlier.
4 Underground banking systems can be used for many
5 different things and often have legitimate uses
6 just operating outside of the more formal
7 financial system. Think about the movement of
8 remittances from typically developed countries
9 to lesser developed countries. That can be one
10 use of underground banking systems. But in the
11 trade-based money laundering context what
12 underground banking and trade-based money
13 laundering enables is capital flights, so
14 getting around strict domestic currency controls
15 that are in place in certain jurisdictions, and
16 I'll just mention China as one example.

17 Chinese money launderers can accept domestic
18 currency from their clients in Mainland China
19 and they use -- they can exchange it through
20 something known as a mirror transfer with money
21 sitting in what are known as cash pools in
22 countries -- typically western countries outside
23 of China. And typically these money pools that
24 are outside of China consist of proceeds of
25 crime that are often controlled by drug

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 Canada first and foremost has that -- or the
2 CBSA has that responsibility to collect duty and
3 taxes at the border. And I think what we're
4 looking at is the export system has undergone a
5 degree of modernization quite recently, whereas
6 on the import side considering the huge volumes
7 of goods that are processed inbound are still
8 reliant on quite archaic IT infrastructure and
9 old and legacy systems that are getting close to
10 decommission date. And I think I don't want to
11 speak on behalf of the agency. This is from my
12 personal experience as an employee who works in
13 the agency; I'm not privy to any of the
14 discussions around why now and why with this
15 system. But it is my belief that that system
16 was at risk because it's reaching the end of its
17 lifespan and there was a more perhaps imminent
18 need given a lot of that IT infrastructure had
19 been updated with the new system that was put in
20 place on the export side.

21 Q You've mentioned import duties a number of
22 times. Is it the case that the new solution is
23 being introduced to imports and not exports
24 because there's a revenue upside for imports
25 whereas for exports it's really just an

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 it's able to cross compare those two data
2 points, so the Colombian export transaction and
3 the US import transaction, and it will cross
4 compare the elements of the customs
5 declarations, the Colombian export, the US
6 import to see if they match. That's a
7 relatively simple and simplistic explanation,
8 but that's the fundamental underpinnings of the
9 trade transparency unit concept.

10 So if the bananas were declared as being
11 valued at the equivalent of \$100,000 US in
12 Colombia but on the US side on import they're
13 being declared to the US authorities as
14 \$2 million worth of bananas, you can see that
15 you've now enabled the movement of the
16 difference, so 1.9 million equivalent US dollars,
17 out of Colombia and into the United States. And
18 the DARTTS system, the TTU system is designed to
19 detect those anomalies, so it's a form of
20 proactive lead generation really for Homeland
21 Security investigations to try to uncover trade
22 fraud, including possibly trade-based money
23 laundering.

24 I think one thing that's really important to
25 emphasize when we're talking about that

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

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

100

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 laundering 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 laundering 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 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 Sush
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 that. And the last thing I'll say is something
2 that when we presented this presentation the
3 last couple of times was something that our
4 Canada Revenue Agency colleagues want to assert
5 a point of, that in their investigations, and we
6 found from time to time in some of ours
7 involving trusts with legal representatives,
8 that blanket assertions of solicitor/client
9 privilege do have a tendency to bog down the
10 investigator's cadence and progress of their
11 investigation. We have to -- the costs and the
12 process of having independent counsel intervene
13 and referee and examine the situation puts sort
14 of a wrench in the works, so to speak, of being
15 able to have that investigative cadence proceed
16 in a way that we can make a formalized and
17 timely presentation to prosecutors. And that's
18 my summary for that slide. Unless there's any
19 further questions.

20 (BG) So I can pick up the next slide. It's
21 slide number 25. I know in the interests of
22 time I'll go through this one fairly quickly
23 because a lot of it has already been touched on.
24 But essentially what we wanted to highlight here
25 is that there are these huge structural

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