PROCEEDINGS AT HEARING
OF
DECEMBER 11, 2020

COMMISSIONER AUSTIN F. CULLEN

(i)

Bryanna Gateley (for the commission)   1
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   **December 11, 2020**

2   **(Via Videoconference)**

3   **(PROCEEDINGS COMMENCED AT 9:00 A.M.)**

4   THE REGISTRAR: Good morning. The hearing is now

5   resumed. Mr. Commissioner.

6   **BRYANNA GATELEY, a**

7   **witness for the**

8   **commission, recalled.**

9   **JOEL GIBBONS, a witness**

10   **for the commission,**

11   **recalled.**

12   **SUSHILE SHARMA, a**

13   **witness for the**

14   **commission, recalled.**

15   THE COMMISSIONER: Thank you, Madam Registrar.

16   Ms. Latimer.

17   MS. LATIMER: Thank you, Madam Registrar, when we

18   left off yesterday we were looking at the

19   document at tab 4 and if we could have that

20   displayed, please. That's the page.

21   EXAMINATION BY MS. LATIMER (continuing):

22   Q   I'll just turn it back over to the panel to pick

23   it up from where we left off yesterday with the

24   presentation. Thank you.

25   A   (JG) Good morning. It's Joel Gibbons speaking.

Bryanna Gateley (for the commission)   2
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   So as I'll as indicated pick up where we left

2   off. [Indiscernible] close interaction that

3   we've had with that team at public safety is the

4   current conception of the initiative is

5   three-pronged, so it's essentially case support

6   where the Public Safety Canada will be bringing

7   together members of the public safety portfolio

8   plus other federal stakeholders to provide

9   support to money laundering cases, including

10   potentially trade-based money laundering cases,

11   and to help obtain resources to problem solve

12   and to prioritize the manner in which Government

13   of Canada agencies will tackle money laundering.

14   So that's sort of tier 1, I think, or bucket

15   number 1 of their responsibilities.

16   And I think the second area is to act as

17   what they're calling a knowledge hub. So

18   effectively a Centre of Expertise for the

19   broader issue of money laundering, which would

20   include in part trade-based money laundering, so

21   obviously the work that I do in CBSA Centre of

22   Expertise has a very close tie-in to this aspect

23   of the FC3 model.

24   Then the third is to coordinate on behalf of

25   all of the Government of Canada operational

Bryanna Gateley (for the commission)   3
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   entities that are involved in money laundering

2   to play sort of a policy oversight and a

3   governance role with respect to interactions

4   with the head of Canada's anti-money laundering

5   regime, that being Finance Canada. So that is

6   what is conceptualized I think for what was

7   known as the ACE team, which is now the FC3 and

8   that came out of budget 2019, as you can see on

9   the slide. Significant investment there over a

10   five-year span. And it is my understanding that

11   the FC3 concept and that team becomes fully

12   operational in the next Government of Canada

13   fiscal year commencing in April.

14   And then we come to the second initiative,

15   which I can speak with a little bit more

16   authority about because it's the area that I

17   work in now, which is CBSA's trade fraud and

18   trade-based money laundering Centre of

19   Expertise. And as indicated on the slide the

20   intention behind the initiative is really to

21   bring together experts across the agency, the

22   Canada Border Services Agency, who have a

23   specific role to play in the identification of

24   complex trade fraud schemes. And again those

25   schemes could involve some of the things that we

Bryanna Gateley (for the commission)   4
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   talked about yesterday that are more closely

2   associated with more traditional

3   customs-oriented fraud, so very complex duty

4   evasion schemes. But I would say the primary

5   thrust of the initiative based on the source of

6   the funding is to develop more knowledge of

7   trade-based money laundering, to really build up

8   our agency and then across the Government of

9   Canada to build up that picture of how customs

10   processes are being subverted for the purposes

11   of conducting trade-based money laundering. And

12   so the centre as conceptualized will later in

13   the funding cycle, so we're in the first of a

14   four-year funding cycle with some ongoing

15   funding after that and in the first year the

16   staff concentration is mainly from the

17   intelligence domain, so trying to build up that

18   threat picture of complex trade fraud and

19   trade-based money laundering in Canada. And as

20   we progress through the initiative once that

21   picture has been built up and we have a sense

22   of -- really a better sense of the scope and the

23   scale of the problem, we'll be bringing in

24   different resources to complement those

25   intelligence efforts with additional knowledge

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

1   and expertise, for example from the CBSA's

2   commercial operations, as well the CBSA's trade

3   operations, those are two distinct branches of

4   the agency. Commercial operations basically

5   dealing with goods that are coming in or leaving

6   Canada, making those release decisions, can

7   these goods enter or leave the country. And

8   trade being really responsible for accounting

9   decisions. So primarily import focus, primarily

10   based on but not exclusively on revenue-related

11   concerns. So very distinct programs and their

12   knowledge will be equally required within the

13   construct, this construct that we've come up

14   with, the Centre of Expertise.

15   Really what we're trying to do within the

16   centre when it comes to trade-based money

17   laundering is position ourselves well with our

18   partners in the Royal Canadian Mounted Police to

19   be able to leverage our capabilities under the

20   *Customs Act* to work beside the RCMP to pursue

21   the money laundering.

22   You can see some details on the slide in

23   front of you about the scope of the investment

24   and the time period over which the funds will

25   extend, and then as you can see there's ongoing

Bryanna Gateley (for the commission)   6
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   money after that initial four-year funding

2   window ends. In addition as part of the

3   original submission, our colleagues at FINTRAC

4   received, as I understand, some additional

5   funding to support the expected increase in the

6   volume of requests that my organization would be

7   making for increased financial intelligence to

8   conduct our work. I'd be happy to entertain any

9   questions you may have at this point.

10   In that case I think we can move on to the

11   next slide and I'll pass the floor to my

12   colleague Bryanna.

13   (BG) Hello there. Good morning. So in

14   addition to the initiatives that Joel just

15   mentioned to potentially combat trade-based

16   money laundering there are several other

17   initiatives that are currently either underway

18   or could be explored to tackle the issue of

19   TBML. So very broadly, opportunities such as

20   engaging the private sector through venues such

21   as FINTRAC's major reporters forum, our ML

22   contact group, public/private partnerships such

23   as Project Athena going on in "E" Division, that

24   likely my colleagues over at FI can speak a

25   little bit more to in detail. Additionally

Bryanna Gateley (for the commission)   7
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   there's opportunities to engage in JFOs or joint

2   force operations with our partner agencies to

3   investigate identified targets of mutual concern

4   to all the entities involved that are seeing

5   little bits in their domains that we could kind

6   of come together to put those pieces together to

7   flesh out the larger scheme and who's involved.

8   Some of the benefits potentially with pursuing

9   JFOs there's definitely some positive spillover

10   effects which can include interagency cross

11   training, opportunities there, both formally and

12   informally. As well more fulsome development of

13   TBML indicators. And then also the potential

14   for sharing and analyzing larger data sets

15   related to TBML activity. Historically the data

16   that we share we have to meet a certain

17   threshold to meet suspected activity that we can

18   request information from our partners, and I

19   think as we touched on yesterday often

20   information sharing is very ad hoc, case

21   specific, based on the specific individual or

22   threat group.

23   Other opportunities that could be pursued

24   would be MOUs and multilateral or bilateral

25   agreements that could be explored to expedite

Bryanna Gateley (for the commission)   8
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   sharing of information and possibly even pave

2   the way for the sharing of aggregate data

3   between countries. We could certainly better

4   leverage our non-traditional partners who do

5   hold information relevant to TBML. We've

6   touched on a few of those before. Some could

7   include Export Development Canada, Global

8   Affairs Canada, Industry Canada or within the

9   province BCLC and other public/private

10   enterprises as well.

11   Another kind of big piece, a big important

12   kind of structural piece is looking at procuring

13   IT systems that are capable of sharing and

14   analyzing big data sets that can speak

15   interagency so that the manual manipulation of

16   data isn't so cumbersome and it's easier to

17   identify anomalies and then provide the human

18   input to actually analyze and figure out what's

19   going on and if in fact it is a TBML scheme

20   that's taking place. And then finally we could

21   certainly better leverage our Government of

22   Canada resources that are already deployed

23   abroad. So the RCMP and CBSA both have liaison

24   officers. RCMP as well has analysts deployed

25   abroad. We've got Global Affairs Canada has

Bryanna Gateley (for the commission)   9
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   trade commissioners. These folks would

2   certainly be well positioned to exchange

3   information with foreign authorities, develop

4   business intelligence on local trade chains or

5   goods vendors as well as potentially verify the

6   validity of trade documents so that we could

7   solve some of the issues that have come up in

8   the investigations such as my colleague Sushile

9   mentioned where we get the information but it's

10   late, the transactions already happened, it's

11   dated and it's hard to follow up with and gather

12   evidence on from an investigative point of view.

13   So that concludes actually the main portion

14   of our presentation that we've presented to the

15   commission. There are a few additional

16   appendices. Those were attached by FINTRAC, but

17   we can do our best to speak to some of those if

18   there's any questions. They relate to a TBML

19   opportunity alert that FINTRAC prepared for

20   reporting entities and they also identified some

21   red flag indicators of TBML, both FINTRAC did

22   and they included some identified by the FATF.

23   MS. LATIMER: Madam Registrar, could we go to

24   slide 32, please.

25   Q   This is the operational alert you mentioned

Bryanna Gateley (for the commission)   10
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   dated July 18th, 2018, and published by FINTRAC

2   and it's entitled "Professional Money Laundering

3   Through Trade and Money Service Businesses."   I

4   take it you're familiar with the contents of

5   this document.

6   A   (BG) Is that a question for myself Bryanna

7   Gateley?

8   Q   Yes, please.

9   A   (BG) Yes, I've reviewed it for the preparation

10   for the commission and I've got a few notes here

11   on it.

12   Q   I was wondering just to begin if given your work

13   history with FINTRAC if you could describe for

14   the commission what an operational alert is and

15   how one is formulated by FINTRAC.

16   A   (BG) I can only speak to it very, very broadly.

17   I can put my FINTRAC hat on, but I was a

18   tactical analyst doing disclosures in a very

19   different section. This would have been

20   produced by the strategic analysts who crunched

21   the data at a very aggregate level and then

22   they're looking for broad trends and typologies

23   and it's a program that they have although it

24   wasn't one that I participated in. So for any

25   specific detail on this operational alert, how

Bryanna Gateley (for the commission)   11
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   it was formulated and what that program looks

2   like you'd have to talk to FINTRAC in more

3   detail or a representative from that particular

4   section. But from reviewing it the information

5   in it seemed very sound as supported by research

6   that I've seen elsewhere in some of my

7   experiences as an intelligence analyst for the

8   RCMP. But it's my -- sorry go ahead. It's my

9   understanding that they prepare these -- this is

10   from kind of informal conversations that I had

11   with my colleagues when we presented at the

12   FinCEN trade-based money laundering conference a

13   couple of years ago because we used a very

14   similar PowerPoint presentation to present and

15   we had a week that we spent with them. But it's

16   my understanding that these operational alerts

17   are provided for the benefit of reporting

18   entities to provide an overview of an issue or a

19   little bit of clarification on an issue,

20   identify trends or typologies or indicators that

21   they could be looking for and with the intent of

22   education and training, and then so that those

23   reporting entities can better flag this activity

24   when they see it and then include it in their

25   suspicious transaction reports for the details

Bryanna Gateley (for the commission)   12
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

 1   or the indicators that they're seeing to get

 2   uploaded into the FINTRAC database. Then when I

 3   put my tactical intelligence hat on and I've got

 4   a request that's come in from law enforcement or

 5   another agency where I'm doing a proactive

 6   disclosure I would dig into that FINTRAC

 7   repository, maybe search for trade-based money

 8   laundering or some other type of keyword or pull

 9   up the relevant source documents that come in

10   from the financial institutions or otherwise and

11   prepare disclosure on them. And we actually use

12   those indicators that they have identified in

13   their suspicious transaction reports as grounds

14   to meet our threshold for why this could be a

15   potential trade-based money laundering case, and

16   then when we send that disclosure to law

17   enforcement or CBSA or any of our other

18   partners, the disclosure itself will indicate

19   down below what those TBML indicators were that

20   the banks or other reporting entities have

21   identified.

22   So that's kind of a long way of explaining

23   that these little operational alerts, or not

24   little but research projects where they identify

25   very specific TBML money laundering indicators,

Bryanna Gateley (for the commission)   13
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   they go a long way to educate the front line

2   staff or staff in different sections of

3   reporting entities and those indicators make

4   their way into FINTRAC, into the disclosures,

5   and then are disclosed to whoever the client is

6   to FINTRAC. And then potentially analyst or

7   investigators use those indicators as possible

8   indicators of money laundering or trade-based

9   money laundering activity that we can then

10   leverage to get additional information to say

11   that we've kind of met our grounds for

12   suspicion. I think you might on mute.

13   Q   I apologize. Thank you. I was just asking

14   Madam Registrar if we could have the document,

15   please, that's at tab 11 placed before the

16   panel.

17   I just wanted to confirm that this is the --

18   on the slide deck there was one page of this

19   operational alert included, but this is the

20   complete operational alert that we were just

21   discussing; is that correct?

22   A   (BG) Yes, it is. Yes.

23   MS. LATIMER: Mr. Commissioner, I ask that this be

24   marked as the next numbered exhibit, please.

25   THE COMMISSIONER: Very well. I think we are at 346

Bryanna Gateley (for the commission)   14
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   now are we, Madam Registrar?

2   THE REGISTRAR: Yes, Mr. Commissioner, exhibit 346.

3   EXHIBIT 346: FINTRAC, Professional money

4   laundering through trade and money services

5   businesses, July 18, 2018

6   MS. LATIMER: Madam Registrar, can I please have the

7   document at tab 14 placed before the panel.

8   Q   Mr. Gibbons, you recognize this as a

9   presentation entitled "Trade-Based Money

10   Laundering 101" delivered to CBSA liaison

11   officers and dated June 5, 2019; correct?

12   A   (JG) Correct.

13   Q   Madam Registrar, could we go to slide 14,

14   please.

15   This slide describes the current Canadian

16   trade-based money laundering environment and the

17   first bullet point is "key jurisdictions."

18   And, Madam Registrar, could you please

19   advance one slide.

20   Those are the key jurisdictions that are set

21   out here in slide 15; correct?

22   A   (JG) Correct.

23   Q   And can you just explain what is a key

24   jurisdiction or why you identify these as key

25   jurisdictions?

Bryanna Gateley (for the commission)   15
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

 1   A   (JG) So these would be either countries or

 2   regions within countries where through all

 3   manner of different reporting, whether it be

 4   from FINTRAC reporting, reporting from law

 5   enforcement, investigative reporting from open

 6   sources or other open sources where concerns

 7   have been established with respect to

 8   trade-based money laundering, and this is

 9   really -- it also comes from our own analysis of

10   customs-related data where we've been working

11   on, for example, developing trade-based money

12   laundering leads. These are basically the

13   jurisdictions that seem to come up over and

14   over. I would say from a trade-based money

15   laundering perspective it's basically the first

16   1, 2, 3, 4 bullets including any sub-bullets, so

17   basically down to the bottom of "Latin America"

18   where there are those key -- where the

19   trade-based elements where that concern lies.

20   And then I would say with the remainder of

21   the slide speaking to Russia related, that tends

22   to draw more from open reporting on large

23   laundromats, so international money laundering

24   schemes there's been a lot of really good

25   investigative reporting done on a number of

Bryanna Gateley (for the commission)   16
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

 1   these so-called laundromats that seem to

 2   indicate that to the extent that trade-based

 3   money laundering is facilitating these large

 4   laundromats, a lot of that activity and the

 5   coordination of those laundromat efforts seems

 6   to be emanating from -- seem to be Russian

 7   related and from sort of jurisdictions

 8   immediately surrounding Russia, including

 9   Cypress. And then the last sub-bullet, BVI the

10   British Virgin Islands, is just indicating some

11   well-known secrecy jurisdictions that come up

12   when we start to look at some of the beneficial

13   owners of the foreign companies that may be

14   involved in, for example, a trade-based money

15   laundering scheme.

16   Q   Thank you. And then the last bullet on the

17   slide is Canada with a question mark. Madam

18   Registrar, could you advance to the next slide,

19   please.

20   Could you just unpack what is set out here?

21   A   (JG) Sure. Well, I mean, the last bullet on the

22   previous slide is just a question that I would

23   typically ask out loud when delivering a

24   presentation like this to suggest to the

25   audience that we don't really know where Canada

Bryanna Gateley (for the commission)   17
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   fits in with respect to trade-based money

2   laundering. Getting back to some of the

3   discussion from yesterday about the scope and

4   scale and where Canada fits into the overall

5   picture when it comes to trade-based money

6   laundering. Are we a key trade-based money

7   laundering jurisdiction? Are we a relatively

8   minor player in terms of being targeted for

9   trade-based money laundering? We're still at a

10   stage where we don't know. And I don't think

11   we're going to have a really good sense until

12   the area that I'm working in now has had more

13   time to establish itself, develop more

14   intelligence, become more involved in

15   investigations, that's what's really going to

16   give us that granularity and that's what's to we

17   hope fill in some of the missing gaps,

18   complemented I think with some analytics

19   initiatives that we're contemplating.

20   And on this slide in particular, this is

21   just to give a sense of what we think we know at

22   this point, and what we think we know is that

23   Canada seems to be to certain criminal networks

24   attractive to not only launder to in terms of --

25   and this is thinking more of, you know, Canada's

Bryanna Gateley (for the commission)   18
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   reputation for having a very solid and sound

2   financial system and as a place where funds

3   deposited are secure and protected in a very

4   reputable sector, or whether -- and/or whether

5   we are a jurisdiction that is convenient to

6   launder funds to or through. And so what we are

7   seeing indications of thus far is as follows:

8   we are seeing transnational organized crime

9   proceeds that are being generated in Canada.

10   And here I'm primarily talking about the

11   proceeds of drug trafficking activity being

12   laundered out of the country, so -- and this is

13   where we start to look into bulk cash pickups

14   and how the bulk cash may be placed into, for

15   example, import/export companies to later become

16   part of trade-based money laundering schemes.

17   We're seeing also at the same time some

18   indications that US-based proceeds of crime

19   which we believe are linked to again

20   international transnational organized crime

21   organizations being laundered through Canada

22   onwards to other jurisdictions. And this gets

23   back to some of our conversation yesterday about

24   the use of black market peso exchange schemes.

25   Then finally we're also seeing some

Bryanna Gateley (for the commission)   19
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

 1   indications that some of the money that may be

 2   coming into and as far as we can tell staying in

 3   Canada could be related to sanctions evasion

 4   including from possibly Iran. And last but not

 5   least also some indication that some of the

 6   money that may be staying in Canada could be

 7   associated with capital flight from the Peoples

 8   Republic of China. What I would probably stress

 9   here is that in most of these cases we have

10   suspicion. We have more than just mere

11   suspicion. In fact in a number of cases we have

12   a fairly high degree of suspicion, but the work

13   that is ongoing is trying to elevate those

14   grounds and if those suspicions can be sustained

15   and those hypotheses tested as potentially being

16   trade-based money laundering schemes and if we

17   can elevate our grounds through certain

18   activities they could conceivably advance to

19   either investigations conducted under our

20   mandate or those of our partners, including the

21   Royal Canadian Mounted Police.

22   Q   Could we go to slide 29, please, Madam

23   Registrar. Can you just explain not in

24   granularity but what this table represents, what

25   each column represents.

Bryanna Gateley (for the commission)   20
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   A   (JG) Sure, so in this case I would have prepared

2   this slide at that time for a very specific

3   group of liaison officers. Just to give you a

4   bit of additional context, typically every year

5   we rotate liaison officers in and out of

6   Canadian missions overseas. We have a fairly

7   large group of liaison officers representing our

8   agency internationally and there's quite a

9   robust training program for preparing these CBSA

10   officers to be deployed to Canadian missions

11   overseas. And so in this case I would have been

12   addressing liaison officers who are either being

13   posted to these jurisdictions or whose area of

14   responsibility and area of diplomatic

15   accreditation would have consisted of some of

16   these countries.

17   And so in preparation for presenting to a

18   specific group of liaison officers at their

19   training annual course I would have just done

20   some quick research and put together a list just

21   as useful information for some of these liaison

22   officers who may not have the awareness that

23   certainly there are countries that they will

24   either reside in or that they have accreditation

25   for where either Canada has a written

Bryanna Gateley (for the commission)   21
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   collaborative arrangement or the CBSA has a

2   specific agreement with that country which would

3   enable information sharing with that country and

4   could be leveraged in the context of developing

5   information regarding trade fraud, including

6   trade-based money laundering.

7   MS. LATIMER: Thank you. I ask that this document be

8   marked as the next exhibit, please.

9   THE COMMISSIONER: Very well, 347.

10   THE REGISTRAR: Exhibit 347.

11   **EXHIBIT 347: CBSA, Trade-Based Money Laundering**

12   **101, June 5, 2019**

13   MS. LATIMER: Madam Registrar, may I have the

14   document please at tab 20 displayed before the

15   panel.

16   Q   Ms. Gateley, you recognize this as a

17   presentation you gave entitled "Trade-Based

18   Money Laundering: A Law Enforcement

19   Perspective"; correct?

20   A   (BG) That's correct.

21   Q   This document is undated as far as I can tell.

22   Do you recall when this presentation was given?

23   A   (BG) Yes, I think -- give me one second, I'll

24   just pull it up. This would have been circa

25   2018 and I believe this presentation I delivered

Bryanna Gateley (for the commission)   22
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   on the proceeds of crime course to students at

2   the Justice Institute of British Columbia. But

3   I have delivered several variations of this

4   presentation throughout the last -- the year

5   prior to that, I believe.

6   Q   Okay. Could we turn to slide 11, please, Madam

7   Registrar. Can you just unpack the issues that

8   are addressed here a little bit.

9   A   (BG) Yeah, sure. Organizational challenges,

10   some we've already addressed in our presentation

11   because I took bits and pieces of this

12   presentation that were relevant to build into

13   the slides that we presented today and

14   yesterday. So this is kind of just an extension

15   of that. But in terms of additional

16   organizational challenges, so raising awareness

17   of trade-based money laundering and flagging it

18   in files is just the basic understanding that

19   education and training is required for

20   practitioners in the field that are looking at

21   trade-based money laundering investigations.

22   Sometimes even just a basic TBML 101 course or

23   even a money laundering 101 course is required,

24   depending on who the investigating unit is or

25   the analyst. And it's certainly important to

Bryanna Gateley (for the commission)   23
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   have kind of a broad understanding of

2   trade-based money laundering so that when we

3   start to engage in these investigations we can

4   properly flag it in our systems.

5   So in British Columbia we use PRIME as our

6   records management system and it would be

7   helpful to have potentially like a trade-based

8   money laundering flag so that analysts when we

9   want to go through our systems to see, you know,

10   are there any files related to this, we can

11   quickly filter based on a flag. But in order to

12   do that you have to have folks in place that are

13   investigating this that recognize trade-based

14   money laundering for what it is and are able to

15   say oh, this is a scheme; there's something

16   going on here; we should actually flag this as

17   trade-based money laundering.

18   Q   Just to ask a followup question on that. Is it

19   the case that at the moment law enforcement

20   agencies in BC do not have a system for tracking

21   and flagging trade-based money laundering in

22   systems such as PRIME or other police databases?

23   A   (BG) As far as I know, I do not believe that

24   there's a trade-based money laundering flag in

25   PRIME, and that was based -- I'm an analyst

Bryanna Gateley (for the commission)   24
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   supervisor now, so I haven't used PRIME

2   extensively over the last year or so, but prior

3   to that I don't believe there was one.

4   Q   And, Acting Staff Sergeant Sharma, perhaps

5   you're better placed to answer that question

6   about whether there's any system for tracking or

7   flagging trade-based money laundering in PRIME

8   or any other police database in

9   British Columbia?

10   A   (SS) Yes. Just to qualify that answer just a

11   little bit further from Bryanna, so specifically

12   to TBML at this point still a work in progress,

13   but in terms of flagging records for money

14   laundering or proceeds of crime, the short

15   answer is yes, there is a checkbox or a

16   mechanism for keeping track. However, the

17   caveat is that it's a dynamic work in progress.

18   Sometimes you will have a file or a project that

19   starts off as a drug investigation and it gets

20   flagged as a drug investigation and midway

21   through you'll have aspects of money laundering

22   that are found and recognized. And so what ends

23   up or can end up happening is sometimes during

24   the closeout of that file they may not be the

25   same set of eyes on that that were initially.

Bryanna Gateley (for the commission)   25
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

 1   So that issue of a file being dynamic in origin

 2   and evolving into perhaps one aspect or another,

 3   I'm talking about either a CBSA investigation or

 4   a money laundering investigation or a

 5   combination of, it's an ongoing work in progress

 6   in terms of the overview of that. So a bit of a

 7   longer convoluted answer, but yes, there is a

 8   system, but it does require some oversight and

 9   at this point there's not a specific TBML

10   checkbox, but there is ML and proceeds of crime

11   check marks.

12   Q   And that means that if you looked in those

13   databases and searched for that checkbox you

14   should be able to pull up all the investigations

15   that are check marked that way; correct?

16   A   (SS) Does it mean that they were checked off,

17   the evolving nature of those files, then yes.

18   Q   Madam Registrar, could we go to slide 12,

19   please. Here you address the way forward and

20   you've already addressed some of these topics,

21   as you mentioned, in your earlier slide

22   presentation. But I was wondering if you

23   could -- the two that I wasn't sure we had

24   covered off completely were the interagency

25   working group and the leveraging LOs and ADOs

Bryanna Gateley (for the commission)   26
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   abroad, and I just wasn't sure what it was and I

2   was hoping you could tell us a bit more about

3   that.

4   A   (BG) Oh, sure, sure. So at this time -- I just

5   pulled up the presentation and that was

6   delivered in April of 2018. At that time there

7   was an interagency working group in

8   British Columbia at the director level. I

9   believe it was initiated or if not initiated a

10   key player in that at the time was the OAC of

11   our federal FSOC financial integrity team, and

12   he had coordinated a working group at the

13   director level with a bunch of different

14   agencies that had come together to specifically

15   look at the issue of trade-based money

16   laundering. And this working group at the

17   beginning was interested in just a basic kind of

18   101 presentation, what is trade-based money

19   laundering, what are all the different -- what

20   are the challenges and what do we need to be

21   aware of. And then as time progressed we

22   started to talk in a little bit more granular

23   detail about specific opportunities that could

24   be engaged in to address these types of

25   investigations. So that's specifically

Bryanna Gateley (for the commission)   27
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   referring to the British Columbia interagency

2   working group.

3   And then in terms of your second question,

4   leveraging LOs and ADOs abroad, my apologies for

5   the acronym. LOs are liaison officers abroad

6   and ADOs are analysts deployed abroad. And in

7   the RCMP we have both. They're deployed to a

8   particular country, but often they have a

9   certain jurisdiction that would comprise of

10   multiple countries within it that falls in their

11   area of responsibility. And as intelligence and

12   investigators working here in Canada we have the

13   opportunity to reach out to those folks to

14   leverage them as need be both on the

15   investigative side with our liaison officers and

16   our analysts, who are also looking at often the

17   same issue but from an intelligence perspective.

18   MS. LATIMER: Thank you. I ask that this be marked

19   as the next numbered exhibit, please.

20   THE COMMISSIONER: Very well, 348.

21   THE REGISTRAR: 348.

22   **EXHIBIT 348: RCMP Trade-Based Money Laundering:**

23   **A Law Enforcement Perspective**

24   MS. LATIMER: May I have document 17, please. Placed

25   before the panel, Madam Registrar.

Bryanna Gateley (for the commission)   28
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   Q   This we had earlier been talking about the ACE

2   team in the CBSA trade fraud and TBML centre for

3   expertise. I did want to ask some questions

4   about that but with reference to these other

5   documents. Mr. Gibbons, do you recognize this

6   as a backgrounder entitled "Trade-Based Money

7   Laundering in Canada" dated September 2019?

8   A   (JG) Yes, I do recognize it.

9   Q   And did you draft this document?

10   A   (JG) Yes, I did.

11   Q   What was the purpose of this document?

12   A   (JG) At the time it was prepared to educate our

13   new director general who had just come into the

14   position, if I recall, a few months prior. And

15   so it was to give her some broad situational

16   awareness on how we were viewing trade-based

17   money laundering at that time.

18   Q   Was it your view at this time that there were

19   limited resources dedicated to trade-based money

20   laundering in Canada?

21   A   Yes.

22   Q   Can you describe that many sophisticated

23   criminal networks are increasingly using

24   professional money launderers to reduce exposure

25   to law enforcement; correct?

Bryanna Gateley (for the commission)   29
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

 1   A   Yes.

 2   Q   Can you turn to page 3, please, Madam Registrar.

 3   In the second paragraph you say that:

 4   "The identities of the international and

 5   domestic money controllers/remitters who

 6   broker laundering deals between organized

 7   crime groups and professional money

 8   launderers across borders remains a key

 9   intelligence gap."

10   Is that correct?

11   A   (JG) Yes.

12   Q   Does that intelligence gap remain to this day?

13   A   (JG) Yes.

14   Q   And under "risk environment" you say that:

15   "The risk of TBML in Canada is very high.

16   While the full scope and scale of TBML in

17   Canada remains a gap, a sufficient body of

18   intelligence exists to indicate that

19   Canada is being routinely exploited for

20   its relatively weak AML controls,

21   including limited awareness of laundering

22   through the international trade and goods

23   in both the public and private sectors."

24   Correct?

25   A   (JG) Yes, that's correct.

Bryanna Gateley (for the commission)   30
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   Q   Does that remain your view today that Canada is

2   being routinely exploited for its relatively

3   weak anti-money laundering controls?

4   A   (JG) I can only speak with respect to

5   trade-based money laundering which is the focus

6   of this document, and so when I'm using that

7   phrasing understand it to be related to

8   trade-based money laundering. I am not an

9   expert in other forms of money laundering or

10   other sectors outside of the trade domain

11   essentially. So just as a caveat and a preface.

12   But with that being said I believe that the

13   conclusion there largely remans the case,

14   although we've made some significant

15   improvements with the creation of the Centre of

16   Expertise. Understand that this document

17   predated the creation and the launch of the

18   Centre of Expertise, which was in April just of

19   this year of 2020. Since the centre was

20   launched we've conducted quite a bit of

21   outreach, not just within many different groups

22   within our agency who may not have had awareness

23   of how complex trade fraud or trade fraud in

24   general or how trade fraud can be used to

25   facilitate trade-based money laundering, as well

Bryanna Gateley (for the commission)   31
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   as with law enforcement partners and as well

2   with the private sector as well. So I think

3   what we've started to do is to increase

4   awareness from some of those groups where it was

5   our feeling may not have had sufficient

6   awareness to really have trade-based money

7   laundering on their radar and to be looking for

8   it actively within their own specific mandate.

9   So I think some progress has certainly been made

10   in that regard.

11   Q   You say at the end of this sentence that there's

12   limited awareness of laundering through the

13   international trade in goods in both the public

14   and private sector. What do you mean about

15   laundering in the trade of goods in the public

16   sector?

17   A   (JG) I guess what I would have meant by that is

18   that within certain arms of the -- when we're

19   talking about the private sector, I would have

20   been talking about the financial institutions

21   largely. But also I would have been speaking

22   about trade chain participants, whether we're

23   talking about customs brokers, freight

24   forwarders. It is our belief that there is not

25   a broad awareness of how international trade can

Bryanna Gateley (for the commission)   32
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   be used to launder goods, and we've identified

2   certain sectors within the private sector for

3   outreach over the next few years and to develop

4   more collaborative working relationships with

5   those areas to improve our collective knowledge.

6   So while there may have been pockets of very

7   deep knowledge within a given financial

8   institution for example in Canada about

9   trade-based money laundering, I think what we're

10   getting at is just broad and systemic awareness.

11   That's where the judgment comes down on it not

12   being as robust as perhaps it could be. And the

13   same would apply within the public sector as

14   well. Within the CBSA just to use my own agency

15   as an example, I think up until quite recently

16   our agency operated very much as what you might

17   call a classic customs organization. And many

18   customs organizations around the world, members

19   of the World Customs Organization I think still

20   view themselves as having a role of primarily

21   with respect to trade not having so much of that

22   gatekeeper role in terms of trade-based money

23   laundering but more of the revenue management

24   aspect of a traditional customs service, making

25   sure that appropriate duties are collected and

Bryanna Gateley (for the commission)   33
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   so forth. And the World Customs Organization

2   has actually polled some its members in the last

3   three to four years on precisely that question,

4   and as I recall it's been some time since I

5   looked at that work, which is available

6   publicly. The majority of the membership of the

7   World Customs Organization really did view

8   itself in that way. I would consider our agency

9   to be no different up until relatively recently,

10   and now through some of the risk assessment work

11   that's taken place here in Canada, some of the

12   collaboration with our partners under the aegis

13   of the anti-money laundering regime by Finance

14   Canada that risk assessment work that Finance

15   Canada has shepherded, I think we've come to the

16   view and we've come to the understanding now

17   that not only can the international trade system

18   be used to subvert Canada's duty regime, but it

19   can also be used as we described in quite a bit

20   of detail yesterday to launder funds. And I

21   don't think that our agency really saw itself in

22   the -- having a role in combatting money

23   laundering, but as is evidenced by the mere

24   existence of the unit that I work in now, that

25   attitude and that posture has very much changed.

Bryanna Gateley (for the commission)   34
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   And from a priority perspective you can also see

2   that reflected in our priorities. So for the

3   branch that I work in, the intelligence and the

4   enforcement branch, complex trade fraud is a top

5   tier priority for our organization where that

6   was not the case in the past. So we've done a

7   fair bit of work in that regard on boosting

8   awareness even within our own agency. That

9   attitude then extends right across the

10   Government of Canada where if the customs agency

11   who has the closest view on the goods that are

12   coming into and departing from Canada doesn't

13   really have that solid and sound awareness of

14   how processes can be manipulated for laundering,

15   I think the feeling was that some of our close

16   partners across the regime maybe wouldn't have

17   that same understanding. So we've done a lot of

18   work with our partners raising that overall

19   level of awareness and I think you can see some

20   examples in the evidence that's being provided

21   today, for example some of Bryanna's

22   presentation work within just the RCMP alone,

23   again just getting out to RCMP members and

24   civilian members and raising the awareness that

25   money laundering doesn't just occur in those

Bryanna Gateley (for the commission)   35
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

 1   more classic paradigms in terms of bags of bulk

 2   cash, in terms of abuse of banks, but it's also

 3   occurring through trade.

 4   Q   Thank you. And next paragraph it talks about

 5   Canada remaining "an attractive distribution

 6   link in the international flow of narcotics

 7   proceeds back to producers, rather than as a key

 8   source or destination for the proceeds

 9   themselves through trade-based money laundering

10   techniques." Why do you say that Canada is not

11   attractive as a key source or destination for

12   the proceeds themselves through these

13   techniques?

14   A   (JG) That statement was based on a number of

15   very specific files that we were working on at

16   that time which showed a lot of strong

17   indicators of the black market peso exchange.

18   And so what we were seeing is that the suspected

19   proceeds did not appear to be originating from

20   within Canada, rather they were proceeds that

21   may have entered into the formal financial

22   system in other countries. For example, the

23   United States, and then we were seeing a pattern

24   of the transfer of those funds, typically by

25   wire transfer into Canada, specifically into

Bryanna Gateley (for the commission)   36
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   import/export companies in Canada. And then

2   goods obviously moving out from Canada, which

3   strongly suggests that the proceeds of crime are

4   just transitory, that they're on their way

5   through Canada to other jurisdictions. So that

6   was a particular focus of a number of those

7   files that we were working on at the time. To

8   my knowledge based on the work that I have been

9   doing regarding trade-based money laundering,

10   that is, I would say representative of the

11   majority of the suspected trade-based money

12   laundering that we're looking at. I haven't

13   seen a lot of instances myself in the work that

14   I do of the proceeds to the extent that they can

15   be identified, and acknowledging that as a

16   caveat in a lot of cases the existence of the

17   proceeds, the source of the money is not known

18   and may not even be knowable to us within the

19   CBSA. So with that caveat in place, what we

20   were seeing is more of the black market peso

21   exchange type scheme, less of any appearance of

22   the money actually originating here in Canada.

23   MS. LATIMER: Thank you. I ask that this be marked

24   as the next exhibit, please.

25   THE COMMISSIONER: 348 -- 349.

Bryanna Gateley (for the commission)   37
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   THE REGISTRAR: Exhibit 349.

2   **EXHIBIT 349: CBSA,** *Backgrounder: Trade-Based Money*
                 Laundering in Canada, **September 10, 2019**

3   MS. LATIMER: Madam Registrar, may I have document at

4   tab 13 placed before the panel, please.

5   Q   This is another presentation entitled "Trade

6   Fraud & Trade-Based Money Laundering Centre of

7   Expertise, 101 Overview." My first question is

8   did any of you author or prepare this

9   presentation?

10   A   (JG) I was responsible for participating in the

11   development of this presentation, so I was a

12   co-author, I suppose.

13   Q   Okay. Great. Could we turn to page 11, please.

14   Madam Registrar.

15   This is an accurate -- this accurately

16   represents those agencies within the Government

17   of Canada that have an AML or TF mandate; is

18   that correct?

19   A   (JG) It identifies all of the federal regime

20   partners under the auspices of the anti-money

21   laundering and terrorist financing regime led by

22   Finance Canada. It also includes, as you can

23   see on the right side of the slide, regional

24   municipal police services and other

Bryanna Gateley (for the commission)   38
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   representatives from provinces and territories.

2   But yes, it captures the main federal regime,

3   anti-money laundering and terrorist financing

4   regime partners.

5   Q   Thank you. Could we go to page 12, please? And

6   was the purpose of this slide just to show where

7   the Centre of Expertise fits within the CBSA

8   organization?

9   A   (JG) That was one of the intentions behind that,

10   but it was also to demonstrate to recipients of

11   the presentation how many different areas just

12   within our own agency would need to play some

13   kind of a role in the work that the Centre of

14   Expertise was doing because trade-based money

15   laundering cuts across the mandates not just

16   within the Government of Canada but even within

17   just the Canada Border Services Agency itself.

18   So it was, yes, to situate the centre in the

19   context of the agency, but also to flesh out all

20   of the areas, as I said, that could conceivably

21   play some kind of a role from the operational

22   perspective or even the policy perspective.

23   Q   Thank you. Could we go to page 13, please.

24   Does this remain an accurate representation of

25   the operating framework for the Centre for

Bryanna Gateley (for the commission)   39
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   Expertise?

2   A   Yes.

3   Q   Okay. Could we go to page 14, please, Madam

4   Registrar.

5   Could you just explain what we're looking at

6   here.

7   A   (JG) Sure. I think what this slide was

8   intending to capture is roughly how the Centre

9   of Expertise generates some of its work, and so

10   if you focus your attention on the box towards

11   the lower left that says "Trade Fraud and TBML

12   Centre of Expertise - NHQ," national

13   headquarters, and sort of view this diagram

14   centred focusing in on that box. So all of the

15   organizations that you see to the left side of

16   the diagram are really a lot of the inputs

17   providing a lot of the raw information that

18   would go into the centre in order to develop

19   leads. So a big part of our work in the centre

20   is actually building up intelligence leads, so

21   trying to build up a picture of any manner of

22   potential complex trade fraud, including

23   trade-based money laundering. So it's showing

24   the various different inputs of and the inflow

25   of information from various sources, whether in

Bryanna Gateley (for the commission)   40
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   the Government of Canada, foreign partners, from

2   within other areas of CBSA. So that's really

3   the left side of the diagram. And then the

4   right side of the diagram shows potential

5   outputs. So within the centre this is where the

6   analysis is taking place, validation of the

7   information is taking place, consultation is

8   taking place and we're trying to build up robust

9   intelligence leads. And the purpose of building

10   up those intelligence leads is really twofold.

11   Depending on how the information is developed,

12   we may take information that has come in that is

13   really just where there's a mere suspicion of

14   some kind of complex trade fraud and we're

15   trying to essentially validate the suspicion at

16   that point using a variety of different data

17   sources. And one of the possible outcomes of

18   that work could be that we actually advance and

19   use that mere suspicion as a building block to

20   further articulate our grounds to suspect

21   through to a higher threshold, even to the

22   grounds to believe through a variety of

23   different types of analytical activity and

24   working with our -- we have resources based in

25   different CBSA offices across Canada working

Bryanna Gateley (for the commission)   41
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   with them to do additional information

2   collection, and so one of the outputs is a

3   referral if we think we have sufficient grounds

4   for investigation under the *Customs Act*, so that

5   would be a referring to CBSA's criminal

6   investigations program. But potentially and

7   really where we're talking about trade-based

8   money laundering, if we have identified

9   sufficient grounds to either suspect or even

10   believe trade-based money laundering the

11   referral could be to both CBSA's criminal

12   investigations for the underlying customs

13   offences, alleged customs offences, and as well

14   to the RCMP where there is -- we've uncovered

15   either suspicion or grounds to believe that that

16   trade-based money laundering is taking place.

17   So that's one primary output that I would say of

18   the centre, and you can see some of that

19   reflected in the lower right quadrant of the

20   graph where you've got that investigations

21   output.

22   You can also see just above, so in sort of

23   the centre, almost the centre, just to the right

24   of the centre of the quadrant that two-way

25   information flow where we may not have

Bryanna Gateley (for the commission)   42
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   sufficient grounds to make a referral for

2   investigation, we have to refer out for

3   additional information collection, additional

4   intelligence analysis at the regional level.

5   That's then fed back to us, which ideally would

6   subsequently lead to an investigative referral.

7   So what this concept of operations is really

8   trying to show is basically the plumbing that we

9   have in place to lead to ideally enhanced

10   referrals for criminal investigation under the

11   mandate of our agency and secondarily but

12   equally important to the RCMP for money

13   laundering. We also mentioned the Canada

14   Revenue Agency in there as well because

15   sometimes when you're looking at trade-based

16   money laundering in particular, because a lot of

17   trade-based money laundering relies on

18   misdescription of the customs process where

19   goods are being declared and a value is being

20   associated with those goods. When we talked

21   about phantom shipments yesterday and no goods

22   in fact left the country, well, that has

23   potential tax implications, and there's the

24   potential for tax evasion there. So in some

25   cases where we develop the grounds to suspect

Bryanna Gateley (for the commission)   43
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   potential offences under, for example, the

2   *Income Tax Act* we may make a referral of that

3   information to the Canada Revenue Agency to look

4   at in further detail under their own mandate.

5   So all of this slide is intended to capture

6   the plumbing, as I like to call it, for the lead

7   development work. Now that is just one aspects

8   of the work. It's a critical aspect of the work

9   that we, but the second critical pillar of the

10   work that we do in the Centre of Expertise is we

11   produce intelligence products, and those

12   intelligence products could be as a result of

13   some of the referrals that we've made to

14   criminal investigations because obviously we

15   western about specific TBML typologies as we're

16   building up these leads. But it could also be

17   in instances where there was no referral to

18   criminal investigations for a variety of

19   different reasons, but there's still value in

20   documenting the knowledge that has been required

21   about a threat actor, about a *modus operandi* and

22   about a particular vulnerability that may be

23   exploited by a threat actor that we want to try

24   to communicate to audiences, whether it's

25   tactical and operational information that would

Bryanna Gateley (for the commission)   44
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   benefit our frontline staff at ports of entry

2   through to our senior management within the

3   Canada Border Services Agency or senior

4   management across the Government of Canada or to

5   other stakeholders even outside Canada. So the

6   fundamental goal of the Centre of Expertise is

7   to generate knowledge, to determine the --

8   focused on complex trade fraud which includes

9   trade-based money laundering, and then it's just

10   a question of how that knowledge is used. And

11   in some cases, as depicted in this slide, some

12   of that knowledge will result in the generation

13   of investigative referrals to the enforcement

14   side of the Canada Border Services Agency, so

15   our investigative division and the investigative

16   divisions of other departments.

17   MS. LATIMER: Thank you. I ask that this be marked

18   as the next numbered exhibit, please.

19   THE COMMISSIONER: Very well.

20   THE REGISTRAR: Exhibit 350, Mr. Commissioner.

21   THE COMMISSIONER: Thank you.

22   **EXHIBIT 350: CBSA, Trade Fraud & Trade-Based**

23   **Money Laundering Centre of Expertise,**

24   **101 Overview, April 2020**

25   MS. LATIMER: Madam Registrar, may I have tab 15,

Bryanna Gateley (for the commission)   45
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   please, displayed.

2   Q   Mr. Gibbons, do you recognize this as a report

3   entitled "CBSA Knowledge Pool on Trade-Based

4   Money Laundering"?

5   A   (JG) I do.

6   Q   Did you author this report?

7   A   (JG) Yes, I did.

8   Q   The report is undated, but do you recall what

9   the date of it was? If it assists, I note that

10   footnote 1 indicates that it provides an

11   overview of key insights CBSA has gained to date

12   on TBML and it says that the Centre of Expertise

13   only became operational as of April?

14   A   (JG) Yes, I believe that this was authored just

15   prior to the actual launch of the Centre of

16   Expertise, approximately February or March of

17   this year.

18   Q   Okay. In the last paragraph on the first

19   page this report says that:

20   "CBSA officers at ports of entry,

21   intelligence officers, CBSA foreign

22   liaison officers, as well as CBSA trade

23   compliance officers inland may develop

24   grounds to suspect money laundering

25   activity in the course of their mandated

Bryanna Gateley (for the commission)   46
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   responsibilities related to the import or

2   export of goods and refer these instances

3   to the Centre of Expertise."

4   Has that in fact been occurring?

5   A   (JG) Yes. It has occurred with respect to --

6   sorry, I'm just looking at all of the groups

7   identified here. I think that each of these

8   groups has at least in one instance made

9   referrals to us at the Centre of Expertise, yes.

10   Q   Okay. It says then that:

11   "The centre will build on these grounds

12   which made referrals to the CBSA

13   investigators for trade fraud offences, as

14   well as the RCMP for trade-based money

15   laundering."

16   Correct?

17   A   (JG) Yes, that's correct.

18   Q   And to the best of your knowledge have there

19   been such referrals this year?

20   A   (JG) This year we have a number of referrals in

21   progress, but the referrals themselves have not

22   actually been made to whether it be the CBSA

23   criminal investigations or other investigative

24   services. So have any left the centre yet, no.

25   Q   Okay. Further down the page there's a heading

Bryanna Gateley (for the commission)   47
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   "How Does This Threat Manifest Itself in Canada"

2   and what is set out there are tactics and

3   schemes for trade-based money laundering;

4   correct?

5   A   (JG) Yes.

6   Q   And the first point that's made is that trade

7   fraud remains a key driver, and it says most

8   suspected instances of trade-based money

9   laundering occur through the use of commercial

10   trade fraud techniques and usually involves

11   goods exported from Canada primarily through

12   marine containerized shipping; is that correct?

13   A   (JG) Yes, that's correct.

14   Q   And does that remain the case now?

15   A   (JG) I would say yes, largely that does remain

16   the case now.

17   Q   And the reason for that is because of reduced

18   controls for exports; correct?

19   A   (JG) In some circumstances, yes.

20   Q   What do you mean in some circumstances?

21   A   (JG) There is -- I would say it is my opinion

22   that there is somewhat of an imbalance between

23   border-related controls on Canada's export

24   program in comparison to controls that are in

25   place on the import side of the equation, so for

Bryanna Gateley (for the commission)   48
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   goods that are entering into Canada, but I would

2   also say with respect to this point that again

3   these judgments are being derived from files

4   that are in development right now. So we can

5   only provide analytic judgments based on what

6   we're actually looking at based on factual

7   information and essentially leads that we are

8   trying to develop. So the judgment I don't

9   think should be treated as broad and expansive

10   and necessarily representative of all the

11   trade-based money laundering that's occurring in

12   Canada. The judgment derives from the thin

13   slice of files that we're essentially looking at

14   right now or at that time, and at that time the

15   vast majority of the files that we were looking

16   at just based on how they came into us from a

17   variety of different sources so happened to

18   largely be within the export domain. And so

19   that is not to say that trade-based money

20   laundering is not happening with respect to the

21   import of goods. It's just that largely based

22   on the information that's available to us now

23   where suspicions have been raised from a variety

24   of different sources have largely been export

25   based. And when we look at that information and

Bryanna Gateley (for the commission)   49
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   we compare it against sort of that overall

2   control framework that's in place within the

3   agency, so the controls that have been put in

4   place to make the border resilient to threats, I

5   think there's probably a few more gaps in those

6   controls on the export side. And one of the

7   questions is the degree to which, which is still

8   unknown, is the degree to which how widely this

9   is known by threat actors and is being exploited

10   for that very purpose.

11   Q   You make the point here that there's likely --

12   it's likely as a result of reduced controls for

13   exports in comparison to imported goods which

14   has the potential for revenue generation

15   depending on the tariff. Are you tying that

16   potential to revenue generation as a reason for

17   why there's increased control for imports as

18   compared to exports?

19   A   (JG) We tend to -- in terms of the balance of

20   the resource complement in terms of the

21   commercial program and the trade program, the

22   trade program is focused on revenue. I mean,

23   that is their reason for being is to assure that

24   the appropriate revenue is being collected on

25   behalf of the Crown. And when you compare that

Bryanna Gateley (for the commission)   50
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   against the resources that are allocated to

2   CBSA's commercial program for export

3   verifications for example, the weight is in

4   favour of the trade program. There are more

5   what are called senior officers of trade

6   compliance, so think of them as sort of trade

7   auditors who conduct trade verification and

8   trade compliance activities than there are

9   export control or export verification officers

10   within the commercial program at the agency.

11   That's what that statement reflects.

12   Q   Okay. Madam Registrar, can we go to PDF page 4,

13   please.

14   And here there's the heading -- do you see

15   the heading there "Locations" and the report

16   says "imports and export originating or

17   transiting from the following jurisdictions are

18   often an indicator of trade-based money

19   laundering"; correct?

20   A   (JG) Yes. And this would be the same list that

21   we discussed earlier.

22   Q   Okay. And at the bottom of the page is the

23   heading "Threat Actors" and then if you continue

24   on to the next page it provides that cartel drug

25   trafficking accounts for much of the proceeds

Bryanna Gateley (for the commission)   51
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   being laundered and most of the funds come from

2   the US, China, Hong Kong and the United Arab

3   Emirates; Is that right?

4   A   (JG) Yes.

5   Q   It goes on to say the majority of the suspected

6   trade-based money laundering are believe to be

7   conducted from professional money launderers at

8   arms length from the cartels. And we discussed

9   that already. That remain the case; correct?

10   A   Yes.

11   Q   And then on the next page under the heading

12   under the heading "Common Enablers of

13   Trade-Based Money Laundering" the report sets

14   out what appear to be gaps in the enforcement or

15   detection response to trade-based money

16   laundering. Is that fair?

17   A   (JG) Yes, it is.

18   Q   And then on the next page you have identified a

19   number of goods that have been identified as

20   part of trade-based money laundering schemes to

21   date; is that right?

22   A   (JG) That's correct.

23   Q   And after the bullet points it says:

24   "Precious metals and stones do not fall

25   under the definition of currency or

Bryanna Gateley (for the commission)   52
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   monetary instruments (with associated

2   reporting obligations)."

3   Is that a significant gap in reporting

4   obligations in your view?

5   A   (JG) From the perspective of the Canada Border

6   Services Agency no, not really because they're

7   effectively treated as goods so they're still

8   subject to CBSA program legislation. If the

9   precious metals and stones were appropriately

10   defined, if they were redefined as currency or

11   monetary instruments they would fall under the

12   authority of the *Proceeds of Crime (Money*

13   *Laundering) and Terrorist Financing Act* which

14   our agency under part 2 of the PCMLTFA is still

15   responsible for administering on behalf of the

16   Government of Canada. So it's really I think

17   it's a technicality. It's not necessarily --

18   what it could lead to are some difficulties in

19   terms of determining who within the Government

20   of Canada would be responsible and what

21   potential authorities would come into play if it

22   was determined that there was a case where

23   precious metals and stones were being used for

24   laundering. So could lead to confusion, I

25   suppose.

Bryanna Gateley (for the commission)   53
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

 1   Q   You don't say it's a technicality in this

 2   report. The last line in this sentence says:

 3   "This gap increases the likelihood of

 4   these high value commodities as money

 5   laundering vectors."

 6   Is that your view?

 7   A   (JG) It could. It could sort of because there

 8   is some perhaps a bit of a lack of clarity in my

 9   view in terms of where these goods fall with

10   respect to being treated under the customs

11   tariff and under the *Customs Act* versus under

12   the *Proceeds of Crime (Money Laundering) Act* it

13   could be different to coordinate responses from

14   the Government of Canada's perspective. I think

15   that's really the challenge because there are

16   many different Government of Canada entities at

17   play depending on which goods are subject to

18   which act of parliament. And so that could be

19   exploited either by a threat actor with their

20   knowledge or unintentionally just not being

21   aware that within the Government of Canada there

22   were different acts covering different

23   commodities, and I think that's what that

24   section is actually speaking to.

25   Q   Well, it's not only a lack of clarity, though,

Bryanna Gateley (for the commission)   54
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   is it? Isn't it the case that precious metals

2   are a particularly vulnerable commodity to

3   trade-based money laundering in part because

4   they're so easy to smuggle and trade?

5   A   (JG) I'm not sure that they're necessarily easy

6   to smuggle. I think from the customs

7   perspective and from my experience with these

8   commodities I think the difficulty with precious

9   metals and stones comes down to going back to

10   some of our conversation yesterday around

11   valuation. So I think I used the example

12   yesterday of you're declaring gold but the real

13   shipment is lead, or you're declaring lead but

14   the real shipment is gold. I think that was

15   sort of an extreme example. But I think a real

16   concern could be where it is some form of gold

17   but it's been declared as a certain type or

18   quality of gold, it would be very difficult if

19   examined for a border services officer to make

20   that determination that it is exactly as

21   described without having a lot of training.

22   Making determinations around value for precious

23   metals and then equally for precious stones

24   requires a pretty high degree of training and so

25   without access to that very in-depth training it

Bryanna Gateley (for the commission)   55
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   can be very difficult to place a value on those

2   goods, which is what makes them so susceptible

3   to trade-based money laundering above and beyond

4   the fact that those commodities carry, you know,

5   an inherent value.

6   MS. LATIMER: I ask that that this report be marked

7   as the next exhibit, please.

8   THE COMMISSIONER: 351.

9   THE REGISTRAR: 351.

10   **EXHIBIT 351: CBSA, CBSA Knowledge Pool on**

11   **Trade-Based Money Laundering, undated**

12   MS. LATIMER: Madam Registrar, may I have the

13   document at tab 5 please put before the witness.

14   Q   And, Mr. Gibbons, I see that you are a member of

15   the Criminal Intelligence Service of Canada

16   anti-money laundering working group; is that

17   correct?

18   A   (JG) Yes, I am.

19   Q   I'm going to ask you about these CISBC documents

20   in the first instance, but I'll invite other

21   members of the panel if they have something to

22   add please feel free. First of all, it's

23   correct that the CISBC produces annual

24   provincial threat assessments; right?

25   A   (JG) I'm sorry, at the provincial level?

Bryanna Gateley (for the commission)   56
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

  1   Q   Yes.

  2   A   (JG) I believe that they are. I am typically

  3   not reviewing provincial threat assessments. I

  4   would review national level threat assessment

  5   that are produced by the Criminal Intelligence

  6   Service of Canada, the national office, but it

  7   is my understanding that at least on a fairly

  8   regular basis the provincial bureaus produce

  9   these assessments, yes.

 10   Q   Okay. Do you recognize this as an excerpt from

 11   the 2016 CISBC provincial threat assessment

 12   addressing money laundering?

 13   A   (JG) I do.

 14   Q   Is this report one that is disseminated to the

 15   CBSA?

 16   A   It may be disseminated to parts of the CBSA

 17   potentially within the CBSA's pacific region.

 18   It's certainly something that I only saw in the

 19   context of the preparations for the commission.

 20   So it's possible that some area within the

 21   agency probably within our pacific region may

 22   have been provided with the document either in

 23   draft form or a final product, but I can't say

 24   with any certainty.

 25   Q   Okay. Is this report disseminated to law

Bryanna Gateley (for the commission)   57
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   enforcement in British Columbia?

2   A   (JG) I can't answer that question.

3   Q   Ms. Gateley?

4   A   (BG) Yes, I'm probably better suited to

5   answer this question primarily because this is

6   actually a section that resides just down the

7   hall from me and I have contributed to documents

8   such as in this the past. The CISBC/YT, or the

9   Criminal Intelligence Service, is housed within

10   RCMP headquarters in British Columbia and so

11   this would be a provincial document that they

12   prepare every year as part of their provincial

13   threat assessment.

14   Q   Who is the intended audience of this document?

15   A   (BG) Well, criminal intelligence or CISBC has a

16   number of -- essentially an amalgamation of a

17   number of different agencies and partner

18   agencies. They have category 1 agencies and

19   category 2 agencies within the Government of

20   Canada. And the intended audience of these

21   documents are for their agency partnerships or I

22   guess the partners that compile the Criminal

23   Intelligence Service BC. This particular

24   document is protected B, so it's going to

25   contain some sensitive information that's

Bryanna Gateley (for the commission)   58
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   probably been vetted out. Likely would have

2   some sensitive investigational information in

3   it, so I would think it would probably be

4   intended more for law enforcement or law

5   enforcement eyes only, or those that have a

6   clearance at the protected B level. They would

7   also generally have a sanitized protected A

8   version of this that would also be disseminated

9   more widely potentially to the category 2

10   partners. And this document that's created

11   within British Columbia, so the British Columbia

12   provincial threat assessment, in theory every

13   other province that has a Criminal Intelligence

14   Service in it is undergoing the same exercise

15   and those are compiled at the national level by

16   an agency called CISC, Criminal Intelligence

17   Service Canada, which to the best of my

18   knowledge I believe is also held in the RCMP

19   headquarters in Ottawa.

20   Q   On this first page it sets out some strategic

21   considerations, and the third bullet point is

22   that in 2015 money laundering and specifically

23   trade-based money laundering was noted to pose a

24   key challenge for intelligence and enforcement

25   agencies within the global public safety

Bryanna Gateley (for the commission)   59
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   industry and this was consistent within BC where

2   indicators of trade-based money laundering were

3   present in 2015; correct?

4   A   (BG) Correct, yes. That's what it states.

5   Q   And if you turn to page 23, please, Madam

6   Registrar, in the bottom right-hand corner.

7   Five lines from the bottom the report provides

8   that:

9   "The US Department of State noted that

10   trade-based money laundering indicators

11   are present in Canada. The assessment

12   cannot be broken down for BC and the

13   Yukon; however, BC is consistent with the

14   environment required to support

15   trade-based money laundering. It has

16   ports, a large volume of international

17   trade, resources and goods exports,

18   available professional services, and a

19   stable accessible financial system."

20   Those are factors that you understand to be

21   consistent with the environment required to

22   support trade-based money laundering; correct?

23   A   (BG) Absolutely. Yeah. Those are facilitation

24   pieces that even though this document was

25   created several years ago would likely still

Bryanna Gateley (for the commission)   60
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   stand today.

2   Q   Okay. If we could go to the next page, please,

3   Madam Registrar.

4   The report here has the heading "Money

5   Laundering Associated With Precious Metals" and

6   my question is back to what I was discussing

7   with you, Mr. Gibbons, a few moments ago is

8   whether you understand precious metals to be a

9   particularly vulnerable commodity to trade-based

10   money laundering?

11   A   (JG) Yes.

12   Q   Okay. On page 25 if we go to the next page,

13   please, Madam Registrar.

14   The report explains why that might be the

15   case and it says:

16   "Additionally, gold and precious metals

17   are easy to smuggle and trade, and

18   typically provide a stable return with

19   little inherent risk in the short term.

20   From the perspective of trade-based money

21   laundering, the physical commodity may

22   never have to move from one location to

23   another if the intent is only to support

24   the movement of large amounts of money.

25   Given the high value of gold, it can be

Bryanna Gateley (for the commission)   61
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   used on an invoice as a justification for

2   transferring significant sums of money

3   between companies and across border."

4   And I take it you would agree with all of that,

5   don't you, Mr. Gibbons.

6   A   (JG) I wouldn't necessarily say that gold and

7   precious metals are easy to smuggle. I'm not

8   quite sure what is meant by that term and I

9   would probably ask the analyst who wrote it to

10   provide some clarification. That's something

11   that if I was peer reviewing a document like

12   that that I would ask for some explanation of,

13   some quantification of. I don't understand what

14   they mean by "easy to smuggle." In terms of how

15   gold is traded, I mean, it would be no different

16   necessarily from any other commodity. There's

17   nothing inherent about gold itself that makes it

18   easier to trade than lettuce or meat products or

19   any other good really, so I would have cause to

20   question that statement. And as well with

21   respect to the statements around how the

22   physical commodity may never have to move from

23   one location to the other, that's really true

24   again of any good, and we talked about this a

25   fair bit yesterday around that, because I think

Bryanna Gateley (for the commission)   62
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   what is being talked about here is the idea of

2   the phantom shipment, about creating the

3   pretense of trade and then using that as a

4   mechanism to provide cover for in most cases the

5   wiring of money back and forth between one

6   jurisdiction and another. Well, why was this

7   wire paid? Well, it was because of a gold

8   shipment or it was because of a shipment of

9   lettuce. I mean, it's just -- these factors are

10   as true of any commodity as they are of gold and

11   other precious metals, or precious stones for

12   that matter. From my perspective, the core

13   vulnerability goes down to the fact that

14   something that's presented as a diamond could be

15   in fact cubic zirconia and how would a border

16   services officer at a port of entry without

17   extensive training be able to make that

18   determination that it is has certain cut clarity

19   and so forth and that it's not cubic zirconium.

20   And the same applies to gold. It is 18 carat

21   gold? Is it 24 carat gold? It's beyond the

22   ability of anyone but those officers who have

23   received training. I think that's the primary

24   concern. But with respect to the other concerns

25   identified here it's as true of any other good.

Bryanna Gateley (for the commission)   63
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

 1   Q   In says in the last paragraph on this page that

 2   "additional strategic analysis and assessment is

 3   required in the area of precious metals and

 4   stones, given the relevance of the natural

 5   resource industry in Northern BC and the Yukon"

 6   and it notes:

 7   "The FATF has published a relevant

 8   assessment on this subject; however, it is

 9   believed that a significant amount of

10   environmental scanning and research is

11   required before any assessment can be made

12   for BC and the Yukon."

13   My question is whether anyone on this panel is

14   aware of any such strategic analysis or

15   assessment of precious metals and stones for

16   this region that has been brought to anyone's

17   attention on this panel.

18   A   (JG) I am not aware. No.

19   (BG) Nor am I aware of anything specifically

20   related to precious metals or stones

21   specifically to British Columbia, although I

22   guess CBSA/YT would have to be canvassed to

23   ensure that that's the definitive case.

24   Certainly nothing that's crossed my desk. But

25   just going to back to the prior question about

Bryanna Gateley (for the commission)   64
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   smuggling of precious metals and stones, I think

2   if we look at it intuitively and I think from an

3   intelligence analyst perspective in

4   British Columbia, it's certainly the advantage

5   if -- you know, I was thinking okay, if I was

6   organized crime here how would I move a

7   relatively large value across the border as

8   discreetly as possible? While certainly stones

9   and precious metals hold a significant amount of

10   value in a relatively small package, so not that

11   I can really point to any specific incidents

12   where this has occurred, but it's certainly

13   intuitive that it would be very easy to put a

14   set of diamond earrings in your ear and go

15   across the border and not claim it at all and

16   now you've just moved a very considerable amount

17   of value across the border either one way or the

18   other depending on whether the corresponding

19   illicit commodity, so say drugs, either it's

20   drugs coming up into Canada or drugs that we've

21   maybe synthetically manufactured here that we're

22   shipping abroad, it's foreseeable to see that

23   corresponding financial transaction occurring in

24   the package of a very small stone or gold or

25   precious metals. And also the anonymity social

Bryanna Gateley (for the commission)   65
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   associated to those items presents opportunity

2   as well. It's a little bit different than fiat

3   currency that actually has a serial number with

4   a stamp on it that can be traced. Gold can

5   easily be melted down and it's not often very

6   easy to track. So I think there's definite

7   opportunities there and it could -- it's

8   definitely potentially a very vulnerable

9   industry that we may just not be scrutinizing as

10   closely as we could be.

11   MS. LATIMER: I ask that this report be marked as the

12   next numbered exhibit, please.

13   THE COMMISSIONER: 352.

14   THE REGISTRAR: Exhibit 352.

15   **EXHIBIT 352: Criminal Intelligence Service**

16   **British Columbia & Yukon Territory, CISCBC/YT**

17   **2016 Provincial Threat Assessment, Part "B",**

18   **undated**

19   MS. LATIMER: Madam Registrar, may I have the

20   document please at tab 6.

21   Q   Ms. Gateley, you recognize this as an excerpt

22   from the 2017 CISBC/YT provincial threat

23   assessment addressing money laundering; correct?

24   A   (BG) I do, yes.

25   Q   On the first page it has the number 5 at the

Bryanna Gateley (for the commission)   66
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   bottom in the lower right-hand corner. The

2   fourth bullet point again addresses the

3   indicators of money laundering, that there are

4   indicators that it's occurring in BC, and it

5   says this was first noted in 2015 and it remains

6   present in trade-based money laundering and

7   poses significant challenges for intelligence

8   and enforcement agencies within the global

9   public safety industry, and it notes that as

10   noted by FINTRAC interagency analysis is

11   required. Is this consistent with your

12   understanding that in 2017 there continued to be

13   indicators of trade-based money laundering that

14   was occurring in BC?

15   A   (BG) Sorry, can you rephrase the question.

16   Q   My question is is it consistent with your

17   understanding that trade-based money laundering

18   continued to be a significant challenge for

19   intelligence and enforcement agencies in BC in

20   2017?

21   A   (BG) Yes.

22   Q   And do you know what this interagency analysis

23   is that's referred to here and whether that was

24   conducted?

25   A   (BG) No, I don't and I had a look at this

Bryanna Gateley (for the commission)   67
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   document and this one doesn't have the footnotes

2   related to it. I'm not sure what the sourcing

3   is and I didn't conduct the research on it,

4   although I do know the folks very closely at

5   CISBC. I know they have very robust methodology

6   that they employ and they're other very

7   thoughtful when they put these documents

8   together. They are well sourced. So certainly

9   there would probably be a copy of this somewhere

10   with the sourcing attached in more details to

11   kind of flesh that sentence out a little bit

12   more. But certainly so I can't say specifically

13   what interagency analysis they're referring to,

14   but I think in our presentation today and

15   yesterday as well that that's certainly a key

16   opportunity that keeps coming up again and again

17   or a need, I suppose, that some level of

18   interagency cooperation is required to

19   effectively analyze these types of schemes.

20   MS. LATIMER: Okay. I ask that this be marked as the

21   next numbered exhibit, please.

22   THE COMMISSIONER: 353.

23   THE REGISTRAR: 353.

24   EXHIBIT 353: Criminal Intelligence Service

25   British Columbia & Yukon Territory, CISCBC/YT

Bryanna Gateley (for the commission)   68
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   **2017 Provincial Threat Assessment, Part "B",**

2   **undated**

3   MS. LATIMER: Madam Registrar, may I have the

4   document at tab 7, please.

5   Q   Ms. Gateley, you recognize this as an excerpt

6   from the 2018 CISBC/YT provincial threat

7   assessment addressing money laundering; correct?

8   A   (BG) Yes, I do.

9   Q   Madam Registrar, if you turn to page 10, please,

10   on the bottom right-hand corner.

11   There is a heading here "Trade-Based Money

12   Laundering" and I'm looking at the bullets under

13   that. And I suppose this question is perhaps

14   best addressed to Acting Staff Sergeant Sharma.

15   Is it your view that consistent with the second

16   bullet that at this time in 2018 there were two

17   BC-based organized crime groups known to be

18   involved in trade-based money laundering and

19   that this knowledge was believed to be an

20   underrepresentation of that activity?

21   A   (SS) Sorry, Ms. Latimer, if the question is if I

22   agree with that bullet point, the short

23   answer is yes.

24   Q   Are there more BC-based organized crime groups

25   known today to be involved in trade-based money

Bryanna Gateley (for the commission)   69
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   laundering?

2   A   (SS) In comparison to that bullet point I would

3   say it's still a dark figure. It's still an

4   unknown as to how many groups there are. So the

5   short answer is no, we can't really quantify

6   that because it is still in a very

7   underrepresented area of analysis for

8   enforcement laws and intelligence just because

9   of the nature of the volume and some of the

10   different factors we've discussed so far.

11   Q   If we go over to the next page please, Madam

12   Registrar.

13   The last bullet point here says that the

14   scope, methods and techniques used in

15   trade-based money laundering are not well

16   understood by law enforcement. Do you agree

17   that that remains the case today?

18   A   (SS) Yes. I do agree with that. The efforts

19   have occurred since 2017. At least from my

20   experiential standpoint it is a little better in

21   terms of our awareness of it, but in making any

22   progressive inroads I'd still say that there's a

23   lot more room for improvement.

24   MS. LATIMER: I'd ask that this be marked as the next

25   numbered exhibit, please.

Bryanna Gateley (for the commission)   70
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   THE COMMISSIONER: 354.

2   THE REGISTRAR: 354.

3   **EXHIBIT 354: Criminal Intelligence Service**

4   **British Columbia & Yukon Territory, CISCBC/YT**

5   **2018 Provincial Threat Assessment, Part "B",**

6   **undated**

7   MS. LATIMER:

8   Q   Can we have the document, please, at tab 9.

9   This is a 2018 CISBC/YT report entitled

10   "Trade-Based Money Laundering." I'm not sure

11   who to best address this question to so I'm

12   going to start with Ms. Gateley. Do you

13   recognize this report?

14   A   (BG) Yes, I do. I know the analysts that put

15   this together. This was two years ago, but I

16   did review her report as she was putting it

17   together and as it was finalized.

18   Q   Who is the intended audience of a report of this

19   report?

20   A   This would be CISBC partner agencies. Again it

21   is classified at the protected B level, so

22   probably it would be best suited towards law

23   enforcement or individuals within like agencies

24   that have a higher level of security clearance.

25   Q   Okay. Could we go to the first page of this

Bryanna Gateley (for the commission)   71
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   report, please, Madam Registrar.

2   And there's some key findings that are set

3   out here on the first page and I'm focusing for

4   the moment on the last bullet here which sets

5   outs challenges based by law enforcement when

6   investigating trade-based money laundering. One

7   challenge is there's no formal system to

8   investigate these complex schemes or to collect

9   and share information and intelligence from

10   various agencies. Is that consistent with your

11   experience today?

12   A   (BG) Yes, absolutely.

13   Q   And then lastly it says there's differences

14   between Canada and other countries. Do you know

15   what the challenge is there that's being

16   highlighted?

17   A   (BG) There are legislative differences. Well, I

18   mean essentially it depends what country they're

19   comparing it to, but all countries are slightly

20   different than us and have different legal

21   regimes to varying degrees than ours. We have

22   some legislative, I guess, and regulatory

23   opportunities within Canada that other countries

24   don't have. I think I mentioned yesterday

25   briefly that FINTRAC collects international wire

Bryanna Gateley (for the commission)   72
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   transfers of $10,000 or more. That's something,

2   information that Canada collects that many other

3   countries around the world don't, including our

4   partners in the United States. So it doesn't

5   specifically go into a lot of detail about what

6   these differences are, but it's very intuitive

7   that there are very significant differences

8   between different countries and that certainly

9   poses a challenge as we try to analyze both

10   sides of a trade transaction, of an

11   international trade transaction, when we have to

12   work with other countries. The particular

13   concern is when that trade transaction ends up

14   or is routed through a non-cooperative

15   jurisdiction or potentially even a free trade

16   zone where there's just not a lot of information

17   that would go along with that transaction that

18   would be easily accessible to us.

19   Q   If we turn to page 9, please, at the bottom of

20   the page, Madam Registrar.

21   And I'm looking at the third paragraph here.

22   Staff Sergeant Sharma, I'm going to ask you

23   about this. It's the report sets out that

24   trade-based money laundering and proceeds of

25   crime investigations are often lengthy, complex

Bryanna Gateley (for the commission)   73
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

 1   and require specialized investigational teams,

 2   all of I which strain police budgets and

 3   resources. My question is is it your

 4   experiences that those kinds of investigations

 5   put a strain on your available resources in

 6   policing?

 7   A   (SS) Yes, Ms. Latimer. The short answer is yes.

 8   Of course they are complex lengthy and they do

 9   require a consistency of effort throughout as

10   we're engaging with operational and imminent

11   needs on a daily basis on with other priority

12   files. So short answer is yes, they do produce

13   a strain.

14   Q   But to put it sort of more pointedly is it your

15   view that there are sufficient resources

16   available to investigate these kinds of crimes?

17   A   (SS) I would respond back with yes, there are,

18   but those sufficient resources need better

19   training to be able to pick out the indicator so

20   that they can respond quicker. So we do have

21   the resources, but to put it more bluntly of

22   course we would benefit from additional

23   resources that I can't -- I would be remiss if I

24   didn't admit that. But in terms of officers,

25   availability of resources at present, I would

Bryanna Gateley (for the commission)   74
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   say that the officers, the investigators are

2   there, but could they be better trained to

3   observe indicators and move faster and be able

4   to pivot and leverage on to these investigations

5   in a more sufficient fashion, and I say with

6   more training they would be able to do that.

7   Q   Okay. The next sentence suggests that part of

8   the complexity in these investigations is

9   proving the source of the illicit funds, and

10   this report suggests that complexity leads

11   investigations to focus on the predicate

12   offences rather than I suppose the money

13   laundering offence. Is that consistent with

14   your experience?

15   A   That is correct. That is consistent with my

16   experience.

17   Q   The last sentence it says that there's little

18   post-investigative research takes place and that

19   means that intelligence is not developed

20   regarding BC-based organized crime groups

21   involved in trade-based money laundering. Is

22   that still the case today?

23   A   (SS) No, it's deferred slightly since I would

24   say my experience in 2017 and onwards. There is

25   a lot of post-case analysis occurring on some of

Bryanna Gateley (for the commission)   75
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   these types of files, because our understanding,

2   we missed areas of concern. As I alluded to

3   yesterday in my own presentation, was talking

4   about something that I refer to from my own

5   subjective point of view as perspective bias,

6   there is post case analysis on some of these

7   files where we do have an understanding that we

8   did miss MOs. And it is definitely changing,

9   but it could be better.

10   MS. LATIMER: I'd ask in this report be marked as

11   next numbered exhibit, please.

12   THE COMMISSIONER: Very well. I think we're at 355,

13   Madam Registrar.

14   THE REGISTRAR: Exhibit 355.

15   **EXHIBIT 355: Criminal Intelligence Service**

16   **British Columbia & Yukon Territory, CISBC-YT**

17   **Money Laundering Collection Initiative (2018),**

18   **May 3, 2018**

19   MS. LATIMER:

20   Q   Just before taking this document down, just a

21   matter of housekeeping, could we turn back to

22   place 5, please, Madam Registrar. You'll see,

23   Staff Sergeant Sharma, if you look on the

24   right-hand side the boxes here. Like if you

25   look at the third box for example that's titled

Bryanna Gateley (for the commission)   76
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   "primary TBML techniques" and then the bolded

2   word "invoice fraud," and do you see that it

3   appears there's text cut off in that box?

4   A   (SS) Yes, Ms. Latimer, I do see that.

5   Q   Can we take that down, Madam Registrar. I'd ask

6   that document 10 please be placed before the

7   panel. Here if you look at that same box, do

8   you see that the text is there?

9   A   Yes, I see that.

10   MS. LATIMER: Okay. I'd ask that this be marked as

11   the next numbered exhibit, please.

12   THE COMMISSIONER: Very well, 356.

13   THE REGISTRAR: 356.

14   **EXHIBIT 356: Criminal Intelligence Service**

15   **British Columbia & Yukon Territory, General**

16   **Framework of how TBML fits into the ML Process,**

17   **February 13, 2018**

18   MS. LATIMER: Madam Registrar, may I have tab 19

19   please, placed before the panel.

20   Q   Mr. Gibbons, I think you're the appropriate

21   person to ask about this, but I'd invite others

22   to jump in if I'm wrong about that. Do you

23   recognize this as an intelligence brief entitled

24   "COVID-19 Implications For Trade Fraud" dated

25   April 2020?

Bryanna Gateley (for the commission)   77
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

 1   A   (JG) Yes, I do.

 2   Q   Are you familiar with this document?

 3   A   (JG) Yes, I am.

 4   Q   And essentially this document describes how

 5   criminal networks adapted their activities to

 6   profit from the COVID-19 pandemic; correct?

 7   A   (JG) That's correct.

 8   Q   And some of those adaptations were short-term

 9   increased use of customs fraud techniques to

10   profiteer from COVID-19 related goods and to

11   launder through trade; correct?

12   A   (JG) Yes, that's correct.

13   Q   And the report concludes that that increase was

14   likely to be offset by a looming global supply

15   chain contraction; correct?

16   A   (JG) With respect to trade-based money

17   laundering as I recall, yes. I'm not sure with

18   respect to profiteering with respect to personal

19   protective equipment and so forth.

20   Q   Okay. If you go to the -- if we go to the

21   conclusion of this report on page 3 number 12 it

22   says that COVID-19 further weakens anti-money

23   laundering controls over global trade both

24   because financial institutions have a reduced

25   capacity for AML due diligence oversight and

Bryanna Gateley (for the commission)   78
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   reporting and because of workplace limitations;

2   is that right?

3   A   (JG) Yes.

4   Q   And that's an accurate statement to the best of

5   your knowledge?

6   A   To the best of my knowledge.

7   Q   And it also says another problem is because

8   governments were focused on more immediate

9   public safety concerns and harm reduction;

10   correct?

11   A   (JG) Yes, that is correct. But I would

12   characterize these as assessments. These are

13   intelligence assessments, so these are

14   statements that come from inference as opposed

15   to facts. For example, interviewing staff

16   working in the anti-money laundering arms of

17   banks. These are logical inferences that are

18   being made.

19   Q   Okay. Number 13 indicates that there remain

20   training and awareness shortfalls facing both

21   customs services and financial institutions in

22   terms of detecting trade-based money laundering.

23   Do you agree with that?

24   A   (JG) I do.

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

Bryanna Gateley (for the commission)   79
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   a the next numbered exhibit, please.

2   THE COMMISSIONER: Yes, very well. That will be 357

3   I think we're at.

4   THE REGISTRAR: Yes, exhibit 357.

5   EXHIBIT 357: CBSA, COVID-19 Implications for

6   Trade Fraud, April, 2020

7   MS. LATIMER:

8   Q   Can we have the document at tab 18 please placed

9   before the panel. Mr. Gibbons, do you recognize

10   this as an intelligence tactical guide entitled

11   "Trade-Based Money Laundering Overview" and

12   dated June 2020?

13   A   (JG) I do.

14   Q   Did you prepare this tactical guide?

15   A   (JG) I did.

16   Q   What's the purpose of this document?

17   A   (JG) This was intended to be one of the first

18   documents to be issued and in fact was one of

19   the first assessment documents that was issued

20   by the at that time very new Centre of

21   Expertise, and it was supposed to provide CBSA

22   officers, so frontline officers, commercial

23   officers, trade officers, intelligence officers,

24   intelligence analysts, criminal investigators

25   with a broad lay of the land. Effectively a 101

Bryanna Gateley (for the commission)   80
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   on trade-based money laundering and trying to

2   capture some of the existing knowledge at that

3   particular point in time about what's known

4   about trade-based money laundering within the

5   CBSA.

6   Q   Okay. This document provides that the

7   information came from active CBSA leads and

8   ongoing RCMP investigation, several dozen

9   FINTRAC disclosures, intelligence from

10   international and domestic law enforcement

11   partners as well as typology information from,

12   Canadian and US financial intelligence units,

13   the FATF and several NGOs specializing in

14   financial crime correct?

15   A   (JG) Correct.

16   Q   Fair to say this document provides a similar

17   narrative to what you've described accompanying

18   your presentation today?

19   A   (JG) It would, yes. It was designed with that

20   in mind.

21   MS. LATIMER: I'd ask that this be marked as the next

22   numbered exhibit, please.

23   THE COMMISSIONER: 358.

24   THE REGISTRAR: Exhibit 358.

25   **EXHIBIT 358: CBSA, Trade-Based Money Laundering**

Bryanna Gateley (for the commission)   81
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   **Overview, June 8, 2020**

2   MS. LATIMER: May I have tab 23, please, placed

3   before the panel.

4   Q   Mr. Gibbons, do you recognize this as an

5   intelligence advisory entitled "Electronics and

6   Canadian Goods Returned/ The Abuse of Tariff

7   Codes 983 is 9814 in TBML" and dated

8   October 2020?

9   A   (JG) Yes.

10   Q   You did not prepare this document; correct?

11   A   (JG) That is correct, I did not.

12   Q   But it was prepared by an individual in the

13   intelligence operations at the CBSA and you're

14   familiar with it; correct?

15   A   (JG) That is correct.

16   Q   What is the purpose of this intelligence

17   advisory.

18   A   (JG) It was to -- the intended audience would be

19   primarily I believe commercial officers,

20   commercial border services officers, to give

21   them an indication that there are particular

22   tariff items, so essentially particular goods

23   that could be susceptible to trade-based money

24   laundering, to give them some awareness that

25   perhaps they should have that heightened

Bryanna Gateley (for the commission)   82
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   awareness, heightened caution if they are

2   interacting with goods that are imported into

3   Canada using that particular tariff item.

4   Q   And essentially under the summary the document

5   explains that the Pacific Region Intelligence

6   Section had identified a potential laundering

7   scheme employing cross-border movement of

8   electronics and these two tariff items; correct?

9   A   (JG) Yes.

10   Q   And on the next page, if we go to the next page,

11   please, Madam Registrar.

12   The suspected scenario is described in the

13   blue box; correct?

14   A   (JG) Yes. I'm not sure the degree to which that

15   may match. This could be a hypothetical

16   scenario. I'm not sure the degree to which it

17   would characterize the underlying files that may

18   have been used in the preparation of this

19   report.

20   Q   Okay. If we go to page 3, please. Under

21   "Analysis" is it fair to say what's occurring

22   here is that the CBSA basically explained why

23   these kinds of shipments should be considered

24   suspicious?

25   A   Yes, these would be I suppose indicators, yes.

Bryanna Gateley (for the commission)   83
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

 1   Q   And some of the reasons are that, like if you

 2   look at number 12, this kind of transaction is

 3   not a sound business practice for Canadian

 4   businesses because the cost of importing the

 5   goods combined with the cost of sale and export

 6   is too high; correct?

 7   A   Yes.

 8   Q   And that 13 because the practice of exporting

 9   and reimporting goods not made in Canada doesn't

10   make sense; correct?

11   A   (JG) In the context of these goods, yes.

12   Q   And then if we go to page 4, beginning at

13   paragraph 19 could you just help with the what

14   is a BSO and an SOTC?

15   A   (JG) So a BSO is a border service officer and I

16   think in the context of this paper it would be a

17   border services officer who is working within

18   the commercial stream, so processing of goods

19   and making admissibility determinations

20   regarding goods, say imports into Canada or

21   exports. And you had asked about an SOTC as

22   well. That would be a CBSA officer working in

23   the CBSA's trade program. So the acronym stands

24   for senior officer of trade compliance. So

25   you've got two different arms of the CBSA here,

Bryanna Gateley (for the commission)   84
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)

1   the commercial BSO would be administering the

2   requirements of the commercial program whereas

3   the senior officer of trade compliance that's

4   sort of a trade auditing or trade verification

5   activity that pertains to the final accounting

6   of goods. So again just the commercial program

7   is designed to make decisions about whether

8   goods can be, for example, released into Canada

9   should they come into the country. A senior

10   officer of trade compliance would say now that

11   they're here have they been appropriately

12   accounted for, if there are any duties or taxes

13   owing have they been paid, and is the

14   importation of the goods compliant with our

15   program requirements.

16   Q   Okay. And the paragraphs that follow

17   essentially describe the actions that these

18   Canadian officials should undertake when they

19   see these kinds of transactions; correct?

20   A   (JG) Yes, correct.

21   MS. LATIMER: I'd ask that this be marked as the next

22   numbered exhibit, please.

23   THE COMMISSIONER: 359.

24   THE REGISTRAR: Exhibit 359.

25   EXHIBIT 359: CBSA, Electronics and Canadian

Bryanna Gateley (for the commission)   85
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Ms. Latimer (continuing)
Exam by Mr. Gratl

1   **Goods Returned/The Abuse of Tariff Codes 9813**

2   **and 9814 in TBML ICAP, October 1, 2020**

3   MS. LATIMER: Mr. Commissioner, I've completed my

4   questioning for this morning and I understand

5   that Transparency International has some

6   questions. My suggestion is that we do not take

7   a break until we complete this panel because we

8   do need to take a break before moving on to our

9   next witness.

10   THE COMMISSIONER: All right. We can certainly take

11   a brief break in anyone wishes it at this point,

12   but unless somebody puts up their hand virtually

13   we'll carry on with Mr. Gratl.

14   MR. GRATL: Thank you, Mr. Commissioner.

15   THE COMMISSIONER: Mr. Gratl, I understand you have

16   20 minutes allocated. Is that correct?

17   MR. GRATL: Yes. I'll try to be brief.

18   **EXAMINATION BY MR. GRATL:**

19   Q   Mr. Gibbons, having an open beneficial ownership

20   registry for real estate and for companies will

21   be a benefit to the CBSA; is that right?

22   A   (JG) It certainly would be, yes.

23   Q   Okay. And I take it for related party dual

24   presence party transactions that are cross

25   border in nature, it would be of assistance or

Bryanna Gateley (for the commission)   86
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

 1   the primary mechanism of enforcement for TBML is

 2   fraud, essentially fraud or misleading

 3   statements?

 4   A   (JG) Yes. The customs component of trade-based

 5   money laundering it's that as I was saying

 6   previously it's the commission of trade fraud

 7   where elements of customs documentation,

 8   shipping documentation are manipulated to enable

 9   the laundering of illicit funds, yes.

10   Q   Sure. And the *Customs Act* contains offences,

11   summary and indictable, for fraudulent or

12   misleading characterizations of the goods

13   crossing the border?

14   A   (JG) That is correct.

15   Q   Would it be of assistance to CBSA to enhance the

16   requirements to describe the goods in greater

17   detail beyond the requirements that are

18   currently set out in the *Customs Act* and its

19   regulations?

20   A   (JG) I'm not sure whether that would be

21   possible. The way that the goods are described

22   are really in two parts. So they're described

23   according to the customs tariff and that's based

24   on the harmonized system of goods

25   classification. So that's a system that was

Bryanna Gateley (for the commission)   87
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

 1   implemented and agreed to by the members of the

 2   World Customs Organization. So it's a very

 3   detailed numbering system, it's a nomenclature

 4   for characterizing goods. Just to give you an

 5   example, there are 99 chapters in the Canadian

 6   tariff and each of those chapters can be

 7   subdivided down to a ten-digit number. So goods

 8   can be described very specifically through the

 9   harmonized system down to the ten-digit level,

10   but that's always accompanied by a text-based

11   description of the goods themselves, so what are

12   these goods commonly known as. And I think the

13   combination of the two, I can't see at this

14   moment in time a different way that we could

15   provide kind of a more robust description on

16   customs documentation. I think on occasion some

17   of the text descriptions that are provided on

18   customs documents will be questioned by our

19   border services officers because perhaps they're

20   not quite precise enough. So I think some

21   additional precision could be provided, but

22   beyond that I would obviously welcome any ideas

23   in that regard for how we can make our customs

24   documents even more -- or sorry, the goods

25   descriptions even more easily understood.

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Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

 1   Q   How about a requirement for a declaration of

 2   common beneficial ownership as between the

 3   shipper and receiver?

 4   A   (JG) I think one of the challenges of something

 5   like what you're proposing, remembering that the

 6   mandate of our agency is as much about the

 7   facilitation, so the free movement of legitimate

 8   people and goods to and from Canada as well as

 9   that security or enforcement imperative, and one

10   of the concerns I think with introducing some of

11   those additional regulatory requirements,

12   because I take it that's what you're suggesting

13   there, could result in perhaps severely reducing

14   the flow of goods and it could lead to potential

15   backlogs at the border. I take your point,

16   though, and I see where you may be coming from

17   in that sense in terms of having enhanced

18   knowledge of beneficial ownership, real true

19   beneficial ownership. There may be other ways

20   to go about that such as -- and I believe

21   something you mentioned previously is a

22   beneficial ownership registry whether at the

23   provincial or even the national level but then

24   also being able to tap into the beneficial

25   ownership registries of other countries on a

Bryanna Gateley (for the commission)   89
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

1   more systematic and systemic basis.

2   Q   Yes, what I have in mind is just an alteration

3   of the current customs form where a shipper

4   would check a little box yes or no if they were

5   a common -- if they had common beneficial

6   ownership with the receiver. Surely that

7   wouldn't create a backlog at the border, would

8   it?

9   A   (JG) Right. I apologize. I think I

10   misunderstood your initial question. I think

11   again without working in CBSA's commercial operations

12   I'm not sure that I would be appropriately

13   equipped to speak to how that would place

14   demands on CBSA's commercial operations. I

15   think, though, speaking from the perspective of

16   someone who's interested in preventing

17   trade-based money laundering from occurring I

18   could see that as potentially being a useful

19   tool. But again just reinforcing that I

20   wouldn't be in a position to speak to in any

21   great detail what kind of specific implications

22   or strains or pressures that would place on our

23   commercial operations.

24   Q   Sure. And similarly, a declaration of arms

25   length -- non-arms length transactions between

Bryanna Gateley (for the commission)   90
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

1   shippers and receivers might be of utility in

2   identifying, say, when one family member ships

3   something to another family member. That might

4   be of utility in the same way?

5   A   (JG) In a similar manner I could see that being

6   of utility, yes.

7   Q   And it would do that really without placing too

8   much burden on, say, GM or Ford, they're

9   constantly in the business of shipping auto

10   parts backwards and forwards to each other as

11   they assemble cars in one place or another.

12   It's nothing going to be a big administrative

13   burden on legitimate companies like that, will

14   it?

15   A   (JG) That I cannot speak to. I would not want

16   to presume to have knowledge about what kind of

17   implications those would have.

18   Q   All right. Do you appreciate that in addition

19   to any analysis that CBSA can bring to bear or

20   the RCMP can bring to bear, the general public

21   is quite capable of contributing to an analysis

22   of whether transactions are suspicious or

23   improper, particularly business competitors when

24   they monitor each other?

25   A   (JG) Yes, I would agree that oftentimes certain

Bryanna Gateley (for the commission)   91
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

1   members of the general public based on the

2   nature potentially of their professions could be

3   in a position to offer valuable information in

4   that regard, yes.

5   Q   Sure. Competitors watch each other closely and

6   try to learn about what they do and might be in

7   a position to report wrongdoing or suspicious

8   activity using background or context that the

9   government could never learn because they're not

10   in the base of watching those competitors?

11   A   (JG) Correct, and I agree with you.

12   Q   All right. So I take it you appreciate that

13   Canada Customs does not make all its

14   import/export data available to the public

15   although the United States does?

16   A   I'm not aware of the stance that's taken in the

17   United States with respect to that data but yes,

18   it's true that the Canada Border Services Agency

19   does not make Canadian import and export data

20   that are within our holdings public.

21   Q   And you appreciate that if such data were

22   available to the public, members of the public

23   could mine that information for useful

24   information that might reveal trade-based money

25   laundering or other money laundering activities?

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Joel Gibbons (for the commission)
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Exam by Mr. Gratl

 1   A   (JG) I suppose it's conceivable. However, I

 2   would be -- I would have some concerns in that

 3   regard. There can often be proprietary

 4   information contained within trade data that can

 5   be quite sensitive and could potentially be

 6   injurious to an individual or to an entity if

 7   made public. I think that there would need to

 8   be before anything like that was contemplated a

 9   lot of due diligence into assessing the

10   potential pros and cons from a number of

11   different prospective, including privacy.

12   Q   And I suppose that analysis has not been done

13   within CBSA, has it?

14   A   (JG) To my knowledge, no, but I don't have any

15   real insight to offer there. To my knowledge,

16   no, it's not to say that it hasn't happened.

17   Q   All right. But you appreciate of course that

18   the United States does make that import/export

19   data available to the public?

20   A   (JG) I was not aware of that.

21   Q   All right. And a number of other countries do

22   it as well?

23   A   (JG) Again, I'm not aware of what information is

24   made available by certain countries to the

25   general public. I don't have any knowledge of

Bryanna Gateley (for the commission)   93
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

1   that.

2   Q   All right. So in conjunction with open

3   beneficial ownership registries in

4   British Columbia, that import/export data might

5   be very fertile to give to the public so that

6   they can conduct that analysis?

7   A   (JG) That -- I suppose it's possible. That's

8   not really something that I have a lot of views

9   on. I suppose it's possible, but again I would

10   caution that there is often very sensitive

11   information that's contained within trade data.

12   There are reasons why it's protected and not

13   released publicly right now, and I think before

14   anything of that nature would be contemplated a

15   very robust assessment would have to be

16   undertaken and very wide consultations would

17   have to be undertaken before any such initiative

18   could be contemplated in the Canadian

19   environment, and I can't speak to what kind of

20   analysis, similar analysis may have taken place

21   in other countries prior to any trade-related

22   data being made publicly available.

23   Q   And I'm just concerned that there's an

24   intergovernment level of secrecy that CBSA wants

25   to reduce, so CBSA wants access to other

Bryanna Gateley (for the commission)   94
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

1   databases outside of CBSA to enhance its ability

2   to detect trade-based money laundering, but it's

3   not -- it's very, very reluctant to share the

4   data with the public even though the public

5   could be of assistance to that. Do you agree

6   that there's that level of secrecy that the

7   Government of Canada, in particular the CBSA,

8   doesn't trust Canadians to conduct that

9   analysis?

10   A   No, I wouldn't --

11   MS. DAVIS: Objection. Mr. Commissioner, this is not

12   evidence that of that witness. In fact he has

13   not said at all that the Government of Canada or

14   CBSA is reluctant to engage in this initiative.

15   Was his evidence was is that he was not prepared

16   to speak to what has been done to date and does

17   not have specific knowledge or views on whether

18   this should be available, so I don't think

19   that's a fair question or characterization of

20   his evidence so far.

21   THE COMMISSIONER: Yeah, I think so. I think really

22   the evidence that is before us is the evidence

23   that's before us. I don't know that asking

24   Mr. Gibbons what his characterization of it is

25   really advances the cause very much, Mr. Gratl.

Bryanna Gateley (for the commission)   95
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

 1   MR. GRATL: Thank you, Mr. Commissioner. I'll move

 2   on.

 3   Q   I have a few questions for Sergeant Sharma.

 4   Now, Sergeant, the trade-based money laundering

 5   is also domestic, not just cross-border?

 6   A   (SS) That is correct, Mr. Gratl. At least we

 7   believe that to be the case.

 8   Q   It would seem as though the trade-based money

 9   laundering efforts to date are focused on

10   cross-border activity. Is that fair to say?

11   A   (SS) I would say that the majority of the trends

12   that we've' seen point us towards that

13   direction, but we've also seen that it could

14   occur within our own borders as well. But

15   you're quite correct that the main standout

16   piece to date has been the influx and -- sorry,

17   I guess the ingoing and outgoing trade with our

18   partner countries.

19   Q   And I take it that's primarily because you have

20   the advantage of customs declarations to work

21   with that provides a field of evidence,

22   something to look at data.

23   A   (SS) Not specifically. I would say it's one

24   amongst a constellation of factors that comes

25   towards our -- when a file comes to light or

Bryanna Gateley (for the commission)   96
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

1   comes into the developmental stage it's one of

2   many factors that we look at in terms of

3   information gathering, acquisition and analysis.

4   Q   All right. I'm a little bit concerned from the

5   evidence that there's a great deal of focus on

6   drugs that the implication might be drawn that

7   trade-based money laundering investigations are

8   really just an extension of the war on drugs.

9   Is that fair to say as a point of emphasis that

10   it's mainly a drug -- an appendix to the war on

11   drugs?

12   A   (SS) No, sir, that would not be fair to say. I

13   thinks that's a very categorical statement and

14   we should put a caveat on that and say that I

15   think in the presentation that we did yesterday

16   in one of the slides we talked about that it's

17   not just drug trafficking. We talked about

18   human trafficking, weapons trafficking,

19   predicate offences of fraud as well. And in the

20   case study or very sanitized says study that I

21   introduced I even gave a very experiential

22   example of a mass marketing fraud insertion

23   point as well. So it's not just an extension of

24   the war on drugs per se. It is part. Drug

25   trafficking definitely makes up a component of

Bryanna Gateley (for the commission)   97
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

1   that, but there's other predicative senses and

2   other senses are part of that overall context.

3   Q   Would you agree that the primary metric of

4   anti-money laundering success comes down to

5   convictions and forfeitures?

6   A   (SS) I would agree that the primary focus has

7   always been that and it continues to be that.

8   Q   Is that a fair proxy for success when given the

9   difficulties of measuring the extent of money

10   laundering in the first place?

11   A   (SS) I would say we're caught up with the issue

12   of -- we're just beginning to explore this very

13   concept right now. So the metrics really we've

14   yet to explore how productive we can possibly

15   be. So instead of saying that we'd need to have

16   a quantitative analysis or a barometer of

17   success, I think at this point where we're at is

18   that a qualitative analysis to be able to

19   explore the intelligence probes that we have and

20   develop them, so have a spectrum of awareness

21   that extends from intelligence development to

22   potentially enforcement action, which could then

23   result in potential charges or recommendation of

24   charges, or the establishment and development of

25   an awareness piece with our law enforcement

Bryanna Gateley (for the commission)   98
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
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1   agency partners. So to come back full circle I

2   would say that even though the barometer of

3   success, so to speak, has always been

4   convictions, charges, recommendations, I think

5   we need to take a step back and say are we

6   developing learning and doing something that

7   development of intelligence is also a

8   qualitative benefit that we need to also

9   articulate.

10   Q   All the trade-based money laundering it's

11   essentially a crime of consent. There's nobody

12   who's not consenting to the transactions

13   underlying the offence; right?

14   A   (SS) Presumably, yes. In most of the cases

15   there is a buyer and seller complicit in the

16   agreement, so yeah, that's correct.

17   Q   And they operate together to keep the

18   transaction a secret and they're not -- they're

19   structuring the deals so as to avoid detection?

20   A   (SS) That's correct.

21   Q   So essentially the investigative field is much

22   like the investigation of drug transactions,

23   which is a crime of consent, and sex work, which

24   involves crimes of consent?

25   A   (SS) If we're talking about that specific

Bryanna Gateley (for the commission)   99
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

1   aspect, the aspect of knowledge and control and

2   consent, then I would agree with you.

3   Q   And generally it is fair to say that for crimes

4   of consent the investigative tools that

5   investigators must deploy have to involve ways

6   to get behind the clandestine nature of the

7   transactions, behind the trust between the

8   parties, and behind the consensual element by

9   deploying such resources as developing human

10   sources?

11   A   (SS) Yes. I just want to make sure I understand

12   that question correctly. If you're asking that

13   because of the nature of this close system of

14   clandestine activity that it's imperative for

15   law enforcement to get behind that firewall, so

16   to speak, to be able to access that information

17   that is very specific and perhaps of a

18   confidential nature that requires sensitive

19   investigative techniques such as use of

20   confidential informants, yes, I would agree with

21   that.

22   Q   Confidential informants are one. Undercover

23   operation are another where the police

24   essentially pretend to be one or the other of

25   the counterparties?

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Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

 1   A   I would go so far as to say that under the

 2   umbrella of sensitive investigative techniques

 3   incorporating confidential informants,

 4   undercover operations and wire tap

 5   authorizations, I would say that would cover off

 6   that.

 7   Q   And so the use of those techniques specifically

 8   aimed towards what look like legitimate business

 9   enterprises would be necessary?

10   A   (SS) Sir, I apologize. Can you clarify that. I

11   am not sure I understood the question.

12   Q   Well, I'm saying that lots of the entities

13   involved in trade-based money laundering look

14   like legitimate business entities. Shipper

15   receivers, import/export companies, banks, and

16   other financial institutions?

17   A   (SS) Okay.

18   Q   And so it would be necessary to point those

19   investigative techniques, wire tapping,

20   development of human sources and undercover

21   operation at entities like banks so that as to

22   develop an investigative basis for gathering or

23   by gathering information?

24   A   No, sir, I would have to respectfully disagree

25   with that, and I don't mean to say that as a

Bryanna Gateley (for the commission)   101
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

1   blanket premise, but I respectfully disagree

2   because each aspect of those sensitive

3   investigative techniques requires a constant

4   evaluation at least right from the immediate

5   outset as is this a technique that we would

6   employ with this entity. And so I would say it

7   would be specific to a person rather than an

8   entity, say an organization, financial

9   institution in this hypothetical example. So I

10   would put that caveat in that we're looking at

11   specific entities removed from their involvement

12   per se in whatever organization they are

13   involved in and with an evaluative aspect of is

14   this person or is this technique able to be used

15   in such an environment with such person.

16   MR. GRATL: I see my time is up, Mr. Commissioner. I

17   have a few more questions for Sergeant Sharma.

18   THE COMMISSIONER: If you're fairly quick with them,

19   go ahead, Mr. Gratl.

20   MR. GRATL:

21   Q   You've spoken repeatedly of bad actors, Sergeant

22   Sharma. I wonder whether the identification of

23   bad actors or the presumption of who is a bad

24   actors unduly would influence the targets of the

25   investigation so as to focus on historic

Bryanna Gateley (for the commission)   102
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

1   organized crime syndicates like the bikers or

2   other street gangs rather than focusing on banks

3   and high volume traders who are ordinarily

4   considered to be productive members of the

5   community.

6   A   (SS) Okay. I just want to make sure that I

7   understand the question correctly. Is there a

8   distinction that you're making, sir, between

9   individual entities versus corporate

10   organizations?

11   Q   Yes, I sure am. I mean, there's a long

12   relationship, for example, between the RCMP and

13   biker gangs. Biker gangs have been identified

14   by the police as bad actors and no doubt some of

15   them have been investigated for money laundering

16   offences. But I wonder whether the RCMP has

17   developed techniques to identify other bad

18   actors who have flown under the radar so far

19   like banks or shipper/receiver companies or

20   large corporate concerns that have historically

21   been allies of the RCMP?

22   A   (SS) I see what you're saying. Okay. I have to

23   return to a previous answer that I gave you,

24   Mr. Gratl, and that is each one of our

25   investigations is highly dependent upon

Bryanna Gateley (for the commission)   103
Joel Gibbons (for the commission)
Sushile Sharma (for the commission)
Exam by Mr. Gratl

1   evaluation of an individual entity at first. We

2   are looking at a suspect and building a case and

3   building our grounds on a constant evaluation of

4   what that entity, what that suspect. I referred

5   to them in generic terms the other day,

6   yesterday, as bad actors to begin with before we

7   have the presumption of them, attributing any

8   grounds to them, reasonable and probably

9   grounds, I should say, as a suspect. So

10   throwing that distinction out first I'll say the

11   intention of the investigation is to attribute

12   potentially reasonable and probably grounds to

13   an individual who may be part of an

14   organization, of a group, but all of that is yet

15   to be determined during the course of

16   investigation. So if I'm understanding and

17   tracking correctly with your question are

18   financial institutions or regulatory agencies as

19   a whole subject of investigations, and I'm going

20   to respond with no, they are not. But it's not

21   any sort of knee-jerk response. It's always a

22   constant re-evaluation of that first premise

23   which is the focus on an individual suspect in

24   what they are doing, whether the grounds can be

25   built up and realized and an extension of those

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Sushile Sharma (for the commission)
Discussion re procedure

1   grounds to potentially any co-associates.

2   MR. GRATL: I think I have the import of your answer.

3   Mr. Commissioner, those are my questions.

4   THE COMMISSIONER: Thank you, Mr. Gratl. Anything

5   arising from that, Ms. Latimer?

6   MS. LATIMER: No, thank you.

7   THE COMMISSIONER: Thank you. We will -- thank you

8   very much to members of the panel for your

9   patience and your willingness to provide us with

10   very important information which I think will

11   form a foundation for some interesting findings

12   and recommendations of the commission. So I'm

13   grateful to the three of you for your

14   assistance. You're now excused from further

15   testimony. And I gather it will take something

16   like 20 minutes to re-adjust to our next

17   witness, so we're going to stand down for

18   20 minutes until approximately 11:30 or :32 and

19   we'll resume then with our next witness.

20   MR. McGOWAN: Yes, Mr. Commissioner. Participant

21   counsel who are in this call will have to leave

22   this Zoom call and enter through the other link.

23   THE COMMISSIONER: Yes. Thank you. All right.

24   We'll stand down.

25   THE REGISTRAR: The hearing is stood down until

1   11:33 a.m. Thank you.

2   **(WITNESSES EXCUSED)**

3   **(PROCEEDINGS ADJOURNED AT 11:14 A.M.)**

4   **(PROCEEDINGS RECONVENED AT 11:32 A.M.)**

5   THE REGISTRAR: Thank you for waiting. The hearing

6   is now resumed. Mr. Commissioner.

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

8   Yes, Mr. McGowan.

9   MR. McGOWAN: Yes, Mr. Commissioner. The next

10   witness today is Dr. Zdanowicz. He is a

11   professor with the Florida International

12   University. Madam Registrar, if you could

13   affirm the witness or swear the witness, please.

14   JOHN ZDANOWICZ, a

15   witness for the

16   commission, affirmed.

17   THE REGISTRAR: Please state your full name and spell

18   your first and last name for the record.

19   THE WITNESS: John Zdanowicz. J-o-h-n

20   Z-d-a-n-o-w-i-c-z.

21   THE COMMISSIONER: Yes, Mr. McGowan.

22   EXAMINATION BY MR. McGOWAN:

23   Q   Yes. Dr. Zdanowicz, I'm just going to spend a

24   couple of minutes outlining some of the

25   highlights of your experience and training. You

1   hold a PhD in finance from Michigan State

2   University?

3   A   Correct.

4   Q   You are presently Professor Emeritus of Finance

5   at Florida International University?

6   A   Correct.

7   Q   And you are the President of International Trade

8   Alert?

9   A   Correct.

10   Q   I wonder if you could briefly explain to the

11   Commissioner what International Trade Alert is?

12   A   Well, in the process of doing my research and

13   presenting some macroanalysis of trade-based

14   money laundering I had many financial

15   institutions call and ask if there's something

16   that could assist them, so making compliance

17   relative to money laundering controls, and so I

18   developed something to assist the banks that are

19   issuing letters of credit so that they could

20   check prices of the items they're financing to

21   make sure they are within the relevant range.

22   And so I set up a consulting firm called

23   International Trade Alert.

24   Q   And with International Trade Alert you use the

25   data and analysis techniques that have also

1   allowed you to do some analysis to inform the

2   Commissioner; is that fair?

3   A   Correct.

4   Q   You've researched, written, lectured and

5   presented extensively on the topic of money

6   laundering?

7   A   Yes.

8   Q   And through your research and work you've

9   developed a particular interest and expertise in

10   trade-based money laundering?

11   A   Correct.

12   Q   You've been retained to consult with many

13   agencies and organizations on the topic of

14   trade-based money laundering?

15   A   Yes.

16   Q   I wonder if you could outline for the

17   Commissioner a few of those organizations who

18   have retained you to assist them.

19   A   Okay. US Customs, Department of Justice,

20   Central Intelligence Agency, World Bank, Global

21   Financial Integrity, as well as financial

22   institutions that are involved in trade

23   financing.

24   Q   Have you been retained by any Canadian entities

25   to present on the topic of trade-based money

1   laundering?

2   A   Back in 2004 I was brought to Ottawa to do a

3   presentation to FINTRAC and other governmental

4   agencies, so I was there for two days, and

5   actually part of my presentation today we'll

6   discuss some of the data that I shared back

7   then.

8   Q   Thank you. You provided to the commission a

9   brief biography setting out some of your

10   relevant experience?

11   A   Yes, I did.

12   Q   If we could please pull up that document. It's

13   at tab 1 of my materials.

14   Sir, is that the biography you provided to

15   us?

16   A   Yes, it is.

17   MR. McGOWAN: That could be the next exhibit,

18   Mr. Commissioner.

19   THE COMMISSIONER: Yes, very well. Madam Registrar,

20   are we at 360 now or have I lost count?

21   THE REGISTRAR: Yes, 360, Mr. Commissioner.

22   **EXHIBIT 360: Biography of John Zdanowicz**

23   THE COMMISSIONER: Thank you.

24   MR. McGOWAN:

25   Q   Now, Dr. Zdanowicz, we typically redact contact

1   information such as email addresses from

2   exhibits when they're posted on our website and

3   I just wanted to inquire whether you would like

4   your International Trade Alert email address

5   removed or would you like it to be present on

6   your bio on the internet?

7   A   I would like it to be on file.

8   Q   So you do not seek to have it redacted?

9   A   No.

10   MR. McGOWAN: Mr. Commissioner, I wonder if we could

11   just -- if you could direct an exception to the

12   usual rule in that regard.

13   THE COMMISSIONER: All right. I will do that.

14   MR. McGOWAN: Thank you. That document can be taken

15   down now.

16   Q   Sir, you've prepared a PowerPoint presentation

17   to present to the Commissioner today where you

18   discuss, among other things, trade-based money

19   laundering and how over- and under-invoicing can

20   be used to avoid government scrutiny?

21   A   That's correct.

22   Q   -- money laundering?

23   A   Yes.

24   Q   You also discuss in that PowerPoint presentation

25   various methodologies which have and can be

1   employed to identify suspicious trade

2   transactions?

3   A   Correct.

4   Q   And you've done some writing on this topic,

5   including authoring an article which was

6   published in 2009 in the review of law and

7   economics titled "Trade-Based Money Laundering

8   and Terrorist Financing"?

9   A   Correct.

10   MR. McGOWAN: If we could have that document

11   displayed momentarily, please, Madam Registrar,

12   tab 3.

13   Q   And this article in addition to other things

14   discusses how fraudulent invoicing can be used

15   to move money across borders?

16   A   Yes.

17   Q   And it covers a lot of the ground that you will

18   also be discussing with the Commissioner today

19   on various topics related to trade-based money

20   laundering?

21   A   Correct.

22   MR. McGOWAN: If that could be the next exhibit,

23   please.

24   THE COMMISSIONER: 361.

25   THE REGISTRAR: Exhibit 361.

1   **EXHIBIT 361: Review of Law & Economics Article**

2   **by John Zdanowicz, TBML and Terrorist**

3   **Financing - 2009**

4   MR. McGOWAN:

5   Q   Sir, your presentation you plan to review some

6   statistics and in your research you have done

7   you draw heavily on American trade data?

8   A   Correct.

9   Q   And you've developed a technique that involves

10   examining trade data to identify anomalies which

11   might assist in detecting and measuring the flow

12   of illicit funds?

13   A   That's correct.

14   Q   You'll review that with the Commissioner in your

15   presentation?

16   A   Yes, I will.

17   Q   And in order to do this you have access to

18   American trade data?

19   A   Yes, I purchased data from the --

20   Q   Do you have any special status or designation

21   that allows you access that data, or can anyone

22   in the United States access American trade data?

23   A   Anyone in the United States can purchase the

24   data.

25   Q   And what does it cost for you to purchase access

 1   to that data?

 2   A $4,800 a year.

 3   Q   Does that give you unlimited access to all

 4   American trade data?

 5   A   Yes. It's sent monthly.

 6   Q   Okay. And I wonder if you could outline for the

 7   Commissioner who retains to you provide the

 8   analysis that you do with your access to the

 9   American trade data?

10   A   Periodically I get asked to do calculations, for

11   example, the World Bank, Global Financial

12   Integrity and I charge a fee to do the analysis,

13   and financial institutions have used my data

14   analysis. So basically it's available to anyone

15   who wants to have me calculate some of the

16   analysis.

17   Q   The banks in part wanting access to this

18   analysis so they can conduct a risk assessment

19   with respect to whether or not they wish to

20   extend financing in respect of a particular

21   trade transaction?

22   A   Correct. I will be covering something later

23   called the international price profiling system

24   which a financial institution uses to check the

25   price of an item that they're going to be

1   financing.

2   Q   Okay. You indicated that you get sent the data

3   on a monthly basis. Do you also have the

4   ability to essentially check trade data in

5   realtime?

6   A   Well, the data that we receive is about two

7   months' lag between the time the government, US

8   government, gets it and we get it and we get it.

9   In fact we just received the Canadian

10   October data, so that's the lag. Right now I

11   could be analyzing British Columbia

12   October import/export data and so there's that

13   lag, but once -- that data is being used to

14   calculate statistical parameters which then can

15   be analyzed in realtime.

16   MR. McGOWAN: Thank you. Madam Registrar, we no

17   longer need that article displayed. Did we mark

18   that as an exhibit?

19   THE COMMISSIONER: Yes, we did.

20   MR. McGOWAN: Thank you.

21   THE COMMISSIONER: I'm sorry. Perhaps -- yes, we

22   did.

23   THE REGISTRAR: Yes, 361.

24   THE COMMISSIONER: 361. I beg your pardon.

25   MR. McGOWAN: Thank you.

 1   Q   Sir, as part of your work for the commission you

 2   were given access to Canadian trade data to

 3   analyze in the way you do with the American

 4   trade data; is that correct?

 5   A   That's correct. And at this point I want to

 6   thank Statistics Canada. They did a great job

 7   in sharing the data with us, very timely and

 8   very efficiently.

 9   Q   I'm glad to hear that. I wonder if you could

10   outline for the Commissioner what data you were

11   provide and for what years from Canada.

12   A   All of the detailed export and import data for

13   the years 2015 to 2019 and we have been getting

14   monthly updates. Like I said we're up to

15   October now and at the end of the year we could

16   do the same analysis for 2020. Actually we

17   could do the data analysis by month.

18   Q   And you actually have done some data analysis

19   with the Canadian data you've been given access

20   to and generated some reports from that?

21   A   I have. From that data I have produced what I

22   call macro reports which show the amount of

23   money being moved potentially in and out of

24   Canada as well as each of the provinces and then

25   what I call micro reports and I focused on

  1   British Columbia, actually came up with quite a

  2   few transactions that looked suspicious that if

  3   you were a bank, you would be concerned about

  4   financing, but more importantly if you were

  5   regulatory or law enforcement it's a red flag

  6   that this is something they ought to look at.

  7   Q   And you're going to walk the Commissioner

  8   through some of suspicious trade transactions

  9   you identified?

 10   A   Yes, I will.

 11   Q   You've created for the commission five what you

 12   call macro reports and four micro reports?

 13   A   Correct.

 14   MR. McGOWAN: If we could just -- Madam Registrar,

 15   you have the five macro reports, the 2015

 16   through 2019 Canadian international trade

 17   pricing analyses?

 18   THE REGISTRAR: Yes.

 19   MR. McGOWAN: Mr. Commissioner, the witness will

 20   refer you to excerpts from those, but I'm going

 21   to asking those five reports be marked as the

 22   next five exhibits. I don't think we need to

 23   display them.

 24   THE COMMISSIONER: All right. Do you want them

 25   marked collectively or sequentially?

1   MR. McGOWAN: Sequentially please.

2   THE COMMISSIONER: All right. So they'll be 362

3   through 367. Am I correct?

4   THE REGISTRAR: 362 to 366.

5   THE COMMISSIONER: My mathematics was never my strong

6   suit. Thank you.

7   **EXHIBIT 362: Canada International Trade Pricing**

8   **Analysis 2015**

9   **EXHIBIT 363: Canada International Trade Pricing**

10   **Analysis 2016**

11   **EXHIBIT 364: Canada International Trade Pricing**

12   **Analysis 2017**

13   **EXHIBIT 365: Canada International Trade Pricing**

14   **Analysis 2018**

15   **EXHIBIT 366: Canada International Trade Pricing**

16   **Analysis 2019**

17   MR. McGOWAN:

18   Q   And if you could just briefly explain for the

19   Commissioner what the micro reports are?

20   A   Well, these are Excel spreadsheets, and

21   basically based on a filter system that we have

22   I went through every transaction in 2019, every

23   import transaction in 2019 as well as every

24   export transaction and pulled out all of those

25   who violated the statistical filters. And so

1   that includes the product, its description, the

2   province, the quantity, units of measure, the

3   total value of that shipment, the quantity.

4   From that I determined the price per unit,

5   compare it to a statistical filter and if it

6   exceeds it, the difference is multiplied by the

7   quantity. That gives the total potential amount

8   of money being moved in or out of

9   British Columbia. And I'll be going through

10   these in detail later in the report.

11   Q   Yes. So for 2019 you created spreadsheets

12   detailing overpriced and underpriced exports and

13   overpriced and underpriced imports?

14   A   Correct.

15   Q   Which comprise four micro reports?

16   A   Right, and within those 10,000 in each report.

17   MR. McGOWAN: Mr. Commissioner, if those four could

18   be sequentially the next four exhibits, please.

19   Those are the 2019 over or underpriced exports

20   and imports.

21   THE COMMISSIONER: Very well. That will be

22   exhibit 367.

23   THE REGISTRAR: 367. Mr. McGowan, I just want to

24   make it clear because there are four reports,

25   it's "Money in - Exports Over,"

1   "Money in - Imports Under."

2   MR. McGOWAN: If you could identify them in order on

3   the record and assign an exhibit number, please.

4   THE REGISTRAR: Certainly. So 367 will be Money in -

5   Exports Over 2019."

6   **EXHIBIT 367: Excel Spreadsheet, BC Money In –**

7   **Exports Over 2019**

8   THE REGISTRAR: And 368 is "Money in - Imports Under

9   2019."

10   **EXHIBIT 368: Excel Spreadsheet, BC Money In –**

11   **Imports Under 2019**

12   THE REGISTRAR: And 369 is "Money Out - Imports Over

13   2019."

14   **EXHIBIT 369: Excel Spreadsheet, BC Money Out –**

15   **Imports Over 2019**

16   THE REGISTRAR: And 370 is "Money Out - Exports Under

17   2019."

18   **EXHIBIT 370: Excel Spreadsheet, BC Money Out –**

19   **Exports Under 2019**

20   MR. McGOWAN: Thank you.

21   Q   Sir, in addition to preparing a PowerPoint

22   presentation you prepared a brief report setting

23   out in summary fashion some of the information

24   you'll provide to the Commissioner during your

25   presentation?

1   A   Correct.

2   MR. McGOWAN: If could have that document displayed,

3   please, Madam Registrar, tab 2. Tab 2 is the

4   report titled "Trade-Based Money Laundering

5   (TBML) in Canada and British Columbia, 2015 -

6   2019."

7   THE REGISTRAR: Sorry, did you say you want to mark

8   it as an exhibit?

9   MR. McGOWAN: No, what I'd like -- this is not the

10   document but this is PowerPoint. What I'm

11   looking for is a report that's at tab 2 of the

12   materials.

13   THE REGISTRAR: Oh, I'm sorry, yes.

14   MR. McGOWAN: No problem. It's a four- or

15   five-page report titled "Trade-Based Money

16   Laundering (TBML) in Canada and

17   British Columbia, 2015 - 2019." If that could

18   be displayed, please.

19   Q   Sir, is this the report you prepared for the

20   commission?

21   A   Yes, I did.

22   MR. McGOWAN: If that could be the next exhibit,

23   please.

24   THE COMMISSIONER: 371.

25   THE REGISTRAR: 371.

1   **EXHIBIT 371: TBML in Canada and BC, 2015-2019 -**

2   **undated**

3   MR. McGOWAN:

4   Q   And, sir, in addition to the report you've

5   prepared a quite lengthy and comprehensive

6   PowerPoint presentation which you plan to walk

7   the Commissioner through summarizing the

8   analysis you've done and the work you've done in

9   this area?

10   A   Correct.

11   MR. McGOWAN: And if that PowerPoint presentation

12   could now be displayed. That report can come

13   down. Mr. Commissioner, if we could please

14   enter the PowerPoint presentation as the next

15   exhibit.

16   THE COMMISSIONER: 372.

17   THE REGISTRAR: 372.

18   **EXHIBIT 372: Slide Presentation by John**

19   **Zdanowicz, TBML - undated**

20   MR. McGOWAN:

21   Q   Sir, do you have -- I understand that you have

22   control of the PowerPoint presentation? Has

23   that been arranged?

24   A   I'm getting it right now.

25   THE REGISTRAR: Professor, now you have control.

1   THE WITNESS: Hold on one sec. It's not allowing me

2   to change the slides. Okay, I'm not able to

3   change the slides.

4   THE REGISTRAR: When you click your mouse over the

5   slide and then you can right click it again.

6   THE WITNESS: Okay. I got it now.

7   MR. McGOWAN:

8   Q   Okay. Well, then, sir, I'm going to turn off my

9   microphone and invite you to at your own pace

10   walk the Commissioner through the presentation

11   you've prepared, please.

12   A   Okay. Great. Well, Recently trade-based money

13   laundering has gotten an increased focus. In

14   the United States there's something called the

15   Federal Financial Institution Examination Manual

16   which is being used now to assist banks in doing

17   their compliance analysis. ICE is established

18   trade transparency units. The Federal Financial

19   Action Task Force based out of Paris has written

20   a few reports. There's the IFSA and BAFT

21   guidelines. Wolfsberg Group. So it's becoming

22   more and more in focus as a topic area. And

23   basically trade-based money laundering, this is

24   the Financial Action Take Force definition, a

25   process of disguising the proceeds of crime and

1   moving value through the use of trade that makes

2   them look legitimate. And basically any country

3   this can be, and it's not just the United States

4   or Canada, if you want to move money out of a

5   country undetected, you undervalue your exports

6   or you overvalue your imports. If you want to

7   move money into a country, you do the opposite

8   and you overvalue your exports and undervalue

9   your imports.

10   Let me give you an example. If I am a drug

11   dealer here in Miami and I have $1 million in

12   cash that I want to move to a foreign country,

13   let's say Colombia, I can go into downtown Miami

14   in an afternoon and buy 200 gold watches for

15   5,000 each. So I've converted my million

16   dollars in cash into a million dollars of a

17   commodity, gold watches. I then export them to

18   my colluding partner in the foreign country, but

19   I invoice him $5 per watch. Therefore I export

20   the gold watches. He actually pays me $1,000

21   for those, which is just a transaction cost.

22   Once the watches are in Colombia they are sold

23   in the open market for 5,000 each. Actually a

24   few years back in Miami there were drug dealers

25   buying Corvettes for $40,000 cash exporting them

1   to Latin American countries and they were

2   invoiced at $500 an automobile. And when they

3   got into the Latin American countries they were

4   sold for $50,000. So not only do they launder

5               $40,000 they made a $10,000 profit doing it.

6   So undervaluing exports is a way of doing

7   it. Also it's a way of reducing -- we think of

8   money laundering, but there's also income tax

9   evasion. Undervaluing exports is a way,

10   especially within multinational firms you can

11   shift your taxable income offshore, and so in

12   this example basically if a company produced a

13   product that was worth $5,000 but sold it to its

14   foreign subsidiary for $5, therefore it's going

15   to decrease the domestic taxable income by

16              $4,995 for that one transaction. And the same

17   goes on the import side. Okay. It's a way that

18   firms shift their taxable income offshore to

19   other jurisdictions with lower tax rates. Okay.

20   Now, over-invoiced imports. Again the

21   criminal and the US or Canada has $1 million.

22   Okay. Their foreign counterparts buys 10,000

23   razor blades for 10 cents each, spends $1,000

24   and then exports those 10,000 razor blades to a

25   domestic criminal at $100 a blade, and that

1   effect is the domestic money launderer or drug

2   dealer imports 10,000 razor blades but pays the

3   foreign counterpart $1 million. And so this

4   moves another million dollars. In fact it was

5   interesting when I made this presentation very

6   early on to the US customs office in Miami,

7   there was an investigator in the back of the

8   room who yelled "now we know why." And they

9   asked what he was talking about. He said, there

10   is a warehouse on the Miami River that's full of

11   razor blades that are just rusting away, nobody

12   is doing anything with them and the roof in the

13   warehouse is leaking and they're all rusting and

14   we're trying to figure out why anybody would

15   import razor blades and just let them sit there.

16   Well, it's probably part of a money laundering

17   scam.

18   Now, the impact of trade price manipulation

19   is not just money laundering and I don't know

20   what the motivation is for doing these

21   transactions, but there are many potential

22   motivations. Obviously the one we're interested

23   the most is money laundering from illegal

24   activities. But it could also be to fund

25   terrorism. Income tax avoidance and income tax

1   evasion. Keeping in mind all income tax

2   avoidance and evasion is not necessarily money

3   laundering. Because that's not a specified

4   unlawful activity. However all money laundering

5   activities are in fact tax evasion. Okay.

6   Another is capital flight. Moving money to

7   safer jurisdictions. Avoid export surcharges in

8   countries that have export surcharges.

9   Concealing illegal commissions. Something

10   called *Foreign Corrupt Practices Act* here in the

11   US which makes it illegal to bribe a foreign

12   government agency or agent in order to

13   accomplish some activity. Well, you don't have

14   to send them money. All you have to do is

15   export a Mercedes Benz to them for $500. So

16   it's another way of concealing illegal

17   commissions. And over-invoiced exports,

18   increase export subsidies, in countries that

19   have value added tax, you get a tax rebate,

20   okay, based on the value of your exports, so

21   they can increase their tax subsidies. I'll

22   actually be showing an example of that later on

23   in the presentation.

24   Now, over-invoiced imports, you have money

25   laundering, terrorist financing, income tax

1   avoidance or evasion, capital flight, and those

2   countries that have price controls it's a way of

3   justifying higher prices. Again concealing

4   illegal commissions. And under-invoiced imports

5   avoid and reduce import duties. This is pretty

6   important in countries in the Caribbean and in

7   Africa who don't have a good income tax system.

8   They collect their revenue through tariffs and

9   one way to avoid paying tariffs is to undervalue

10   the item, and dumping is another.

11   Now, we're sort of going to be focusing on

12   my analysis over time. The very first work that

13   was done was basically the year 1991 where we

14   compared average country prices to average world

15   prices. And, for example, let's take a look a

16   look at cooking stoves. Okay. Exported to

17   Colombia for $76 each when the average world

18   price was $425.65. Okay. This was published in

19   Money Laundering Alert in January of '92. And

20   this was sort of the first discussion at the

21   micro level of trade-based money laundering.

22   The other interesting transaction was the export

23   of erythromycin to Iran for 10 cents a gram when

24   the average world price was $1.20, and when that

25   was discovered again Iran was not the most

1   favoured nation here in the United States and

2   the question became why would anybody sell

3   erythromycin to Iran. Well, I'll be mentioning

4   this through the presentation, but when I do

5   this we get many reporters call me wanting to

6   follow up and come to find out in 1990 Iran

7   brokered the release of 18 hostages from Lebanon

8   and the conjecture was that Iran was paid

9          $1 million per hostage. Well, when the reporter

10   called I dug back into the analysis and found

11   out that this amount of erythromycin was shipped

12   out of Chicago O'Hare Airport and the amount,

13   the difference between the 10 cents and the

14         $1.20 times the number of grams came out to

15   basically $1 million per hostage. This is where

16   Terry Anderson was held hostage and released.

17   The reporter followed up on it and was told that

18   it was a clerical error in the data, and so

19   that's one of the outgrowths of this

20   presentation. Okay.

21   US imports at high average prices, again

22   moving money out of the country. Well, you can

23   see the two major razor blade producing

24   countries of Colombia and Panama were importing

25   razor blades for $34 and $29 each. Emeralds

1   from Panama for $974 a carat when the average

2   world price was $43.63. Now, exports at high

3   prices it's moving money in. Erythromycin at

4               $79 a gram when the average world price was

5               $1.20. And then imports at low average prices,

6   again moving money into the country. The one

7   that's interesting is cut emeralds from Brazil

8   at $5.29 a carat when the average world price

9   was $43.63 and digging into that what we

10   discovered -- we actually did a paper on that,

11   Brazil -- is that during the period of time that

12   this transaction occurred the average inflation

13   rate in Brazil was 70 percent per month. And so

14   this transaction reflects that individuals

15   removing their money out of Brazil to the United

16   States in order to avoid the hyperinflation that

17   they were facing in Brazil. Again in 1990

18   Brazil devalued this currency and again

19   inflation rate took off.

20   So now at one point people said well, how

21   come you were just looking at Latin American

22   countries? And, well, we were from Miami and

23   this is where most of our trade was so we

24   decided to look elsewhere, and we found that

25   someone imported untrimmed pillowcases from

1   France for $909 each. Okay. Sand through Spain

2   importing them at close to $2,000 a ton. Raw

3   cane sugar from the UK imported at $1,400 a

4   kilo. Just as a side note, this was presented

5   at a money laundering conference and a year

6   later when I attended that conference, and I

7   don't know who the individual was, but a

8   gentleman who said he was with the Royal

9   Canadian Mounted Police told me that they made a

10   bust in Toronto and it was involved with

11   importing raw cane sugar at $1,400 a kilo. The

12   slip joint pliers imported from the UK for

13   489.75. In the United States some people joke

14   that this was a Pentagon purchase.

15   And again exports at low prices moving money

16   out. Uranium going to Spain at 15.50 a kilo.

17   Machine guns going to France 364 when the

18   average world price was 2,000. And one of the

19   criticisms of that analysis was people said

20   look, you just can't compare a country's import

21   or export price to the world because there's a

22   difference, and for example, they would say, the

23   importation of dresses from Haiti are different

24   than the importation of dresses from France and

25   I agree. There's different heterogeneity in

1   quality of various products and so that made me

2   consider moving my analysis over to looking at

3   not average world prices but historical average

4   country prices. And did some analysis and I

5   looked at 10 percent, 20 percent, 30 percent,

6   40 percent, 50 percent and I stopped there and I

7   detected all import prices that were greater

8   than 150 percent of the average country import

9   price, not the average world, and export prices

10   that were below 50 percent of the average

11   country export price. Okay. And began

12   calculating and adding up every single

13   transaction that met these filters and came up

14   with the conclusion that the US in '92 moved

15        $84 billion out of the US due to this abnormal

16   pricing. And these were the numbers for '93,

17   '94 and '95.

18   An interesting thing that happened when I

19   was doing this, received a call from a reporter

20   from the *Boston Globe* and he said John, if you

21   give me an exclusive, I'll put you on the front

22   page of the *Boston Globe*. So he flew down with

23   his photographer and I was working with a

24   colleague back then and spent the morning

25   talking about what did research look like. And

1   we got to the afternoon and he said well, I've

2   got to get ready to fly back to Boston, but I

3   wanted to get it on in a phone conversation, and

4   so he said okay. So he called a gentleman by

5   the name of Dale Jorgenson. Dale Jorgenson was

6   considered to be the number 1 international

7   economics academic in the world, and I figured

8   well, there goes the story because we economists

9   are known to be very critical of other people's

10   research. But when we got on the phone the

11   reporter asked Professor Jorgenson what he

12   thought of the research and his comment was

13   because this is such a huge database that it was

14   a momentous piece of work comparable in

15   computing terms to the voyage of Magellan. That

16   was on the front page of the *Boston Globe*.

17   Well, after that we got calls from

18   Pricewaterhouse and other agencies, lawyers

19   because of that quote. Okay.

20   Now, here's some examples, and this is how

21   far I can take the data down. This is all based

22   on US data. Later on in this presentation I'll

23   be showing you Canadian data, but basically I

24   found using these filters new bulldozers

25   exported to Venezuela out of Norfolk, Virginia,

1   and I can do this by customs district and of

2   course in the Canadian database I can do it by

3   province. During May bulldozers were exported

4   for $387.73 each. Prefab buildings, Haiti,

5        $2.12. New tires to Russia for $3.97. So this

6   was using those new filters. Overvalued US

7   imports. Okay.

8   The one here that stands out that people are

9   always going to chuckle at is somebody in the

10   United States imported used clothing from Haiti

11   into Los Angeles during March and paid $260 a

12   kilo for used Haitian clothing. Well, that

13   makes no sense whatsoever. Normally used

14   clothing is exported out of the US into Haiti.

15   And so but this was in the database.

16   And emeralds came from Russia for close to

17       $18,000 a carat. And overvalued exports, spark

18   plugs exported to Venezuela for 313 unit, that's

19   moving money into the US. Dot matrix printers

20   for 36,000 each. Makes no sense. Okay.

21   Undervalued US imports, ceramic sinks imported

22   from Venezuela in June for $1.13 each. Diamonds

23   imported from Russia into New York, in April, 78

24   cents a carat.

25   Now, again that 50 percent filter was

1   arbitrary. Actually I did some analysis and

2   looked at 10, 20, 30, 40, 50, 60, 70, and so I

3   stopped at 50 and so the valid criticism was

4   that the filter was an arbitrary decision. But

5   then what happened in 1994, the United States

6   Internal Revenue Service came up with an arm's

7   length definition of international pricing.

8   Now, they were focusing on transfer pricing

9   which basically is Paris trading with their

10   subsidiaries in order to ship taxable income.

11   And the internal revenue service defined the

12   interquartile range as the arm's length range of

13   pricing. Anything outside of that range is

14   considered suspicious. Okay. And so that gave

15   me a research methodology based on government

16   data and a government-defined filtering system.

17   So that took away some of the criticism related

18   to an arbitrary filter decision and using that

19   filter going through and calculating the upper

20   and lower quartile prices and taking anything

21   above or below and filtering them out, the

22   estimates of money moved out of the US from a

23   taxing perspective, these are untaxed dollars,

24   okay, is 104 billion up to 156 billion.

25   And it's interesting Senator Byron Dorgan of

1   North Dakota had been falling our research for

2   quite a few years. Actually had us make a

3   presentation to his staff in Washington. And

4   when he became the head of the treasury

5   appropriations committee, his office called --

6   because we always said we wanted to do a data

7   analysis with the actual data and so that result

8   was we put together a proposal, sent it to

9   Washington, it got approved by the treasury

10   appropriations committee. Then it was approved

11   by the US Senate and George Bush signed it into

12   law and we received a $2 million research grant

13   to study abnormal trade pricing as it relates to

14   tax evasion but also as it relates to potential

15   money laundering. The problem with doing these

16   studies are we never know the final results of

17   our analysis because it's all confidential. I

18   was not given the names of the importers or the

19   exporters. Before we got the data, the names of

20   the importers and exporters were camouflaged

21   with a different set of numbers so we had an

22   importer ID number but not the name of the

23   importer or the exporter in the analysis.

24   And one of the things that I had always

25   believed is that if you clamp down, law

1   enforcement regulatory agencies clamp down on

2   one form of money laundering, people shift their

3   money into other venues to do the same thing.

4   And so there was an article that was co-authored

5   with two other colleagues and it basically was

6   impact of Switzerland's money laundering law on

7   capital flows through abnormal pricing in

8   international trade. This was in the *Journal of*

9   *Applied Financial Economics*. And basically what

10   it was is the law was approved in 1998. It was

11   called *The Federal Act on the Prevention of*

12   *Money Laundering in the Financial Sector - Money*

13   *Laundering Act*. And so as an economist,

14   especially a financial economist, we look at

15   what we call event studies. We said okay,

16   there's a period of time before the law and a

17   period of time after the law; let's take a look

18   at what happens to abnormal pricing between

19   Switzerland and the US during those two big

20   periods. So we did an analysis, and those of

21   you that have statistical background, we did

22   multiple regression analysis, taking into

23   account other things like interest rate

24   differentials, exchange rate differentials,

25   consumer price index differentials, producer

  1   price index, and what we found was the other

  2   variables had no impact on the money moved from

  3   Switzerland to the US. The only statistically

  4   significant variable that came out of this

  5   analysis was the new law, which kind of

  6   confirmed my hypothesis all along is I use the

  7   analogy it's like squeezing a balloon. You

  8   squeeze it at one end, it pops out at the other

  9   end. When they started clamping down on

 10   financial institutions the people who were doing

 11   the money laundering shifted their technique

 12   from the banking system into trade. These are

 13   the average monthly outflows before and after.

 14   Went from before the law 252 million, after the

 15   law, 628 million. Percent increased,

 16   149 percent.

 17   And basically the conclusion was that as you

 18   increase regulation in the financial sector

 19   money laundering moves to international trade.

 20   And I would argue that this happens if you start

 21   really regulated casinos, real estate; they're

 22   going to move to the international trade. And I

 23   used the term it's time to close the back door

 24   and governmental institutions should monitor

 25   international trade pricing. The front door is

1   the banking system. And most countries have

2   done a very good job at regulating the financial

3   sector on filing currency transaction reports,

4   SARs, but very little work is being done on

5   international trade.

6   Okay. Now in terms of more of a macro

7   analysis, these are not current data numbers but

8   are numbers from I think 2014, but this is the

9   type of analysis I did with the Canadian trade

10   database; okay? For example, during I think it

11   was 2014 the money moved out of the US to the

12   world was 216 billion. The money moved into the

13   US from the world was 323 billion. It's

14   interesting. More money moves into the US than

15   moves out of the US through abnormal pricing and

16   trade. And in the analysis if I rank ordered it

17   by dollar value, money moved out, China comes up

18   on top. Canada is number 2. 25 billion is

19   moved out of the US to Canada compared to

20   26 billion from China. Now, this is by dollar

21   amounts. However, this is not a good way of

22   detecting potential money laundering because

23   obviously China and Canada and Japan and Germany

24   and Mexico, these are our major trading

25   partners. You would expect to see more money

 1   being moved out. So what I've done is taken the

 2   amount of money moved out of the US and divided

 3   it by the total trade between the US and the

 4   country and come up with what I call the share

 5   of trade. An analogy is when we look at

 6   jurisdictions and calculate murder rates, it's

 7   not so much the absolute amount of murder, it's

 8   the murder per capita that we tend to focus on.

 9   So I reranked everything and came up with if I

10   look at money moved out of the US as a

11   percentage of trade, what pops out on top is

12   Bangladesh. Number 2 is Ireland. Now, there's

13   an explanation for that. The tax rate,

14   corporate tax rate in Ireland is 12 and a

15   half percent. Many corporations are moving

16   their taxable income out of their home country

17   at higher tax rate into Ireland. Aruba, which

18   is then known as a money laundering haven.

19   Croatia, Afghanistan. Okay. And that's by

20   percentage of trade.

21   Now, money moved by US customs district, you

22   think of the customs district, Los Angeles, New

23   York, the big customs districts by dollar

24   amount. Well, again, you would expect more out

25   of Los Angeles because it is a large customs

1   district. Incidentally I've done the same

2   analysis for Canada data by province, and I'll

3   be showing that later. But if I rank this by

4   percentage of trade look what comes up on top:

5   Washington, DC; Norfolk, Virginia; Wilmington,

6   North Carolina. These are not considered to be

7   high drug traffic areas because the money

8   launderers know that everyone is looking at LA

9   and New York and San Francisco and Miami, but

10   not too many people are looking at Washington,

11   DC. Well, that's the first customs district I

12   would go after. Okay. Then money moved into

13   the country. China, Canada number 2, dollar

14   value. If I look at it by money moved in as a

15   percentage of trade, Slovakia, the Czech

16   Republic, the Philippines, Liechtenstein,

17   Bulgaria. These are the top countries of moving

18   money into the US.

19   Money moved in by customs district, again,

20   New York City, Chicago, LA. These are the major

21   customs districts for trade and you find the

22   largest amount, but if you do it as a percentage

23   of trade, St. Louis; Wilmington, North Carolina;

24   Milwaukee, Wisconsin; Cleveland, Ohio. These

25   are the customs districts that law enforcement

1   ought to be focusing on. Okay.

2   Now, I'm doing some research now on the

3   total impact of money moved in and out of the US

4   and there is something called FATCA, the *Foreign*

5   *Account Tax Compliance Act*, which is basically a

6   requirement that US financial institutions

7   require foreign financial institutions to share

8   their data to determine what US citizens have

9   money in foreign banks, and it's a reciprocal

10   arrangement.

11   So I was looking at this and thinking well,

12   what if it really worked, what if this

13   regulation really worked and none of this

14   abnormal pricing were to go on? What is the

15   unintended consequence? Well, the total money

16   moved out of the US was $3 trillion over these

17   15 years. But at the same time the total money

18   moved into the US during these 15 years was 4.5,

19   4.6 trillion. So if the law worked an

20   unintended consequence would be that the US

21   treasury would lose $1.5 trillion in taxable

22   income. That's just an unintended consequence

23   because more money comes into the US than leaves

24   the US. Okay. The other thing that I got to

25   doing in my research was abnormal import

1   weights. And this came because of a movie.

2   There was a movie called *The Sum of All Fears*.

3   Ben Affleck was Jack Ryan. Morgan Freeman was

4   the director of CIA in that movie. And the

5   theme of the movie was a group of former Nazi

6   individuals were trying to start a war between

7   the US and Russia, so they ended up putting an

8   atomic bomb in a cigarette vending machine and

9   putting it into the airport in Baltimore. They

10   blew up and killed a lot of Americans. Okay.

11   As I'm watching the movie I notice a forklift

12   picking up a wooden container and putting it

13   into the back of a pickup truck and that pickup

14   truck went to the football field and the vending

15   machine was put in there, and as I'm driving

16   home from the movie, I said wait a second, that

17   vending machine weighed a lot more than a

18   regular vending machine because they had an

19   atomic bomb in it.

20   So the next day I got up and instead of

21   focusing on price, I looked at abnormal weight

22   and here is what I had discovered. Someone

23   imported coffee in October into San Francisco

24   weighing 1.26 kilograms per kilogram. There was

25   more than coffee in those bags. Someone

1   imported briefcases from Malaysia into

2   San Francisco weighing 98 kilos per briefcase.

3   There was something in those briefcases. Okay.

4   Or there may not have been briefcases. Also a

5   few years later I looked at the data, towels

6   imported from Pakistan into Charleston weighing

7   2 kilos per towel. Travel bags from Germany

8   into New Orleans weighing 56 kilos per travel

9   bag. And this was published in money laundering

10   alert.

11   The main thing is one of the questions that

12   I always get asked is how do you know what's on

13   the paper is what is in the container or what is

14   being shipped. Well, the way to find out is to

15   weigh it. All of those documents that the

16   government collects has the weight. That's

17   where I got it from. And so just as we looked

18   at abnormal pricing, okay, government law

19   enforcement officials should look at abnormal

20   weight as a way of detecting especially the

21   importations of weapons of mass destruction.

22   What does it weigh? And so this is another

23   tool. So it's not just price that should be

24   analyzed, weight should be analyzed. I haven't

25   taken this any farther in terms of coming up

 1   with any type of a detection system, but it

 2   could be developed the same way as it was for

 3   price analysis. Okay.

 4   Now, this next section is called

 5   investigating. One of the issues are can this

 6   type of statistical -- the main focus of my

 7   presentation is that we ought to be looking at

 8   the statistical analysis of the trade database.

 9   It can help in detecting and investigating and

10   mitigating trade-based money laundering. And I

11   and a colleague were brought in on a case in

12   Southern District of California, the

13   individual's name was Tei-Fu Chen. His

14   corporation was Sunrider. The assisting US

15   attorney was George Newhouse, and basically they

16   were over invoicing imports from the Far East,

17   importing herbs and spices, and they asked us to

18   analyze all of their transactions and we sent

19   them a report. It was about 3 inches thick

20   because we went through every item they

21   imported. And when our attorneys saw the report

22   and the details and checked it out they

23   suggested to their clients to take a plea.

24   Tei-Fu Chen went to prison for two years. His

25   wife was put on probation. They paid the

1   Internal Revenue Service $93 million in taxes

2   and penalties and customs, $4 million through

3   customs fraud, and there was no specified

4   unlawful activity that anybody could find. This

5   was basically a tax scam. So there was no money

6   laundering charge, but there was tax evasion.

7   Let me show you some of the analysis.

8   Here's one of the things we analyzed. In

9   1990 Sunrider imported "other mushrooms" from

10   Taiwan. There's the harmonized code number, and

11   this was a listing of the data that we were

12   given and we rank ordered it from minimum price,

13   lower quartile price, median price, upper

14   quartile price and maximum price. This was the

15   set of data. In fact, this is what we did with

16   the Canadian data. For every product they

17   imported and exported, we did this kind of

18   analysis. And the key variable here was that

19   upper quartile price of $35.26. Anything above

20   that is considered suspicious according to

21   482 transport pricing regulation. So the upper

22   quartile main year to focus on is 1990. '89 and

23   '91 had some quirks in it, so let's focus on

24         $35.26. This is a graph of the transactions

25   that were done by Sunrider Corporation for the

1   other mushrooms imported from China. The green

2   and the red lines show the upper quartile price

3   of around $35 per kilo. The dots up at the top

4   of the page show the transactions for Chen

5   Sunrider Corporation. Extremely high compared

6   to the upper quartile price. So we did that for

7   every single product that they imported and they

8   all fell into this type of an analysis. And

9   this is a side note on this, a lot of consulting

10   firms are trying to assist financial

11   institutions by saying that you can look at a

12   price and you compare it to the historical

13   import price or export price of that item.

14   Well, that doesn't really work because for

15   example, in this case if there was a new

16   transaction or an import of mushrooms from

17   Taiwan had a price of $100, if you look back at

18   the historical import prices, they would say

19   well, this is no different than the past. Well,

20   that's not going to indicate potential money

21   launderers. You've got to compare it to another

22   benchmark which is the total analysis of all

23   transactions, not just a financial institution's

24   or a company's historical transactions.

25   And in looking -- these charts were prepared

1   because I was prepared to go to Los Angeles and

2   testify and needed to explain to a jury what we

3   had discovered. So I couldn't use a lot of

4   statistical jargon. But look at period 1,

5   95 percent of the transactions were above the

6   country upper quartile in terms of transactions

7   in dollar amounts. Okay. So when I compared it

8   to world upper quartiles, 97, 96 percent. It

9   was these graphs that I think made their

10   attorneys say look, the numbers are the numbers;

11   take a plea.

12   Another case I was brought in -- I never

13   testified on this -- I was brought in as a

14   consultant, is on Eastern District of Virginia

15   who was over invoicing medical instruments from

16   Pakistan. The company was Falcon Instruments

17   and they were convicted of false statements to

18   customs and income tax evasion. Basically it

19   was a hawala scam where people in the US wanted

20   to move money to Pakistan and they did this with

21   an exporter of surgical instruments in Pakistan

22   who wanted to maximize his value added tax

23   rebate. And the US importer wanted to decrease

24   his taxable income, and basically the money that

25   came into the US went to the US importer and

 1   anything that was overvalued was covered by the

 2   money coming in. And this chart, it was

 3   interesting. Notice that this is from US

 4   Immigration and Customs.

 5   I was on a panel of a financial institution

 6   on trade-based money laundering and he was on

 7   the same panel with me. He was a customs

 8   official, and he put up this slide, he looked

 9   down the table at the panel, and he said John,

10   this is the case you worked on. So I asked him

11   after if I could use it in my presentation and

12   so he got permission and ICE gave me permission

13   to use it. And it shows what was happening;

14   okay? These instruments were being overvalued.

15   So in the United States overvalued imports meant

16   the cost of goods sold for that importer was

17   extremely high, which meant his taxable income

18   was low and he was paying less taxes. Okay.

19   And in terms of the Pakistani government, they

20   were subsidizing the exporter by giving him

21   value added tax rebates. So it was a situation

22   here that basically the US importer and the

23   Pakistani exporter were exploiting the system

24   and getting tax advantages.

25   Now, I make presentations like this quite a

1   bit and then as I mentioned earlier, after I

2   made some, I did a presentation for the Florida

3   International Bankers Association that was a

4   webinar, and after that bankers were calling me

5   and saying well, that's nice John, you talked

6   about macro numbers; can you help us figure out

7   how to not finance money laundering

8   transactions? So I call that detecting, risk

9   mitigation. Let's see, I'm having problems now.

10   This is not changing.

11   THE REGISTRAR: Maybe, Professor, move your mouse

12   over the slide again and click it.

13   THE WITNESS: I did that. Okay. It's coming. Okay.

14   So basically to help financial institutions

15   and equally as important government regulatory

16   agencies and law enforcement, how do you detect

17   trade-based money laundering doing statistical

18   analysis in the trade database? Well, in 2004 I

19   believe it was, and it's been revised in 2014,

20   in the United States there's the Federal

21   Financial Institution Examination Council. What

22   was happening in the US is there were different

23   regulatory agencies: the Federal Reserve, the

24   FDIC, National Credit Union, Comptroller of the

25   Currency, Office of Thrift Supervision. They

1   all had different requirements for financial

2   institutions. Many times they were

3   contradictory. So congress said get together as

4   a group and form the Federal Financial

5   Institutions Examination Council and come up

6   with one standardized set of rules for financial

7   institutions. And they came up with 11 red

8   flags, okay, which is know your customer and

9   more importantly the transactions. Analyzing

10   the trade database can't help with these five.

11   Products inconsistent with the customers

12   business. You know, if a company is dealing in

13   automobile tires and all of a sudden you see him

14   importing gold, well, that's inconsistent.

15   Transaction structure unnecessarily complex.

16   Payment of proceeds to unrelated third parties.

17   I had done a case here in Florida where it was a

18   really a Ponzi scheme and I had done the

19   analysis and basically what it was there was a

20   firm in Miami importing a product from Taiwan

21   but the payments for the product was going to

22   Liechtenstein. Locations and descriptions

23   inconsistent with letters of credit.

24   THE COMMISSIONER: Professor Zdanowicz, I'm just

25   going to interrupt you for a moment. I'm sorry.

 1   I gather that there's some difficulty with the

 2   sound, and I'm going to stand down very briefly

 3   to enable that do be addressed.

 4   THE WITNESS: Okay.

 5   THE COMMISSIONER: Let's take five minutes.

 6   MR. McGOWAN: Professor, if you could just stay and

 7   the hearing staff will coordinate with you to

 8   get your sound fixed.

 9   THE WITNESS: I could put on a headset with a

10   microphone.

11   MR. McGOWAN: Let's stand down and then we'll sort

12   that out.

13   THE REGISTRAR: This hearing is adjourned for

14   five minutes until 12:46 p.m. Thank you.

15   **(WITNESS STOOD DOWN)**

16   **(PROCEEDINGS ADJOURNED AT 12:41 P.M.)**

17   **(PROCEEDINGS RECONVENED AT 12:46 P.M.)**

18   THE REGISTRAR: The hearing is now resumed,

19   Mr. Commissioner. Thanks for waiting.

20   **JOHN ZDANOWICZ, a**

21   **witness for the**

22   **commission, recalled.**

23   MR. McGOWAN: Please carry on with your presentation

24   when you are ready, sir.

25   TECHNICAL COORDINATOR: I believe you are muted.

1   MR. McGOWAN: Can you assist the Professor to locate

2   the unmute button while he is screen sharing.

3   TECHNICAL COORDINATOR: Professor, the mute and

4   unmute button is on the left side at the bottom.

5   Phoenix, maybe you can stop sharing and he'll

6   unmute himself and we'll go again.

7   THE REGISTRAR: Professor, I stopped sharing the

8   screen right now. Are you able to unmute

9   yourself?

10   THE WITNESS: You hear me now?

11   THE REGISTRAR: Yes, so I'm going to share the screen

12   again, and you have to make a request to take

13   control. All right.

14   THE WITNESS: Right.

15   THE REGISTRAR: Thank you.

16   THE WITNESS: Do I have control?

17   THE REGISTRAR: Not yet. You have to do the request

18   like last time.

19   THE WITNESS: Right. Okay. Okay. We ready? As I

20   mentioned -- everybody hear me okay?

21   THE COMMISSIONER: Yes, that's very good. Thank you.

22   THE WITNESS: Okay. There were 11 red flags of which

23   five trade data isn't going to help, but there

24   are six out of the 11 that can help law

25   enforcement and financial institutions analyze

1   and detect potential trade-based money

2   laundering. One is conducting business in

3   high-risk jurisdictions. Now, the definition of

4   high risk I do it statistically. Shipping

5   products through high-risk jurisdictions. Like

6   for example, in US import documentation there

7   not only is a country of export but a country of

8   origin so that if somebody wanted to ship

9   something from Iran to the US undetected they

10   could ship it through France to the US.

11   Transactions and high-risk products, those are

12   normally -- I mean, people all think of ammonium

13   nitrate and arms and ammunition, but my analysis

14   looks at the products as a percentage of trade

15   of abnormality. Misrepresentation of quantity

16   and type of products, invoices inconsistent with

17   customs documents, and most of my work is

18   obvious over- and underpricing of products.

19   So when I deal with financial institutions

20   we talk about character-based, I call it

21   character-based auditing. The current

22   procedures of financial institutions, customer

23   due diligence, know your customer, looking at

24   OFAC lists, looking a PEP lists, looking at the

25   corruption index list. The problem is from a

1   characteristic perspective none of these have

2   anything to do with international trade. They

3   are generic and they should be used, but I'm

4   suggesting character-based audits based on the

5   analysis of the trade data. And I've come up

6   with what I call a country risk index, a customs

7   district risk index, which in Canada would be a

8   province district risk index and a product risk

9   index. So in the US trade database I did the

10   analysis of 239 countries and this data I update

11   monthly. And that's another thing, too, is in

12   doing the type of statistical analysis it can't

13   be static because prices change over time.

14   There could be a major crisis in the Middle East

15   and the price of oil would go up. So I don't

16   want to use historical pricing to compare

17   current pricing because I'd get a lot of false

18   positives. So I use a 12-month moving set of

19   data. So every month when the new data comes

20   in, for example October of 2020 I get rid of the

21   data for October 2019. So it's updated monthly.

22   And as a percentage, and this I showed

23   before, Bangladesh, Aruba, Croatia were

24   high-risk countries. So when I speak with

25   bankers I say, like, if you have a letter of

1   credit dealing with exports going to Bangladesh

2   you have one red flag, okay, and be aware that

3   that tends to be a high-risk country. What

4   about customs district index? In the US there

5   are 47 and again this is updated monthly. And

6   Washington DC is a high-risk customs district.

7   And in Canada there is a high-risk province.

8   Okay. So now for a financial institution or

9   even law enforcement if you're talking about

10   exports going to Bangladesh being shipped out of

11   Washington, DC, you now have two red flags. Now

12   the product. Even though our analysis is in

13   ten-digit harmonized codes, the World Trade

14   Association has a six-digit harmonized code

15   system. It's more aggregated, but it classifies

16   products into six-digit level and the products

17   that I'm finding, number 1 as a product is cards

18   incorporating a magnetic stripe. So if the

19   transaction that the financial institution is

20   looking at or law enforcement is looking at if

21   it's an export to Bangladesh shipped out of

22   Washington, DC, of store value cards you've got

23   three red flags. Doesn't mean anything is

24   illegal or wrong, but it's red flags.

25   Notice number 11, platinum waste. I notice

1   that a lot of waste precious metals tend to be

2   involved. But these were just a rank order and

3   it changes every month. Depending on -- and

4   again these are all coded by harmonized code

5   number so on a computer you can just spot the

6   code number and find out if it falls within this

7   list. Okay. Now, those were the

8   character-based audits. So I would argue that

9   if the transaction again is store value cards

10   shipped out of Washington, DC, to Bangladesh you

11   need to go in even farther and you have to look

12   at the pricing.

13   Now, there are certain products that are

14   traded on public exchanges. You don't need to

15   do any statistical analysis. Okay. You just go

16   pick up the *Wall Street Journal* and look at the

17   Chicago Mercantile Exchange and if you're

18   dealing with soybeans, beef, silver, wheat, oil,

19   rubber, corn, coffee, pork bellies, you can just

20   go and look at spot prices in the *Wall Street*

21   *Journal* to find out if the price of the item you

22   are financing or on the transaction is abnormal.

23   But most products aren't traded on exchanges.

24   Bicycles, automobile tires. So those products

25   you need to do a statistical analysis of the

1   trade database, in my case US trade database and

2   now the Canadian database.

3   And I developed something called the

4   international price profiling system. It's

5   web-based and the key thing with this system is

6   you can check a price in realtime. You can

7   check a price in realtime. All you need is an

8   internet connection. The problems with

9   determining market prices, there's over

10   6 million product country combinations. Okay.

11   When reporters call me and ask sort of how we do

12   the analysis, I say think of a table with close

13   to 30,000 commodity codes as rows and 239

14   countries in the world, you come up with a

15   matrix that's over 6 million cells. Well, those

16   are different product country combinations.

17   Prices change over time, so that makes it more

18   difficult. And no individual in the government

19   or any financial institutions can be an expert

20   in all products. So my suggestion is that

21   banks, financial institutions, law enforcement

22   agencies should do statistical analysis of

23   historical trade pricing.

24   And the statistical approach and audits and

25   inspection is basically to determine benchmark

1   upper and lower bound prices based on

2   statistical analysis of the past 12 months, for

3   every product for every country for the world

4   updated monthly, detect transactions that fall

5   outside the benchmark prices. They have a high

6   probability of being abnormal than the

7   population. This is no different than in

8   manufacturing, production quality control. As

9   items are moving down the assembly line, they're

10   being checked for their accuracy and if they get

11   past a certain point, they shut down the

12   assembly line, readjust it and get it back. So

13   it's no different than that. It's statistical

14   analysis. Okay.

15   Now, the data that I use, I mentioned

16   earlier is purchased. I purchase it from the

17   department of commerce, bureau of census. And

18   basically there's a little more than

19   9,000 export product codes, 18,000 import

20   product codes, 239 countries and 47 customs

21   districts. Okay. And I develop two

22   methodologies, one I call the international

23   price profiling system, which looks at the upper

24   and lower bound at the 95th and the 5th

25   percentile. What I found in doing the analysis

1   with the trade data given to me by the

2   government is there would be too many false

3   positives for the financial institution if we

4   use the transfer price profiling system. And so

5   the 5th and 95th work, and this is where we get

6   into the size of the data set that we have to

7   analyze. There are over 9,000 import codes,

8   over 18,000 export codes. Think of those as

9   columns, 239 countries plus the world,

10   6.6 million combinations. This matrix that we

11   analyze is only good for one month. As the new

12   data comes in we truncate the old data, put it

13   into new data and we calculate all of these

14   numbers.

15   Now, the transfer price profiling system is

16   based on the IRS 75th and 25th percentile, and

17   actually in the analysis I can do analysis at

18   any percentile level. I actually had a client a

19   while back who wanted not the 5th and 95th but

20   the 10th and the 90th percentile. So that can

21   be done. That just goes in, tweaking the

22   computer software, but again the same number

23   6.6 million combinations. This is the one that

24   I use when I'm measuring the magnitude of

25   potential trade-based money laundering.

1   Okay. And I basically have come up with my

2   early work I would say things like this is money

3   laundering or it isn't and I was told I

4   shouldn't do that and I agreed, so I let the

5   financial institutions and law enforcement

6   decide what they want to call it. But basically

7   I have four filters. If it violates all four in

8   one direction it's a very extreme indication.

9   If you look at the middle, if it violates none

10   of the price filters then there's no risk, let

11   the transaction go. If it's a plus 4 it

12   violates four filters, it's indication of money

13   being moved into the country. And let me give

14   you an example. The US exports of tomato

15   ketchup to Kuwait. At one time I was asked to

16   do some analysis on what are called Al-Qaeda

17   watch list countries of which Kuwait was one.

18   So the way the system works is we are looking at

19   exports. Okay. And we don't know the code

20   number for tomato ketchup, so we type in the

21   word "tomato." See where we typed it in. It's

22   an export but we don't know the code number and

23   there's "tomato ketchup." That's the 10-digit

24   harmonized code number so you don't have to be

25   the familiar with all the code numbers. The one

1   that's interesting on this page is look at the

2   bottom line. When I pull this up I'm saying

3   what is this? Everything else has got

4   "tomatoes" in it. This is tailors, dummies,

5   mannequins, automations [sic]. But look at the

6   word automations [sic], t-o-m-a-t-o is in that

7   definition, so it pulled that number. So any

8   place in the US trade database that has the word

9   "tomato" in it is pulled up on this chart.

10   Submit that in. Now you've got to pick a

11   country. There's a drop-down menu and we are

12   interested in Kuwait and at $.14 a kilo this is

13   a minus 4 risk index. Because this is the table

14   that does the analysis for banks or law

15   enforcement. There were 2,378 export

16   transactions to the world during the 12-month

17   period before. Okay. And then during that same

18   period of time 26 of those transactions were

19   exports to Kuwait. At a price of $.14 a kilo,

20   these are the four filters the 5th, 95th

21   percentile, and the main plus or minus two

22   standard deviations, okay. Those of you who

23   have had statistics understand this. But

24   basically $.14 is below all of the lower bounds

25   of these four filters. It's below $.55, it's

1   below $.30, it's below $.51, below $.16, has a

2   risk index then of minus 4. Does not

3   necessarily mean this is money laundering.

4   Okay. I should probably stop here. When I

5   observe an abnormal price or the system detects

6   an abnormal price, there are three plausible

7   mutually exclusive explanations for that price.

8   One, and I use the old television show *The Price*

9   *is Right*. There is a reason that this item is

10   priced at this high price or this low price.

11   Okay. So there could be a justifiable reason.

12   A few years back I picked up fax machines being

13   imported in from Japan at $25,000 a fax machine.

14   When they looked into it it was because they

15   were prototypes of machines and they were worth

16   that much. Okay. So the price could be right.

17   The price could be wrong. There can be a

18   clerical error in the trade database, and so in

19   fact again in one case it was on a precious

20   metal they put in kilograms instead of grams.

21   Well, that obviously changed the analysis. And

22   the third possible explanation is the price is

23   abnormal. So the price is right, the price is

24   wrong or the price is abnormal. So doesn't

25   necessarily mean unless its price is abnormal

1   that it could be money laundering. 14 cents is

2   a high indication of money moved out of the

3   country. At a price of a dollar a kilo it's all

4   within range. Risk index is zero. If you're a

5   bank, finance it, no questions asked. If you're

6   law enforcement don't look at it any further.

7   And for price of $3.75 a kilo the risk index is

8   plus 4, this looks like it's money being moved

9   into the United States. Could be to support

10   terrorist activities, but it's money moved into

11   the US. So this is on the export side.

12   Importing soccer balls from Pakistan is

13   imported analysis. We don't know the code

14   number for that, so we submit that in and there

15   it is for soccer balls. This is a listing of

16   everything that has -- okay, basketballs,

17   volleyballs, baseballs. But that's the code

18   number. The country we want is Pakistan. If

19   we're importing these for $.30 a piece, that

20   looks like it's money being moved in to the US.

21   Note that this analysis looks at over

22   3,000 import transactions from the world of

23   soccer balls and the statistics and 900 and 66

24   from Pakistan. And notice at $.30 it's below

25   all the lower bounds and therefore this is an

1   undervalued import, which means it's probably

2   money moved into the US. At a price of $2.95

3   it's inbound, let it go, it looks like it's a

4   normal transaction. At a price a $30 a

5   basketball, okay, at that price -- it's minus

6   rather. It looks like it's money laundering out

7   of the country, okay, because it's overvalued.

8   Now, the applications of the international

9   price profiling is statistical analysis. It's

10   the application of statistical analysis. It can

11   be used by governments for investigative

12   analysis, for money laundering, tax avoidance,

13   tax evasion, import duty, fraud, banks, to avoid

14   financial financing illegal transactions. Banks

15   don't want to unknowingly be financing a money

16   laundering transaction. Also determining

17   something called value at risk. Accounting

18   firms should be using this type of analysis when

19   auditing transactions of their clients.

20   Attorneys for litigation evidence. Insurance

21   companies to avoid insurance fraud. And

22   businesses from honouring abnormal trade

23   patterns. The one I find with this analysis

24   that's kind of interesting besides the money

25   laundering aspects, it's the first time that

1   there's a price list of the world. One of the

2   problems of international trade is you don't

3   know what the price is in all countries. So if

4   I'm exporting a product, I'd like to know who is

5   paying the high prices so I can export to that

6   country. Conversely, if I'm importing molasses,

7   I want to know which countries have the lowest

8   price of molasses. This type of analysis can

9   detect that information and improve the quality

10   of international trade.

11   Okay. Now, back in 2004 I was invited to

12   Ottawa for a two-day period of time and on the

13   12th I met with people from the Canadian Revenue

14   Agency, Border Service Agency, Ministry of

15   Finance, Export Development Corporation and

16   Statistics Canada and then we went offsite and

17   went to FINTRAC, and I made a presentation

18   there. And I'll show you some of the things

19   that I had presented. Now, this is all based on

20   US data. What I do is I flipped the data. US

21   imports are Canadian exports, so I could just

22   flip the data around and basically showed that

23   the amount of money moved from the US to Canada

24   was 1.17 trillion -- or billion. And 2.43 money

25   going from Canada to the US. More money leaving

1   Canada than coming in. Okay. And then I went

2   through and based on the US trade data came up

3   with sample transactions that didn't make any

4   sense. The first one was gold bullion based on

5   content gram. The customs district, again this

6   is overvalued exports to the US from Canada,

7   overvalued US imports. There were

8   11 transactions. 4 million 429 grams at a unit

9   for $59 million, unit price of $13.39 a gram;

10   the upper quartile price was $12.50. So these

11   items, these grams of gold were overvalued by

12         $.89 per gram. Multiply that by the number of

13   grams and this was a 3,941,000 overvalued amount

14   that could be money being moved out of Canada.

15   Okay.

16   Next one is money moved from US to Canada

17   under valued Canadian imports, which is under

18   valued US exports. Bulldozers, new bulldozers

19   being exported out of North Dakota,

20   44 transactions, 465 bulldozers valued at

21   11.7 million. Unit price 25,000 a bulldozer.

22   Lower quartile price 51-. The undervalued

23   amount was 26,000 per bulldozer. Okay. Meaning

24   that $12 million was the undervalued amount.

25   Because there were 465 of them. Okay.

1   The next one was money removed from Canada

2   to the US. This is for a month, December 2003.

3   Undervalued Canadian exports to the US. French

4   doors out of Seattle. 7,325 of these French

5   doors valued at 185,000, unit price $25.37,

6   lower quartile price 66. Each door was

7   undervalued by $41 resulting in basically

8              $300,000 being moved.

9   And the last one were razors. Again out of

10   North Dakota. This is overvalued Canadian

11   import. It's money moved out of Canada.

12   664,000 razor blades valued at 1.6 million, unit

13   price $2.53. Upper quartile price was $.82.

14   The overvalued amount $1.71 leading to

15   1.33 [sic] million money being moved.

16   Again this is based on the US data and

17   flipping it over. However, after being

18   contacted by representatives from the Cullen

19   Commission I mentioned that I could continue

20   doing it using trade data from the US, but if I

21   had access to the Canadian data I could develop

22   the same thing. And so again I want to thank

23   Statistics Canada. They did a great job in

24   getting us the data and this was the results of

25   our data analysis. Okay. I produced -- we

1   produced five reports, which I'll show you the

2   2019 report, basically which shows that during

3   2019 -- I call these the macro reports -- that

4   there was undervalued exports resulted in

5   45 billion moved out of Canada. Overvalued

6   imports 44 billion moved out of Canada for a

7   total of $90 billion moved out of Canada during

8   2019. And this is a graph of this and looking

9   at the graph again there's undervalued exports,

10   overvalued imports. And notice that there's an

11   been an increase in 2007, '18 and '19. It might

12   be because -- I'm not sure of this, just

13   conjecture -- the US lowered its corporate tax

14   rate and so Canadian firms may have wanted to

15   shift their taxable income to a more favourable

16   tax rate. Again that's just conjecture on my

17   part, something economists could study. Okay.

18   And then again money moved out of Canada by

19   country, US is number 1, 63 billion. Next is

20   China and Germany. This is detailed for every

21   country in the world in those reports.

22   Now, as I mentioned before dollar values

23   don't help detecting money laundering, but if

24   you look at percentage of trade there's a

25   Kiribati. I looked that up, but it's apparently

1   some small island country in the South Pacific.

2   Not a lot of money, but a high percentage.

3   Switzerland, Ireland again because of its tax

4   rate probably, Germany, Malaysia, Belgium,

5   Panama. These are eventually what would be

6   high-risk trading countries for the Canadian law

7   enforcement. Okay. And money moved out of

8   Canada by province. Okay. And there's

9   British Columbia taking separating it by -- in

10   the US I do it by customs district. In Canada I

11   did it by province. And 4 billion due to

12   undervalued exports from British Columbia,

13   4 billion overvalued imports, or 8 and a half

14   billion for British Columbia being moved out

15   through faults or abnormal pricing. As

16   a percent of trade by Canadian province, the

17   Yukon pops up as number 1. Not a lot of money

18   but high percentage rate. Saskatchewan. And

19   British Columbia is sort of towards the lower

20   end of the pack. Okay. Only 5.89 percent. So

21   this is percentage trade. Money moved into

22   Canada 20.3 billion overvalued exports,

23   undervalued imports 124 billion for a total

24   moved into Canada of 144. And there's the

25   analysis by year graphically. Okay. Again,

1   money moved into Canada by country, number 1 is

2   US, 78 billion moved in. Number 2 is China then

3   Germany, Mexico as dollar value, but as

4   a percent of trade Trinidad and Tobago come out

5   on top. 1.2 billion moved into Canada from

6   Trinidad and Tobago. Finland, Spain, Tanzania,

7   Greece, El Salvador, Botswana. So these are

8   sort of the high-risk countries of money coming

9   in. Then money moved in by province,

10   British Columbia is number 3, 16 billion

11   540 million moved into British Columbia, and

12   again in reading and looking at prior testimony

13   one of the problems in British Columbia is real

14   estate pricing is extremely high. Well, this

15   could be the source of the money being used to

16   put it into real estate, money moved in through

17   false invoicing. As a percent of trade,

18   Northwest Territories is the highest. Okay.

19   And British Columbia is in the middle of the

20   pack.

21   Now, so money moved out of British Columbia

22   4.34 billion, this is 2019, through undervalued

23   exports. Overvalued imports 4.15. A total of

24   8.41 billion moved out of British Columbia.

25   This is the British Columbia graph. No

1   significant abnormalities in the graph. It's

2   kind of consistent. Money moved into

3   British Columbia. Most of it's coming because

4   of undervalued imports being brought in for

5   total of 16.54 billion moved into

6   British Columbia. That's the graph of the years

7   '15 to '19. Now, I mentioned those were based

8   on what I call the macro reports, but now I dug

9   into the actual data and came up with

10   10,000 suspicious transactions of overvalued

11   imports, undervalued exports, undervalued

12   imports and overvalued exports. And one money

13   moved out of British Columbia due to undervalued

14   British Columbia exports, digital cameras, okay,

15   they're quantified by number of units, this was

16   an export to Australia in September of 2019.

17   There were 77 transactions, there were

18   10,729 cameras exported for a value of

19             $1.12 million, a unit price of $104 a camera.

20   Lower quartile price for that item was $606, so

21   theoretically each camera was undervalued by

22             $501 for a total movement of money $5.3 million.

23   That's just one example.

24   Money moved out of due to overvalued

25   British Columbia imports. The product is beer.

1   Made from malt. It's denominated in litres,

2   British Columbia imported it from Mexico. This

3   is for June of 2019. There were four

4   transactions in June. 1.12 million litres for a

5   value of $3.69 million Canadian, unit price was

6   3.27 a litre. Upper quartile price was 1.55.

7   Therefore each litre was overvalued by $1.72

8   resulting in a movement of money out of

9   British Columbia to Mexico of $1.9 million.

10   Okay. Money moved into British Columbia.

11   One of the products I found was shrimps frozen

12   in the shell. They are denominated in

13   kilograms. The country they were exported to

14   were China. This was August of 2019. There

15   were four transactions. 81,000 kilos valued at

16          $2.8 million Canadian. Unit price of 34.51 per

17   kilo. The upper quartile price was 6.82.

18   Overvalued by $27 per kilo or resulting in

19          $2.249 million moved into British Columbia.

20   Last one is dishwashing machines, household

21   type. Okay. Number of dishwashing machines,

22   this was an undervalued British Columbia import.

23   So it's money moved into British Columbia. It

24   was done in August of 2019. There were 25

25   transactions. 195,000 dishwashers were imported

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1   in. Valued at 1.4 million, unit price of $7.18.

2   The lower quartile was $339. Therefore this

3   resulted in a movement of 64, almost $65 million

4   of money being moved into British Columbia. So

5   this is digging down into the data. I believe

6   also this data could be actually tracked down

7   farther into the actual ports within

8   British Columbia. We didn't do that. That

9   would be another way of even getting in more

10   data. Okay. And basically the conclusion is

11   mitigating trade-based money laundering, TBML,

12   requires statistical analysis of the Canadian

13   trade database. One, historical trade

14   transactions can be done. This is like the

15   macro reports. And the product reports that we

16   just --

17   THE COMMISSIONER: I think we're probably going to

18   have to stand down again.

19   THE WITNESS: Okay. I've got one more slide and I'll

20   be done with this section. And then in realtime

21   would be something like the international price

22   profiling system. Okay. My conclusion is --

23   MR. McGOWAN: If I can interject. Mr. Commissioner,

24   are you having difficulty with the sound? I

25   think we have -- it's fine. We lost the

1   Commissioner there for a second and it's

2   important that he hear.

3   THE WITNESS: Okay.

4   THE COMMISSIONER: I think I'm back. I was just

5   informed the internet went down again, but it

6   appears we're back.

7   MR. McGOWAN: Madam Registrar, can you confirm --

8   well, I'm not seeing --

9   TECHNICAL COORDINATOR: We need a minute, please.

10   Thank you.

11   MR. McGOWAN: Shall we stand down for five minutes?

12   THE COMMISSIONER: Yes, let's do that.

13   MR. McGOWAN: I apologize, Professor. We seem to be

14   having technical difficulties on our end this time.

15   THE WITNESS: Okay. No problems.

16   THE REGISTRAR: The hearing will stand down for

17   five minutes until 1:32 p.m. Thank you.

18   **(WITNESS STOOD DOWN)**

19   **(PROCEEDINGS ADJOURNED AT 1:27 P.M.)**

20   **(PROCEEDINGS RECONVENED AT 1:32 P.M.)**

21   **JOHN ZDANOWICZ, a**

22   **witness for the**

23   **commission,**

24   **recalled.**

25   THE REGISTRAR: The hearing is now resumed.

1   Mr. Commissioner.

2   THE COMMISSIONER: Yes, thank you. Yes, Mr. McGowan.

3   EXAMINATION BY MR. McGOWAN (continuing):

4   Q   I believe, Professor, you are concluded with the

5   PowerPoint. Is that correct?

6   A   Right.

7   Q   You just had one last slide. Maybe you can tell

8   the Commissioner what that last --

9   A   It says "follow the data." That was the

10   conclusion. The best way -- you know, the one

11   thing looking at some of your past testimony,

12   one way to look at trade-based money laundering

13   is from the macro perspective and then working

14   your way down by doing IMF studies, Brigitte

15   Unger and the gravity models, you know, you can

16   do it from that perspective. My perspective

17   starts with the micro. I look at every single

18   transaction and work my way up, and so to me a

19   better way, okay, it's not just measuring the

20   macro variables; it's how you find actual

21   transactions. You're looking for a needle in a

22   haystack and the best thing is to start with the

23   needles and see which needles are strange, and

24   so I take it from that perspective, so my

25   concluding slide said "follow the data."

1   Q   And maybe I'll just ask you a couple of

2   questions about that. I understand you're going

3   to go to the charts and walk the Commissioner

4   through them a little bit. You gave some

5   examples to the Commissioner of washing machines

6   and shrimp and beer having anomalous pricing

7   which was indicative of money being moved in or

8   out. Could that trade data that you were

9   provided in the hands of law enforcement lead

10   them to the particular company conducting those

11   transactions?

12   A   Sure. Because the data that you gave me from

13   Canada and the data I get from the US has an

14   important field that's been deleted, the name of

15   the importer or the name of the exporter because

16   of privacy issues, which I agree. Sharing

17   transactions is different than sharing the names

18   of the companies involved or the individuals

19   involved. And so when any of those four

20   transactions that I showed are spotted, law

21   enforcement can simply go to customs and say

22   what's the name of the company that did this,

23   what is the name of the individual? And then

24   follow up from there. So yeah, your government

25   agencies have the detail data.

1   Q   And does the updated pricing information that

2   you have, is it such that it would allow law

3   enforcement to in realtime evaluate the nature

4   of a transaction and determine whether it was

5   anomalous or not?

6   A   Sure. The international price profiling system

7   and the transfer price profiling system are

8   meant to be used in realtime. Against the IPPS

9   was designed for banks who are faced with a

10   letter of credit request, so they need to know

11   instantaneously if the price of the items being

12   financed are abnormal. Actually one of the

13   banks that I deal with gave me permission to

14   divulge there's a State Bank of India is using

15   this and any time they have a transaction for a

16   letter of credit they input the item and they

17   find out if the price is within range or that

18   plus 4 to minus 4 analysis.

19   Q   From a law enforcement perspective if they had

20   sufficient resources they could take trade

21   transactions, run them through this analysis and

22   determine in realtime what transactions to

23   target from an investigative perspective?

24   A   Sure.

25   Q   Is that fair?

1   A   Right. Now, again the financial institutions do

2   it manually. Every time there's a request for a

3   letter of credit they input the data into the

4   system and it detects whether it's normal or

5   not. Law enforcement could have that all

6   computerized, but you hook into the let's say

7   the trade probably law enforcement would want to

8   use the transfer price profiling system and see

9   anything that came out and the names of the

10   companies, and that's the key thing, the names

11   of the companies involved in the transactions,

12   and then go back in time and look at other

13   transactions to find out if this is a pattern or

14   just a one-time anomaly.

15   Q   So Canada has right now the data to generate a

16   list of those companies who are routinely

17   conducting anomalous trade transactions which

18   look like money being moved out or into the

19   country?

20   A   Right. The four examples I gave Statistics

21   Canada has the names of the company.

22   Q   And they also have the data that would allow

23   with some appropriate computer programming the

24   generation of a list of suspicious companies or

25   individuals engaging in these transactions?

1   A   Right. Correct.

2   Q   I understand you have some examples you want to

3   take the Commissioner to from the macro and

4   micro reports. I'll let you do that now.

5   A   Yeah. Madam Registrar, we need the trade price

6   analysis. This was a report that was produced

7   for the years 2015 for the Cullen Commission and

8   let's just scroll down this table. Table 1 is

9   the amount of money moved out of Canada by

10   country. Table 2 by country as a percent of

11   trade. Table 3 moved out by province. Dollar

12   value. Moved out by province percentage of

13   trade. Then money moved in. Dollar value into

14   Canada percent of trade and then money moved

15   into Canada by province as a percent of trade.

16   And so page 29 is the total trade by country

17   with Canada and then total trade by province.

18   So this was basically a 36-page report done for

19   the five years based on the data I was supplied.

20   Madam Registrar, could we actually flip

21   through the beginnings of these tables.

22   Table 1. Okay. This is the money moved out of

23   Canada by country. Again remember that was top

24   country United States then China. Let's go to

25   -- and I go through every single country in the

1   world that traded with Canada. It's table 2.

2   This is the percentage of trade. This is where

3   I came up with the high-risk countries for

4   Canada. And so this is a listing of every

5   country in the world that Canada trades with

6   ranked by percentage of trade. Table 3.

7   Table 3. Money moved out of Canada by

8   province and you've already seen that, but this

9   was done for every year for five years. And

10   British Columbia is number 4. 8.4 billion moved

11   out. Next table. Money moved out of Canada by

12   province. Yukon ranks number 1, Saskatchewan

13   and again British Columbia is down in the middle

14   of the pack, the 8th.

15   Next table. This is money moved into

16   Canada. Major country there is the United

17   States. 78 billion moved in. But China is

18   moved in. So these are the -- next table,

19   please. This is as a percentage of trade. But

20   again this is for every country in the world.

21   Trinidad and Tobago, Lesotho, Finland, Spain,

22   Tanzania, Greece, El Salvador. Next table.

23   Moved into Canada by province.

24   British Columbia is third. 16 billion moved in

25   during 2019. Okay. Dollar value, Ontario is

1   the biggest. Table 8. This is money moved into

2   Canada by province as a percentage trade.

3   Northwest Territories is the highest, but not a

4   lot of money. Only $12 million Canadian. This

5   report was done every year for five years and it

6   gives a macro view of what's going on with

7   abnormal pricing and international trade between

8   Canada and every country in the world. Okay.

9   Madam Registrar, can we bring up the exports

10   under report.

11   THE REGISTRAR: Yes, I will. Just give me one

12   minute.

13   MR. McGOWAN: Madam Registrar, I wonder if you could

14   identify the exhibit number for the record of

15   the previous document and this one.

16   THE REGISTRAR: Yes, this one is 370. And Professor,

17   you can request control.

18   THE WITNESS: Okay. This is what I call the micro

19   analysis. It's actually looking at these

20   transactions -- let's see. I think we can leave

21   it this way. Everybody see this? This is an

22   Excel spreadsheet. Let me explain something.

23   Let's take a look at this first one.

24   Smartcards. Okay. This is the harmonized code

25   number. This is the description of what it is.

1   This is the country that these were exported to.

2   BR is British Columbia. The month and year.

3   The number of transactions during that month.

4   The quantity and the unit of measure is number.

5   Okay. Value is 82,000, shows a unit price of

6              $.08. The lower quartile price is $1.41 65

7   [sic] so each of these smart cards was

8   overvalued by 141 resulting in potentially of

9   movement of $148 million out of

10   British Columbia. Okay. I'll just go through

11   some of these.

12   Let me just see which line I want to go to

13   here. One I picked out here just to look at.

14   This is what law enforcement can use to find

15   transactions to follow up on. This is the

16   harmonized code number. The item is

17   prefabricated buildings of wood. This was

18   exported to the United States by

19   British Columbia. In July of 2019. There were

20   six transactions. 1,855 buildings. Valued at

21             $167,569. Unit price of $90.33. The lower

22   quartile price is 2,400 so theoretically each of

23   these was undervalued by $2,300, resulting in

24             $4.2 million being moved out of

25   British Columbia. So this Excel spreadsheet

1   goes for 10,000 transactions. It's undervalued

2   exports. Also did one for overvalued exports.

3   Madam Registrar, can I have the imports

4   over. Of course those of you familiar with

5   Excel you can take these columns and rank

6   everything. You can do it by country. You can

7   separate it out by product code. You can do it

8   by percentages.

9   THE REGISTRAR: Mr. McGowan, just want to let you

10   know this spreadsheet is exhibit 369.

11   MR. McGOWAN: Thank you.

12   THE REGISTRAR: And Professor, you can control that.

13   THE WITNESS: Okay. Oh, wait. Request for remote

14   control. These are overvalued imports. Hold on

15   one second. One that I'm not going to focus on

16   right now but was kind of interesting -- hold

17   on. Again there's 10,000 of these. See this

18   one here, pistols. I don't know why this is

19   moving by itself. Anyway, there were pistols,

20   four them worth $700,000 each. Somebody ought

21   to look at that. Okay. There they are.

22   Pistols, single barrel, four of them for

23             $2.9 million or $730,000 per pistol resulting in

24   the upper quartile price was 1,192, so this was

25   almost a $3 million movement of money and again

1   when you see something like this somebody ought

2   to look at it and say how can that be? This is

3   the number that's in the database. Check it

4   out. You know, maybe there's a reason. Maybe

5   these were the duelling pistols between

6   Alexander Hamilton and Aaron Burr, and that's

7   why they are worth so much. Well, the thing is

8   somebody should look at it because either the price

9   is right, the price is wrong or the price is

10   abnormal.

11   Okay. The next one I want to look at is

12   119. Remember the one I did on beer. There it

13   is. That's the one I showed you before. Beer.

14   Okay. And again these are the same numbers that

15   were in that table, again quantity 1.1 million

16   litres for $3 million 693. $3.27 a litre.

17   Upper quartile price was $1.55. It looks like

18   this beer was overvalued by $1.72. Again this

19   was trade with Mexico. Looks like it could be

20   moving money, 1.9 million to Mexico. I

21   highlighted some other -- this is not the only

22   one. Here is another beer. Okay. 1.164. This

23   was done in July of 2019. Quite a few beer

24   imports. There's another one in August 2019,

25   resulting 965,000. Looks like money moved out

1   of British Columbia. So this is getting down

2   into the weeds and looking at individual

3   transactions and again what I had sent the

4   commission is a listing of 10,000 suspicious

5   looking transactions. Okay.

6   Now, the last thing I wanted to show, Madam

7   Registrar, is the live hookup to the

8   international price profiling system. Okay.

9   This is again once I made the macro

10   presentation -- I got to -- do I have control of

11   this?

12   THE REGISTRAR: I think you have. Can you try to use

13   your mouse and see if you can scroll it.

14   THE WITNESS: Okay. It's working. As I mentioned

15   when I did the presentation to the Florida

16   International Bankers Association I presented

17   macro analysis like I did here, but then again

18   the bankers called and said what can you do to

19   help us so that we are not involved with

20   financing abnormal transactions. So I basically

21   said give me six months to a year, just let me

22   see what I can develop. So I developed the

23   international price profiling system and let me

24   get into it here. Now, we're a live hookup to

25   the internet, so you're talking about realtime.

1   Let me just get in here. Now, I'm going to do

2   the transfer price profiling system. Okay.

3   Now, we're live right now, and if you were in

4   law enforcement or you were a bank and you said

5   okay, let's take a look at that import of beer

6   to Mexico. Okay. We don't know the code number

7   for beer so I just type it in and then I submit

8   it. And then in the US trade database there are

9   basically three major categories of beer. One

10   is beer imported in glass bottles, this looks

11   like it cans and this looks like it's kegs.

12   Let's take a look at beer in glass bottles.

13   Submit that. Now, which country. This is every

14   county we imported beer from. Okay. And the

15   one we want is Mexico. And the price I think

16   was $3.25. Submit that. Okay. This shows

17   minus 3. It's high up, it's not 4, but it shows

18   that if I were checking the price of one of

19   those exports or imports of beer from Mexico and

20   I put in the price of $3.25, $3.25 is higher

21   than three of the four and this is a high

22   indication of money laundering potential going

23   to Mexico. Now, notice what this looked at.

24   Okay. This is based -- first of all let's look

25   at the top there. This is based on data from

1   October 2019 to September 2020. We just are

2   receiving the October data and we'll update it.

3   Okay. And notice the number of transactions

4   here for the world. This looked at

5   115,000 import transactions of beer throughout

6   the world to come up with those statistics and

7   73,000 from Mexico to come up with those

8   statistics. So fairly sizeable database, but

9   high risk. Okay. Now the Canadian database

10   didn't state whether it was cans, bottles or

11   kegs, so let's take a look at beer again.

12   Submit that. I don't know what is going on

13   here.

14   Now, let's take a look at the other than

15   glass, this is probably canned beer. Pick a

16   country, every country that we imported cans of

17   beer from. We want Mexico. As mentioned before

18   too the idea of price list of the world. Here

19   is what you can find out what the price of beer

20   is. And $3.25 I submit that in. If it were

21   canned beer -- this could be done in batch

22   processing to law enforcement. Okay. Minus 2.

23   So again it's an indication of money being moved

24   out. Let's go into imports again. Type in

25   "beer." Again submit it. This looks like it's

1   kegs of beer over 4 litres. Submit it. This is

2   what financial institutions can do before

3   they do their letters of credit. Mexico.

4               $3.25. Kegs of beer, minus 3 again. So these

5   all three again there were 14,000 export

6   transactions or import transactions with the

7   world and 5,600 with Mexico in this data. So

8   this is the international price profiling system

9   or this one is the transfer price profiling

10   system that indicates there's some tax evasion

11   potentially here. But this is how we can do the

12   analysis in realtime both by financial

13   institutions and law enforcement, is to have a

14   system like this set up.

15   This took quite a bit of programming to get

16   this system set up so that it's live in realtime

17   and the thing that has value with this I believe

18   is in a lot of developing countries. I made a

19   presentation on this system down in Guatemala to

20   the vice president down there. The problem is a

21   lot of their ports of entry are out in the

22   middle of the jungle. They don't have a customs

23   office hooked up to a mainframe computer. But

24   with this type of a system, all they need is a

25   satellite phone and a hookup to internet. Once

1   you're hooked up to the internet this system

2   works, this type of system.

3   So this can assist developing countries

4   monitoring their own trade analysis and I really

5   think one of the greatest values on this kind of

6   analysis is the fact that for the first time we

7   have a price list of an item for the world. And

8   those of you that have studied economics,

9   perfect competition requires perfect knowledge.

10   Well, we've never been able to do that in

11   international trade. Well, here at least we

12   have some indication of if you are importing

13   something, who has got the cheapest product. If

14   you are exporting something, who is paying the

15   most for it. So as that information gets

16   disseminated the world markets become more

17   competitive. Okay. And as they become more

18   competitive, these filters even act better

19   because the extremes begin to diminish. So I

20   think the value really of this kind of analysis

21   is for the world economies to have a more

22   efficient international trade marketing system.

23   Okay, that's the rest of my presentation.

24   MR. McGOWAN:

25   Q   Just a couple of more questions, Professor. If

1   I asked you -- you've identified 10,000

2   anomalous transactions in British Columbia in

3   those micro analysis and that was over the span

4   of one year?

5   A   Right.

6   Q   If I asked you if you were provided with

7   anonymized company data and asked to identify

8   the companies with the most common or the

9   highest dollar value of anomalous transactions

10   over that period, is that something that you

11   could do?

12   A   Well, in order to do that the transactions that

13   I've detected would have to be connected by the

14   government to a company.

15   Q   Does the Government of Canada in possession of

16   those statistics with the company names still in

17   them, would they have the capability to run an

18   analysis that would identify the ten companies

19   with the highest dollar value of anomalous

20   transactions over a span of a year?

21   A   Yes. They could go back in. Once they had the

22   product code number and the month and the

23   province they could go back in and pull the data

24   out of this spreadsheet for that particular

25   company. Now, it's interesting; I'm not

1   interested in doing that. One of the things

2   when I talk to reporters I always tell them, if

3   you're going to do a story about my research,

4   make sure you tell everybody I don't know the

5   names of the people or the companies doing the

6   transactions. I just know the transactions.

7   And that's what I analyze.

8   Q   You presented to a number of Canadian federal

9   entities, including Canada Border Services

10   Agency and FINTRAC. That was in 2004?

11   A   Right.

12   Q   And during that presentation did you explain to

13   them as you have done to the Commissioner the

14   type of statistical analysis that can be

15   accomplished and the type of information that

16   gives about anomalous transactions?

17   A   Yes.

18   Q   Did you of hear from any of those Canadian

19   entities again after 2004?

20   A   There were a couple of emails. Very nice

21   presentation. But that's about it. No one

22   followed up with wanting to implement this kind

23   of analysis.

24   Q   Through you at least?

25   A   Right.

John Zdanowicz (for the commission)   191
Exam by Mr. McGowan (continuing)
Exam by Mr. Gratl

1   MR. McGOWAN: Thank you, sir. Thank you very much

2   for the presentation. It has been very

3   informative. Those are my questions. I

4   understand that there may be at least one

5   participant who has some additional questions

6   they would like to ask you.

7   THE COMMISSIONER: Yes, I understand that Mr. Gratl

8   has some questions on behalf of the Transparency

9   International Coalition and he has been

10   allocated 20 minutes. Mr. Gratl.

11   MR. GRATL: Yes, thank you, Mr. Commissioner.

12   **EXAMINATION BY MR. GRATL:**

13   Q   So as I understand your statistical breakdown

14   system it's indifferent as to the presentation

15   of the company whether it presents as a lawless

16   company or a rogue band of bikers, it doesn't

17   matter?

18   A   Right. I focus on the transaction, not the

19   motivation behind the transaction.

20   Q   All right. So essentially detecting a

21   suspicious transaction without regard to the

22   identity of the source of the transaction?

23   A   Correct.

24   Q   All right. As I understood your presentation

25   when Swiss banks eliminated their secrecy

1   tradition some money laundering transactions

2   shifted to trade-based money laundering?

3   A   Correct.

4   Q   I take it you would agree that the individuals

5   engaged in money laundering as a high level,

6   they're sophisticated individuals with a very

7   good working knowledge of the systems within

8   which they're operating?

9   A   Yes.

10   Q   All right.

11   A   I would agree with that.

12   Q   And as the risk of detection goes up, so too

13   increases the likelihood that they'll shift to

14   different methods that are not detectible by the

15   statistical methods that you've just --

16   A   Well, I believe all methods could be

17   statistically analyzed, I think the shift would

18   be to those approaches or typologies that are

19   not being looked at as much. You know, the

20   focus has always been heavily on the financial

21   service sector. And as they focus more and more

22   between the *Patriots Act* here in the US, *Bank*

23   *Secrecy Act* and all of the other regulatory

24   controls, that now the focus has moved that I

25   believe the people are moving their money

1   laundering or even tax evasion into

2   international trade.

3   Q   All right. Your analysis requires the

4   identification of standard prices per weight or

5   unit in order to derive its efficacy, in order

6   to find the outliers?

7   A   Right, in the sense that once we look back at a

8   series of data of the price of widgets being

9   imported in from Colombia, then that analysis,

10   that data can be analyzed and you can come up

11   with filters. Now, I'm not totally supporting

12   any statistical filter. I've just got four in

13   my system. You could probably come up with a

14   dozen different statistical filters. And you

15   could compare the price to a large number of

16   filters. As I mentioned, I had one individual

17   contract with me to have the 90th and the 10th

18   percentile, not the 5th and 95th. So you can

19   move it around and do the analysis based on any

20   statistical filtering systems. I assume there

21   are some statisticians out there that could come

22   out with some very sophisticated, more

23   sophisticated than I can do, filtering systems.

24   Q   All right. In your dealings with the Canadian

25   government is it fair to say that you have

 1   encountered a good deal of variation between the

 2   mathematical competence of different

 3   departments?

 4   A   Well, I've never interacted directly with any of

 5   the departments. The only thing I've -- I was

 6   invited by FINTRAC back in 2004 to make my

 7   presentation. They had read about my research.

 8   But I never interacted directly with any of the

 9   agencies in the Canadian government to determine

10   their understanding of statistical filtering,

11   for example.

12   Q   And -- sorry, I didn't want to interrupt.

13   A   Yeah, I believe they all understood what I was

14   doing, but I never interacted with them

15   directly.

16   Q   Have you ever been approached by the Royal

17   Canadian Mounted Police?

18   A   No.

19   Q   Or the Canada Border Services Agency?

20   A   No, not contacted by them.

21   Q   Are you aware of how far into the past

22   Statistics Canada keeps its trade data?

23   A   No, I'm not sure about that. Again we got 2015

24   through 2019 data, but I'm not sure how far back

25   they go.

 1   Q   All right. For service-based trade-based money

 2   laundering would it be more difficult to do the

 3   statistical analysis because the services are

 4   less comparable than the goods; is that right?

 5   A   Well, the problem is there's no database.

 6   Because I get asked that a lot about US data.

 7   There is no -- and we have the merchandise trade

 8   database and US and in Canada, but there is not

 9   a database that contains services and the value

10   of those services. So you can't do an analysis

11   because there's no data.

12   Q   All right. So would there be an obstacle to

13   your mind to creating such a database or

14   requiring disclosure of cross border service

15   transactions?

16   A   I think there's -- well, the problem might be

17   the heterogeneity of the value of the services,

18   in a sense that hiring a computer programmer who

19   completed one course in college versus a

20   computer programmer who graduated from MIT, you

21   know, they're going to have different hourly

22   rates.

23   Q   Very difficult. I mean, but it took the World

24   Trade Organization decades to come up with its

25   classification system?

     1   A   And the one criticism I have is that from a

     2   public policy perspective there ought to be

     3   significantly more data categories. Walmart and

     4   Home Depot have more product categories than the

     5   US or the Canadian government. And so I've

     6   often wondered why don't they use standard bar

     7   codes to name a product. When my wife went

     8   shopping over at the local supermarket her

     9   receipt said pork chops. Not meat, but pork

    10   chops. Well, that was based on a code number.

    11   And so to me every country in the world ought to

    12   use the same code numbers for every product.

    13   The one thing that's strange in the US and

    14   in Canada is that there are significantly more

    15   import code numbers than there are export code

    16   numbers. They ought to be the same. Because

    17   I've detected what I call churning. One time in

    18   the past I was analyzing single lens reflex

    19   cameras and luckily the code numbers are the

    20   same for imports and exports. And it looked

    21   like what I was finding is they were importing

    22   the cameras at a high price, exporting them at a

    23   low price, reimporting them at a high price,

    24   reexporting them as a low price, their taxable

    25   income in the US would go down to zero.

1   Q   All right.

2   A   So there could be a lot of improvements in the

3   data at the world level. The one thing I find

4   interesting is sort of a nationalism thing of

5   everybody wants to use their own code numbers.

6   I don't really care what a code number is. A

7   fountain pen is a fountain pen. It ought to

8   have a code number for every country in the

9   world.

10   Q   So there can be trade-based money laundering

11   using no products and services at all in the

12   form of derivatives, cross border derivatives

13   transactions, for example?

14   A   Yeah, I'm not a special in derivatives. But in

15   fact I've been talking to a colleague from the

16   university who's a specialist in derivatives.

17   With derivatives, normally as a finance

18   professor we think of derivatives to minimize

19   risk of loss. Well, I can also use derivatives

20   to make sure I lose and you gain. So to me that

21   is an area I'm talking with her about doing some

22   research on how to use derivatives to move money

23   across borders.

24   Q   Sure, you could just, for example, backdate a

25   derivative transaction, and you could gain

 1   exactly the outcome?

 2   A   Sure. I mean, I haven't looked into it in

 3   detail, but again the way we use derivatives in

 4   finance is to minimize risk. I can also

 5   increase my risk and guarantee that I lose

 6   money.

 7   Q   So you would want to have a registry for those

 8   type of transactions, too, if you wanted to

 9   start accumulating a data set that could be

10   mined for anomalous transactions?

11   A   I think first before that there's got to be a

12   enough research to detail how you would actually

13   launder money using derivatives. I haven't seen

14   anything like that. In fact that's what I'm

15   thinking of working on with her to see if we can

16   actually -- just as I showed how you can launder

17   money with trade buying those gold watches and

18   exporting them for a low price or buying the

19   razor blades, we need to go through ourselves

20   and check out how you would structure a

21   transaction before we can -- you know, is this

22   feasible to actually detect it. I don't know.

23   Actually I'm am not an expert on derivatives. I

24   mean, I know enough generically. So the first

25   thing is for us or somebody in the academic

1   community or in the real word to study how you

2   can use a derivative to move money.

3   MR. GRATL: Thank you, Professor. Much appreciated.

4   THE WITNESS: Thank you.

5   MR. GRATL: Mr. Commissioner, those are my questions.

6   THE COMMISSIONER: Thank you, Mr. Gratl. Anything

7   arising, Mr. McGowan?

8   EXAMINATION BY MR. McGOWAN (continuing):

9   Q   I suppose I should ask for the benefit of the

10   record, Professor, can you just explain very

11   briefly what a derivative is?

12   A   Basically it's a security based on the price of

13   another security. When we think of -- and the

14   way it's used in finance is there's futures,

15   puts, calls, it's basically looking at the price

16   of a particular item and deriving another

17   instrument on that. So, for example, if I'm a

18   farmer and I want to guarantee the price that I

19   can sell my corn at, okay, I can set up a

20   futures contract where I'm guaranteed a price.

21   Well, the contract has a value and if the price

22   in the real world goes up, the value of the

23   contract goes up. If the price goes down, then

24   the value of the contract goes to zero because I

25   can buy it cheaper in the open market. So we're

1   looking at the value of the contract based on

2   the price of corn. So it can be used in that

3   perspective. There's also interest rate

4   derivatives. Again I'm not a specialist on

5   derivatives, but it's a financial instrument

6   based on the price of some item, interest rates,

7   agricultural products, stock derivatives. An

8   option to buy a share of stock at a certain

9   price. That option is a derivative security.

10   MR. McGOWAN: Thank you. I have nothing further,

11   Mr. Commissioner.

12   THE COMMISSIONER: Thank you, Mr. McGowan. Thank you

13   very much, Professor Zdanowicz. I think it was

14   a most interesting explanation of your work and

15   I think you have helped us explore some areas

16   that will really contribute to our commission's

17   output at the end. So I'm very appreciative of

18   the time and your sharing your expertise and

19   experience with us.

20   THE WITNESS: Okay. Thank you for the opportunity.

21   THE COMMISSIONER: Thank you. All right. We will

22   adjourn now until Monday morning. I think we

23   are at 9:30, Mr. McGowan.

24   MR. McGOWAN: Yes, 9:30, Mr. Commissioner.

25   THE REGISTRAR: The hearing is now adjourned until

1   December the 14th, 2020, at 9:30 a.m.

2   **(WITNESS STOOD DOWN)**

3   **(PROCEEDINGS ADJOURNED AT 2:18 P.M. TO DECEMBER 14, 2020)**

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