

**PROCEEDINGS AT HEARING
OF
DECEMBER 9, 2020**

COMMISSIONER AUSTIN F. CULLEN

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December 9, 2020
(Via Videoconference)

(PROCEEDINGS COMMENCED AT 9:30 A.M.)

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

THE COMMISSIONER: Thank you, Madam Registrar. Yes, Mr. Davis, do you have conduct of this witness?

MR. DAVIS: I do, Mr. Commissioner. But before the next witness, commission counsel seek to tender two overview reports to have them marked as exhibits in these proceedings.

THE COMMISSIONER: Very well.

MR. DAVIS: The two overview reports relate to trade money laundering, which is the sector you'll be hearing evidence on over the next three days, and both reports have been circulated to participants for their feedback.

THE COMMISSIONER: Very well.

MR. DAVIS: Madam Registrar, if you could please pull up the first report titled "Overview Report CMAA With Appendices Final-November 23rd, 2020" from the list of documents, please.

Mr. Commissioner, this is the first of two overview reports that sets out information related to Canada's customs mutual assistance

1 agreements and also attaches a memorandum of
2 understanding on exports between Canada and the
3 United States. And I'd ask that this please be
4 marked as exhibit number 338.

5 THE COMMISSIONER: Very well. 338.

6 THE REGISTRAR: Exhibit 338.

7 **EXHIBIT 338: Overview Report: Canada's Customs**
8 **Mutual Assistance Agreement**

9 MR. DAVIS: Madam Registrar, if you could next pull
10 up the report titled "Overview TBML With the
11 Appendices Final-November 23, 2020." Thank you.

12 Mr. Commissioner, this is the second of two
13 overview reports that attaches a number of works
14 published by the FATF, FATF-style regional
15 bodies and a number of records produced by
16 Canada. I'd ask that this be marked as the next
17 exhibit, please, number 339.

18 THE COMMISSIONER: Very well, 339.

19 THE REGISTRAR: Exhibit 339.

20 **EXHIBIT 339: Overview Report: Trade-Based**
21 **Money Laundering Publications and Records**

22 MR. DAVIS: Madam Registrar, I won't need that
23 document displayed any longer. Thank you.

24 And, Mr. Commissioner, the next witness will
25 be John Cassara.

1 this please be marked as exhibit 340.

2 THE COMMISSIONER: Very well. 340.

3 THE REGISTRAR: Exhibit 340.

4 **EXHIBIT 340: Biography of J. Cassara**

5 MR. DAVIS: Madam Registrar, I don't need that
6 displayed for the time being. Thank you.

7 Q Mr. Cassara, you worked in the federal
8 government intelligence and law enforcement
9 communities for 26 years until your retirement
10 in 2005; is that correct?

11 A That is correct.

12 Q And what were your areas of expertise and focus
13 during your law enforcement career?

14 A During my law enforcement career my areas of
15 expertise were primarily money laundering and
16 then after 9/11 [indiscernible] finance.

17 Q Sorry, you cut out a little bit there on my end.
18 And after 9/11 ...

19 A Terror finance.

20 Q And your last position was as a special agent
21 detailee to the Department of Treasuries office
22 of terrorism finance and financial intelligence;
23 is that right?

24 A That's correct.

25 Q And how long did you hold that role for?

1 reports. I represented the United States and
2 FinCEN and customs at many overseas meetings,
3 coordinated investigations. And then after
4 2001, the period surrounding 9/11 my primary
5 focus again was threat finance.

6 Q And in the middle of that time at FinCEN from
7 2002 till about 2004 you were detailed to the US
8 Department of States Bureau of International
9 Narcotics and Law Enforcement Affairs; is that
10 correct?

11 A That is correct.

12 Q And what were your responsibilities in that
13 role?

14 A States INL -- International Narcotics and Law
15 Enforcement Affairs, their primary mission is to
16 provide training and technical assistance
17 resources to countries around the world to
18 combat money laundering and related matters, so
19 I helped in that regard. But my primary
20 responsibility was once again threat finance.
21 After 9/11 there was a need around the world for
22 terror finance training and technical
23 assistance. That's what I coordinated. I ran a
24 \$10 million budget and helped put programs
25 together for countries around the world.

1 Q And prior to that you held a role with
2 US Customs; is that correct?

3 A Yes, I was a special agent with the United
4 States Customs Service.

5 Q And during that time you served for two years as
6 an undercover arms dealer; is that right?

7 A Yes, I did. It was basically my first
8 assignment with the US Customs service because I
9 came from the intelligence community. There was
10 a new undercover investigation going on focused
11 in Washington, DC. We ran it for about
12 two years and it was very, very successful.

13 I'll make a very, very long story short.
14 The South African government and arms corp was
15 trying to procure sophisticated technology to
16 put on a weapons system. We ran the operation
17 for two years. Everybody pled guilty and it was
18 the first successful anti-apartheid prosecution
19 for these weapons systems by the US government.

20 Q And it was so successful in fact that for your
21 efforts you received the US Attorney of the
22 District of Columbia Law Enforcement Officer of
23 the Year Award; is that right?

24 A Yes, I did. There were some other agents who
25 had -- in another capacities also won awards,

1 but yes, I did win that award.

2 Q And from 1990 to about 1996 you were assigned to
3 the Office of the Customs Attaché in Rome,
4 Italy; is that correct?

5 A That's correct.

6 Q And what can you tell the Commissioner about
7 that assignment?

8 A I was selected to head up the world's first
9 truly anti-money laundering task force between
10 the US Customs Service and the Italian Guardia di
11 Finanza, or fiscal police. Our task was to look
12 at the flow of dirty money going back and forth
13 between Italy and the United States as relates
14 to organized crime, the mafia, and it was a very
15 early use of using financial intelligence for
16 targeting.

17 We were also a regional office in Rome. We
18 covered 53 countries, so I was on the road quite
19 a bit to Africa, the Middle East, other areas in
20 Europe conducting a wide variety of
21 customs-related investigations.

22 Q And you've been designated a law enforcement
23 expert for the FATF for Moneyval and for the US
24 government for international anti-money
25 laundering mutual evaluations; is that right?

1 A That is correct.

2 Q And, Mr. Cassara, what work have you been
3 engaged in, if any, since your retirement from
4 government in 2005?

5 A It doesn't feel like I ever really retired.
6 I've done a lot of consulting for a lot of the
7 same government agencies and departments I used
8 to work for. I've really discovered I enjoy
9 teaching, mentoring, training. I've done a lot
10 of writing. I've written five books and a lot
11 of articles. I've consulted for business. And
12 it's been fun. I mean, for the first time in my
13 life I can do what I want to do. It's been a
14 lot of fun.

15 Q And you spoke about the books you've authored.
16 One of those was in November 2015 that was
17 titled *Trade-Based Money Laundering: The Next*
18 *Frontier in International Law Enforcement*; is
19 that right?

20 A I have a copy right here. Yes, I do.

21 Q And, Mr. Cassara, more recently in 2020 you
22 published *Money Laundering and Illicit Financial*
23 *Flows: Following the Money and Value Trails*; is
24 that right?

25 A That is correct.

1 Q Thank you. And, Mr. Cassara, can you explain to
2 the Commissioner over all of this experience
3 what sorts of money laundering cases you worked
4 on during your law enforcement career.

5 A General customs fraud cases, certainly
6 trade-based money laundering cases. I've worked
7 a number of what we call pickup operations,
8 primarily coordinating a lot of those when I was
9 overseas, picking up drug cash and following the
10 money trails. Underground financial
11 investigations. Lot of cases working money
12 laundering against mafia. Just a wide variety
13 of cases.

14 Q And did you conduct any investigations into
15 money laundering with a connection to Canada or
16 in conjunction with Canadian authorities and/or
17 law enforcement?

18 A Not specific money laundering cases. Over
19 the years I worked with Canadian liaison on a
20 number of issues, but I don't recall working
21 specific money laundering, trade-based money
22 laundering cases with Canada.

23 Q And, Mr. Cassara, you hold a Masters Degree in
24 International Management from the American
25 Graduate School of International Management; is

1 that right?

2 A That's correct.

3 MR. DAVIS: Madam Registrar, if I could ask that you
4 please pull up the document entitled "002
5 J. Cassara Final Statement to the Cullen
6 Commission" from the list of documents, please.

7 Q Mr. Cassara, do you see that document in front
8 of you there?

9 A I do.

10 Q And you recognize it as the report you prepared
11 for the commission?

12 A I do recognize it as such.

13 MR. DAVIS: Mr. Commissioner, I'd ask that this
14 please be marked as the next exhibit, number
15 341.

16 THE COMMISSIONER: Very well. 341.

17 THE REGISTRAR: Exhibit 341.

18 **EXHIBIT 341: J. Cassara Final Statement to the**
19 **Cullen Commission**

20 MR. DAVIS: Madam Registrar, I don't need that
21 displayed for time being. Thank you.

22 Q Mr. Cassara, could you describe the general
23 scope of this report to the Commissioner.

24 A I responded to the questions submitted to me by
25 the Cullen Commission representatives. Very,

1 very broadly I start off talking about, per
2 their request, my experience as an expert on the
3 FATF mutual evaluation team that evaluated
4 Canada. I talked about the US experience
5 combating international money laundering. I
6 next focused on trade-based money laundering and
7 countermeasures.

8 Q And for reference, those questions you've
9 provided them at pages 1 and 2 of the report; is
10 that right?

11 A That's correct.

12 Q And what can you tell the commission,
13 Mr. Cassara, about your methodology and sources
14 for writing this report?

15 A Some of the material I was able to borrow from
16 previous writings, particularly my last two
17 books. Other is original research. Everything
18 that I used was in the public domain. I
19 obviously no longer have access to classified
20 information or tactical law enforcement
21 information, so everything that I got is
22 referenced and is available in the public
23 domain.

24 Q And for the record, Mr. Cassara, in preparing
25 this report you didn't research in any

1 particular detail the laws of Canada that deal
2 with money laundering?

3 A No, I did not.

4 Q And you didn't do any in-depth research of any
5 particular cases of potential money laundering
6 in Canada; is that also fair?

7 A That is fair.

8 Q Mr. Cassara, my first area of questioning on the
9 report relates to your work with the Financial
10 Action Task Force, the FATF. Mr. Cassara, you
11 were the law enforcement expert during the
12 FATF's second mutual evaluation of Canada; is
13 that right?

14 A Yes, I was.

15 Q And what is the role of a law enforcement expert
16 in the FATF mutual evaluation process?

17 A Well, the FATF mutual evaluation process is
18 conducted by a team. It's normally comprised of
19 a small number of experts in the legal,
20 financial and law enforcement fields of the FATF
21 member governments other than that of the
22 country being evaluated. The law enforcement
23 expert focuses on issues regarding how that
24 particular country being evaluated adheres to
25 the FATF 40 recommendations that primarily deal

1 with law enforcement issues. We talk about
2 cases, about your statistics, what challenges
3 you face, the overall effectiveness of the
4 anti-money laundering response. These types of
5 things.

6 Q And what can you tell the Commissioner about
7 your experience in the second mutual evaluation
8 of Canada?

9 A Overall it was very positive. It was the first
10 mutual evaluation that I participated in. The
11 Canadians were extremely hospitable, very
12 professional, and I think we put forward a good
13 report.

14 Q And did you conduct any sort of interviews in
15 that role?

16 A Yes, I did.

17 Q And what can you tell the Commissioner about the
18 interviews you conducted?

19 A Basically I was involved in the fact-finding
20 process, including interviews of Canadian
21 government officials at the policy and
22 operational levels, regulators and supervisors
23 of financial institutions and designated
24 non-financial businesses and professions, the
25 Royal Canadian Mounted Police, prosecutorial

1 judicial authorities, custom and tax
2 authorities. This type of thing.

3 Q And you write at page 4 of your report, you say:
4 "I primarily asked law enforcement related
5 questions related primarily to capacity,
6 resources, cooperation, and
7 effectiveness."

8 Is that right?

9 A That is correct.

10 Q And what sorts of questions would you ask,
11 Mr. Cassara, today to evaluate the effectiveness
12 of anti-money laundering enforcement measures of
13 a particular country?

14 A Today I think I would go back and ask many of
15 the same questions. One of my biggest focuses
16 would be -- since we've had, you know, almost
17 30 years of doing this type of work since the
18 FATF 40 was put together, I would ask the
19 effectiveness of those measures as measured by
20 case statistics, how many successful
21 investigations, prosecutions, convictions for
22 money laundering, talk about seizures and
23 forfeitures. That type of thing.

24 Q And also at page 4 you identify some of the
25 primary concerns that existed in Canada with

1 respect to anti-money laundering at the time of
2 the second mutual evaluation report. Do you
3 recall what some of those concerns were from an
4 enforcement perspective?

5 A Very, very vaguely. Again, I'd like to remind
6 everybody that this took place well over
7 20 years ago. I don't remember the details of
8 the discussions, but I remember at the time one
9 of the primary concerns was about new Canadian
10 anti-money laundering legal and regulatory
11 tools. For example, Canada was in the process
12 of creating the Canadian financial intelligence
13 unit, FINTRAC. There was discussion about the
14 role and duties of FINTRAC and the collection,
15 warehousing, analysis and dissemination of
16 financial intelligence, the feed for enhanced
17 legislation. Privacy concerns were definitely a
18 big issue in the sharing of financial
19 intelligence.

20 Q Did you have any particular takeaways
21 considering all of that regarding the
22 capabilities of Canada's enforcement regime to
23 combat money laundering?

24 A My recollection at the time and everything that
25 has been buttressed over the years particularly

1 dealing with the Canadian law enforcement, the
2 RCMP, a very, very professional, very competent
3 organization.

4 Q And you write at page 4 -- I think this is in
5 the second paragraph about halfway down, and
6 I'll read it here. It says:

7 "I remember that many of the officials
8 that we spoke to (outside of the RCMP)
9 sugarcoated Canadian law enforcement
10 issues. When I spoke to various
11 individuals and institutions, they
12 communicated that Canada did not have
13 problems with major law enforcement issues
14 including narcotics, organized crime,
15 money laundering, tobacco smuggling, etc.
16 I knew that was not the case."

17 Do you see that quote there on page 4?

18 A I do.

19 Q And what officials are you referring to that you
20 spoke with outside of the RCMP?

21 A We had a number of discussions with a number of
22 officials that I talked about in the regulatory
23 community, the banking community, various
24 offices and departments within the Canadian
25 government. Once again, these conversations

1 happened many, many years ago, but it just
2 seemed to me that -- and I'm hesitant to use
3 this word, but it just seemed to me they were
4 very naïve. They kept thinking -- saying that,
5 you know, Canada doesn't have these problem.
6 And even though I didn't represent the United
7 States, I represented the FATF, they kept
8 saying, we don't have the same problems you have
9 in the United States. And I kept thinking to
10 myself, well, we have very, very similar
11 problems. But that was my takeaway. It was
12 kind of sugar coated.

13 Q And that was actually my next question is why
14 did you believe that Canada did have enforcement
15 issues?

16 A Well, because they have many of the same, say,
17 demographics as the United States does. The
18 United States -- again talking at the time, a
19 lot of issues with organized crime groups, a lot
20 of issues with gangs, a lot of issues with
21 narcotics trafficking, many of the things that
22 we'll be talking about, you know, today, and it
23 just -- they seemed for some reason to think
24 that all of that just stopped at the border,
25 that this didn't happen in Canada. Although I

1 was not an expert on Canadian criminal
2 activity -- I still am not -- it just seemed to
3 me, as I said, that was a bit naïve.

4 Q And you write at page 4, down at the bottom of
5 that paragraph, it says:

6 "My sense was that there were many
7 enforcement related issues that were not
8 being adequately addressed. The RCMP
9 seemed to agree with me."

10 Do you see that?

11 A Yes, I do.

12 Q And why did you have -- sorry, I've actually
13 just asked you that. I'll ask you what did the
14 RCMP say or do to give you the impression that
15 they agreed with your sentiments?

16 A Well, I can give you one example, and it had to
17 do with the sharing of financial intelligence.
18 That at the time there were proposed
19 restrictions on how FINTRAC could share
20 financial intelligence even with the RCMP, and
21 as I recall, a lot of this dealt with privacy
22 concerns. And coming from the US, coming from
23 FinCEN, our financial intelligence unit, I found
24 it ironic that FINTRAC could more easily share
25 its financial intelligence with the US FinCEN

1 than it could with domestic Canadian law
2 enforcement. And I was puzzled over that
3 because, once again, financial intelligence is
4 to support law enforcement. And I just could
5 not -- we commiserated, the RCMP and I.

6 Q And that was information that the RCMP provided
7 to you that FINTRAC could more easily provide
8 data to FinCEN than it could RCMP members?

9 A Yes.

10 Q Mr. Cassara, I'd like to jump next into the
11 United States anti-money laundering regime more
12 generally. I'd ask you first what you can tell
13 the Commissioner in a general way about the US
14 approach to collecting intelligence and pursuing
15 enforcement against money laundering?

16 A Just a minute. I am checking my notes. And by
17 the way, I just want to let you know, let the
18 Commissioner know that I am referring back to my
19 testimony and I do have notes. I hope that's
20 okay.

21 THE COMMISSIONER: Yes, that's fine.

22 THE WITNESS: Mr. Davis, I'm sorry, could you tell me
23 on which page this question comes from.

24 MR. DAVIS:

25 Q Sorry. And, Mr. Cassara, that is a pretty

1 general question to start.

2 A Could you repeat your question, then.

3 Q Yeah. So I'm just asking you generally what you
4 can tell the Commissioner about the US approach
5 to collecting intelligence and pursuing
6 enforcement against money laundering?

7 A The United States has collected financial
8 intelligence going back to about 1970 with the
9 creation of the *Bank Secrecy Act*. In fact this
10 is the 50th anniversary of the *Bank Secrecy Act*.
11 At the time, President Nixon declared the war on
12 deductibles and Congress want today give law
13 enforcement tools or ways to follow the money
14 trail, so they started passing a series of laws,
15 rules and regulations that dealt with financial
16 transparency or financial intelligence.
17 Transparency is a misnomer. It really -- I'm
18 sorry, bank secrecy is a misnomer. It really
19 does have to do with financial transparency.

20 Q Are there any particular strengths or challenges
21 to the US approach today that you might
22 highlight for the Commissioner?

23 A Well, the strengths are the numbers involved
24 with these types of reporting. Very broadly
25 there's about 200 million or more financial

1 intelligence reports in the FinCEN library, if
2 you will, or financial intelligence unit. About
3 20 million-odd reports are filed every year.
4 That's strengths. At the same time it's a
5 weakness. It's almost too much to evaluate.

6 Q And you write at page 12 -- maybe this can focus
7 it a bit. At page 12 of your report:

8 "Primarily because of resources, data,
9 technology, and advanced analytics, the
10 United States has the most professional
11 and vigorous customs enforcement service
12 in the world."

13 Is that accurate?

14 A I believe it is.

15 Q And why do you conclude that?

16 A Well, because we have an incredible amount of
17 resources. When the United States puts its mind
18 to something, it can accomplish whatever it
19 wants. So we spend an incredibility amount of
20 money and manpower. We have access to data. We
21 collect data. We have intelligence. We have
22 technical means. I've done a lot of work in a
23 lot of different countries and, you know, I --
24 obviously I'm very proud of the work that we do,
25 and it's not really bragging. This is a

1 professional evaluation. When we put our mind
2 to something, we can do it probably the best in
3 the world.

4 Q And speaking of resourcing, if we turn to
5 page 5. Starting at page 5 of your report --
6 starting at page 5, Mr. Cassara, you describe a
7 number of agencies and departments that play a
8 role in working to combat money laundering. And
9 for brevity, I'm going to say that those include
10 the Department of Homeland Security, the
11 Department of Justice, the State Department and
12 the Department of Treasury; is that right?

13 A That is correct.

14 Q What can you tell the Commissioner about the
15 role of the Department of Homeland Security in
16 combatting money laundering and in particular,
17 if you can, trade-based money laundering?

18 A I think it's important to understand that the
19 Department of Homeland Security was created
20 right after 9/11, so it was created roughly
21 2003-ish by the time it was finally put
22 together. And it incorporated what we call or
23 what I call legacy customs; all right? So it
24 has a dual role today. Immigration and Customs
25 Enforcement deals with immigration and it deals

1 with customs issues. So a lot of the legacy
2 customs issues went into Homeland Security
3 investigations, so it is the logical place for
4 trade-based money laundering investigations to
5 take place, and in fact they do. Both legacy
6 customs and now homeland security investigations
7 probably takes the lead on the types of things
8 we'll be talking about today.

9 Q Where -- within the Department of Homeland
10 Security, where is Customs and Border Protection
11 situated? Is that legacy or is that ...

12 A Yeah, it kind of went with -- if you think about
13 it, Customs and Border Protection is like the
14 old legacy customs inspector, get involved with
15 inspectors and inspection control of the border.
16 These are the people that -- if you go in and
17 out of the United States, these are the people
18 that, for example, will examine your bags or
19 they're at the ports examining cargo and this
20 type of thing. They don't conduct the
21 investigations. If they find investigative
22 leads, they'll turn it over to the special
23 agents and they'll conduct the investigations.

24 Q And those special agents are within the
25 Department of Homeland --

1 A Security. Yes, they are.

2 Q Okay. And, Mr. Cassara, to what extent do
3 entities within the US Department of Justice
4 investigate money laundering?

5 A Well, they definitely do. For example, the Drug
6 Enforcement Administration definitely plays a
7 role in investigating money laundering, but it's
8 a single-mission agency. It's narcotics. The
9 FBI also gets involved, the Department of
10 Justice also gets involved in money laundering.
11 And they're very good at what they do, but they
12 don't, for example, have expertise or a mission
13 to, say, look at trade. That's just not what
14 they do. Homeland security investigations has
15 that treasury/customs background. They have the
16 data; they have the expertise.

17 Q And what's the role of International Narcotics
18 and Law Enforcement Affairs when it comes to
19 money laundering?

20 A Basically it's focused overseas and it's to help
21 countries around the world. It provides
22 training; it provides technical assistance; it
23 provides residence advisors in certain countries
24 that ask for it. It coordinates a lot of
25 international assistance abroad relating to

1 anti-money laundering and now counterterrorism
2 finance.

3 Q And what about the Department of Treasury? Do
4 they have any role in combatting money
5 laundering?

6 A They do. As it relates to, for example, our
7 Internal Revenue Service, our tax -- our fiscal
8 police, they have a group of special agents.
9 Most of it is tax focused, but they do get
10 involved with money laundering. Treasury still
11 has OFAC, the Office of Foreign Assets Control.
12 They get involved with sanctions and
13 designations. And then the, again, the Office
14 of Terrorism and Financial Intelligence, they
15 also play a role at a policy-making body. I
16 think it's important to understand outside of
17 just a few IRS special agents that focus on
18 money laundering, Treasury no longer really has
19 an enforcement arm. Secret Service, Alcohol,
20 Tobacco and Firearms, all that is gone now with
21 the creation of the Department of Homeland
22 Security.

23 Q And where is FinCEN located?

24 A FinCEN is also within the Department of
25 Treasury. It's a small, little bureau. I don't

1 think there's more than 300 people there. I
2 think we'll be talking about FinCEN, but FinCEN
3 really doesn't have an investigative capacity.
4 It basically analyzes financial -- receives
5 intelligence, analyzes it and disseminates it to
6 support law enforcement.

7 Q Well, maybe we can talk about that briefly now.
8 Do you know under what circumstances FinCEN does
9 share its information with law enforcement
10 partners or other agencies?

11 A Yeah, I mean, that is basically -- its original
12 mission is to share law -- or I'm sorry, to
13 share financial intelligence. These forms that
14 are filed with Treasury every year, they share
15 it at the federal, state and local levels and
16 increasingly even overseas with Egmont Group
17 members that are part of a financial
18 intelligence unit network around the world. I
19 think there are about 164 members today.

20 Obviously there are safeguards, there are
21 permissions, but most definitely FinCEN does
22 share directly or indirectly. Sometimes they
23 just give downloads of bulk information to
24 agencies, say for example, the FBI; they do
25 their own analysis.

1 Q And you mentioned just a minute ago that you
2 estimate that there are probably about 300
3 persons working at FinCEN. I'm wondering what
4 you can tell the Commissioner about the staffing
5 there. Like, is it -- for example, whether or
6 not there are law enforcement or accountants or
7 other kind of non-traditional intelligence
8 persons employed at FinCEN?

9 A Yeah, there are, including some economists.
10 When I was there studying about the magnitude of
11 money laundering there were a lot of technical
12 people as well. They do have law enforcement in
13 the sense that all of those federal agencies
14 that I mentioned -- the FBI, the DEA, Homeland
15 Security investigations, Secret Service,
16 et cetera -- they all have what they call
17 liaison officers at FinCEN. So they're there
18 representing their agencies. They provide
19 information; they receive information; they
20 bring it back to their parent organizations.
21 And then they coordinate cases and deconflict
22 cases to make sure that they're not working the
23 same operation, or, if they are, that they
24 coordinate it.

25 Q And considering all of the departments that

1 you've just described to the Commissioner, how,
2 Mr. Cassara, if you know, do all of those
3 departments coordinate information sharing to
4 tackle money laundering as sort of a cohesive
5 unit, if they do at all?

6 A I am sorry, I didn't follow your question.

7 Q How do all of the units that you've just
8 described, so Treasury, the Department of
9 Homeland Security, how do they all work together
10 with the massive amounts of information and
11 persons to combat money laundering?

12 A Well, if you're talking about at FinCEN, these
13 representatives meet periodically and they
14 discuss if there's any conflict. There are
15 also, for example, hits on information. So, for
16 example, when I was with customs at FinCEN, if
17 there was a DEA agent that was working the case
18 in Miami and they did a hit on information that
19 we had and they wanted to use it, you know, I
20 would talk to the case agents involved and I
21 would with their assistance decide whether or
22 not we could disseminate that to that DEA
23 requester.

24 These deconfliction sessions, if you will,
25 were done sometimes formally, sometimes very

1 informally. It was a lot of coordination, a lot
2 of liaison.

3 Q And you note at page 8 of your report that
4 federal law enforcement in the United States
5 works closely with state and local police
6 forces; is that right?

7 A That is correct.

8 Q And what can you tell the Commissioner about the
9 benefits or drawbacks to having federal police
10 work with their state and local counterparts?

11 A It's a very good thing. We do this on a daily
12 basis. We do it on a task force-type of basis
13 but we also do it on a, you know, case-by-case
14 basis. When the federal agencies, departments
15 get involved, they can bring in a lot of
16 expertise, they can bring in resources,
17 staffing, analysis. Sometimes these local cases
18 that are generated turn into huge cases, so the
19 federal government steps in when it's in their
20 jurisdiction obviously and assists however they
21 can.

22 Q And at page 7 of your report you mention
23 integrated units. And this is something that I
24 expect the Commissioner will hear evidence
25 about, but it's integrated police units with

1 prosecutors and forensic accountants, for
2 example. What can you tell the Commissioner
3 about your views on whether or not those sorts
4 of integrated units are useful to combat money
5 laundering?

6 A Well, yes, they very much so. I'll just kind of
7 talk about a little bit. You know, some of
8 these integrated units, these task forces, they
9 combine the federal, state and local law
10 enforcement. Many of them are run by, say for
11 example, US Attorney offices. They're set up
12 for special purposes or they can meet regularly
13 to discuss and to investigate things like
14 narcotics traffic or terror finance.

15 There are also regional SAR, suspicious
16 activity report, review teams. And then you
17 have federal financial regulators. They also
18 play a role in combatting money laundering by
19 conducting examinations of financial
20 institutions. And these federal financial
21 regulators include, say, the board of governors
22 of the Federal Reserve system, the Office of the
23 Comptroller of the Currency, Federal Deposit
24 Insurance Corporation, the National Credit Union
25 Administration, Securities and Exchange

1 Commission, the Commodity Futures Trading
2 Commission. There's a lot.

3 Q And this kind of feeds nicely into the quote at
4 page 7 of your report which is citing the 2016
5 FATF Mutual Evaluation Report of the United
6 States where it says:

7 "Overall, LEAs --"

8 Is that law enforcement agencies?

9 A Law enforcement agencies, yes.

10 Q "-- have access to a wide range of
11 financial intelligence, capabilities and
12 expertise allowing them to trace assets,
13 identify targets and undertake expert
14 financial [money laundering and terrorist
15 financing] investigations."

16 Do you see that on page 7 there?

17 A Yeah, I recognize it. Yes.

18 Q It's -- yeah, for reference it's at the second
19 paragraph towards the bottom of page 7. But
20 would you agree with that statement,
21 Mr. Cassara?

22 A Yes, I would.

23 Q And what are the particular sources of
24 intelligence, even if you can speak generally,
25 that enable the US to effectively combat money

1 laundrying?

2 A First of all, our financial intelligence
3 database. We have -- for example, when you talk
4 about trade-based money laundrying, our
5 trade-related databases. We have commercially
6 available databases. Obviously we have
7 classified databases. We have a wide range, a
8 wide gamut of information, intelligence data
9 that's available.

10 Q And the quote at page 7 goes on to say, right
11 towards the bottom there:

12 "There is a strong focus on following the
13 money in predicate offence investigations
14 at the Federal level. There is, however,
15 no uniform approach to State-level AML
16 efforts and it is not clear that all
17 states give [money laundrying] due
18 priority."

19 Do you see that?

20 A I do.

21 Q And what are your views on that statement?

22 A I definitely agree with that. It was brought
23 home to me -- after I retired I did a lot of
24 contract work with the state and local
25 anti-terrorism training group sponsored by the

1 US Department of Justice. To make a long story
2 short, a number of criminal investigators,
3 people like myself, FBI agents would go out to
4 state and local law enforcement and we would
5 talk about law enforcement matters of concern
6 dealing with threat finance. I always talked
7 about money laundering, the tools that were
8 available to help follow the money trail,
9 financial intelligence this type of thing. And
10 I was absolutely shocked repeatedly, you know,
11 30 years after the founding of FinCEN that many
12 members at the state and local level were not
13 even aware that FinCEN existed or the financial
14 intelligence existed to help them in their
15 investigations. So we have a lot of work to do.

16 Q And looking at pages 7 to 8, and you touched on
17 this earlier, Mr. Cassara. What can you tell
18 the Commissioner about this idea that the
19 primary investigative focus is not on the money
20 but rather on participants and/or the illegal
21 product?

22 A Well, US law enforcement has consistently talked
23 about following the money and taking away the
24 proceeds of crime from criminals and criminal
25 organizations, yet for the United States and I

1 suppose most countries, including Canada, the
2 primary investigative focus is not the money but
3 the participants and/or the illegal product.
4 And insofar as that is the approach, the United
5 States does that as well as anybody.

6 But the reality, in my opinion, is that law
7 enforcement focuses on the participants and the
8 product because it's far easier than going after
9 the money. And the product's not just illegal
10 drugs. It's similarly holds true for, say,
11 human beings and trafficking networks,
12 counterfeit goods, stolen cars, weapons
13 smuggling, illicit tobacco, wildlife,
14 everything.

15 And it should be obvious, but many forget
16 that the criminal don't traffic, say for
17 example, in drugs for the sake of drug or any
18 other illegal good and service. They engage in
19 crime for the money. They're motivated by
20 greed. And our emphasis on product and
21 participants has led to AML failure, in my
22 opinion.

23 So as I talk about it in my book, and I
24 think I put that in my statement, in order to
25 change that paradigm, we need to truly finally

1 emphasize money and value, and in order to do
2 that we have to change the incentives and the
3 cultures of the bureaucracies. Because the way
4 that things are set up in law enforcement, at
5 least in the United States, too much emphasis is
6 made on going after the little guy because those
7 cases generate statistics and that's how
8 everybody is rated, for example.

9 So long-term meaningful impact cases are
10 sometimes shunned by management and the
11 bureaucracies because they're resource intensive
12 and many ultimately fail. We have a saying in
13 the US law enforcement, big cases mean big
14 problems. So sometimes they're just not worth
15 it.

16 Q And speaking of effectiveness, Mr. Cassara, at
17 page 5 of your report you say that:

18 "The success of a country's AML/CFT regime
19 is best judged on results."

20 Is that right?

21 A Yes, I do.

22 Q And sorry, we're jumping around a little bit
23 here. But at page 8 you go on to discuss the
24 metrics that matter in terms of evaluating
25 effectiveness.

1 A Yes.

2 Q What are those metrics?

3 A The only metrics that matter -- and, again, I've
4 been doing this for so many years. The metrics
5 that matter are forfeitures -- criminal
6 forfeitures and convictions. And I've heard
7 people say well, it's disruption. It's not
8 disruption. It's not the amount of financial
9 intelligence that's filed every year, how many
10 financial intelligences units are in the Egmont
11 Group. It's not whether or not a country is
12 compliant with the FATF 40. We do all of that
13 obviously, and we should, so that we can
14 identify money laundering, investigate,
15 prosecute, take the bad guys off the street and
16 take away their money, their motivation.

17 So the two metrics that matter, in my view,
18 are successful investigations, prosecutions,
19 convictions and forfeitures. Not just seizures
20 but forfeitures, how much we ultimately take
21 away from them.

22 Q Do you talk about in your report how the US
23 fares in terms of both metrics?

24 A I do, and candidly we don't do very well. I
25 have to kind of -- very, very briefly. The

1 amount of money laundered in the United States
2 is conservatively estimated in the hundreds of
3 billions of dollars every year. Going back to
4 an official US risk assessment back in 2015,
5 they estimated that the amount of money
6 laundered was about 300 billion but they also
7 acknowledged little certainty. Fraud and drug
8 trafficking were the biggest specified unlawful
9 activities, if you will.

10 But I believe that the magnitude of money
11 laundered in the United States is much much
12 higher than that. I think you could easily make
13 an argument, I could make an argument that total
14 approach is over a trillion dollars or so.

15 But getting back to the metrics that matter.
16 We do have a pretty good idea about how much
17 money is actually forfeited every year. And
18 going -- because I use the FATF mutual
19 evaluation report, those numbers are -- going
20 back to 2014, we actually forfeited about
21 4.4 billion. And while that sounds like an
22 impressive total, it's not certain if it in fact
23 was forfeited or just seized. I'm sorry, I
24 misspoke there.

25 But going back to that 300 billion number,

1 if we approximately say 300 billion was actually
2 laundered and we use about -- the estimate that
3 about 3 billion was actually forfeited, seized
4 and forfeited, then I can't see how you could
5 say that -- what we're doing isn't working.
6 It's about 1 percent of the total.

7 And the other important metrics is
8 convictions. And again these numbers are hard
9 to get, but currently there are about 1,200
10 money laundering convictions annually at the
11 federal level. And that seems like a large
12 number, but divided into the amount of criminal
13 activity in the United States and factoring in
14 the hundreds of billions, if not trillion
15 dollars of illicit proceeds it really isn't.
16 And if you look at that 1,200 number again,
17 although the numbers aren't public available, I
18 can make a very educated guess or advance an
19 educated opinion that many of those individuals
20 are low-level drug couriers.

21 So I don't think we're doing very well at
22 all.

23 Q And that's an interesting point, Mr. Cassara.
24 And kind of a deviation here, but how do you
25 reconcile this idea that convictions are an

1 important metric, yet to have a high number of
2 convictions it's easier to go after the
3 low-level individuals. So how do you reconcile
4 those two things?

5 A You need to do both. I kind of touched on that
6 earlier. Obviously you've got to follow the
7 money trail and sometimes you do arrest those
8 low-level drug couriers, for example. I'm not
9 saying they shouldn't be. But if you really
10 want to make a difference, if you want to
11 make -- if you want to make a difference, if you
12 really want to hurt these criminal organization,
13 you have to follow the money and value trail and
14 make what I call impact cases. Headline cases.
15 We're kind of moving away from that.

16 Back in my heyday, back in the -- you know,
17 in the 90s, for example it seemed like every
18 year or so there were major headline-grabbing
19 cases that really changed the money laundering
20 environment. And we just don't see that as much
21 today and we've kind of shied away from it.

22 So we have to have -- to answer your
23 question briefly, I think we have to have a
24 mixture of both.

25 Q And did you review the two metrics that matter

1 in your view for Canada?

2 A Yes, I did.

3 Q And acknowledging your testimony earlier that
4 you're not here as an expert on Canadian money
5 laundering, how did Canada fare on your review
6 of its metrics?

7 A They didn't do well. I have the statistics. I
8 don't have them right in front of me right now.
9 But both on forfeitures and convictions they did
10 not fare well at all. This is information I saw
11 that was in the public domain from news articles
12 and this type of thing.

13 Q Thank you. And, Mr. Cassara, I'd now like to
14 turn to trade-based money laundering. And I'll
15 ask you first, what is trade-based money
16 laundering?

17 A I really like the FATF definition, which is the
18 process of disguising the proceeds of crime and
19 moving value through the use of trade
20 transactions in an attempt to legitimize their
21 origins.

22 Q And for lay people how would you put that FATF
23 definition?

24 A Well, I think -- for lay people I think I would
25 concentrate on the word "value"; all right?

1 Particularly in the west, you know, kind of like
2 with our linear logic, we tend to inflate money
3 laundering methodologies with money in the
4 traditional sense, for example, cash or wire
5 transfers or even automatic teller machines.
6 It's kind of, you know, our culture, our way of
7 doing business. These are the things we
8 experience in our daily lives but we are not
9 often confronted with or don't even think about
10 value transfer, but money launderers do
11 understand value transfer. They've used it
12 effectively for years.

13 Q So how is trade-based money laundering distinct
14 from traditional, if you will, money laundering?

15 A In traditional money laundering we use the three
16 stages of money laundering to describe it:
17 placement, layering and integration. Although I
18 don't want to go into a lot of detail because it
19 takes time, but, for example, you would place
20 drug proceeds into a bank in a wide variety of
21 ways. And then to help launder or obfuscate or
22 make it difficult for criminal investigators to
23 follow the money trail you would layer it. Once
24 it's successfully deposited you would send it
25 from one bank to another, from one country to

1 another, from one offshore to another because
2 every time you layer, it makes it very difficult
3 to follow that money trail. And then finally
4 they integrate it. They integrate it back into
5 the economy. They buy up the shopping centres,
6 the fancy homes, the cars, they meet their
7 payroll, they invest in the stockmarket, all
8 that kind of stuff. Placement, layering and
9 integrating.

10 In traditional money laundering you can
11 track that. Trade-based money laundering, yeah,
12 but it's not quite the same. It's a
13 money-laundering methodology and it can be used
14 actually in all three of those categories of
15 placement, layering and integration, but it's
16 not very neat. It's not very precise.

17 Q And you write at page 10 of your report that:

18 "... trade-based money laundering and
19 value transfer are still not recognized as
20 significant threats."

21 Is that accurate?

22 A Yes, I do.

23 Q And can you explain that to the Commissioner.

24 A Because I think it's basically -- it's hiding in
25 plain sight. And I tell a story, I've told it

1 fairly frequently, but I'll tell it very briefly
2 here because I think it does make the point.

3 Not long after 9/11 I had a conversation
4 with a Pakistani individual who you could
5 charitably say was involved in the grey markets.
6 And I was talking to him about threat finance,
7 but we're talking about many of the things we're
8 going to be talking about this morning. We were
9 talking about trade-based money laundering, we
10 are talking about value transfer, we were
11 talking about counter-evaluation, fictitious
12 invoicing. And at the end of the conversation
13 this gentleman tells me, he said, Mr. John,
14 don't you know that your enemies are laughing at
15 you; that they're transferring money and value
16 right under your noses but the west doesn't see
17 it; they are laughing at you.

18 And that's what I mean; okay? A lot of this
19 stuff is just hiding in plain sight. We just
20 don't see it.

21 Q And why, in your view, is that? Is it a matter
22 of focus? Is it a matter of capability? Is
23 it -- why do we not see it?

24 A It's focus; it's capability; it's lack of
25 expertise. But I think more than anything else,

1 again with the perspective of 30 years, it's
2 because our anti-money laundering
3 countermeasures were set up decades ago to fight
4 the traditional, say, Miami cocaine cowboy where
5 large amounts of drug money were sloshing around
6 through western financial institutions.

7 And it's worked to a certain extent. I'm
8 not dismissing that. But because we're so
9 focused on traditional money laundering through
10 banks, we're not seeing all this other stuff
11 that's going on.

12 Q And that's why you write -- at page 10 of your
13 report where you write:

14 "The trade-based methodologies almost
15 completely avoided detection by our
16 traditional FATF-centric [anti-money
17 laundering and counterterrorist financing]
18 countermeasures."

19 Is that right?

20 A That is correct.

21 Q And so what is it about that FATF-centric model
22 that leaves countries or states that makes it
23 challenging to see and detect trade-based money
24 laundering?

25 A Well, once again, the FATF was established in,

1 you know, late 1980s, early 1990s. And as I
2 said, the global money laundering threat was
3 much different then. So we engineered
4 countermeasures, you know, part of the FATF 40,
5 to try to stop it. Financial intelligence.
6 Compliance programs. Creating financial
7 intelligence units. All these things. And
8 during those early years FATF almost completely
9 ignored these kinds of things. I mean, I talk
10 about it. I remember back in the early 90s I
11 talked to FATF about the misuse of the
12 international gold trade and trade-based money
13 laundering, but they weren't ready for it then.
14 Methodologies that were based on trade.

15 And I think part of the problem particularly
16 back in the early years of the FATF, you know,
17 the 1990s, for example, the FATF was dominated
18 by western countries, outside of Japan and a few
19 others. And these countries you know, as I
20 talked about earlier, kind of our western linear
21 logic ways of doing business, they were focusing
22 on traditional money laundering and banks. And
23 it's only been in more recent years that the
24 FATF and regional-style FATF bodies have been
25 getting input from other countries and being

1 made more aware that there are other ways of
2 laundering money and transferring value that
3 kind of fall away from the FATF traditional
4 guidelines.

5 Q And you touched on this a bit earlier in your
6 testimony, but what can you tell the
7 Commissioner about the risk of conflating
8 trade-based money laundering with, for example,
9 trade fraud for the purposes of tax evasion or
10 avoiding currency controls? What's the risk
11 there?

12 A It's kind of a difficult issue because it goes
13 back to predicate offences and specified
14 unlawful activities. There's some debate, if
15 you will. A lot of people say that trade fraud
16 is trade-based money laundering and others will
17 say it's not trade-based money laundering;
18 it's -- you know, it's a specified unlawful
19 activity but it's not money laundering itself.

20 I can argue both sides of it, but they're
21 all kind of intermingled. Trade fraud is kind
22 of a common denominator in trade-based money
23 laundering, so I just look at it as such. Does
24 that make sense?

25 Q It does to me, Mr. Cassara. Thank you. And

1 next what can you tell the Commissioner about
2 the scope or magnitude of trade-based money
3 laundering that you provide in your report?

4 A Well, certainly even the FATF says that
5 trade-based money laundering is one of the big
6 three money laundering methodologies. The two
7 others are obviously money laundering in
8 financial institutions. Number two is bulk cash
9 smuggling. Number three is trade-based money
10 laundering.

11 Q And what can you tell the Commissioner about the
12 magnitude of your view of how big the problem
13 is?

14 A I believe, and I wrote a book on it, that if you
15 talk about all the different facets of
16 trade-based money laundering. You talk about
17 obviously customs fraud, which is the biggest
18 part of it, you talk about, you know, export
19 incentive fraud, you talk about how it's used in
20 capital flight, you talk about VAT fraud, you
21 know, you talk about underground financial
22 systems, countervaluation, all of these things
23 that I talk about -- I think it's in my
24 statement somewhere, I list them out -- that it
25 is the largest money laundering methodology in

1 the world, and it's the one that is least
2 recognized and enforced. And it breaks my
3 heart. I just think the overall magnitude of
4 the problem is enormous.

5 I'm kind of looking at my notes here. And I
6 think you may ask a question, and I think you
7 also have a witness testifying in a few days,
8 Dr. John Zdanowicz. And I've talked to him. He
9 provided me some information for my books not
10 this testimony. But he's looked at countries
11 around the world. He's looked at data in the
12 United States, trade data in the United States.
13 He's saying that roughly 6 to 9 percent of US
14 trade is suspect, dealing with, say, over and
15 under invoicing. 6 to 9 percent. You know, and
16 that entails an incredible amount of loss of
17 revenue. Taxes, duties for the United States.

18 But my point is that the United States say 6
19 to 9 percent of our trade is suspect, at least
20 it needs further examination. And we have some
21 of the best customs, law enforcement,
22 intelligence services in the world. If that's
23 what our issue is, what does that mean for other
24 countries around the world? It's really a
25 problem that needs addressing.

1 Q And you acknowledge, however, at page 11 of your
2 report that there are no known official
3 estimates of the magnitude of trade-based money
4 laundering; is that fair?

5 A That is correct. And that's something I
6 faulted, for example, the United States
7 government on for years because it definitely
8 impacts our revenue, it impacts our national
9 security. It impacts many, many things, but we
10 have never put a comprehensive evaluation
11 together on the magnitude of trade-based money
12 laundering. And as far as I know, that's, you
13 know, the same for most countries around the
14 world. That's true globally. Worldwide. I
15 don't believe the FATF has done it as well.

16 Q You kind of beat me to the punch here. But,
17 Mr. Cassara, what sorts of harms flow to society
18 or to government or to an economy as a result of
19 trade-based money laundering?

20 A I think there's two. First of all, it's the --
21 in my opinion it's the largest money laundering
22 methodology with all that it entails. And next,
23 as I think we're going to discuss further, since
24 TBML is also based on invoice fraud manipulation
25 that means that the governments involved lose

1 substantial revenue, be it non- or lesser
2 payment of taxes and duties.

3 Q Well, and we -- and perhaps now is a good time
4 to turn to looking particular typologies,
5 Mr. Cassara. And I'd ask what you tell the
6 Commissioner generally about invoice fraud,
7 which is identified, for reference, on page 15
8 of your report? Sorry, and I should say
9 generally about how invoice fraud is used to
10 launder funds through trade.

11 A Well, generally speaking trade-based money
12 laundering often involves varied and sometimes
13 elaborate schemes. But almost all of them it
14 evolves around invoice fraud and manipulation.
15 For example, over- and under-invoicing of goods
16 and services, multiple invoicing of goods and
17 services and falsely described goods and
18 services.

19 Q Maybe if we could stop there. Sorry, go ahead.

20 A No, go ahead.

21 Q I was going to say, if we could stop there and
22 maybe you can explain to the Commissioner each
23 of those, so multiple invoicing of goods, over-
24 and under-invoicing and falsely described goods,
25 and explain how that facilitates trade-based

1 money laundering, please.

2 A Sure. What I like to do sometimes is use an
3 example. So, say for example, Mr. Davis, you
4 and I are in the business of buying and selling,
5 trading pens; all right? You're in Canada; I'm
6 in United States. You don't know me; I don't
7 know you. You send me a letter of inquiry. I
8 manufacture pens. All right. So we have an
9 arm's length business relationship. We
10 negotiate the price of a pen; all right? And I
11 sell you these pens. We come upon a fair price.
12 Say, I don't know, \$50. Manufacturing costs,
13 shipping, freight, all this kind of stuff. And
14 I send you a shipment of pens; okay? That's how
15 it should work.

16 Say for example, you do not know -- you know
17 me. You know me well. We might be brothers or
18 cousins or whatever it is. We decide we want to
19 over- or under-invoice these pens. We could
20 make the price of this pen \$20, \$100, \$1,
21 whatever it is. We are business partners. We
22 could be colleagues in a criminal organization.
23 We could be involved with all kinds of suspect
24 work. But we are -- or I am sending you pens,
25 and you can transfer a lot of value via pen. I

1 could launder money with literally any
2 commodity. It doesn't obviously have to be a
3 pen. It can be literally anything. I think
4 we're going to be talking about that.

5 So when we talk about falsely described
6 goods, it's just that. You know, it's the
7 quality of the pen. It's the value of the pen.
8 When you talk about multiple invoicing of goods,
9 remember the reason a lot of times money
10 launderers do this is to create an invoice for
11 payment; right? So every time there's an
12 invoice presented, there's rationale for payment
13 to be sent abroad.

14 It's similar to phantom shipping, which is
15 another one, where no goods are actually shipped
16 but the fraudulent documentation generated is
17 used to justify payment abroad. And this is
18 sometimes called circular shipping. That's
19 another one. It's sometimes -- I'm not an
20 expert on that VAT by any means. We don't have
21 VAT in this country. But I understand it's
22 somewhat similar. The same shipments in and
23 out, in and out, in and out generating invoices
24 and payments made sometimes with tainted funds.

25 Q Sorry. I appreciate that there's a variety of

1 methods you've just described. Could you
2 explain to the Commissioner -- and you do so in
3 your report, I think, in a pretty pithy way
4 about how value is transferred or funds are
5 laundered using over- and under-invoicing -- how
6 value moves and which way it moves.

7 A Sure. I'll give you a brief explanation, but
8 then I want to go to my cheat sheet that I
9 always use here. Over- and under-invoicing of
10 goods. For example, by under-invoicing goods
11 below their fair market price an exporter is
12 able to transfer value to an importer while
13 avoiding the scrutiny associated with more
14 direct forms of money transfer. The value the
15 importer receives when selling, directly or
16 indirectly, the goods on the open market is
17 considerably greater than the amount he or she
18 paid the exporter.

19 And I think what you're referring to in my
20 testimony is I use an example. I said company A
21 is located in Canada. And, say for example,
22 they ship a million widgets worth \$2 each to a
23 company B based in Mexico. On the invoice,
24 however, company A listed the widgets at a price
25 of only \$1 each and the Mexican importer pays a

1 Canadian exporter only 1 million for them. Thus
2 extra value has been transferred to Mexico where
3 the importer can sell, directly or indirectly,
4 widgets on the open market for a total of
5 2 million.

6 So the Mexican company then has several
7 options. It can keep the profits. It can
8 transfer some of them to a bank outside the
9 country or the proceeds can be further laundered
10 via layering and integration. It can share the
11 proceeds with a Canadian exporter, once again
12 depending on the nature of the relationship, or
13 even transfer them to a criminal organization
14 that may be the hidden actor behind the business
15 transactions.

16 So we're talking under-invoicing. You can
17 do the same thing in the opposite direction. An
18 exporter could, say, over-invoice goods above
19 their fair market price. In this manner the
20 exporter receives the value from the importer
21 because the latter's payment is higher than the
22 goods' actual value on the open market.

23 And speaking from a -- say, from a customs
24 perspective, a law enforcement perspective, an
25 intel perspective, even a bank finance

1 officer -- we're going back to this example of
2 pen -- you may be able to spot some of these
3 large discrepancies, but if they don't get too
4 greedy, very -- highly unlikely it's going to
5 raise scrutiny. They're not going to get
6 caught.

7 And I just wanted to leave with one thing.
8 This is kind of like my cheat sheet, if you
9 will. Invoice manipulation made simple. If you
10 think about you want to move money, value out of
11 a country, you import goods at overvalued prices
12 or export goods at undervalued prices. You want
13 to move money in, you import goods at
14 undervalued prices or export goods at
15 undervalued prices. It's kind of common sense,
16 but a lot of times people don't think about it.

17 Q And it is -- perhaps another example we can turn
18 to, Mr. Cassara, is at pages 17 to 18 of your
19 report.

20 A Yes.

21 Q And there you provide an example of tracking the
22 pricing of refrigerators; is that correct?

23 A I do, yes.

24 Q And maybe you can provide further information.
25 What can you tell the Commissioner about this

1 example that you've provided here?

2 A This is from a real US customs case and it
3 basically deals with the exporting of
4 refrigerators from the United States to another
5 country in South America. So the horizontal
6 line here is time and the vertical line
7 represents value. And what we're doing is we're
8 getting the values and the quantities of the
9 refrigerators being shipped, say for example,
10 from the US shipper's export declaration. So
11 this is official customs data. And then we are
12 getting the reciprocal data from that other
13 country, their import data; right?

14 So going back to, say, the widget example,
15 if I'm exporting, I don't know, 1,000 widgets to
16 Mexico and each widget is priced at \$100, when
17 they get to Mexico with some recognized
18 variables you should still have 1,000 widgets
19 and they should still be priced at \$100. But
20 that's not happening in the example of the
21 refrigerators.

22 You can see the discrepancies between the
23 peaks and the valleys, and those discrepancies
24 are the transfer of value in the form of
25 refrigerator. Another example of trade-based

1 money laundering.

2 Q And what do -- so, for example, looking here at
3 the difference between those -- you know, the
4 area between those two graphs, you say that
5 represents the value. What do those sorts of
6 anomalies tell us about money laundering and
7 what do they not tell us? What can the
8 Commissioner take from price anomalies?

9 A There are some very interesting ones out there,
10 and again I refer to Dr. John Zdanowicz. He's
11 provided me with some really fascinating
12 anomalies. I don't recall them all off the top
13 of my head, but I know there was one example --
14 he showed me, for example, the US was importing
15 plastic buckets from the Czech Republic at about
16 \$970 a bucket or we were exporting live cattle
17 to Mexico at about \$21 a head. These are
18 definitely anomalies. They don't make any
19 market sense. They don't make any economic
20 sense.

21 And you remember what I said about
22 trade-based money laundering and over- and
23 under-invoicing. Unfortunately these types of
24 anomalies even though they raise eyebrows, I
25 mean, generally speaking they're not being

1 investigated. And it goes back to your question
2 about what anomalies do not tell us. So
3 something like this, you know, that \$972 bucket,
4 it could simply be an example -- it could be an
5 example of customs fraud but it could also be,
6 say for example, statistical outlier based on
7 bad input information.

8 But from an investigative standpoint, I kind
9 of look at this as -- you could call it
10 suspicious activity. From a law enforcement
11 perspective you use this for possible lead
12 information. You look at other similar types of
13 transactions with the same parties involved. Is
14 there a pattern; is there a method; is there a
15 trend. If something doesn't look right, you may
16 decide to make inquiries. You do analysis; you
17 conduct investigations; you ask questions. Who,
18 what, when, where, why. Maybe there's a
19 rational explanation for all that. Maybe there
20 is a rational explanation for a \$972 bucket. I
21 don't know.

22 And sometimes there actually are. I've
23 conducted some of those interviews too. And you
24 just walk away and scratch your head, but it
25 makes sense when you get the explanation. But

1 that is the kind of things that needs to be done
2 more, and unfortunately it's not.

3 Q And on the topic of unique items, one of the
4 issues that you identify in your report is with
5 respect to the bulk shipment of items that may
6 be easily conflated with like items. And the
7 example that you use is RAM chips that go into
8 computers. Can you tell the Commissioner about
9 that, please.

10 A Sure. That's also an example from real life.
11 This was -- a few years ago I was down -- I was
12 over in Jordan doing trade-based money
13 laundering and other types of trading for
14 Jordanian customs, and there was a Jordanian
15 customs inspector that gave me a real life
16 example. She says, Mr. John, she said, this is
17 a real problem I have right now; we're importing
18 these RAM chips; some of them are -- you know,
19 16 gigabytes or 64 gigabytes, whatever it was.
20 I don't recall specifically. But she says, I
21 cannot tell the difference; they look the same
22 but obviously the value is inherently different.
23 What do you we do?

24 You know, this is the kind of thing that
25 we're talking about. You know, there's customs,

1 taxes and duties. There's that type of an
2 issue. It could also be, say, value transfer.

3 Q And thank you, Mr. Cassara. I turn next to ask
4 you about capital flight and underground
5 finance, which is described starting at page 19
6 of your report. First of I'll ask, Mr. Cassara,
7 what is capital flight?

8 A Well, first of all, I want to say that capital
9 flight is -- occurs all over the world. I talk
10 a lot about capital flight in China, capital
11 flight, say, from China coming into Canada, but
12 it's not unique to just China. But I do
13 concentrate on China because I think it has
14 direct impact on some of the inquiries from the
15 commission. Basically it's trying to get money
16 out of one country or value into another
17 country; all right? For lots of reasons.

18 For example, going back to China, over
19 recent years the Chinese government or the CCP
20 has imposed capital controls on corporations and
21 businesses and as well as its citizens, and the
22 CCP has recently begun penalizing severe
23 violators with jail time. Chinese
24 restrictions -- I think there are about -- I
25 think it's about \$67,000 Canadian per year,

1 that's how much the average Chinese citizen can
2 send outside of the country.

3 So with those restrictions, you know, how do
4 they get around them because there is a great
5 need by Chinese people to get money out of the
6 country for a whole host of reasons. And they
7 do it in wide variety of ways. And I talk about
8 some of that in my testimony, including tapping
9 political and personal connections, using
10 transfer quotas of friends and family members to
11 get money out of the country, using illegal
12 funds through gaming and junkets particularly
13 via Macau. Using -- until recently I think the
14 special relationship with Hong Kong has served
15 as a financial conduit to the rest of the world.
16 Obtaining special financial services offered to
17 elites. And then it gets back to what we were
18 talking about. Trade-based value transfer and
19 underground financial systems.

20 Q And, for the record, Mr. Cassara, that list you
21 just went through, that's contained at pages 19
22 and 20 of your report; is that right?

23 A I think so.

24 Q The bottom of page 19 and the top of page 20.
25 Sorry, are you able to confirm that,

1 Mr. Cassara?

2 A Yes. I just ...

3 Q Thank you.

4 A Yes, I am.

5 Q Thank you. And, Mr. Cassara, what sorts of
6 risks arise as a result of capital flight?

7 A Well, again I'm going to use my example of
8 China. I think there are many risks. The
9 exodus of capital has fuelled worries about the
10 Chinese economic outlook. There are other
11 issues as well, including, say, you know, the
12 US-China trade war, plummeting Chinese stock
13 market, fears of a real estate bubble, suspect
14 loans and balance sheets by Chinese banks, fears
15 of currency devaluations, increasing debt, the
16 theft of state funds by Chinese officials,
17 paltry returns on savings accounts. All this
18 has been exacerbated by the coronavirus. The
19 deteriorating situation in Hong Kong, social
20 unrest.

21 You know, all of this stuff helps contribute
22 to capital flight. And so as I said -- you
23 know, as the Chinese government cracks down on
24 corruption and starts to jail people because of
25 this, Chinese citizens are transferring wealth

1 out of the country, and of course with so much
2 capital leaving the country there are risks for
3 receiving countries as well.

4 Q And what in your view are those risks to
5 receiving countries?

6 A Well, I think there's some questions that the
7 commission should ask itself. For example,
8 you're talking about massive amounts of capital
9 leaving China. In theory there's nothing wrong
10 with capital coming in. In fact a lot of
11 countries encourage capital investment. That's
12 great. But unfortunately when we're talking
13 about the things that we're talking about, in
14 money laundering we use the descriptive of
15 mixing licit with illicit funds. With all this
16 capital coming in, it could be -- for example,
17 the proceeds of crime is mixed in with some of
18 this stuff.

19 Another one that intrigues me is does China
20 consider capital flight over the reporting
21 threshold, say, of \$67,000 Canadian a year money
22 laundering. And if it does, does that
23 designation of money laundering kind of transfer
24 to the receiving country. Is the United States
25 or Canada -- you know, do we recognize that.

1 Will we help the Chinese in their
2 investigations? The influx of capital, as I
3 said, can be helpful, but it can also distort
4 local markets. Real estate markets, for
5 example. Cause inflationary pressure. Act as a
6 catalyst for social disruption. Cause undue
7 influence. There's all kinds of issues. It's
8 not all a good thing.

9 Q And you describe in this section of your report
10 at page 21 the Vancouver model of money
11 laundering; is that right?

12 A I do.

13 Q What can you tell the Commissioner about the
14 Vancouver Model and how it might involve or be
15 related to capital flight and trade-based money
16 laundering?

17 A First of all, I want to make it perfectly clear
18 that I am not an expert on the Vancouver Model
19 of money laundering. I'm assuming you guys are.
20 That's one of the reasons why you are doing
21 this.

22 My research on the Vancouver Model of money
23 laundering comes from, again, publicly available
24 information. But my understanding it's a where
25 large of amounts of money are taken out of

1 China, for example, through informal value
2 transfer systems and other means to avoid these
3 limits on capital flight that we were talking
4 about. And they to that in a wide variety of
5 ways. And once in, say, British Columbia the
6 funds are sometimes mixed with cash from the
7 drug trade and perhaps other illicit proceeds of
8 crime, and then the cash is cleaned through
9 British Columbia casinos or private mortgages.
10 This type of thing.

11 So in other words, you've got the Vancouver
12 Model of money laundering, it involves capital
13 flight, and as you remember my lists of ways to
14 get around these currency restrictions, it
15 includes trade-based money laundering and value
16 transfer and underground financial systems such
17 as flying money. I think we're going to be
18 talking about that. Money laundering via real
19 estate and other means.

20 Q And you're right, we are going to be talking
21 about that. And looking at page 21 of your
22 report, the starting point, what can you tell
23 the Commissioner about the definition or meaning
24 of underground banking or alternative remittance
25 systems?

1 A When I talk about alternative remittance
2 systems, they're sometimes known as underground
3 banking, informal value transfer systems,
4 parallel banking. Sometimes people that don't
5 know better just lump everything together and
6 they say well, that's hawala, which -- hawala
7 is -- I'm sure everybody is aware is a very old
8 system that's been around literally for hundreds
9 of hundreds of years, if not more. Originated
10 in India, south Asia. It's now found literally
11 all over the world. It's remittance systems
12 primarily used today by immigrants, hard working
13 immigrants that want to send money back home to
14 support their loved ones. And it's very
15 efficient and very effective. Very -- it
16 doesn't cost very much. So it makes a lot of
17 sense for many of these immigrant communities to
18 use this system and similar type of systems.

19 Q And you mentioned hawala. Just on that point,
20 for the record, you provide a helpful list of
21 the various types of remittance systems that are
22 found all across the world at pages 21 to 22 of
23 your report; is that correct?

24 A Yes, I do. I see it here.

25 Q And so what can you tell the Commissioner about

1 how these underground banking systems operate in
2 a general way?

3 A In a very, very general way they almost all
4 operate the same way. I'll take hawala. It
5 could just as easily be, you know, hundi which
6 means the same thing in Pakistan, or undiyal
7 which means the same thing in Sri Lanka or
8 Fei-chien or flying money in China. They almost
9 all operate the same way.

10 Say for example, you have a Somali immigrant
11 in Victoria, British Columbia, and he wants to
12 send money back to his loved ones in Somalia.
13 He drives a taxi. He works very hard. You
14 know, he wants to send money back home, say,
15 \$500 equivalent. So he could go to a bank or he
16 could go to Western Union but they charge too
17 much, besides there's not a whole lot of banks
18 or, you know, Western Union outlets in Somalia
19 because of the situation there. So he finds
20 himself a hawala broker. It could be a member
21 of his extended family, tribe or clan. A hawala
22 means a number of things, but a lot of it means,
23 you know, trust. He trusts for example his
24 cousin the hawala broker.

25 So he gives the \$500 -- Canadian dollars to

1 that hawala broker in Victoria with directions
2 to, say, deliver it to his father, say, back in
3 Mogadishu in Somalia. So he pays a small fee at
4 that end. The broker in Victoria contacts his
5 counterpart broker in Mogadishu either directly
6 or through various exchanges, for example, in
7 Dubai and elsewhere. And that same money, \$500
8 less commissions in shillings, which is the
9 currency in Somalia is delivered directly and
10 probably within 24 hours to his father in
11 Mogadishu.

12 Hawala means in the US legal systems money
13 transfer without money movement. So the money
14 was transferred from Victoria to Somalia but it
15 didn't actually move. The money, the Canadian
16 dollars, if you will, stayed in Victoria; the
17 Somali shillings were located in Somalia. So
18 the money didn't actually travel; it stayed put.

19 Now, the important thing for our
20 discussions -- and once again this could be
21 hawala, it could be flying money; they operate
22 the same way -- you've got these brokers on both
23 sides of the world, so periodically somebody is
24 running a surplus, somebody is running a
25 deficit. They have to balance the books. So

1 countermeasures, financial intelligence.

2 Q And so what -- kind of onto this next point,
3 what challenges, if any, do law enforcement face
4 when they're attempting to investigate or find
5 about these underground banking systems?

6 A Quite a number of challenges. Again it depends
7 on the group involved. And, again, I want to
8 make this perfectly clear. I am not ethnic
9 bashing in the least. I have the utmost
10 admiration and respect for the individuals, the
11 systems involved. They're very highly efficient
12 and they work very, very well. So I just wanted
13 to make that clear.

14 But the challenges for law enforcement, once
15 again, is they're difficult to understand.
16 They're not necessarily part of traditional
17 western culture and ways of doing business.
18 They're cloaked in secrecy. They're very hard
19 to infiltrate. We don't have, say -- speaking
20 for the United States, we don't have a lot of
21 Gujarati FBI speakers or Pashto speaker -- FBI
22 speakers or even, for that matter, Mandarin FBI
23 speakers. There are not that many. And even if
24 we, say, recruited an agent to go into some of
25 these networks, the question might be, this

1 whole thing is based on trust and who you know
2 is -- who's your uncle in the village back in
3 the old country. So it's very, very
4 challenging.

5 And a lot of this stuff too, you go up on a
6 wire, they use a lot of slang, a lot of dialect,
7 a lot of jargon. Very, very challenging.

8 Q On that challenge -- sorry. Go ahead,
9 Mr. Cassara. I cut you off.

10 A No, I don't know if one of your questions are
11 going to be, but, you know, our traditional
12 countermeasure to counteract a lot of this stuff
13 is to have them file suspicious activity
14 reports. They're classified in the United
15 States as, say, money service businesses, and
16 that hasn't worked either.

17 Q And why do you believe that to be the case?

18 A Well, I'll give you the numbers. I mean, I use
19 this example because I think it's very, very
20 telling. I was at FinCEN, as I said, in the
21 1990s, in the late 1990s, and these money
22 service businesses first started getting
23 recognition. So we wanted to, you know, start
24 passing some laws and regulations to govern
25 their use. So before we could do that, the

1 director of FinCEN contracted out with one big
2 accounting groups, one of the big 8. Do a
3 study; tell us how many MSBs there are because
4 we need to know. So, again, this was in the
5 late 1990s. After a few years and a lot of
6 money they came back with a study that said, as
7 I recall, there's something -- about
8 240,000 MSBs in the United States. These are
9 everything from mom and pop cheque-cashing
10 companies to casa de cambios to PayPals to
11 Western Unions to all this stuff.

12 Nothing was done with that information, and
13 then 9/11 happened. And then the Congress
14 discovers hawala, passes the USA *Patriot Act* and
15 says okay, all of these MSBs, they have to be
16 registered with Treasury's FinCEN; they have to
17 be licensed in -- I think it's about 48 or 49 of
18 the 50 states; they have to file suspicious
19 activity reports with Treasury's FinCEN.

20 Well, 20 years later very little of that has
21 been done. You can get on the FinCEN website
22 and find out the number of money service
23 businesses. It's measured in the tens of
24 thousands. Not a very high number at all.
25 Certainly not that 240,000 number. You want to

1 talk about the number of suspicious activity
2 reports filed by hawaladars. It's not
3 happening.

4 And that is the same in countries around the
5 world. I mean, I've worked with the United Arab
6 Emirates, have them crack down on hawaladars and
7 they're supposed to file suspicious activity
8 reports. It doesn't happen. It just doesn't
9 happen. And why should it? Hawala's based on
10 trust. You're not going to -- you're not going
11 to file a suspicious activity report on your
12 cousin. It doesn't work.

13 Q Thank you. And I'd like to turn gears just a
14 little bit to page 25 of your report,
15 Mr. Cassara.

16 A Okay.

17 Q And I'll ask generally what risks -- or pardon
18 me, what is trade finance? What can you tell
19 the Commissioner about trade finance?

20 A Well, trade finance covers trade transactions in
21 which a bank provides some form of financing to
22 a party in the transaction. In the transactions
23 a party will present documents to the bank, and
24 often a letter of credit, for example, is
25 requested. And these are referred to as

1 documentary transactions. In these transactions
2 banks generally process documentation involved
3 in the trade transactions such as bill of
4 lading, invoice, packing lists. This type of
5 stuff. And the trade finance officer in the
6 bank reviews the information underlying the
7 transaction for soundness and compliance with
8 anti-money laundering policies and procedures.
9 [Indiscernible] trade finance.

10 Q And how -- what sort of risks, if any, does
11 trade finance present for trade-based money
12 laundering?

13 A Well, for one thing it's the very volume of
14 international trade that creates the risk. I
15 mean, global merchandise trade is in the tens of
16 trillions of dollars every year but only about
17 20 percent of global trade transactions involve
18 trade finance. I mean, still that represents
19 multi multi multi hundreds of billions of
20 dollars a year, but, again, it's the volume of
21 trade that is tremendous risk.

22 The other thing is because trade is so
23 complex, it's very, very difficult for, say, law
24 enforcement to understand. It's traditionally
25 been under their radar screen, but as we've

1 seen, it definitely presents a risk.

2 Q And what can you tell the Commissioner about
3 open account trade, which is described, for
4 reference, at page 26 of your report?

5 A Open account trade are, say, trade transactions
6 not financed by a bank. In open account trade
7 the financial transactions between the buyer and
8 the seller, which underpins the trade
9 transaction, is usually processed through a
10 bank's automatic payment system. And according
11 to the Wolfsberg Group, and I kind of refer to
12 this above, 80 percent of international trade
13 that is processed through financial institutions
14 is open account. Only 20 percent involved trade
15 finance.

16 So these open account trades are kind of
17 automatic, and they're just not flagged. There
18 may be anti-money laundering software that looks
19 at some of this stuff, but I've never worked in
20 a bank. I can't testify with any knowledge
21 about that.

22 Q Understood. And looking at -- around there at
23 page 25 of your report. I'm not going to take
24 you there, but you note that appendix 1 to your
25 report provides for a list of red flag

1 indicators related to trade finance; is that
2 correct?

3 A That's correct.

4 Q And what are the sources of those indicators
5 that you've put in your report?

6 A I took this list from my book *Trade-Based Money*
7 *Laundering* because I compiled this list. So I
8 reviewed that 2006 FATF typology report on
9 trade-based money laundering, the 2012
10 Asia-Pacific group typology report on
11 trade-based money laundering, the 2014 federal
12 financial institutions examination council *Bank*
13 *Secrecy Act* anti-money laundering examination
14 manual. I included a 2010 FinCEN advisory to
15 financial institutions on filing suspicious
16 activity reports regarding trade-based money
17 laundering. I looked at Singapore's 2018
18 AML/CFT industry partnership best practices for
19 countering trade-based money laundering. And I
20 added a few of my own.

21 So obviously there's lot of overlap. In
22 fact there's -- they pretty much all say the
23 same thing, but I think it's an overall working
24 list of red flag indicators.

25 Q And considering your experience in law

1 enforcement, what's your view on law enforcement
2 relying on these sorts of red flag indicators to
3 conduct their investigations or assist them in
4 their work?

5 A I think it's important to understand that red
6 flags are just general indicators. They're like
7 a caution sign, you know, like a flashing yellow
8 light at an intersection. Slow down. They
9 encourage a compliance officer in a bank or even
10 a law enforcement officer, you know, to take a
11 closer look. They're general in nature and
12 they're certainly not a substitute for inquiry,
13 for analysis and perhaps investigation. They're
14 just -- they're general and they're just an
15 indicator that perhaps we need to take a closer
16 look.

17 Q And for reference, Mr. Cassara, I'm looking now
18 at page 18 of your report.

19 A Yes.

20 Q What is service-based money laundering?

21 A Service-based money laundering is a term that I
22 coined and it is exactly what it describes. We
23 talked about trade-based money laundering where
24 you got a good, a commodity that can be, say,
25 over- and under-invoiced to transfer money and

1 value. Well, the same type of thing happens
2 with service fraud -- service-based fraud.

3 I learned about this in my travels overseas.
4 You could have services be used and abused by
5 individuals, criminals and criminal
6 organizations. Say for example, you've got
7 accounting fraud, legal fraud, marketing fees,
8 natural resource exploration fees. When I was
9 in Italy the mafia did an awful lot with
10 fraudulent construction costs. In Brazil there
11 was a huge money laundering investigation the
12 last couple of years called Operation Car Wash
13 that spotlighted official corruption dealing
14 with construction costs. You've got software
15 development -- professional fees of all sort.
16 Medical fees is a huge one in the United States.
17 Product promotion fees. Music concert promotion
18 fees. All this stuff generates invoices. And
19 just like we were talking about in trade-based
20 money laundering, those invoices are used for
21 payment, and illicit proceeds can be used to
22 make payment.

23 The problem from an investigative standpoint
24 when you're looking at trade-based money
25 laundering, you're focused on a commodity. It

1 basically has -- you know, it's a good that has
2 a generally accepted world market price. With
3 services it's much more subjective, if it even
4 happened at all; right? It could be a type of
5 phantom service just like phantom trade-based
6 money laundering. But it's very, very difficult
7 to put a value on service. So they are -- I
8 think they're very common but unfortunately
9 we're not making a lot of cases. We're not
10 focused on it.

11 Q And to what extent does law enforcement have a
12 view into service-based money laundering?

13 A I can only talk about what I know in the United
14 States. Like I said, I've seen this overseas.
15 I think in many countries even in the developing
16 world they're much more focused on this than we
17 are in the United States. There's certain forms
18 of trade-based -- I mean service-based money
19 laundering that will look at -- for example,
20 there's been some major cases dealing with
21 medical fraud, but by and large it's just
22 ignored. And it's -- it also deals with
23 jurisdiction.

24 I think this is -- mostly comes under for
25 example, from a US perspective, FBI territory.

1 Homeland security investigations, DEA, whatnot,
2 they're not going to work these cases.

3 Q And, Mr. Cassara, we've talked about invoice
4 fraud and a number of other typologies. Are
5 there any other emerging methodologies or
6 typologies related to trade-based money
7 laundering that I might not have asked about
8 yet?

9 A No, I think you covered them. There are some --
10 and I kind of mentioned it in passing. Some
11 things that concern me are the use of mobile
12 payments. I think we had some questions about
13 WeChat, you know, the Chinese social app that's
14 used to transfer money. We talked a little bit
15 about cybercurrencies and bitcoin, this type of
16 stuff. They're important in trade-based money
17 laundering and underground financial systems
18 because I think we're going to be seeing their
19 use more and more, as I described earlier, about
20 balancing the books between these brokers.

21 There's not a lot of information out there.
22 Not a lot in the public domain. I don't know
23 about classified reporting, but this is
24 something I worry about. But at the same time
25 we're really getting killed, taken advantage of

1 through the old-fashioned methods. And I can
2 say with utmost certainty that until we can
3 crack down on these old fashioned methods,
4 simple trade fraud, for example, the criminal
5 organizations will continue to use them.

6 Q And you talk about cracking down on traditional
7 kind of trade fraud. I'm wondering if you can
8 describe, looking, for reference, at page 26 --
9 the bottom of page 26 of your report.

10 A Yes.

11 Q About the intelligence holes that you describe
12 that exist in the United States with respect to
13 trade-based money laundering.

14 A I think part of it comes back to my background.
15 I was a covert intelligence officer years ago
16 during the Cold War, and we acted on what we
17 call in the United States intelligence reporting
18 requirements. So basically headquarters would
19 say, this is a problem; go collect information
20 on this problem, develop sources, and these are
21 the questions we want you to ask. That kind of
22 thing needs to be done for trade-based money
23 laundering.

24 I think intelligence and law enforcement
25 both need to get taskings from their particular

1 headquarters, focus on trade-based money
2 laundering. And, again, these guys are not --
3 the guys and gals are not the experts. They
4 need to be trained up and then they need to be
5 given guidance. They need to be explained why
6 this is important and they need to be given
7 specific reporting requirements. This is what
8 we're tasking you to do; go out and do this;
9 ask -- develop these sources, go out and ask
10 these questions. That is how the game should be
11 played.

12 Q And on that what sorts of training do you think
13 would be beneficial for law enforcement to
14 understand and investigate trade-based money
15 laundering?

16 A I think you have to start off with kind of the
17 basics. You know, not promoting me but I've
18 done a lot of training in this area at a
19 federal, state and local and international
20 basis. And every audience is different, so
21 training has to be tailored for that specific
22 audience. But you have to start off with, you
23 know, basic money laundering, number one. You
24 have to start off with our countermeasures. A
25 lot of people or completely unaware of financial

1 intelligence. And then you just build from
2 there. You talk about everything from different
3 types of money laundering methodologies. Then
4 you talk about trade-based money laundering.
5 You explain that. You talk about the kinds of
6 things we've talked about today. We talk about
7 underground financial systems, countervaluation.
8 We talk about countermeasures. We talk about,
9 you know, trade data and how it can be used.
10 This type of thing.

11 Once again, I'm not trying to skirt the
12 question, but it really in large part depends on
13 the audience itself.

14 MR. DAVIS: Thank you. And Mr. Commissioner, I'm
15 about to turn to a new topic. And I note the
16 time and wonder if it would be an appropriate
17 time for the morning break.

18 THE COMMISSIONER: Yes, we'll do that, Mr. Davis.
19 We'll take 15 minutes. Thank you.

20 THE REGISTRAR: This hearing is adjourned for a
21 15-minute recess until 11:33 a.m. Please switch
22 off your video and mute your mic. Thank you.

23 **(WITNESS STOOD DOWN)**

24 **(PROCEEDINGS ADJOURNED AT 11:18 A.M.)**

25 **(PROCEEDINGS RECONVENED AT 11:33 A.M.)**

1 customs service. Every country in the world
2 collects import data and export data for
3 national security purposes or for revenue
4 purposes or whatever. So just like in the
5 example of -- say for example, the refrigerator
6 that we talked about, if a country shares that
7 data, targeted, say, export data with another
8 country's targeted import data, you can spot --
9 easily spot those anomalies, say, over- and
10 under-invoicing, for example.

11 So the goal of trade transparency unit
12 network is to eventually over another generation
13 or so be somewhat analogous to the Egmont Group.
14 We'll talk probably later on about the numbers
15 of TTUs, but I'm hoping that over the next so
16 many years there will be literally dozens and
17 dozens and dozens of these TTUs around the world
18 that can share financial -- or trade information
19 and promote trade transparency and combat
20 trade-based money laundering.

21 Q And you noted in your report that Homeland
22 Security investigations has established a trade
23 transparency unit; is that right?

24 A That is correct.

25 Q And that was pursuant to a proposal that you

1 advanced in 2004; is that correct?

2 A That is correct. I getting back to that -- for
3 example, with that conversation I shared with
4 that Pakistani gentleman involved with the grey
5 markets. That conversation and others triggered
6 my thinking how could we successfully combat
7 underground financial systems. And since many
8 of these are based on trade, the idea of going
9 via the back door by examining trade between
10 countries could open some of those doors into
11 these opaque systems I talked about.

12 But it evolved from there and eventually
13 Homeland Security -- the Department of Homeland
14 Security adopted this proposal and was included
15 in the national US government anti-money
16 laundering strategy report. So it's part of the
17 US government money laundering countermeasures
18 right now.

19 Q And on the US example, what can you tell the
20 Commissioner about the Data Analysis and
21 Research For Trade Transparency System, that's
22 DARTTS, that was developed by Homeland Security
23 investigations? And for reference, Mr. Cassara,
24 that's on page 27 of your report.

25 A Thank you. To help analyze all that trade data

1 Homeland Security investigations developed
2 specialized software called this Data Analysis
3 and Research For Trade Transparency System, or
4 DARTTS.

5 Analysts and agents use DARTTS to examine
6 trade and other data to generate leads for HSI
7 investigations. DARTTS incorporates trade data,
8 US import and export data, reported to Customs
9 and Border Protection, CBP -- we talked about
10 that earlier -- and, which is important,
11 financial data, for example, suspicious activity
12 reports, suspicious transaction reports, large
13 currency transaction reports, this type of
14 thing, that are reported to FinCEN.

15 The TTU also receives and disseminates
16 targeted import and export data from these
17 counterpart customs services, partner countries.
18 So the system allows the users to see both sides
19 of a trade transaction or a series of
20 transactions at a macro level making it
21 transparent. As I said, it's somewhat similar
22 to the example of the refrigerator that I talked
23 about. And then at the macro level you can
24 drill down, because the governments control the
25 information, to the micro level and you can see

1 the parties involved with that transaction,
2 which is really necessary to conduct the
3 investigation.

4 Q And so what sort of data is being exchanged
5 between countries who might have TTUs?

6 A It's the countries' import and export data.

7 Q And what have the results been, Mr. Cassara, if
8 you are aware of the trade transparency unit in
9 the US?

10 A Well, there's various ways to measure the
11 results. The solid numbers that I have, and
12 there are very few out there, but going back to
13 2015 the very small TTU network has seized well
14 over \$1 billion worth of assets. But it's
15 difficult to quantify success. And we'll
16 probably talk about it, but although I love the
17 concept, it's not yet been fully implemented.
18 So there are some challenges to come.

19 Q And you describe that at page 28 of your report.
20 And I'll ask, then, what are those issues with
21 respect to the management and implementation of
22 the trade transparency unit that the US has
23 experienced?

24 A Yeah, I think I reference this in my information
25 that I provided to the commission. Our

1 Government Accountability Office, GAO, was
2 requested by members of Congress to examine
3 trade-based money laundering, and they focused
4 on trade transparency units as the primary
5 countermeasure. They've issued a number of
6 reports that I've referenced, and we're still
7 waiting for the final report.

8 But to me the takeaway is that everybody
9 likes the concept of TTUs. It's the
10 implementation of the TTU that has generated
11 some difficulty, some challenges, and from a
12 former legacy customs perspective I think I know
13 what those challenges are. And it's because --
14 and this is kind of internal baseball, but the
15 Department of Homeland Security when it was
16 formed, it basically incorporated both
17 immigration and customs. And over the last
18 20 years most of the resources have gone into
19 the immigration side of the house and
20 short-shifted traditional customs.

21 So the powers that be really haven't bought
22 into the TTU. They haven't given it resources,
23 manpower, staffing and money that it needs to
24 get going. They've put the brakes on expansion
25 of the TTU network I describe. So these issues

1 have to be sorted out.

2 MR. DAVIS: Madam Registrar, if I could ask that you
3 turn up exhibit number 341. That should be
4 marked as Mr. Cassara's report. And, Madam
5 Registrar, if you could turn to page 47 of the
6 PDF please. It should read "Appendix 2" at the
7 top.

8 Q Mr. Cassara, do you see that on the screen?

9 A I do.

10 Q And what can you tell the Commissioner about
11 what we see on the screen?

12 A The appendix 2, and you can see -- I don't know
13 if you have a footnote. I do in my notes. But
14 it comes from that same US Government
15 Accountability Office report that I was
16 describing earlier. It lists the TTUs that are
17 currently established around the world --
18 there's 17 of them -- and the year formed and
19 data sharing frequency.

20 I think one thing the commission might want
21 to note is there was an early impetus within HSI
22 and the TTU network to establish TTUs in South
23 America, Central America to target the Colombian
24 black market peso exchange. I think we may be
25 talking about the black market exchange in a

1 little bit. So that was the early emphasis on
2 the TTU.

3 One other quick observation while we're
4 talking about TTUs is that often times many of
5 these countries established trade transparency
6 units not necessarily to go after money
7 laundering, not necessarily to go after
8 trade-based money laundering or going after
9 underground financial systems, which was in my
10 mind original goal. It was to crack down on
11 trade fraud, underpayment of taxes and duties.
12 And this isn't a bad thing. I mean, frankly I
13 don't care, HSI does not care the reasons for
14 this, but I find it interesting that that was
15 the country's motivation, but like I said,
16 that's fine.

17 Q So are you of the view that in addition to being
18 a useful kind of utility to combat money
19 laundering that there are also other benefits --
20 potential benefits to a TTU?

21 A Oh, yeah. First of all, you know, it does crack
22 down on trade-based money laundering, it
23 promotes trade transparency, but it's a -
24 revenue maker for the host country.

25 You know, like I mentioned -- this is an

1 aside, but I mentioned my experience literally
2 travelling dozens and dozens and dozens of
3 countries and working with those countries to
4 combat, say, money laundering and many of
5 them -- I'm paraphrasing, but they'll say oh,
6 Mr. John, thank you so much for coming out here
7 but, you know, we're really not that interested;
8 you know, we're doing the best I can -- the best
9 we can, but we don't really have any problems;
10 so thank you very much for coming but you can
11 just go home. And I would say something well,
12 you may not be interested in money laundering,
13 but let me show you how you can increase your
14 revenue by cracking down on trade fraud. Then
15 they become very, very interested because
16 everybody needs that. So just an aside.

17 Q And why on this chart or table prepared here do
18 certain countries have different reporting
19 frequencies, and what is that -- what impact
20 would that different frequency have, if any?

21 A Yeah, that would be my understanding because I
22 did not prepare this. In my understanding it
23 would be the frequency that they exchange trade
24 information. So you would see at the top
25 Colombia does it with the United States on a

1 monthly basis, Argentina does it on a weekly
2 basis, Uruguay does it on a quarterly basis. So
3 this would be the bulk trade data, the raw data
4 that would be exchanged between the two
5 countries.

6 Q So this data sharing frequency, this the
7 frequency that the country listed under the
8 leftmost column would share with the United
9 States?

10 A Correct. And we also obviously, you know,
11 assist them with our information as well. It's
12 a two way street.

13 Q And do those countries -- so, for example, does
14 Colombia share its information with Argentina or
15 with Brazil?

16 A That has to be negotiated. The other thing I
17 should have mentioned, and I forgot -- I'm
18 sorry -- is the fact that all of these TTU
19 agreements are dependent on negotiation. They
20 are dependent on what we call customs-to-customs
21 agreements. Some of these are memorandums of
22 understanding, some of them are formal treaties,
23 customs treaties, but they all have to be
24 negotiated. It can't be just kind of a
25 gentleman's agreement. You have -- it has to be

1 negotiated.

2 Q And does Canada have any such agreement to your
3 knowledge with the United States?

4 A Not to my knowledge.

5 MR. DAVIS: Madam Registrar, if I could ask that you
6 please pull up the document 003 appendix S from
7 the list of documents, please.

8 Mr. Commissioner, for your reference this is
9 appendix S to the already marked and entered
10 exhibit number 338. I don't intend to have this
11 marked as an exhibit or ask that it be marked as
12 an exhibit unless you feel it necessary. I've
13 only asked that this individual appendix be
14 brought up to avoid opening the entire overview
15 report again.

16 THE COMMISSIONER: No, that's fine. It's already
17 been marked and you referenced it by its number
18 and location. So that's perfectly all right.

19 MR. DAVIS: Thank you, Mr. Commissioner.

20 Q And, Mr. Cassara, have you reviewed in
21 preparation for your testimony this memorandum
22 of understanding on the exchange of import data
23 with annexes?

24 A I did.

25 Q And you write -- at page 28 of your report you

1 write --

2 MR. DAVIS: Sorry, Madam Registrar, I actually won't
3 need that document displayed. Or that document
4 displayed any longer. Thank you.

5 Q Mr. Cassara, you write at page 28 of your
6 report:

7 "There is a 1987 Memorandum of
8 Understanding between the United States
9 and Canada governing the exchange of
10 primarily import data between the two
11 countries."

12 Just to stop there. That was the same report
13 that was just displayed on the screen; is that
14 right?

15 A That's correct.

16 Q And you go on to write:

17 "The data exchange occurs at the macro
18 level. While helpful for monitoring
19 trade, I do not believe the information
20 being exchanged has the necessary
21 specificity nor the requisite export
22 information that is needed to combat
23 [trade-based money laundering] and value
24 transfer."

25 Is that accurate?

1 A Yes, it is.

2 Q And can you please explain that to the
3 Commissioner.

4 A Okay. With the caveat of course is I did not
5 write that agreement. I did not -- was not
6 involved with the preparation of it. It
7 happened a long time ago. But my read of it was
8 that it dealt with country -- the two countries'
9 import data and it was again done at a macro
10 level. Had more general. There was not enough
11 specificity involved. And if you're a criminal
12 investigator and you're doing these types of
13 investigations into TBML, you need that
14 specificity. You need to know the players
15 involved. You need to know the specifics of the
16 shipment. You know, its description, its value,
17 its weight, its routing. All this type of
18 stuff. And from my reading of this I didn't get
19 the impression that that information was
20 included.

21 Q And that information that you described, such as
22 weight and descriptions, that would be included
23 to your knowledge in any agreement between the
24 United States and any of the countries that were
25 listed on that column?

1 A Yeah, all of that is negotiated out. There are
2 different agreements with different countries.
3 Some countries will put restrictions on certain
4 things. But the short answer to your question
5 is yes, it should be.

6 Q And on that point I'd like to turn to ask you a
7 few questions about data and analytics,
8 Mr. Cassara. And I'd ask you in a broad way
9 what you can tell the Commissioner about the
10 potential for data analytics and other
11 technology to combat trade-based money
12 laundering.

13 A Very broadly, you know, I feel we've just
14 scratched the surface in applying data analytics
15 and, say, technical advances to trade-based
16 money laundering by using state of the art
17 technology. I believe international trade
18 transparency is theoretically achievable or
19 certainly possible. That's certainly a factor
20 many times we have today.

21 You know, from a political standpoint I'm
22 not sure if that's where countries want to go,
23 but I think technically -- for the first time
24 today I think we could theoretically achieve it
25 or come close to it.

1 Q And at page 30 you describe the use of
2 distributed ledger technology, such as
3 blockchain. Sorry, I'll let you turn there,
4 Mr. Cassara, that's page 30.

5 A Yes.

6 Q You describe distributed ledger technology, such
7 a blockchain, to combat trade-based money
8 laundering. What can you tell the Commissioner
9 about that?

10 A Well, many experts feel that distributed ledger
11 technology, such as blockchain, represents great
12 promise in detecting and preventing trade
13 misinvoicing, which is -- we talked about the
14 biggest component of trade-based money
15 laundering. So distributed ledger technology
16 and blockchain themselves are designed so that
17 all users along the trade supply chain are given
18 permissions to make transactions. And then
19 blockchain then creates a kind of unchangeable
20 secure record of those transactions so that the
21 completed record achieves a sort of trade
22 transparency for those that have permissions to
23 make those inquiries.

24 Q And what can you tell the Commissioner about
25 the -- scrolling down the page just a little

1 bit -- about the 2018 United States customs
2 pilot that applied this sort of blockchain
3 technology at cargo entry?

4 A In 2018 the United States Customs and Border
5 Protection piloted a future concept assessment
6 to evaluate the application of blockchain
7 technology to the process of submitting
8 documents for cargo entry. And as we talked
9 about, blockchain allows different users to make
10 transactions and then creates this unchangeable
11 secure record of those transactions.

12 So the distributor ledger technology,
13 including blockchain, they share, they verify
14 the information across various, multiple devices
15 to increase transparency, to reduce the risk of
16 tampering. And basically it also removes a need
17 for, like, third parties to be involved.

18 The goal of the Customs and Border
19 Protection assessment is to prove that a
20 standards-based fully digital system could be
21 created to replace the existing paper-based
22 system, which sometimes can be rife with abuse.
23 Manual document handling, it's insecure, it
24 facilitates fraud, slows logistics. So
25 hopefully this new technology will improve

1 auditability, increased transparency and more
2 clearly identify suppliers and manufacturers,
3 which could help better identify fraudulent
4 documentation and assist with this trade
5 transparency that I was talking about.

6 Q Thank you. And one point that you raised that
7 I'd ask if you could elaborate on is the
8 standards-based approach versus the paper-based
9 approach. And that's something that we haven't
10 discussed yet. Can you describe what your
11 understanding of a standards-based approach is?

12 A Well, I go back to the vulnerabilities of a
13 paper-based approach. Again, this is what we've
14 used in the old days because that's all we had.
15 We didn't have the technology that's available
16 today. And once again it's -- it worked for
17 what it did, but it's also very easy to
18 manipulate. It's open to fraud and abuse.

19 A standards-based approach is much more
20 formal. There's agreed-upon standards and norms
21 and there are technical ways to make sure that
22 the documentation is legitimate, what it says it
23 is.

24 Q More so than under the kind of traditional
25 paper-based approach?

1 container's location, its internal conditions,
2 its temperature, for example. Whether it's been
3 broken into, whether it's secure. Its physical
4 integrity. All of this.

5 The new technology features access controls
6 so that each container remains sealed until the
7 shipper authorizes the opening of each
8 container. And the data generated for each
9 container can also provide customs agencies an
10 additional tool to identify safe containers
11 which can sometimes qualify for expedited
12 clearance.

13 Q And so is this being used in the US to your
14 knowledge or elsewhere in the world?

15 A Elsewhere in the world to the US, some of this
16 stuff is just getting off the ground. But yeah,
17 it's a growing industry.

18 Q Thank you. And I'd like to turn briefly to
19 looking at Canada and British Columbia more
20 specifically. And acknowledging the limitations
21 that you've outlined for the Commissioner, what
22 is your view on whether Canada and more
23 generally -- or pardon me, more specifically
24 British Columbia face threats from trade-based
25 money laundering?

1 A Very generally it's my belief that Canada in
2 general and British Columbia specifically do
3 face current threats from trade-based money
4 laundering.

5 Q And why?

6 A I want to make it clear that, you know, once
7 again I'm not a money laundering expert on
8 Canada or British Columbia, but what I've seen
9 from a general context makes me concerned. And
10 once again, I go back to Dr. Z, Dr. Zdanowicz
11 who's going to be talking to the commission, I
12 believe, in a few days. I have not seen his
13 work, I have not, but I understand that his work
14 is going to show that there is, you know, a
15 pretty big magnitude of customs fraud and
16 related invoice manipulation. That it's serious
17 and it's widespread and it results in
18 substantial revenue loss for Canada and its
19 provinces, including British Columbia. So the
20 customs fraud issue is there.

21 And then as this relates to, you know, over-
22 and under-invoicing and these other issues that
23 we talked a bit about, other methodologies,
24 threats related to capital flight, underground
25 financial systems, value transfer, all this type

1 of stuff, I most definitely think Canada and
2 British Columbia are vulnerable.

3 Q And you talked about typologies, and I'm looking
4 at pages 32 and 33 of your report. Something
5 that you raise -- sorry, I'll let you get there,
6 Mr. Cassara.

7 A Yes, I've found if it.

8 Q Thank you. One of the typologies you raise is
9 the black market peso exchange typology. Can
10 you explain that kind of in an overview way and
11 why you believe that it might present a risk to
12 Canada and British Columbia?

13 A The black market peso exchange is one of the
14 largest money laundering methodologies in the
15 western hemisphere. Years ago, in fact, the
16 Department of Treasury of the US government said
17 it was the largest. Not sure if that's true
18 today, but it's right up there.

19 In the -- what we call the traditional black
20 market peso exchange that started in Columbia
21 and then it's moved into Mexico, narcotics
22 traffickers sell at a discount all the proceeds
23 of US drug sales within the United States.
24 Those are the street sale of narcotics, \$20
25 bills, the \$5 bills, all this kind of stuff.

1 receiving drug money or maybe they were
2 willfully blind. They kind of looked the other
3 way. So the same type of BMPE takes place in
4 Europe as well. You know, drug money will
5 purchase an Italian Carrara marble; right?

6 Now, increasingly things have changed. Say,
7 go back ten years or so, and now the purchases,
8 the logistics, the foreign exchange specialist
9 and the trade intermediaries are Chinese, in
10 Chinese organized crime groups, and they arrange
11 for drug dollar purchase of Chinese
12 merchandise -- much of it, say, could be
13 counterfeit goods too -- to be sent to Central
14 and South America, including Colombia, Mexico,
15 the Tri-Border area, the Colon Free trade zone.
16 All of this.

17 So discussing this, and I was doing some
18 research for this paper, Canada's FINTRAC notes
19 that:

20 "Brokers send suspected illicit funds held
21 in Latin America or the U.S. to Canadian
22 trading companies, wholesalers, dealers
23 and brokers via electronic funds transfer
24 and, to a limited extent, cash courier.
25 These entities subsequently send

1 probability that Canadian drug dollars are
2 used to directly or indirectly purchase
3 Canadian manufactured goods, commodities,
4 and raw materials."

5 That's why you make that conclusion,
6 Mr. Cassara?

7 A Yes, because it happens elsewhere. I mean, it
8 happens in the United States. We know that.
9 We've known it for 20 years. It happens in
10 Europe. It kind of goes back to what I was
11 saying before. I mean, it happens elsewhere.
12 It's going to happen in Canada. I'm sure it's
13 happening in Canada, you just have to look for
14 it.

15 Q And you also note, going down to page --
16 actually staying on page 33, about the potential
17 misuse of international gold, precious metals
18 and gems; is that right?

19 A That is correct.

20 Q And what can you tell the Commissioner about
21 that risk in a general way?

22 A The misuse of the international gold trade is
23 something I've been concerned about for many,
24 many years. When I went to Italy -- I mentioned
25 that I went to Italy in 1990. That's when I

1 first saw it. And I've done a lot of work over
2 the years both investigating it analysing it.
3 Some of the largest cases in -- money laundering
4 cases in history have involved the misuse of the
5 international gold trade.

6 I talk about it a lot in my book on
7 trade-based money laundering. I also talk about
8 it a lot in my book on money laundering, and
9 it's -- just to very briefly go through this.
10 Gold is extremely attractive to money launderers
11 because, depending on its form, gold is both a
12 commodity and kind of a *de facto* bearer
13 instrument. Gold is a readily acceptable medium
14 of exchange. It's accepted anywhere in the
15 world. In times of uncertainty, gold offers
16 stability. Gold offers easy anonymity to money
17 launderers. Depending on the need gold can
18 be -- the form of gold can be easily changed or
19 altered. It can be melted, smelted down.
20 There's a worldwide market in cultural demand.
21 Gold transactions can easily be layered or
22 hidden. It's perfect for placement, layering
23 and integration. Old and varied forms can be
24 easily smuggled. And by weight it represents
25 much more value than cash.

1 Gold is often used in fraudulent trade-based
2 money laundering schemes, for example, importing
3 gold scrap at lies prices higher than gold
4 bullion, believe it or not. And in parts of the
5 world gold is the favoured commodity used in
6 underground financial systems like hawala.
7 Historically and culturally gold has been the
8 favoured commodity to use. I could launder
9 money with any type of thing, but when we're
10 talking about historically and culturally hawala
11 and counter-evaluation it's gold.

12 In fact I remember reading a report prepared
13 by the British Commonwealth Secretariat back in
14 the early 1990s, and they said that if somehow
15 could take gold and silver out of the hawala
16 equation, 90 percent of hawala would disappear.
17 It's certainly different today. And there's --
18 the gold trade is liberalized particularly in
19 places like India and Dubai and elsewhere, but
20 gold is a huge threat.

21 Q Thank you. And, Mr. Cassara, I'm now going to
22 turn to the kind of concluding portion of your
23 report, which begins at the end of page 34 and
24 the page 35 onwards. And at page 34 you offer
25 eight recommendations to the Commissioner; is

1 that correct?

2 A That's correct.

3 Q And for clarity, you have not considered the

4 constitutional, statutory or any other

5 implements that might exist with respect to

6 implementing or considering those

7 recommendations in Canada or British Columbia;

8 is that fair?

9 A That is fair.

10 Q And I'm not going to take you through all of

11 them, Mr. Cassara, but recommendation 3 involves

12 creating a specialized policing unit to

13 investigate trade-based money laundering; is

14 that correct?

15 A That's correct.

16 Q And why would a specialized unit like that be

17 beneficial?

18 A Well, I think for a variety of reasons. Number

19 one, the status quo isn't working; okay? So,

20 you know, sometimes it's time to try something

21 new. I think it would also reassure the public

22 that authorities are taking reports of

23 widespread trade-based money laundering

24 seriously. I think a specialized unit would

25 develop specialized expertise. I think that's

1 probably needed. And I think the unit itself
2 should easily pay for itself through the
3 collection of increased taxes, duties, you know,
4 forfeitures. This type of thing.

5 Q And are there any particular structures or
6 staffing models that in your view would make for
7 a particularly effective trade-based money
8 laundering policing unit?

9 A Yeah. Again, every country is different, every
10 country does it a different way, but I think the
11 unit, whatever you want to call it, should have
12 access to all relevant government, law
13 enforcement, financial trade and related data,
14 things that we've been talking about. I think
15 the unit should have an adequate budget. That's
16 something that, you know, the US has been
17 struggling with. I think the unit should kind
18 of be integrated within Canadian customs or, you
19 know, the Canadian Border Services Agency or try
20 to have direct representation. And the unit
21 members, I think it would be best -- we've found
22 from the US experience that they were kind of,
23 you know, recruited or cross-pollinated, if you
24 will, from a cross-section of applicable
25 disciplines, including customs and financial

1 crimes and fraud. All this. And I think most
2 importantly -- because I'm not sure how it works
3 in Canada for investigating customs related
4 crimes, but I think the officers should have the
5 mandate to investigate TBML and related crimes
6 and have the power of arrest.

7 Q Thank you. And several of the recommendations
8 that you make, Mr. Cassara, relate to gathering
9 and having on hand relevant statistics and data.
10 Is that a fair summary?

11 A Yes, it is.

12 Q And what data and statistics would you recommend
13 that Canada, or British Columbia more
14 specifically, have in hand as they consider how
15 to combat trade-based money laundering and
16 evaluates their efforts to date?

17 A I urge the Cullen Commission to determine
18 specifically how many trade-based money
19 laundering cases have ever been worked in
20 British Columbia or at the federal level that
21 impact British Columbia, how many resulted in
22 successful convictions, how many cases were
23 presented for prosecution and how many were
24 accepted or rejected. How many TBML-related
25 assets we seized and ultimately forfeited. How

1 many law enforcement and other personnel have
2 been devoted to combat trade-based money
3 laundering. How many STRs related to
4 trade-based money laundering have been filed
5 that impact British Columbia. And using data
6 that I believe is going to be presented by
7 Dr. Zdanowicz and perhaps other sources,
8 determine estimates for the amount of over- and
9 under-invoicing on goods, imports and exports
10 involving British Columbia and the aggregate
11 potential loss of revenue.

12 Q And you note your recommendation number 6 is
13 that Canada establish a registry of beneficial
14 ownership information; is that right?

15 A Yes.

16 Q And how would beneficial ownership information
17 in such a registry assist in dealing with
18 trade-based money laundering?

19 A Well, beneficial ownership information basically
20 are associated with these, you know, opaque
21 shell companies, and this is very, very common
22 in the layering stage of money laundering that I
23 described earlier. It makes it very, very
24 difficult for criminal investigators to follow
25 the money and value trails if you don't know

1 who's involved, if you can't determine the
2 ultimate beneficial ownership information.

3 So having a central national beneficial
4 ownership registry I believe would greatly
5 assist Canadian law enforcement and revenue
6 authorities not only in trade-based money
7 laundering investigations but in a wide variety
8 of other investigations. All that being said,
9 I'm not familiar with the details of the -- or
10 the status of the Canadian initiative to require
11 beneficial ownership information.

12 One thing I think it's probably important to
13 recognize, and it's something the US is facing
14 right now because we are getting close to
15 establishing beneficial ownership information --
16 we have some language included in some
17 legislation that looks like it's going to
18 pass -- is that the majority of the world's
19 trade transactions are not dependent on trade
20 finance documentations. We discussed this. So
21 as such, beneficial ownership information, a lot
22 of people think it should necessarily sit with
23 and be collected by both trade and financial
24 intermediaries to be effective against
25 trade-based money laundering. So not just by,

1 you know, financial institutions but also by the
2 trade intermediaries.

3 MR. DAVIS: Thank you very much, Mr. Cassara.

4 And, Mr. Commissioner, those are my question
5 for this witness.

6 THE COMMISSIONER: Thank you, Mr. Davis. And I
7 understand that Ms. French on behalf of Canada
8 has some questions for Mr. Cassara and has been
9 allocated ten minutes.

10 MS. FRENCH: Thank you, Mr. Commissioner.

11 **EXAMINATION BY MS. FRENCH:**

12 Q Good afternoon, Mr. Cassara. My name is Olivia
13 French. I'm counsel for Canada.

14 A Good morning.

15 Q Good morning. I appreciate that you have
16 already qualified with Mr. Davis some of the
17 limitations of your knowledge about the Canadian
18 criminal context and the Canadian approach to
19 money laundering, trade-based money laundering.
20 So with that in mind, I just have a couple of
21 brief questions for you about one of the
22 recommendations.

23 A Of course.

24 Q Thank you.

25 MS. FRENCH: I think it might be helpful if we do

1 pull up the report. So Madam Registrar, could
2 we pull up Mr. Cassara's report. It's
3 exhibit 341.

4 And, Mr. Cassara, I'll be going to page 35
5 of your report, if you'd like to pull that up.

6 Thank you, Madam Registrar.

7 Q Excellent. Mr. Cassara, you are at page 35 of
8 your report?

9 A I'm getting there.

10 Q So I'm looking at the third recommendation. You
11 can also view it on the screen as well.

12 A Okay. I see it on the screen.

13 Q Great. That's fine, then. So your third
14 recommendation was to create a specialized unit
15 within the RCMP to investigate money laundering,
16 including trade-based money laundering; correct?

17 A Correct.

18 Q And then you write:

19 "According to a 2019 press report, 'not a
20 single federal police officer is working
21 to bust money launderers in B.C.'"

22 Have I read that correctly?

23 A You have, AND I also included a footnote for
24 that.

25 Q Yes, you have. And that footnote is TO, as

1 you've described, sort of a public source, to
2 the *Star News* publication. It's a news article?

3 A Okay.

4 Q Shall we verify that?

5 A Yeah, if you could.

6 Q Absolutely.

7 MS. FRENCH: Madam Registrar, I'm looking at page 39
8 now of the report.

9 Q And near the bottom we see footnote 62, LXII.
10 And it's an article by Jen St. Denis?

11 A Okay.

12 Q And it's the *Star*, Vancouver, dated April 8,
13 2019. Is that correct, Mr. Cassara?

14 A Yes.

15 Q Excellent. So we can turn back now to page 35.
16 So you've quoted the *Star* news article and then
17 you write:

18 "If accurate, that is the crux of the
19 problem."

20 Have I read that correctly?

21 A Yes.

22 Q Yes.

23 A In my opinion, yes.

24 Q And so you acknowledge, though, that you're not
25 sure if this statement from the *Star* news

1 article is accurate; is that correct?

2 A That's why I wrote "if accurate." I don't have
3 firsthand knowledge.

4 Q And so you didn't yourself independently verify
5 that statement?

6 A No.

7 Q And if I were to put to you that that statement
8 is inaccurate, you wouldn't be in a position to
9 disagree with me; correct?

10 A I would not be in a position to disagree. I
11 took the report on face value.

12 Q Thank you. So at this point in time you don't
13 have any direct knowledge yourself of exactly
14 how many federal police officers are currently
15 working on money laundering investigations in
16 BC; is that right?

17 A That is correct.

18 Q And likewise, you don't have direct knowledge of
19 how the federal-provincial policing regime is
20 structured in Canada?

21 A Outside of the very basics, no, I do not.

22 Q And that would also, then, apply to the
23 specifics of how units are staffed or officers
24 might be deployed or distributed for complex
25 investigations?

1 A That is correct.

2 MS. FRENCH: Thank you, Mr. Cassara.

3 Mr. Commissioner, I have no further
4 questions.

5 THE COMMISSIONER: Thank you, Ms. French.

6 Next on behalf the British Columbia Lottery
7 Corporation, Mr. Leung has been allocated
8 ten minutes.

9 **EXAMINATION BY MR. LEUNG:**

10 Q Sir, can you hear and see me?

11 A I can. Good morning.

12 Q I'd like to confirm -- expand on two points from
13 your evidence today. First, you have testified
14 that you are not an expert on the Vancouver
15 Model of money laundering; is that correct?

16 A That is correct.

17 Q And your evidence is that all of your research
18 on the Vancouver Model comes from publicly
19 available information; is that correct?

20 A That's correct.

21 Q Is it fair to say, then, that you do not have
22 any particular expertise on money laundering in
23 British Columbia's casinos?

24 A Outside of what I have read in the public
25 domain, I have never worked a case. So I think

1 your statement is fair.

2 MR. LEUNG: Thank you those are my questions.

3 THE COMMISSIONER: Thank you, Mr. Leung.

4 Mr. McFee on behalf of James Lightbody, who
5 has been allocated 15 minutes.

6 MR. MCGOWAN: And, Mr. Commissioner, just for the
7 benefit of the participants, I should interject
8 to say Mr. Lightbody and the British Columbia
9 Lottery Corporation do not, in commission
10 counsel's view, have standing on the trade-based
11 money laundering topic. But because Mr. Cassara
12 has such a broad wealth of experience and his
13 report touches on areas that are relevant beyond
14 trade-based money laundering, counsel for those
15 two participants each sought standing to --
16 leave to question this witness on areas that may
17 be relevant to their grant. And that leave
18 request was granted by you.

19 THE COMMISSIONER: Yes, that's quite so. Thank you
20 for identifying that, Mr. McGowan.

21 Yes, Mr. McFee.

22 MR. McFEE: Thank you.

23 **EXAMINATION BY MR. McFEE:**

24 Q Good morning, Mr. Carrara. Can you hear me
25 fine?

1 A I can. Good morning, sir.

2 Q One of the topics you addressed in your
3 testimony and your report to the commission a
4 capital flight out of China; correct?

5 A Yeah, correct.

6 Q And at page 19 of your report you say that from
7 approximately 2006 to 2016, so a ten-year time
8 frame, an estimated \$3.8 trillion in capital
9 left China. Do you recall that?

10 A Yeah, I see it right here. And I also included
11 an endnote.

12 Q Right. And to your knowledge was the quantum of
13 this capital flight relatively stable on an
14 annual basis during this ten-year time frame or
15 was the capital flight escalating on an annual
16 volume as time progressed?

17 A I can't say. I have no firsthand knowledge
18 about how that information was put together.
19 Once again, this was from a -- I have to look at
20 the source in the public domain and I just took
21 it at value -- face value.

22 Q And from your -- from your broad experience in
23 law enforcement and then as a consultant
24 thereafter, to your knowledge was Canada one of
25 the destination countries for capital flight

1 leaving China?

2 A Yes.

3 Q And you alluded to this in your testimony, but
4 would you agree that it's fair to say that much
5 the capital leaving China is the proceeds of
6 legitimate businesses and sources of wealth of
7 Chinese nationals?

8 A Oh, absolutely. But I also believe that -- as I
9 think I said in my testimony, that it often
10 occurs that illicit proceeds can be mixed or we
11 sometimes say co-mingled with licit money. It's
12 making it very, very difficult to distinguish.

13 Q Right. And that would be part of the layering
14 in money laundering, would it?

15 A It would be.

16 Q But to be clear, the mere fact that funds
17 entered Canada by way of capital flight from
18 China doesn't cause one to necessarily conclude
19 that this was illicit money?

20 A No. As I said, I have no data to back this up,
21 but I would assume that the overwhelming
22 majority of the capital leaving China into
23 Canada is the result of licit funds. But I'm
24 also convinced that there are illicit funds, the
25 percentage of which I do not know and I don't

1 believe can be accurately estimated, but I
2 believe there is a percentage that come from,
3 say, illicit origins.

4 Q Now, also in your report and your testimony to
5 the commission you referenced and you had a
6 section in your report on data and technology?

7 A Sorry?

8 Q In your testimony and you have a section in your
9 report on data and technology?

10 A Yes, sir.

11 Q And that's an area where you do have some
12 personal experience and expertise?

13 A Well, yes and no. Please do not consider me a
14 technical expert. I have worked for some data
15 and analytic companies in the past as a
16 consultant but -- and some of them are well
17 known, but my contributions were basically with
18 their sales department in the sense that I was
19 trying to give them input on how the cultures of
20 the bureaucracies work in the United States and
21 possibly point them in the right direction.

22 Q And as you noted in your testimony, the
23 FATF-centric model responding to money
24 laundering is quite a data intensive model?

25 A Yes, it is.

1 Q I think you told the Commissioner that FinCEN in
2 the United States has 20 million reports
3 approximately filed annually?

4 A That's correct.

5 Q And I was struck by what you said in your
6 testimony. You said that's both a strength and
7 the weakness. It's a strength in the sense that
8 you get a lot of data that's potentially
9 available, but it's a weakness because, as you
10 put it, as I understood it, so much of it is
11 just not reviewed. Is that correct?

12 A That's correct. The strength -- and going back
13 again to some of these technical companies.
14 When I was working with my former colleagues
15 they impressed upon me something basically I
16 already knew is, you know, you're talking about
17 big data, the more data there is, the better it
18 is, right, for advanced analytics?

19 But at the same time from a practical
20 standpoint we're talking about -- I mean, let's
21 just talk about suspicious activity reports or
22 suspicious transaction reports, as it's called
23 in Canada. Well over 2 million are filed every
24 year in the United States, I think some years
25 approaching 3 million, about half from financial

1 institutions, about half from money service
2 businesses. And many of these suspicious
3 activity reports, STRs, are filed -- we call it
4 defensively, and I call them garbage reports.
5 It is gums up the system.

6 And if you only have, you know, a few dozen
7 analysts at FinCEN that are charged to look at
8 SARs, I mean, even with the best analytics it's
9 just too much.

10 Q But does that lead us to a situation where, in
11 your experience, tools and systems that allow
12 government reporting agencies and law
13 enforcement to actually analyze that data to
14 weed out the garbage reports, that that
15 component is a very important component of a
16 comprehensive anti-money laundering strategy?

17 A I think it is. I think we need to do a much
18 better job of that, both for government and also
19 industry. I mean, I've talked to a number of
20 bank compliance officers and they are frustrated
21 as well. They file these, as I call it, garbage
22 reports, or defensive filings I think is more
23 commonly used, because, you know, they're
24 concerned about large fines and penalties for
25 not complying. So they've been advised just

1 file, just file, just file. At tremendous
2 costs. At tremendous costs.

3 So this is something we need to do a much
4 better job of. The compliance officers I've
5 talked to, I've talked to ACAMS, I've talked to
6 Association of Certified Anti-Money Laundering
7 specialists, numerous think tanks. I've talked
8 to, you know, friends. They said, you know, we
9 need more feedback; we need more guidance; we
10 need more specificity to help us with our
11 reporting. And the US government, FinCEN, has
12 struggled with that for years.

13 Q So in that context and in your experience as a
14 law enforcement officer and then as a consultant
15 on money laundering and anti-money laundering
16 measures, would you encourage AML reporting
17 entities to acquire analytical systems and
18 utilize these systems to identify anomalies in
19 the data?

20 A I would. But both analytic systems and also to
21 educate themselves. I think -- again, I am not
22 a bank compliance officer. I've never worked in
23 a financial institutions. But my gut is that
24 there can be an overreliance on software to do a
25 lot of this stuff. It's good in sorting; right?

1 It's good to program red flag indicators. But
2 when push comes to shove, the bottom line is it
3 takes a human being, a human being with good
4 knowledge, you know, and trusting their gut
5 input, their gut feeling, to look at this
6 information and say, there's something here.

7 Q So at the end of the trail you'd need a human,
8 an investigator to look at it, but it's very
9 useful to have those software analytical tools
10 to weed out the garbage and get you down to what
11 a human should be looking at?

12 A That is correct.

13 Q And although you say you've never worked in a
14 bank, I see from your -- I'll call it your CV,
15 but I guess it's your work history. You were a
16 consultant for SAS for about a five year period,
17 2011 to 2016?

18 A That is correct. That is the -- one of the
19 primary analytics -- data analytics companies I
20 worked for as a consultant, yes.

21 Q And to your knowledge SAS has a software system
22 that's widely used across of a number of
23 sectors, including the banking sector and
24 governments, to analyze business and financial
25 data?

1 A Yes, it is, but I want also to make it perfectly
2 clear I'm not a SAS employee today. I never
3 was. I was a consultant, and I don't want to
4 speak for SAS.

5 Q No. But to your knowledge did that system that
6 was used in these sectors provide data
7 management, including predictive analysis and
8 the ability to identify anomalies in the data
9 which would then cause a human to look at it and
10 drill down into it more deeply?

11 A Yes, that's how it's advertised, and I think it
12 works fairly well, is my understanding. But
13 once again, I never actually had hands on with
14 these systems.

15 From a law enforcement perspective I think
16 there's -- and I talked with my SAS colleagues
17 about this. I think one the most important
18 things that big data can do and advanced
19 analytics can do is what you just mentioned:
20 predictive analytics. There's a crying need for
21 that. And the other crying need is what I call
22 prioritization; right? There is so much data
23 out there and there's only so many resources
24 available. Use the big data and the analytics
25 to pick out those nuggets, those promising cases

1 that need X criteria because every law
2 enforcement investigator or agent has a inbox
3 like this. Which one should I focus on? And I
4 think big data analytics is very promising in
5 that regard.

6 Q So in your experience as a law enforcement
7 officer and then as a consultant with a wide
8 range of experience in the consulting and
9 trading industry, these -- would you agree that
10 these types of analytical tools that assist --
11 would assist an entity in developing a robust
12 AML program?

13 A Yes.

14 Q And acquiring these types of tools would be
15 something you'd encourage in the development of
16 a robust AML program?

17 A Yes, I would.

18 Q And just one last topic, if I might briefly.
19 And you -- in your recommendations you
20 recommended the specialized unit be established
21 within the RCMP to investigate money laundering,
22 including trade-based money laundering?

23 A I did make that recommendation.

24 Q But to be clear, that's to investigate money
25 laundering throughout the Canadian economy,

1 including potentially in designated reporting
2 entities such as casinos?

3 A Yes. And obviously the specifics of that would
4 have to be fleshed out regarding, you know,
5 venue. Who would have jurisdiction, what entity
6 would have jurisdiction, you know, at the
7 federal level, at the provincial level, this
8 type of thing. But in my opinion when you're
9 talking about money laundering, let alone
10 trade-based money laundering, financial crimes
11 in general, you have to develop specialized
12 expertise. It takes training and it takes
13 experience. And I would encourage law
14 enforcement authorities in Canada to move in
15 that direction.

16 Q So I take it when you say it takes training and
17 it takes expertise, that's the type of training,
18 in your experience, and the type of expertise
19 that police of local jurisdiction don't
20 necessarily have, so that's why you recommend a
21 specialized unit?

22 A Generally speaking, yes, local police do not
23 have that kind of knowledge and experience.

24 Q And in your long experience as a law enforcement
25 officer and then subsequently as a consultant

1 trainer, mentor in the money laundering field,
2 would the absence of a specialized AML law
3 enforcement unit create a gap in the AML regime
4 that could be exploited by organized crime?

5 A I think it could.

6 MR. McFEE: Those are my questions for you. Thank
7 you very much.

8 THE WITNESS: Thank you, sir.

9 THE COMMISSIONER: Thank you, Mr. McFee.

10 Now on behalf of the British Columbia Civil
11 Liberties Association Ms. Tweedie, who has been
12 allocated 10 minutes.

13 MS. TWEEDIE: Thank you, Mr. Commissioner.

14 **EXAMINATION BY MS. TWEEDIE:**

15 Q Good afternoon, Mr. Cassara. I just have a few
16 questions for you, some clarifying questions
17 about a couple areas of your evidence.

18 The first is regarding the metrics matter
19 which you spoke about earlier. And you speak
20 about forfeiture and convictions as being the
21 metrics that matter in AML enforcement.

22 First --

23 THE COMMISSIONER: Ms. Tweedie, I'm just going to
24 interrupt for a moment. I am afraid your voice
25 is quite distorted. I wonder if you could do

1 something with your microphone and perhaps
2 repeat that question.

3 MS. TWEEDIE: My apologies. Let me check the
4 settings. Are you able to hear me now?

5 THE COMMISSIONER: Yes, I am.

6 MS. TWEEDIE: Okay. Great.

7 Q So you spoke about forfeitures and convictions
8 as metrics that matter in AML enforcement. But
9 looking to page 9 of your report, I understand
10 that by your own estimation money confiscated by
11 the US is likely less than 1 percent of money
12 generated by criminal activity; is that correct?

13 A That is correct, ma'am.

14 Q And under the US civil forfeiture process, money
15 or assets are seized when they're suspected to
16 be linked to a crime but the person who owns the
17 money or the assets isn't necessarily charged
18 and may never actually be convicted of a crime.
19 You're familiar with that; correct?

20 A I am, but I readily admit I am not an expert on
21 civil forfeiture law in the United States.

22 Q Okay. Thank you. But you would agree that not
23 all money seized through civil forfeiture has
24 been proven to be the proceeds of crime?

25 A Absolutely, yes.

1 Q And also on page 9 of your report you write that
2 dated info suggests that money launderers in the
3 US face less than a 5 percent chance of
4 conviction?

5 A Yes.

6 Q And you spoke about this earlier, how most --
7 it's your belief that most of these convictions
8 are low-level money couriers; that's correct?

9 A I wouldn't use the word "most" but I would say a
10 lot. And it's very difficult for me -- maybe
11 the Department of Justice has that information,
12 but I can't find it. I don't know if it's in
13 the public domain or not, but I would say that a
14 lot are kind of low-level stats.

15 Q Okay. And by "low level" you mean they are not
16 high up in the criminal chain? These are not --

17 A It does not make a difference. Again, I go back
18 and, you know, I'm generalizing again, but these
19 are the low-level couriers instead of the
20 individuals higher up the food chain.

21 Q Yeah, so not the ones who are profiting
22 significantly?

23 A Correct.

24 Q Likely actors that could be easily replaced. Is
25 that fair to say?

1 A Yes. Yes.

2 Q And so in looking at these statistics -- the
3 1 percent of forfeitures, 5 percent or less of
4 potentially low-level actors, these statistics,
5 while they may be a good metric for enforcement
6 measures, they are not an indicator of the
7 magnitude of the money laundering problem.

8 That's fair to say?

9 A No. I think to look at the magnitude of money
10 laundering problem you have to look at the other
11 types of metrics that are out there. I'm not
12 sure if I talked a lot about this in the report
13 or not. I did in my book. The international
14 monetary fund uses an estimate of about, which
15 is commonly accepted, somewhere between 2 and
16 5 percent of world GDP is laundered every year.
17 Which very round numbers, very, very round
18 numbers equates to a roughly, say, \$4 trillion a
19 year with a wide band there.

20 There are other estimates as well from
21 other, you know, ONDCP and others have come out
22 with their own. But it's very, very difficult
23 to come up with precise numbers for the
24 magnitude of money laundering. The FATF hasn't
25 even attempted it. By its very nature this

1 money is hidden. It's opaque. I know when I
2 was at FinCEN for six years we hired a full-time
3 economist to look at the magnitude of money
4 laundering to come up with a definition to try
5 to help the FATF, and after two years this
6 economist just threw up her hands and gave up.
7 It was just impossible.

8 So we do recognize that there is a lot of
9 play in those numbers, but in kind of academic
10 governmental and non-profit circles generally
11 speaking they use that IMF estimate of 2 to
12 5 percent.

13 Q Yes, we've been hearing evidence about the
14 complications of quantifying the money
15 laundering problem. I understand that it's next
16 to impossible to get a good estimate. But just
17 to clarify, using these metrics of law
18 enforcement of forfeiture and convictions,
19 that's not a good way to measure either the
20 scale of the money laundering problem or the
21 impact we're having. Is that fair to say?
22 Seeing as we're looking at such a small
23 percentage.

24 A I would look at those metrics that matter when
25 you talk about seizures and forfeitures and this

1 type of stuff as the results, the results of our
2 work; okay? So we can quantify how much the
3 Department of Justice, for example, the
4 Department of Treasury in the United States,
5 they have asset forfeiture funds. We know how
6 much we recover that is forfeited to the
7 government every year. That's quantifiable.

8 So to me, you know, you break that down,
9 what's involved with money laundering,
10 et cetera, et cetera and you compare and
11 contrast that to those very imperfect numbers
12 that we talked about, the magnitude, and that is
13 why you come up with, for example, Raymond
14 Baker's statement, you know, a total failure is
15 only a decimal point away.

16 Q Okay. Thank you. And I just have a few
17 questions about capital flight which you
18 discussed earlier. Underground financial
19 systems like fei-chien these -- my understanding
20 is that they developed as a response to the
21 failure of conventional financial infrastructure
22 to offer efficient services to immigrant
23 workers; is that correct?

24 A Well, it depends how far you want to go back,
25 and again I'm not a sinologist, I'm not a

1 Chinese expert, but I've done some reading on
2 this -- and actually the pronunciation is
3 probably off -- fei-chien, flying money, goes
4 back to I understand to the Tang Dynasty back
5 about the 7th century. And at that time
6 obviously didn't have modern banking and cheques
7 and all this kind of stuff, it was a way to pay
8 taxes to the government when, say, farmers,
9 peasants would take tea or rice or whatever to a
10 marketplace and they would be given almost like
11 a chit, for lack of a better description. And
12 they would take that back to their home
13 province -- it was a long trip -- and they would
14 present that to a government official for
15 payment. So that's how it developed.

16 Over the centuries with the Chinese
17 diaspora, Chinese individuals spread around the
18 world and they needed money and they most
19 importantly wanted to send money back home to
20 support their loved ones. So these systems
21 developed.

22 Q Yeah. And so the -- and you spoke about this
23 earlier, but the primary use of these systems is
24 precisely that, correct, in immigrant workers
25 sending money to their family?

1 A Correct. Absolutely. And I want to make
2 perfectly clear that government at whatever
3 level, you know, intelligence, law enforcement,
4 regulatory, you know, have no wish to interfere
5 with hard-working immigrants sending their hard
6 earned money back home to support their loved
7 ones.

8 Q Okay. And would you agree that due to the
9 significant economic, social and cultural
10 factors these informal transfer systems, they
11 will continue to persist?

12 A Yes.

13 Q Yeah. Okay. And that due to many factors,
14 including the scale and scope of these systems
15 and the fact that law enforcement has very
16 little understanding of these systems, attempts
17 to tackle these systems by law enforcement are
18 unlikely to get very far. Is that a fair
19 assumption?

20 A Yeah, I wouldn't say -- particularly when you're
21 talking about hawala in the year 2020, I
22 wouldn't say that we have little knowledge of
23 them. I think it's fair to say we don't have a
24 lot of knowledge about the intricacies and the
25 magnitude of the Chinese -- of the corresponding

1 Chinese flying money systems. But I can say in
2 my experience that the countermeasures that
3 we've put in place -- I think you probably
4 listened in. I talked about, you know, the
5 United States designating these informal value
6 transfer systems as money service businesses,
7 they have to be registered and they have to be
8 licensed, they have to provide suspicious
9 activity reports. These types of
10 countermeasures have proven to fail all around
11 the world they've been tried.

12 MS. TWEEDIE: Okay. Thank you, Mr. Cassara, those
13 are all my questions.

14 THE WITNESS: Thank you. You're very welcome.

15 THE COMMISSIONER: Thank you, Ms. Tweedie.

16 And now for Transparency International
17 Coalition, Mr. Gratl, who has been allocated
18 20 minutes.

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

20 **EXAMINATION BY MR. GRATL:**

21 Q Mr. Cassara, as I understand your evidence,
22 you're saying a portion of trade-based money
23 laundering transactions involve cross-border
24 transactions; is that right?

25 A When you say cross-border transactions, could

1 you be more specific? Because when I say
2 cross-border transactions I'm talking, you know,
3 literally the -- crossing a border with cash
4 that may or may not have to be declared
5 depending on the value. So if you could just
6 explain a little bit more.

7 Q Sure. Say, import/export contracts?

8 A Yes.

9 Q Yeah. And so a portion of those transactions
10 essentially involve the same person being both
11 the importer and the exporter?

12 A Not necessarily. I mean, there's generally --
13 the same person?

14 Q Sure. A portion of those transactions involve
15 the -- essentially the same legal person or
16 entity being both the importer and the exporter.

17 A A portion, I suppose, yes, but I wouldn't say
18 that's the overwhelming percentage.

19 Q And then for other of those trade-based money
20 laundering transactions the importer and
21 exporter may be related by a family connection?

22 A They could be or they could be -- or could be --
23 I mean, the primary percentage, if you will, are
24 arms's length transactions. I don't know you;
25 you don't know me; they make a deal. And I also

1 understand that actually the majority of
2 international trade, global trade, is between
3 the same multi-national group.

4 Q Right. Those so would not be arm's length
5 transactions, then?

6 A Correct.

7 Q Would it be of assistance, then, at the point of
8 border crossing where customs declarations have
9 to be made in any event to add a requirement
10 that the shipping party make a declaration of
11 common beneficial ownership with the
12 counterparty?

13 A I hadn't thought about that. It seems to be,
14 you know, a fair idea. I'd have to think about
15 that more, but from a law enforcement
16 perspective that information, I think, would
17 prove very helpful.

18 Q And how about a similar type of declaration at
19 the point of border crossing in relation to
20 whether or not the transaction is arm's length?
21 Would that information be of assistance to law
22 enforcement?

23 A The way I look at this is if you ask the average
24 law enforcement, average intelligence officer,
25 they're going to say the more information we

1 have the better it is. The more data we have,
2 the better it is. So the short answer would be
3 yes. At the same time leading government, okay,
4 and talking to folks in industry I'm also
5 sometimes -- let's put it I'm very sensitive to
6 the fact it's very tempting sometimes to
7 generate reporting requirements, but they can
8 sometimes come at great cost.

9 So this all -- I'm not dismissing the idea
10 at all. I think it can be helpful, but at the
11 same time I understand the regulatory burdens
12 that this sometimes imposes on a group.

13 Q All right. And then as I understand it one of
14 the primary vehicles for trade-based money
15 laundering is over or undervaluing one of these
16 import export transactions?

17 A That's correct.

18 Q And again at the point of customs there's a
19 requirement to declare the value of the goods
20 and the nature of the goods.

21 A Correct. Correct.

22 Q And would it -- in the United States is one of
23 the vehicles for prosecuting or investigating
24 trade-based money laundering essentially fraud
25 in the process of describing the goods and

1 valuing them?

2 A Yes, absolutely. Absolutely.

3 Q So it's of particular importance to make sure
4 that the offences in respect of that activity
5 are properly characterized?

6 A Yes.

7 Q Or -- and easily enforceable or practically
8 enforceable?

9 A Yes, sir.

10 Q And that the declarations are made by people who
11 have adequate knowledge to make that
12 declaration?

13 A Yes, sir.

14 Q All right. And are you in a position to -- that
15 is to say when it comes to these cross-border
16 import/export transactions you are not looking
17 at prosecuting through money laundering
18 statutes; it's actually just a form of
19 cross-border fraud?

20 A That is correct. And it goes back to, I think,
21 a bit of a discussion I had earlier with
22 Mr. Davis about trade fraud itself. Depending
23 on who you talk to, trade fraud could be
24 considered a predicate offence for trade-based
25 money laundering. And others say no, as you

1 just indicated, it's trade fraud, kind of
2 separate. So, you know, this is a conversation
3 that, you know, a lot of people have had and I
4 don't think there's a good answer for it one way
5 or the other.

6 Q In terms of the economic harm resulting from
7 what amounts to dumping products at a lower
8 cost, that's pretty significant, isn't it?

9 A Yeah. It can be in countries around the world.

10 Q But have -- for goods that are undervalued at
11 the point of import, it can be very distractive
12 on the domestic manufacturing of those
13 comparable goods?

14 A Yes, sir, I agree.

15 Q All right. And so in that sense -- and I
16 suppose you're familiar with this -- businesses
17 engage in all sorts of intelligence-gathering
18 about their competitors?

19 A Oh, yes.

20 Q And if they had access to a beneficial ownership
21 registry for the shippers and receivers, they'd
22 be in a good position to go and investigate
23 their competitors for this type of money
24 laundering activity, wouldn't they?

25 A I would imagine, and I have never worked, you

1 know, at that level in a business, but yes, I
2 imagine that businesses would try to actively
3 collect as much intelligence as they could about
4 their competitors. There are a lot of
5 initiatives right now going on. As I mentioned,
6 in the United States we're very close to passing
7 finally beneficial ownership information.
8 There's a lot of discussion about the
9 particulars of that and who's going to have
10 access to that information, where that
11 information is going to be stored. And I think
12 countries around the world are kind of
13 struggling with those -- kind of going back to
14 your question about, you know, could companies
15 get access to that.

16 Q Right.

17 A A lot of observers, say, in Europe they want to
18 have, I think -- and, again, I'm not an
19 expert in this field -- they want to have, like,
20 open register. So, you know, John Q. Public can
21 see all of this. So, I mean, there is a lot of
22 debate.

23 Q Right. So -- but by having a public open
24 registry with low-cost access or no-cost access
25 to the information, business competitors, rather

1 than government, could be recruited to sift
2 through the data to make sure people are playing
3 by the rules?

4 A It could happen, yes. Sure.

5 Q And there'd be of course a business incentive, a
6 financial incentive for business owners or
7 people working for them to go and find out that
8 type of information?

9 A Right. One of the things -- and I don't think
10 this came up in my conversation earlier talking
11 about trade-based money laundering, you're
12 talking about countermeasures, you're talking
13 about the be possibility of creating trade
14 transparency. I think legitimate players,
15 legitimate business people, legitimate
16 international, you know, business enterprises,
17 they should welcome all this.

18 I'm not sure if that's what you're getting
19 at, but legitimate players want to play by the
20 rules; right?

21 Q Right.

22 A And those that do not, you know, push back on
23 transparency, financial transparency, trade
24 transparency, whatever.

25 Q Right. And the same might be true on the other

1 side. Not just domestic businesses that are
2 harmed by this type of activity but people in
3 the exporting country might be interested in the
4 places where the goods are being exported.

5 A Of course.

6 Q In cases of overvaluing goods at --

7 A That's correct.

8 Q So the same principle would apply to foreign
9 access to this domestic data?

10 A Yes.

11 Q Now, trade-based money laundering is also
12 domestic, not just cross-border; right?

13 A Give me an example of what you mean.

14 Q Oh, instead of having to cross a border -- well,
15 I guess a classic example is now popularized by
16 the *Ozark* television show, where the money
17 launderer recruits all sorts of people to
18 actually provide goods and services but at
19 inflated prices and some of the money is washed
20 back in the forms of now laundered funds?

21 A In that context, yes, I understand what you're
22 saying.

23 Q So that's even more difficult to measure than
24 the cross-border trade-based money laundering
25 because there's no paper trail?

1 A That's correct, there's no -- there's no paper
2 trail, as you described.

3 Q Or at least not a publicly accessible paper
4 trail.

5 A There's no trade data involved because it didn't
6 cross the border, yes.

7 Q Right. Service-based money laundering is also a
8 very serious problem.

9 A In my opinion it is, and -- I'm not sure you
10 heard our earlier discussion -- I think it's
11 something that definitely deserves closer
12 scrutiny.

13 Q That can be of an international order as well
14 where, say, a company from Ireland pretends to
15 provide services to a domestic company to allow
16 the domestic company to move its profits
17 offshore and not pay taxes?

18 A Correct.

19 Q That was common up until a year or so ago in
20 United States?

21 A Yes.

22 Q And now that activity's moved to Bermuda. Can
23 you say anything about that -- the level of that
24 activity in Canada?

25 A I just don't have any first-hand knowledge of

1 that. I'm sorry. I wish I did.

2 Q All right. By there's also domestic
3 service-based money laundering?

4 A Oh, of course, yes.

5 Q And in particular that type of money laundering
6 could be used to pay bribes to public officials?

7 A In theory, yes.

8 Q Well, also in practice. For example, the
9 mothers of prime ministers could be paid \$10,000
10 to give speeches for charities.

11 A I'm sure you have a particular case in mind. It
12 doesn't come to mind, but yes.

13 Q And so the difficulty is, I suppose, in
14 appraising the value of the prime minister's
15 mother's speech?

16 A Well, that's what I said in my discussion
17 earlier with Mr. Davis. The problem with
18 service-based money laundering is it's very
19 subjective. It's not like a trade good in
20 trade-based money laundering where most of the
21 time -- not all of the time, but most the time
22 there's a good that adheres to, you know, world
23 pricing norms. With services it's all over the
24 place.

25 Q I suppose one possibility could be to have

1 restrictions on family members of politically
2 exposed persons receiving funds for services of
3 that type?

4 A That's a possibility, but it's -- that's far out
5 of my area of knowledge. I mean, I understand,
6 I think, where you're going and I don't disagree
7 with that, but I just don't have any specialized
8 knowledge in those areas.

9 Q All right. On a different topic, undervaluing
10 exports can cause harm to the receiving country,
11 economic harm?

12 A Yes.

13 Q Is it not in the interest, then, of the
14 exporting country to allow that type of
15 activity?

16 A Once again could you give me an example?

17 Q Well, say, China had a currency restriction
18 where you couldn't directly move currency but it
19 tolerated undervaluing exports because of the
20 damage it does to manufacturing in the importing
21 country.

22 A Yes. Yes. In that case absolutely.

23 Q Are there any international conventions dealing
24 with that type of perverse incentive, where
25 undervaluing exports actually does damage to

1 your economic competitors?

2 A I'd like to say I should know, but I do not
3 know. Again, my background is law enforcement,
4 not international trade and policy, so I can't
5 answer that question. But it's a very fair
6 question.

7 Q So in terms of your experience as a law
8 enforcement investigator you've had lots of
9 dealings with people actually engaged in money
10 laundering?

11 A I have.

12 Q Does jail, in your expert opinion, work as a
13 threat or is it fines or forfeiture?

14 A I think it goes back again to some of the
15 discussions I had earlier with Mr. Davis. In my
16 opinion money launderers and criminal
17 organizations that engage in money laundering,
18 they're motivated by greed, money; okay? They
19 don't traffic in people because of the people;
20 they don't traffic in drugs because of the
21 drugs; they don't traffic in weapons because of
22 the weapons. They traffic, they commit crime
23 because of the money.

24 So what I believe we need to do, I talked
25 about this earlier, is to focus on the money.

1 Take the money, the proceeds away and follow
2 that money as high as we can in the food chain.
3 That scares, in my opinion. And I think there's
4 been some stories in the international press and
5 whatnot about some high-level drug trafficker,
6 sometimes they're -- they accept, if you will,
7 the prison, you know, the sentencing. What they
8 really fear is taking away their assets.

9 Q I wonder if you can comment about the general
10 money laundering net being fine enough to catch
11 the little guys but that large capitalist
12 concerns that engage in money laundering, it's
13 just too easy for them to come up with a
14 plausible story for them to be caught by the
15 existing money laundering rules?

16 A Yes, once again I understand where you're coming
17 from and I don't disagree. I work -- I'm on the
18 board of directors of Global Financial
19 Integrity, GFI -- you may have heard of it -- in
20 Washington, DC. There's an interesting -- well,
21 not interesting. He's a friend of mine. I have
22 the utmost respect for him. Raymond Baker, he's
23 the founding president of Global Financial
24 Integrity. He has written and researched quite
25 a bit about the kind of things that you're

1 talking about. I would refer you to his book
2 *Capitalism's Achilles Heel* and reaching out to
3 GFI in general for kind of more insight on all
4 this. But that's just -- like I said, that's
5 not what I do.

6 MR. GRATL: All right. Thank you, very much,
7 Mr. Cassara.

8 Mr. Commissioner, those were my questions.

9 THE COMMISSIONER: Thank you, Mr. Gratl.

10 Anything arising from that, Ms. Tweedie?

11 MS. TWEEDIE: Nothing arising. Thank you.

12 THE COMMISSIONER: Thank you. Mr. McFee?

13 MR. McFEE: No, nothing arising. Thank you.

14 THE COMMISSIONER: Mr. Leung?

15 MR. LEUNG: Nothing arising. Thank you.

16 THE COMMISSIONER: Ms. French?

17 MS. FRENCH: Nothing arising. Thank you.

18 THE COMMISSIONER: And Mr. Davis?

19 MR. DAVIS: Nothing arising, Mr. Commissioner. Thank
20 you.

21 THE COMMISSIONER: Thank you. Thank you,

22 Mr. Cassara. We're very appreciative of the
23 time you took to share with us your experience
24 and expertise in this sometimes difficult to
25 understand but emerging area. I fully expect

1 that what you provided us with will make a
2 significant contribution to the work of the
3 commission, so I'm grateful to you. You're re
4 now excused from any further testimony.

5 THE WITNESS: Thank you, Mr. Commissioner. Thank you
6 to your staff as well.

7 **(WITNESS EXCUSED)**

8 THE COMMISSIONER: We will adjourn, then, until
9 tomorrow morning at 9:30.

10 THE REGISTRAR: The hearing is now adjourned until
11 December 10, 2020, at 9:30 a.m. Thank you.

12 **(PROCEEDINGS ADJOURNED AT 1:04 P.M. TO DECEMBER 10, 2020)**

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