

BRITISH VIRGIN ISLANDS COMMISSION OF INQUIRY

HEARINGS: DAY 22
(TUESDAY 6 JULY 2021)

International Arbitration Centre
3rd floor Ritter House
Wickhams Cay II
Road Town, Tortola

Before:

Commissioner Rt Hon Sir Gary Hickinbottom

Counsel to the Commission Mr Bilal Rawat appeared.

Ms Dorea T Corea gave evidence.

Court Reporter:

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Those present:

Mr Bilal Rawat

Ms Dorea T Corea (attending remotely)

Mr Steven Chandler, Secretary to the Commission

Ms Juienna Tasaddiq, Assistant Secretary to the Commission

Mr Andrew King, Senior Solicitor to the Commission

Ms Rhea Harrikissoon, Solicitor to the Commission

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P R O C E E D I N G S

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DOREA T COREA, COMMISSION WITNESS, CALLED

COMMISSIONER HICKINBOTTOM: Mr Rawat.

Good morning, Ms Corea.

THE WITNESS: Good morning, Commissioner.

COMMISSIONER HICKINBOTTOM: Mr Rawat.

MR RAWAT: Good morning, Commissioner. Our witness today is Dorea T Corea, who is the Internal Auditor.

Before I go through a number of matters with Ms Corea, can I just for the Transcript confirm that, in terms of legal representation for participants, there are no legal representatives either in the Hearing or attending remotely.

BY MR RAWAT:

Q. Ms Corea, I hope that you can see and hear me. Can you confirm that, please?

A. I can.

Q. And just to confirm for the record, before the Commissioner came in, you have confirmed that you are in a private space; there are no recording devices; and your mobile phone is switched off?

A. Correct.

Q. That's right. Thank you.

You've also confirmed that you would like to take the affirmation today?

A. Correct.

1 Q. Do you have the words of the affirmation with you?

2 A. I do.

3 Q. Could you read those words out now, please.

4 A. I do solemnly, sincerely and truly declare and affirm
5 that the evidence I shall give shall be the truth, the whole
6 truth, and nothing but the truth.

7 Q. Thank you.

8 First of all, thank you very much for attending to
9 give evidence today. You are doing so remotely for good reason
10 that we don't need to go into the detail of that. There are
11 some formalities that we need to go through.

12 First of all, could I ask you to give the Commissioner
13 your full name, please?

14 A. My full name is Dorea Theresa Maduro Corea.

15 Q. And your professional address?

16 A. Third floor, Ashley Ritter Building, Wickham's Cay 1.

17 Q. I'll try and keep my questions short and simple. If
18 you have any difficulty, however, in understanding a question or
19 you would like me to repeat or rephrase it, please do ask me.

20 I believe you've received a number of bundles for
21 today's hearings. Can you confirm you have the bundles with
22 you?

23 A. I do have the bundles.

24 Q. We don't need look at any yet, but as we will go
25 through your evidence, I will take you to various documents in

1 the bundles.

2 The last thing to remind you of is just and keep your
3 voice up, please, and speak slowly. That way, we can ensure
4 that your answers are accurately and clearly recorded on today's
5 Transcript. Thank you.

6 Can we start off with this question, please. Could
7 you give the Commissioner an outline of your professional
8 background before you were appointed as Director of the Internal
9 Audit Department?

10 A. Okay. I joined the Ministry of Finance in 1995 as an
11 Assistant Internal Auditor, as a new employee upon completing my
12 tertiary education in marketing and finance from the University
13 of the Virgin Islands. Since that time, I have been promoted
14 through the ranks.

15 2001, becoming a Senior Internal Auditor; 2006,
16 becoming Deputy Director, and my last being confirmed to the
17 post of Director of Internal Audit, effective July 1st, 2013. I
18 had acted in that capacity in two previous occasions, firstly in
19 2007, and secondly in 2012.

20 Over my tenure, I have received extensive professional
21 training in the discipline of internal auditing profession,
22 nationally, regionally, and internationally.

23 Q. Thank you.

24 The Internal Audit Department as presently constituted
25 was established under Section 3 of the Internal Audit Act of

1 2011, but was it operating prior to 2011?

2 A. It was.

3 Q. And I believe it was set up in 1991; is that right?

4 A. That is correct.

5 Q. Before the 2011 Act, what was the statutory basis for
6 the Internal Audit Department?

7 A. Well, the internal--Internal Audit standards are
8 unique within the Ministry of Finance, it was established under
9 the Financial Secretary, and it was instituted to provide
10 assessments for departments within the Government service,
11 primarily the Ministry of Finance, on the processes that were
12 completed for the Public Services.

13 When it was first constituted, it primarily was
14 reporting to the Financial Secretary, and as it evolved, an ad
15 hoc Audit Committee was commissioned. That was a Commission
16 comprising of all the Permanent Secretaries, including Deputy
17 Governor, the Accountant General and the Auditor General, and
18 that was a reporting, functional body at that time.

19 Q. Right.

20 A. That body functioned until 2002.

21 Q. 2002, did you say?

22 A. Correct.

23 Q. If you take it to post the 2011 Act, what would you
24 say the purpose of the Internal Audit Department is now?

25 A. Well, it's presently the same intent, only thing

1 because we evolve and we realize that the function is an
2 independent function. It draw reason to create the Audit Act
3 and the Audit Committee, which is the Internal Audit Advisory
4 Committee.

5 Q. The Section 4 of the Act--I know you don't have it
6 with you, but can I just read out what Section 4 says in terms
7 of the function of the Internal Audit Department. It's firstly
8 to "monitor the systems of internal control of a Public
9 Authority using generally accepted Internal Audit standards";

10 Second, to "evaluate and report on whether the systems
11 of internal control of a Public Authority are adequate and
12 efficient to ensure that (i), Government assets are adequately
13 safeguarded; used only for identified purposes" or other
14 "purposes approved by law; and used economically and
15 efficiently."

16 "(ii), risks may be identified and managed;"

17 "(iii), the financial management and control
18 information of a Public Authority is accurate and reliable;"

19 (iv), the operations of a Public Authority are
20 compliant with policies, procedures and the law;"

21 The next function the Section 4 of the 2011 Act gives
22 the Internal Audit Department is to "review operations and
23 programmes of a Public Authority, to ascertain whether the
24 results are consistent with the objectives of the operations and
25 programmes of the Government;"

1 The next function is to "report and make
2 recommendations to the head of a Public Authority and the
3 Committee regarding any irregularity or significant control
4 weakness occurring within that Public Authority;"

5 Then it's to "design plans to be approved by the
6 Committee for the development and maintenance of efficient
7 internal audits of Public Authorities";

8 And to "design plans to be approved by the Committee
9 for the improvement of systems of internal control of Public
10 Authorities";

11 And finally, it's to prepare audit acts in accordance
12 with the 2011 statute.

13 So, it's quite a wide-ranging role, isn't it?

14 A. It is.

15 Q. And do you see or would you agree that an effective
16 Internal Audit Department is a means by which Government can
17 enhance good governance, transparency, and accountability?

18 A. I do.

19 Q. It's a way, isn't it, of ensuring that Government
20 operations are efficient and effective?

21 A. It is.

22 Q. And that public bodies manage risks and their budgets
23 sensibly?

24 A. Correct.

25 Q. Now, you've mentioned--and I've just mentioned when I

1 read out parts of Section 4 to you, the Internal Audit Advisory
2 Committee.

3 A. Correct.

4 Q. Is it right that, under the Act, that's the Committee
5 to which the Internal Audit Department reports?

6 A. It is.

7 Q. And it's created by Section 6 of the Internal Audit
8 Act 2011, and Section 7 gives it several functions:

9 Firstly, that it has to "establish standards and
10 procedures for the effective control of internal audits by the
11 Department;"

12 Secondly, it has to "advise the Department in relation
13 to the performance of its function under" the 2011 "Act;"

14 Third, it has to "advise the Department on policies
15 and procedures for the development, maintenance, and improvement
16 of systems of internal control for Public Authorities.

17 And then it has to, fourth, "advise the Department"
18 "each Financial Year "on an audit programme for implementation
19 "which shall include" which public authorities will be audited,
20 how they will be audited, "any Government programme or policies
21 "relevant to the public authorities to be audited; and any
22 internal audit control deficiencies relating to the Public
23 Authorities" that are "known to the Department".

24 And the last function that the Committee has is to
25 "review" the "audit reports forwarded" to it "by the Director."

1 So, would it be fair to say that part of the function
2 of this Committee is to guide the work that is done each
3 Financial Year by your Department?

4 A. Absolutely so.

5 Q. Now, under Section 8 of the Act, Section 8 says that
6 the Committee is appointed by the Cabinet upon the
7 recommendation of the Minister.

8 Now, where it refers to the "Minister," is that the
9 Minister for Finance?

10 A. Yes, it is the Minister of Finance.

11 Q. Now, as I understand it, the Committee will have five
12 Members to it, so it's no longer a committee of Permanent
13 Secretaries, but the five Members have two ex officio Members,
14 and one of them is yourself as Director of the Internal Audit
15 Department, and the other is either the Financial Secretary or
16 the Deputy Financial Secretary; that's right, isn't it?

17 A. That is correct.

18 Q. And so the other three Members that are appointed
19 are--those are the three people that the Cabinet has to approve
20 and appoint; is that right?

21 A. That is correct, sir.

22 Q. And as I understand it, and this is in the Act, that
23 firstly it has to be "a Chairperson who is a person of good
24 standing in the accounting or auditing profession;" then the
25 second person has to be a senior public officer, and the third

1 is "a member who is not a public officer" and who is "determined
2 by the Minister." So, that's someone from the private sector?

3 A. Correct.

4 Q. Now, you, Ms Corea, in the past, had a Committee in
5 existence, but is it right that the last Committee ceased its
6 work on the 31st of December 2016?

7 A. Yes, that's when the appointments were expired.

8 Q. And that was the appointments of those people who had
9 been appointed to it by Cabinet?

10 A. Correct.

11 Q. That Committee, which ended its work in December 2015,
12 when had it been appointed?

13 A. 2016, not 2015.

14 It was appointed in 2014.

15 Q. I spoke over you. Could you give us the date again,
16 please.

17 A. It was appointed in 2014 and the appointments expired
18 in 2016.

19 Q. Can you remember which date in 2014 it was appointed?

20 A. The appointments, if I can recall, was January 1st.

21 Q. So, it was in existence for a two-year period. During
22 that two-year period, how often did the Committee meet?

23 A. According to law, it was required to meet every
24 quarter. Unfortunately, that was not the case.

25 Q. Who's responsible for organizing the meetings?

1 A. The Chairman is.

2 Q. The Chairman.

3 And who was the Chairman of that Committee?

4 A. At that time it was Ms Italia Penn.

5 Q. That's Italia Penn; yes?

6 A. Yes.

7 Q. Thank you.

8 You've told--you've confirmed that its term expired on
9 the 31st of December 2016. Before that date, when was the last
10 time that the Committee had met?

11 A. According to my records, in August of 2015.

12 Q. Obviously, the Committee, as it's now constituted was
13 established under the 2011 Act, between 2011 and 2014, was there
14 a committee in place?

15 A. No, there was not.

16 Q. Now, we understand from the issue of the BVI Gazette
17 published on Thursday the 24th of June 2021, that on the 21st of
18 June 2021, Cabinet appointed three Members of the Committee, the
19 Internal Audit Advisory Committee. Before it was published--or
20 let me put it this way: Have you been informed directly of
21 those appointments?

22 A. I have been.

23 Q. How were you informed?

24 A. I was informed by e-mail and by correspondence coming
25 into the office.

1 Q. And you confirm that the three new Members of the
2 Committee are firstly Ms Italia Penn, who is going to be the
3 Chairperson; is that right?

4 A. Correct.

5 Q. And then Mrs C Jovita Scatliffe, and Mr Terrence
6 Gumbs?

7 A. Correct, sir.

8 Q. Do you know obviously Ms Italia Penn was the previous
9 Chair of the 2016 committee. Do you know whether Ms Scatliffe
10 and Mr Gumbs have previously been Members of the Committee?

11 A. They have not.

12 Q. Since the 24th of June, 2021, has the new Chair of the
13 new Committee been in touch with you?

14 A. Not to date, sir.

15 Q. You're voice slightly dropped. Did you say "not to
16 date"?

17 A. Not to date. Correct.

18 Q. Now, what follows from your evidence, Ms Corea, is
19 that between the 31st of December 2016 and at least 21st of
20 June 2021, there has not been a committee in place. What impact
21 has that had on the impact on the work of the Internal Audit
22 Department?

23 A. Because the work of the Internal Audit Department is
24 supported and driven by the Internal Advisory Committee, there
25 was no functional reporting responsibility as far as the

1 Internal Audit Department was concerned. So, the Department was
2 left without a functional reporting body and internally reported
3 to the Ministry of Finance.

4 Q. During that time, which is over, I suppose, nearly
5 four-and-a-half years, did your Department make efforts to try
6 and reestablish the Internal Audit Advisory Committee?

7 A. We have, on several occasions.

8 Q. And who were you able to write to try and get it
9 reestablished?

10 A. Well, because we administratively report to the
11 Ministry of Finance, we have to write to the Financial
12 Secretary.

13 Q. And realistically, is writing to the Financial
14 Secretary seeking the reestablishment of the Committee the only
15 step that's open to you as Director of the Internal Audit
16 Department?

17 A. Well, directly, currently, yes.

18 Q. And did you put forward any names of people who might
19 be suitable for the Committee?

20 A. They had asked us, and we did, yes.

21 Q. And did you raise the need for the Committee on more
22 than one occasion?

23 A. Yes, sir, I did.

24 Q. Can you remember the most recent occasion that you
25 wrote to the Financial Secretary?

1 A. February 3rd, 2021.

2 Q. Now, have you had any explanation for why it took so
3 long to establish--to reestablish the Committee?

4 A. No, I have not.

5 Q. And even if we take--obviously, as I've said, it
6 stopped working on the 31st of December 2016, and although it's
7 been reestablished very recently, it has yet to meet, but even
8 after your last--the last contact--the last time you raised it,
9 which was the 1st--3rd of February 2021, have you had any kind
10 of explanation why it's still taken some months to appoint the
11 three Members of the Committee?

12 A. No, no explanation was provided, sir.

13 Q. Now, correct me if this is wrong but when we look at
14 the reports that you have provided to the Commissioner which go
15 back to 2009, there does appear to be a decline in the number of
16 reports that your Department has been able to produce in recent
17 years; and so since 2016, you've produced reports, it's either
18 three to two reports each year, whereas before that, for
19 example, in 2015, you produced seven reports. Is that decline
20 linked to the fact that you did not have a committee to report
21 to?

22 A. That can be one reason, but there are many others.

23 Q. What other reasons were there?

24 A. Okay, you have the absence of a committee, yes, one.
25 We've also had a decline in Human Resources, that's two. In

1 terms of responsiveness from Department which is a continuous
2 mantra, it depends on what information we receive we can
3 actually have a report completed, and that's four reasons.

4 Q. Can I--I will come back to some of those other reasons
5 in a moment, but in terms just to finish off on the Committee, I
6 mean, one function of that Committee is to advise you as to what
7 your audit programme should be; is that right?

8 A. Correct.

9 Q. And what the Committee can also do--and this is under
10 Section 14 of the Act--it can ask you to carry out an ad hoc
11 investigation of a public authority, can't it?

12 A. It can.

13 Q. Let's turn to your point about Human Resources. It's
14 right, yourself and your staff are appointed by the Governor?

15 A. That is correct.

16 Q. As you've said, you report functionally to the
17 Committee but administratively to the Ministry of Finance?

18 A. That is correct.

19 Q. So, where does your budget come from, Ms Corea?

20 A. It is--it is administered under the umbrella of the
21 Ministry of Finance, since we are the Department and not the
22 Ministry.

23 Q. Do you have your own budget each year to allocate as
24 you think necessary? How does it work?

25 A. We have the option to prepare a budget and submit it

1 to the Ministry of Finance, but, of course, like every other
2 Department's budget, we go through a process, and we also go to
3 Standing Finance where the budgets are reviewed, and then it
4 goes through the process of having a passed budget.

5 So, there are different steps from the time we make
6 budgets from our Department and what actually is executed at the
7 final agreement.

8 Q. And does it work like this, that you will start your
9 Financial Year with an allocated budget--a paper budget, so to
10 speak--but as you go through the year, if you want a particular
11 resource, you have to apply for, and there may be occasions when
12 you're told there isn't the money for that resource?

13 A. That is true.

14 Q. So, even though you might think on paper there is
15 money for that resource, once it goes through the process, you
16 might be told actuality it can't be funded?

17 A. That is true.

18 Q. Now, you've spoken about Human Resources. Do you
19 consider as Director of the Internal Audit Department that you
20 have the resources to carry out your work effectively?

21 A. We have the resources in terms of post, but in terms
22 of bodies, no. And there is a reason why I say that.

23 Currently, we have six technical officers assigned to
24 our Department; and, of those six, we currently only have two
25 bodies sitting in office. We have one officer on secondment,

1 and we also have two officers on the assignments. We have one
2 who has retired, and then we have another assistant position
3 that's vacant.

4 Q. And in terms of your sort of ideal capacity in terms
5 of persons in the office, what's your optimum size of the office
6 that you need?

7 A. Well, in terms of need, it would depends on the terms
8 of activity. So, if we have a fully fledged audit plan and
9 activity in terms of responsiveness from Departments, it
10 probably be more than the officers that we have. But because we
11 won't have activity issues driven by the Committee, then I
12 wouldn't say that we need additional staff, but once we engineer
13 to have audit activity in gear, I'm sure we will need more
14 staff, based on the size of the public service.

15 Q. So, it might be chicken and egg, isn't it, because if
16 the Committee gives you a very ambitious audit plan, you may not
17 have enough personnel to fulfill that plan?

18 A. That is true.

19 Q. But until the--until the Committee gives you a plan,
20 you won't know what resources you need?

21 A. That is correct.

22 Q. But the Committee may--if the Committee--and if the
23 Committee sort of adapts its plans to fit in with the resources
24 that you do have, that may mean that there are some important
25 audits that are not undertaken?

1 A. That can possibly be the case, sir.

2 Q. Can I just ask you about some general questions about
3 the process of producing reports and how you produce reports.

4 So, you are, under Section 4, directed to prepare
5 Audit Reports, so that's one type of report that you will
6 prepare, isn't it?

7 A. Correct.

8 Q. And you can also do follow-up audits; is that right?

9 A. That is true.

10 Q. And, as we've said, the Committee could ask you to do
11 an ad hoc report.

12 Under Section 16 of the Act, the Internal Audit
13 Department will also investigate if there is a report or an
14 allegation of irregularity or fraud; is that right?

15 A. That is true.

16 Q. Now, in the Act, under Section 12, what--that's your
17 general powers as an Auditor. What Section 12 says is that:
18 "In relation to a Public Authority which is being audited, the
19 Director or an auditor may, during the course of an internal
20 audit (a) access any Government asset or property belonging to a
21 Public Authority which is in the possession of or under the
22 control of a public officer or an employee of the Public
23 Authority;"

24 "(b), enter and inspect any premises of the Public
25 Authority;"

1 "(c), search or inspect any document, record or
2 information of the Public Authority and obtain extracts or
3 copies of the documents, record or information; and"

4 "(d) request from any public officer or employee of
5 the Public Authority any information or document, including
6 electronic data, which is relevant for purposes of an internal
7 audit."

8 So, does that translate to that, as the Internal
9 Auditors, you have a statutory right to see whatever documents
10 you consider necessary to do your work?

11 A. Correct.

12 Q. Obviously, as we've established, when you go into a
13 public authority to do an audit, you will produce a report at
14 the end of that, and you will usually, won't you, make
15 recommendations in that report?

16 A. We would.

17 Q. And do you give the public authority an opportunity to
18 respond to the Report before you finalise it?

19 A. Every time, yes, we do.

20 Q. And do you described that as a Management Response?

21 A. That is correct, sir.

22 Q. And once you get that response, are there occasions
23 when you might respond to the response?

24 A. That is correct, sir.

25 Q. And then it's finalised. Once it's in final form, the

1 responses have been received, and everything has been dealt
2 with, where does that report go after that?

3 A. Okay, once a report is finalised, it goes, of course,
4 to the client, which is the Accounting Officer or the CEO,
5 depending on what type of agency it is. It goes to the Ministry
6 of Finance, the Minister--who would report it to the Minister of
7 Finance. It also goes to the Deputy Governor's office and the
8 Auditor General.

9 Q. Presumably it also goes to the Committee, if it
10 exists?

11 A. Correct. Sorry about that. It goes to the Committee
12 first, sorry.

13 Q. But essentially your Report will be provided to
14 everyone who might be affected by its recommendations?

15 A. That is correct, sir.

16 Q. What happens if you don't get a response to your draft
17 report?

18 A. It remains a draft report. We just finalise it as a
19 draft report.

20 Q. And does it go to anyone else?

21 A. No, it doesn't, and that's where the Committee would
22 come in, to play that role in effecting our responsiveness. So,
23 the Chairman will then get involved in the process to ensure
24 that the public authority responds to the report.

25 Q. Going back to the 2014-2016 Committee, how, in your

1 experience, how effective was that Committee in persuading
2 public authorities to respond to your drafts?

3 A. It played a role, and based on the activity that we
4 had because it was minimal, the role was not driven, in my
5 opinion, in the way it should go, and there were times when we
6 had situations where the Chairman did get involved to make sure
7 that the authority responded and it still was restricted. And,
8 in that process, the matter went to the Minister, and it was
9 addressed at that point.

10 Q. Since 2016, you haven't had a committee to assist in
11 that process?

12 A. No, we haven't.

13 Q. And have you noticed any trends at all in the
14 willingness of public authorities to respond to draft reports
15 since 2016?

16 A. Well, based on my experience, it depends on the
17 Authority that's being audited, and sometimes the activity that
18 was completed and what the results were, but we had been
19 receiving responses in some areas where others were restricted.

20 Q. Because, if you know that there is no committee, it
21 could have the effect of just bringing your audit to a halt, if
22 the public authority just doesn't respond to your Report?

23 A. That can be the case.

24 Q. Because your Report just ends up staying in draft,
25 doesn't it?

1 A. It does.

2 Q. You will also--and I think we used the Section 16
3 example as an example of irregularity and fraud. You will, as
4 the Internal Audit Department, also investigate specific issues,
5 won't you?

6 A. Yes, we have.

7 Q. Now, part of your function is to make recommendations.
8 You've got to do that under the Act. Looking over the time,
9 particularly the time since the Committee ceased to exist, have
10 you noticed any general trends in the responsiveness of public
11 authorities to recommendations?

12 A. Well, I wouldn't say it would be dependent on the
13 Committee being appointed or not because there had been times
14 when we have had the Committee and there was still
15 non-responsiveness. However, when we do make recommendations,
16 the authority had the option to agree or to disagree with the
17 recommendations that we make. However, they would have to
18 provide substantial reason as to why.

19 Q. Is that reason as to why they disagree?

20 A. Correct because, if I must add, once you agree, you
21 are supposed to also identify an action plan as to how you
22 intend to implement the recommendations and what time frame
23 you're giving the Auditors.

24 Q. Do you think there are--I'm going to say that again.

25 In your experience, are there particular factors that

1 you can identify that make it more likely that a public
2 authority will respond positively to a recommendation?

3 A. Say that again?

4 Q. Taking your experience, are there any general factors
5 that you can identify that make it more likely that a public
6 authority will agree to a recommendation?

7 A. If it's in their favor, yes, they will respond.

8 Q. Now, you do follow up audits, and would you do that in
9 every case where you've made recommendations?

10 A. We should because it's part of the Audit cycle, but
11 again because of minimum human resources, we are unable to do
12 every follow-up.

13 Q. And in your follow-up audit, can you make additional
14 recommendations?

15 A. Yes, we should.

16 Q. But ultimately--I mean, if a public authority comes up
17 with an action plan, is it the responsibility of the Internal
18 Audit Department to make sure that they implement the Action
19 Plan?

20 A. No.

21 Q. So, all you can do is monitor the extent to which they
22 accept or reject the recommendations, make follow-up
23 recommendations, but after that, is there anything else that you
24 can do as the Internal Audit Department?

25 A. Well, if the Internal Audit Department makes

1 recommendations, it means there is something that needs fixing
2 or something that can be improved. So, if the Public Authority
3 does not respond, it means to us that they are accepting a
4 certain level of risk because it would be to improve their
5 effectiveness and efficiency. When they don't respond or when
6 they don't implement recommendations, depending on the level of
7 risk exposure, the Department will then--of course, when the
8 Committee was available--they count on the Committee to go
9 further with the recommendations to the pertinent Ministers or
10 to the Deputy Governor, whomever it would effect directly and
11 adversely. But if, in the absence of the Committee, we usually
12 don't have any resolve. We would usually utilise the Financial
13 Secretary to assist us in making sure that those recommendations
14 are implemented, especially if it has a financial implication
15 involved.

16 Q. In terms of your budget, you've spoken about Human
17 Resources and the impact of that, but in terms of your budget,
18 do you think your budget is sufficient? I'm sure everyone would
19 always want more money, but if this new Internal Audit Advisory
20 Committee were to come up with an ambitious audit plan, would
21 you have the budget to be able to deliver that plan?

22 A. No, we would not.

23 Q. What--on your current capacity in terms of Human
24 Resources and in terms of budget, how many audit reports can
25 you--can your Department feasibly do in one Financial Year?

1 A. Comfortably and effectively, I would say with all
2 staff in place, all competent staff in place, I would say at
3 least minimum five.

4 Q. Five.

5 If we look at 2019, you did, I think, three reports in
6 2019. Are you very much dependent on all your staff being
7 available?

8 A. Yes, we are.

9 Q. And is it the case that the minute you lose one or two
10 either on secondment or retirement or whatever, your ability to
11 deliver is compromised?

12 A. Drastically, sir.

13 MR RAWAT: Give me a moment, please.

14 (Pause.)

15 BY MR RAWAT:

16 Q. I would like, if I may, just to take you to some of
17 the reports.

18 Do you have the first bundle with you? I think it's
19 called "Part 1."

20 A. I do.

21 Q. If you go to page 851(1), please.

22 A. Say that one again, sir?

23 Q. Page 851, and then it's (1). It was, I think, an
24 additional insert.

25 A. I'm not seeing that page, sir.

1 MR RAWAT: Commissioner, could I ask you just to rise
2 briefly, and we'll try and sort that out with Ms Corea. I think
3 it's probably a good time anyways to give the Stenographer a
4 break because we're moving on to a new topic.

5 COMMISSIONER HICKINBOTTOM: Certainly. Five minute,
6 Mr Rawat.

7 MR RAWAT: Ms Corea, the Commission is going to rise,
8 and we'll try and make sure that you have a copy of the report
9 that I want to go through with you; all right?

10 THE WITNESS: Okay.

11 COMMISSIONER HICKINBOTTOM: Good. Thank you.

12 (Recess.)

13 COMMISSIONER HICKINBOTTOM: Good. Thank you,
14 Mr Rawat. Have you sorted that out?

15 MR RAWAT: Yes, we have. Ms Corea has confirmed that
16 she has the report that I want to take her to. Thank you very
17 much, Commissioner, for that time.

18 BY MR RAWAT:

19 Q. Ms Corea, the report that I wanted to take you to is
20 it at page 851(1), and that's a report of the Internal Audit
21 Department from June 2012 on the Immigration Board Belonger
22 Application Process.

23 Can I confirm that you have that?

24 A. Yes, I do.

25 Q. If you go to page 4 in that, internal page 3. For the

1 Transcript and your note, Commissioner, it's page 851(4).

2 COMMISSIONER HICKINBOTTOM: Yes.

3 THE WITNESS: Correct.

4 BY MR RAWAT:

5 Q. There is an introduction there, which if I can read
6 that to you, please, Mrs Corea. It says at 2.1: "Belonger
7 status is a legal classification normally associated with
8 British overseas territories. It refers to people who have
9 close ties to a specific territory, normally by birth and/or
10 ancestry. The requirements for Belonger status, and the rights
11 that it confers, vary from territory to territory."

12 "In the British Virgin Islands, the Department of
13 Immigration through the Board of Immigration facilitates the
14 process of Belongership under the rights of marriage and
15 residency. Under this arm, Belonger Status is granted under the
16 Immigration and Passport Ordinance Cap 130 Section 16.
17 Additionally, the definition of qualifications for Belonger
18 status in the British Virgin Islands is contained in section
19 2(2) of the Constitution and includes nine (9) different methods
20 by which a person may be regarded as a Belonger."

21 "In 2004, Government of the Virgin Islands outlined
22 the details of a new immigration policy framework in an effort
23 to add further structure and clarity to the rules surrounding
24 application for Residency and Belonger status and formally
25 committed itself to bestowing status to no more than twenty-five

1 (25) persons a year. For those persons applying for status on
2 the basis of having residing in the Territory for twenty (20)
3 years."

4 "Over the years, numerous complaints have surfaced
5 referring to the process as a lengthy one and the lack of
6 information as to the status of a person's application within
7 the process. As a result of the implications of this service
8 that Government provides, along with its implications on other
9 Government programmes, the need to review the process and the
10 functioning of the Board forms the basis of this exercise".

11 So, that explains how the Internal Audit Department
12 came to carry out this exercise.

13 If you go to the next page 851(5), you set out
14 there--or the Department sets out the scope of the Audit, and so
15 we see that, at 5.1, it records: "The audit focused on Belonger
16 status issued from 2009 to 2011".

17 That the Audit had three objectives. The first is at
18 paragraph 6.1: "To give assurance that the system of processing
19 Belonger status applications is transparent and equitable."

20 At 6.2: "To give assurance that controls are adequate
21 to safeguard the system from abusive practices."

22 And at 6.3: "To give assurance that the Immigration
23 Board is functioning effectively and in accordance to statutory
24 or policy requirements."

25 The report then goes on under "Audit Criteria" to set

1 out as follows:

2 "In planning and conducting the Audit exercise
3 relevant legislation(s), policies and procedures were reviewed.

4 "Documentary evidence in support of our findings and
5 conclusion were derived from Department's reports and files. A
6 sample examination of persons to whom Belonger status was
7 granted for the scope years was also conducted and the results
8 of these testing form part of our audit findings.

9 "Interviews were conducted with pertinent staff from
10 the Department of Immigration. In addition, the Chairman of the
11 Board of Immigration was also interviewed to gain an
12 understanding of the Board's operations and the process that
13 governs the awarding of Belonger Status."

14 Just to pause there, Ms Corea, in terms of setting
15 this sort of ambit of an audit, is this typical of the approach
16 that the Department will adopt?

17 (Overlapping speakers.)

18 Q. Policies and procedure, you will interview people, you
19 will perhaps take a sample of applications, for example, or
20 samples of persons to see how the process works; is that right?

21 A. Yes, that is standard Internal Auditing processes,
22 yes.

23 Q. Now, you said "standard internal audit" processing,
24 and I should have asked you this before, but could you just
25 explain to the Commissioner what standards does the Internal

1 Audit Department operate by?

2 A. Currently, we are guided by the IPPF, which is the
3 International Professional Policies Framework from the IIA,
4 which is the Institute for Internal Auditors. That's where we
5 get our guidance from, in terms of internal auditing functions.

6 Q. Now, if you go to the next page, paragraph 8.1, there
7 is a heading called "Audit Limitations".

8 Is it also usual practice to set out any limitations
9 that there may have been on the Audit that you have to carry
10 out?

11 A. That is correct, sir.

12 Q. And, for example, that might be if you didn't have
13 access, for whatever reason, to documents that you wanted?

14 A. That is correct, sir.

15 Q. Now, in this case, you've recorded this: "This review
16 was limited to reviewing the process as far as the
17 recommendation phase"--and we will come back to what you mean by
18 that shortly--"as auditors were not allowed access to the
19 Cabinet Papers approving individuals for Belonger Status as they
20 were deemed confidential. The lack of information and
21 documentation required to thoroughly assess the process limited
22 the team's ability to adequately assess the entire process,
23 especially at the approval" stage "or Cabinet level."

24 So, take it from there that the Internal Audit team
25 were not allowed to see Cabinet Papers; is that a common

1 assurance?

2 A. In most instances, yes.

3 Q. And is that particularly so in relation to Cabinet
4 material?

5 A. That is correct.

6 Q. Now, we looked at a little earlier your powers under
7 Section 12. Do you consider that on your understanding what
8 Section 12 allows you to do as an Internal Auditor, you could
9 have access to Cabinet Papers if you wanted?

10 A. That is correct.

11 Q. And is your understanding of Section 12 that there is
12 no basis on which someone can refuse to give you the material
13 that you want as an Internal Auditor, is there?

14 A. That is correct, sir.

15 Q. And it's right, isn't it, also that, your Reports are
16 not made public, are they?

17 A. No, they're not.

18 Q. They'll go to, as you explained earlier, relevant
19 individuals, the public authority being audited, the relevant
20 Minister, and they go to the Committee.

21 A. Correct, sir.

22 Q. Thank you.

23 Could we look at the same page under headings "Facts
24 and Findings" and just go through what the Internal Audit
25 revealed in relation to your three objectives.

1 To remind you, your Objective 1 one was "To give
2 assurance that the system of processing Belonger status
3 application is transparent and equitable."

4 You divided, in the report, the process into three
5 phases.

6 The first one--and tell me if I've misunderstood
7 this--is an application process where an application is
8 submitted to the Department of Immigration.

9 The second phase is where there has been what you call
10 a "Consideration and Recommendation" phase where the application
11 is reviewed and the Board then makes a recommendation, and that
12 recommendation is a recommendation made to Cabinet, isn't it?

13 A. That is correct, sir.

14 Q. And the final third phase is an approval or denial
15 phase where Cabinet either approves or denies the
16 recommendation?

17 A. That's correct, sir.

18 Q. Thank you.

19 If you go, please, to, using your internal numbering,
20 if that's easier, Mrs Corea, if you go to the appendices, which
21 are not numbered, so I will have to use the numbering that the
22 Inquiry has given the document. 851(27). Let me know when you
23 have that page.

24 A. 27 you said, sir?

25 Q. 27, yes.

1 A. I have it.

2 Q. Appendix 3. This is an appendix to the report, and
3 you've set out--the Internal Audit Department, that is--has set
4 out the application process for Belonger Status in a little bit
5 more detail, and you say, "The process is as follows," and I'm
6 going to summarize this, but if you think I'm missing out
7 relevant details, please do tell me, Ms Corea.

8 The first is that "An application is collected,
9 completed, and then submitted to the Status Unit of the
10 Immigration Department..."

11 The second stage is that "The submitted application is
12 then reviewed by the Unit for completeness."

13 At the third stage, once that review is completed, the
14 applicant gets an acknowledgment letter from the Status Unit,
15 but if on review the application is found to be incomplete, the
16 Status Unit would contact the applicant indicating what further
17 information was required.

18 At fourth stage, once the completed applications are
19 placed, they're then placed in a queue for consideration by the
20 Board of Immigration, and you explain that the queues are
21 placed--the applications are placed in queue based on the
22 qualifying year and whether the status being granted is based on
23 marriage or residency status.

24 And in then considering applicants to be interviewed,
25 the Board uses two principles: The first is a policy decision

1 whereby what is now Cabinet, approved a policy that no more than
2 25 applicants per year for those applicants who possess a
3 certificate of residency will be considered for Belonger Status.
4 They must be in possession of a certificate of residency for at
5 least one year and be residing continuously in the Territory.

6 And the second is in relation for those seeking
7 Belonger Status by marriage. There is no quota for those, but
8 each applicant has to satisfy a five-year residency period in
9 the Territory with his or her spouse as husband and wife to be
10 considered.

11 The fifth part of the process is that the Board then
12 decides which applicants are to be interviewed, and the
13 applications are selected based on the date of application of
14 the qualifying year. The applicants are then interviewed, and
15 during the interview what's called a cultural questionnaire is
16 administered.

17 The applications and interview summaries are then
18 prepared along with the score from the cultural questionnaire
19 prepared by a Status Unit Officer and submitted to the Board for
20 consideration. And the Board, when it considers the
21 applications, will use a point system, and so the application
22 has to get 50 percent of points from those areas which are
23 applicable to the applicant. That gets you a recommendation.
24 If you're below 50 percent, if I've understood it correctly, the
25 application will not be recommended to Cabinet; is that right?

1 A. That is correct.

2 Q. And then minutes are prepared for the Board meeting,
3 they're signed by the Chairman, and that is all then sent to the
4 Premier's Office to prepare a paper for Cabinet's consideration.

5 And what Cabinet's job is to do under this process is
6 to review the recommendation and either approve or reject it; is
7 that right?

8 A. That is correct.

9 Q. And for those persons who have an application and a
10 recommendation approved by Cabinet, that then goes back to the
11 Department of Immigration for preparation of certificates and a
12 ceremony to confer the status.

13 That's hopefully in summary, that's the process that
14 the Audit of 2012 identified as the route through when you're
15 applying for Belonger Status.

16 If we go back to page 5, please, in the document,
17 that's internal page numbering, and if I take you to
18 paragraph 9.2, what the Audit Report says there is that in an
19 effort to improve decision making and bring transparency and
20 equitability to the process, the Board had implemented various
21 tools, and you point to the use of a point system, an interview
22 process, and the cultural questionnaire.

23 And it's right, isn't it, that in the Audit, these
24 were tools that the Department, your Department, said were
25 yielding desired results and you commended the Board for taking

1 that action?

2 A. Yes, we did.

3 Q. So, (b), to the Auditors, a fair and equitable process
4 had been put in place from the time that the application is made
5 to the time that the Board makes the recommendation to Cabinet;
6 is that right?

7 A. That is correct, sir.

8 Q. If I take you, however, to paragraph 9.5, the Audit
9 says this: "During the course of the Audit, the Audit Team was
10 made aware that there were numerous applications that were
11 awarded outside the standard framework established by law and
12 policy. It was revealed that Cabinet approved some two hundred
13 and twenty four (224) persons who were not considered by the
14 Board and for whom no recommendation was submitted. In some
15 instances, persons did not even make a formal application for
16 the status before it was approved. However, these individuals
17 have not yet received status as the manner in which the status
18 was awarded is questionable and could be deemed illegal. Advice
19 is being sought from the Attorney General's Chambers to deal
20 with these applications."

21 So, I appreciate that it's some time ago, but can you
22 confirm whether this is what happened that, at this stage, the
23 Audit identified additional individuals that were being put
24 before Cabinet for approval without having gone through the
25 process?

1 A. That is correct, sir.

2 COMMISSIONER HICKINBOTTOM: I think what 9.5 suggests
3 is that you said, Mr Rawat, put before Cabinet, but somehow
4 Cabinet approved these people without them going through the
5 process?

6 MR RAWAT: Yes.

7 BY MR RAWAT:

8 Q. Is that right, Internal Auditor, the Cabinet approved
9 224 people without them going through the process?

10 A. Outside of the process, yes.

11 Q. And so, in terms of the sequence that we had
12 discussed, since the Premier's Office is the Ministry--was the
13 Ministry responsible for putting these before Cabinet, that's
14 where that--that seems a likely point where those 224
15 individuals would have been introduced into the process?

16 A. Correct.

17 Q. Sorry, I spoke over you. I didn't catch your answer.

18 A. Correct, yes.

19 Q. What the Audit says--and it's at the next page--at 9.6
20 is that: "While we agree that Cabinet is the ultimate deciding
21 body in granting Belonger status, the awarding of this status in
22 the manner creates an inequitable situation for the three
23 hundred and thirty-four (334) persons whose applications is
24 still to be considered and recommended by the Board.
25 Additionally, it removes any level of transparency within the

1 process as there is no clear justification to indicate the merit
2 of the decision."

3 And from the purposes of the Audit, you could not take
4 this further presumably because you were not allowed access to
5 Cabinet Papers?

6 A. That is correct, sir.

7 Q. If we look on this page now at Objective 2, which was
8 "To give assurance that controls are adequate to safeguard the
9 system from abusive practices", you make the point, and I will
10 try and summarise this at 9.8--and when I say "you", Ms Corea,
11 I'm speaking of the Departments and of the report--but the
12 report says that--makes the point in 9.8 that there was just one
13 officer, a Senior Executive Officer, in the Immigration
14 Department dealing with the administrative functions relating to
15 the process, and the concern that is raised by the Audit Report
16 is that the magnitude of work required for the efficient and
17 effective flow of the process is greater than the Human
18 Resources assigned to the function. It needed more people to
19 make sure the process was efficient; is that right?

20 A. That is correct, sir.

21 Q. If you look at 9.9--and this is part of the Audit
22 investigation--what the report says is: "A listing of persons
23 receiving Belonger status for scope years 2009 to 2011 was
24 requested and reviewed in an effort to determine whether
25 applicants received status based on established law and policy.

1 The audit found that of the seventy-seven (77) persons to whom
2 status was granted only forty-five (45) of those persons were
3 awarded status within the framework of the law. Of the
4 remaining number, twenty-nine (29), although an application was
5 submitted to the Board, they did not go through the established
6 process."

7 And you say then--you refer to a table in the report,
8 but you continue: "The granting of these status raises some
9 concerns as to adequacy of the controls within the process",
10 because the point is then made that "Bearing in mind the
11 twenty-nine (29) individuals who were not recommended by the
12 Board for Belonger Status did not go through the formal
13 process..."this would then render the basis on which a decision
14 was made to grant them status questionable and possibly
15 unlawful. Furthermore, no due diligence was conducted and
16 therefore it is possibly that the basic requirements for
17 awarding status were not met."

18 You then go on to say: "If the required due diligence
19 was conducted then Cabinet would have been aware that three (3)
20 persons to whom status was awarded already processed status and
21 should not have been awarded again. This would not have
22 resulted in the duplication of status being granted to persons."

23 Again, does this just go to the point that there were
24 some people who were being granted status even before the Board
25 had considered their applications and made a recommendation?

1 A. I wouldn't say that the Board did not see the
2 application or make a recommendation. What it says is that
3 there were three persons who were granted status prior to the
4 list that was being presented at the time.

5 COMMISSIONER HICKINBOTTOM: So, they already had
6 Belonger status?

7 THE WITNESS: They already had status, correct.

8 COMMISSIONER HICKINBOTTOM: So that if any due
9 diligence had been done, that would have been spotted?

10 THE WITNESS: Correct, sir.

11 COMMISSIONER HICKINBOTTOM: Yes, thank you.

12 And just looking at Table 1, which is in
13 paragraph 9.9.2, that shows the awards of Belonger Status for
14 three years 2009, 2010, 2011, and in the first two years the
15 persons approved for Belonger Status were the same as those
16 recommended by the Immigration Board. The disparity appears
17 just to be in the Year 2011, when there were 52 persons approved
18 for Belonger Status. 20 of those had been recommended by the
19 Board, 29 have not been recommended by the Board but had been
20 awarded status by Cabinet, and there are also the three who
21 possess Belonger Status already. So, it's just in that year
22 that there was this disparity?

23 THE WITNESS: Correct, Commissioner.

24 COMMISSIONER HICKINBOTTOM: Thank you very much.

25 BY MR RAWAT:

1 Q. And if we look at 9.10, the report highlights a
2 difference between the policy and the law. You found that the
3 policy guidelines issued by Cabinet meant that applicants were
4 not considered by the Board because they didn't meet the 25-year
5 requirement as stated in the policy. But, in fact, as a matter
6 of in law, they were entitled to apply for that status after 10
7 years.

8 A. Um-hmm.

9 Q. Because, under the Immigration Act, they could apply
10 for Belonger Status after ten years, but Cabinet's policy had
11 been not to give it until after 25 years; is that right?

12 A. That is correct, sir.

13 Q. And if we look at Table 2 on the next page which is
14 headed "Belonger Status approved by Cabinet outside the
15 framework of the law", again the Audit took three years--2009,
16 2010, 2011--and what it shows or it revealed was that "Persons
17 who were awarded status outside the framework of the Law", none
18 in 2009, none in 2010, but 224 in 2011; is that right?

19 A. That is right, sir.

20 Q. And of those, what the table also says is that, again,
21 "Persons who applied before status was approved but Board did
22 not recommend", none in the two years, 2009-2010, but 32 in
23 2011, and so those were people who still had their application
24 pending and hadn't been recommended and then got status?

25 A. That is correct.

1 Q. And then one person applied for status after status
2 had been awarded, and that was in 2011 alone. There were
3 persons who had not applied, 190 of them who got status in 2011,
4 and then one person already possessed status?

5 A. That is correct, sir.

6 Q. And just for the Transcript, of those categories that
7 I've just listed, the numbers for 2009 are zero. The numbers
8 for 2010 are zero. This was all happening in 2011; is that
9 right?

10 A. That is right, sir.

11 Q. What's also said at 9.12: "...it was revealed that
12 the names of the individuals on this second listing--that's the
13 table I looked at a moment ago--"were added at the Cabinet level
14 based on personal representations by Members. Therefore, these
15 names would not appear on the Cabinet Paper presented by the
16 Premier's Office from the Board's recommendations. This means
17 that the basic legal requirements of an application being made
18 and consideration by the Board were not met. The only basis on
19 which one can judge status that were awarded in this manner is
20 that individuals made personal representation to a Member and
21 approval came as a result. The awarding of status in this
22 manner further raises a number of control issues, as to the
23 Authority of Cabinet Members in operating contrary to
24 established laws and policies. This is even more alarming
25 especially as this issue is at the highest level of approval

1 within the process."

2 So, where you're referring to Members there, lt 9.12,
3 the report refers to Members, is that Members of Cabinet?

4 A. Rightfully so.

5 Q. And so going back to the process, once the Board has
6 made recommendations, it submits those to the Premier's Office,
7 which then prepares a paper for Cabinet, and that paper then
8 goes to Cabinet. But these names were being added after that
9 stage. They were coming in at Cabinet level itself; is that
10 right?

11 A. That is correct, sir.

12 Q. If we go, please, to our page 14, so, the Internal
13 Audit Department made nine recommendations. I want to come back
14 to those shortly, but what I will ask you to do is, if you turn
15 to the very last document in the paper, page 16, the Internal
16 Audit Department made the following conclusion: "We applaud the
17 efforts of the Board in implementing tools to bring
18 transparency, equity and to assist with the decision-making
19 process on Belonger status applications. The Board's role
20 within the process creates a level of control where the
21 information on applications are reviewed, verified and
22 validated. It forms a central basis on which Cabinet can make a
23 sound and accurate decision on an application. The law, policy
24 and formal processes and procedures create a structured
25 environment in which decisions can be made and transparency and

1 equity can be established. However, the law, the policy and the
2 procedures should mirror each other to avoid any confusion or
3 misinterpretations in facilitating the process. When
4 transparency and equity is removed from any process it creates
5 doubt in the eyes of the public as to the integrity of the
6 systems and processes."

7 The report then goes on to say this: "We have
8 concluded that the awarding of Belonger Status the Board has
9 executed its role in an admirable manner. However, we have also
10 concluded that the process had been significantly compromised by
11 Cabinet's gross abuse of its authority. The process used by
12 Members of Cabinet lacked both transparency and objectivity.
13 Cabinet, which in our estimation is a police setting body,
14 unnecessarily circumvented the law, policy, and process and
15 failed to ensure that the process they used was transparent,
16 objective and that their decisions were based on sound advice
17 and accurate information. We are not questioning Cabinet's
18 authority to approve status as it is their privilege to approve
19 or disapprove an application. However, we are concerned that
20 when this is done contrary to the law and policy and there is no
21 sound basis or reason given for the decisions made it erodes the
22 integrity of the process. If Cabinet, as a matter of their
23 right, disregards a process after the process is established in
24 law and policy, then the fundamental principle of the
25 transparency and equity within the process is severely

1 undermined, if not destroyed."

2 "In addition, we found that Cabinet, by taking it upon
3 themselves to approve persons who were not vetted by the Board
4 or did not even submit an application, removed from the Board
5 the ability to scrutinize the applicants thereby rendering the
6 Board's role null and void. Furthermore, it is our opinion that
7 the practice whereby Cabinet approves status for individuals who
8 were not vetted by the established process creates an
9 environment in which favouritism, cronyism, and corruption can
10 flourish."

11 The Internal Audit Department did a follow-up report
12 to this in 2014. I'm going to take you to that follow-up report
13 in a moment, but can I ask you this, please, Ms Corea: What
14 was, if anything--what, if anything, can you remember was the
15 response to the conclusions of this Audit Report?

16 A. I can't recall entirely, but I do know that based on
17 the findings and the recommendations that we made, they were in
18 agreement with the--what we had found, and it was factual, it
19 was a factual finding. The recommendations that we made were
20 practicable, and we had expected that they would make all
21 attempts to incorporate them in their processes.

22 As you would realize, we did commend them for the work
23 that they were doing as a Board because they did implement
24 certain practices that actually added value to the process, so
25 we did commend them for that. So, they were making attempts to

1 make sure that the process was transparent and equitable to all
2 that applied.

3 Q. If we look at the follow-up Audit Report, it's in the
4 second bundle that was provided to you, and it's 1735.

5 Do you have the page, Ms Corea?

6 A. I have it.

7 Q. Thank you.

8 So, this is now a report dated January 2014, and
9 headed "FOLLOW-UP AUDIT REVIEW, Department of Immigration
10 Belonger Application Process."

11 If you go to the Introduction, which is 1737. The
12 first report that we have just gone through made nine
13 recommendations, and what your Report notes in January 2014 was
14 that the majority of the recommendations had not been
15 implemented. So, of the nine, none were fully implemented, and
16 only two had been partially implemented; is that right?

17 A. That's correct, sir.

18 Q. In terms--we're now almost I suppose it's 18 months
19 after the Internal Audit Report of June 2012, on your 2014
20 Report, there doesn't seem to have been much progress.

21 Was it a surprise to the Internal Audit Department
22 that there hadn't been implementation of the recommendations?

23 A. It certainly was because they agreed to the
24 recommendation being made, and they did provide information to
25 actually implement those recommendations.

1 Q. Take as an example--and Commissioner, unless you
2 require me to, I won't read all of these recommendations into
3 the record--

4 COMMISSIONER HICKINBOTTOM: Yes, thank you.

5 BY MR RAWAT:

6 Q. But if we just take Recommendation No. 1 as an
7 example. If this was a recommendation that amendments be made
8 to the Act to make it more reflective of issues and realities
9 that exist in the Global arena as it relates to Immigration and
10 the awarding of status, and this goes to the point that the
11 Auditor picked up that whilst the policy was 25 years, the Act
12 was ten years, wasn't it?

13 A. That is correct, sir.

14 Q. And as pointed out, Ms Corea, that recommendation was
15 agreed to, and it appears every recommendation was agreed to
16 with one exception, so eight out of nine were agreed to. The
17 completion date was given as November 2012, and when you went
18 back in January 2014, it still hadn't been responded to; is that
19 right?

20 A. That is correct, sir.

21 Q. Now, the result was that part of this follow-up audit,
22 you, the Internal Audit Department, made a number of follow-up
23 recommendations.

24 COMMISSIONER HICKINBOTTOM: It may be worthwhile just
25 touching on Recommendation 7 on page 1744.

1 MR RAWAT: Certainly.

2 COMMISSIONER HICKINBOTTOM: Mr Rawat.

3 BY MR RAWAT:

4 Q. Can I take you, please, to 1744. And we will use that
5 as our example. Recommendation 7 which the follow-up audit
6 marks as not implemented, is this: "It is also recommended that
7 whenever a decision is made by Cabinet or the Board to deny
8 approval of status for an applicant, clear reasons as to why
9 this decision was taken should be documented, especially for
10 those cases where the Board has made a recommendation and it was
11 denied by Cabinet. This will help to ensure the transparency,
12 equitability, and justification behind the decision taken."

13 Now, the management response was to agree to that and
14 to say that the Premier's Office will write this into the
15 Cabinet Decision Section of the Cabinet Papers. What the
16 follow-up audit noted was in terms of "Action Taken: No action
17 has been taken in this regard. The Desk Officer within the
18 Premier's Office"--and the Desk Officer was identified as the
19 person to take corrective action--"the Desk Officer stated that
20 contact has to be made with the Cabinet Secretary to determine
21 how best to implement this recommendation. No new date was
22 given as to when this will be done."

23 The audit form then made a follow-up recommendation:
24 "As this recommendation has much bearing on the transparency and
25 equity of the decisions made on applications, it is recommended

1 that this effort be undertaken as a collaborative effort with
2 the Cabinet Secretary's Office to implement this recommendation.
3 It will also allow personnel involved in the process to be
4 better informed on decisions made."

5 This isn't the only example of follow-up
6 recommendations that were made as a result of the Audit. Once
7 you've done that, once--this is an example that you come in in
8 June 2012, you audit, you make recommendations, you they agreed,
9 you come back 18 months later, little, if anything, has been
10 done. You make follow-up recommendations. Does that for your
11 Department bring matters to an end, Ms Corea, or what else can
12 you do after this?

13 A. Sir, that's how the cycle evolves, and it's like a
14 rabbit running around in a track because, as much as we have
15 completed the Audit cycle, have done a follow-up process, the
16 implementation of the recommendations still are not made. So,
17 for the Internal Audit Department, we find ourselves at a
18 roadblock, and that is why we need an Internal Audit Advisory
19 Committee to drive the implementation process for responsiveness
20 to our Reports.

21 Q. But you're dependent essentially, in a situation like
22 this, where 18 months later, little has changed. You are
23 dependent on that Committee, and a Chairman intervening to press
24 a Department or a Public Authority to get things done; is that
25 right?

1 A. That is right, sir.

2 Q. Because the Audit cycle, for yourself and your
3 Department, may mean that you don't come back to this question
4 for some years?

5 A. That is correct, sir.

6 Q. Can I take you, please, to 1747 again in the same
7 document?

8 MR RAWAT: And if I may, Commissioner, I would just
9 like to read some of this into the record.

10 COMMISSIONER HICKINBOTTOM: Yes.

11 BY MR RAWAT:

12 Q. Under the heading "Additional Matters," the follow-up
13 audit said this: "A sample of thirty eight (38) persons was
14 selected to review the process flow of their applications. In
15 2011, a list of two hundred and twenty-four (224) persons...was
16 produced for persons whose Belonger status was approved
17 illegally. Six (6) persons identified on this list also formed
18 part of the current sample."

19 "The review revealed that the six (6) applicants, who
20 although initially were awarded Belonger status, were required
21 to go through the established process as the status initially
22 approved was done contrary to the legally established process.
23 They were subsequently awarded status on the recommendation of
24 the Board and the re-approval of Cabinet. It was also
25 discovered that, at the time status was initially awarded in

1 2011, all of the applicants had an application submitted to the
2 Department of Immigration for consideration. However, they were
3 never interviewed or subject to any other criteria of the
4 established process. It is uncertain if all persons appearing
5 on the list of persons who received status contrary to the
6 established process have had to go through the Board to receive
7 their status."

8 "Documents reviewed at the Premier's Office indicated
9 that the decision to have persons who were awarded status
10 contrary to the process go through the established process was
11 based on the advice from the Attorney General's Chambers..." and
12 you then refer to a memorandum dated November '14, 2012.

13 "Although this memorandum spoke to the awarding of the residency
14 status without consulting the Board of Immigration, the same
15 applies to Belonger Status. As also indicated in the advice
16 provided, if persons appearing on this list were in fact given
17 status without any consideration or evaluation by the Board,
18 there statuses can be questionable and the process can be
19 subject to review, as the manner/process through which the
20 status was awarded was contrary to the relevant legislation.
21 Additionally, where legislation stipulates that one decision
22 making body is to consult with another prior to making a
23 decision or conducting an act, there are reasons why such
24 provisions or guidelines are made. Provisions such as the
25 appointments of boards or committees are to provide additional

1 procedural safeguards to aid decision makers. When decisions
2 are made outside of such established safeguards, they increase
3 the likelihood for the decisions to be questionable and possibly
4 subject to legal review."

5 "The remaining applicants that compromised the sample
6 reviewed were found to have been awarded status as outlined by
7 the established process. No instances were identified whereby
8 names were added to the list that was recommended by the Board,
9 as all names reviewed were recommended by the Board, approved by
10 Cabinet and subsequently awarded status."

11 What you, as I understand, on this small sample, what
12 you--that the Audit Department was able to assess in the
13 follow-up was that taking a number of applications that they
14 appear to have been done by the established process; is that
15 right?

16 A. That is correct, sir.

17 Q. But what you weren't able to do is, of the 224 that
18 you had identified in 2012 as not having gone through the
19 process, it remained uncertain how many of those had been--had
20 had their applications revisited and had been asked to go
21 through the proper processes; is that right?

22 A. That is right.

23 Q. When you say, and this is 1748--or what the Audit
24 Report says is, under "Conclusion": "The Belonger Application
25 Process has not undergone any significant change since the

1 submission of the Audit report in 2012. Therefore, much of the
2 issues expressed in that report remain unresolved and therefore
3 most of the risks expressed in that report remains unaddressed."

4 And that illustrates, doesn't it, Ms Corea, why the
5 Committee is so important, because if they're not able to press
6 this issue with public authorities, it essentially--the risk is
7 that things could continue as things before and improvements are
8 not made?

9 A. That is correct, sir.

10 Q. So the concerns that the Internal Auditor raised and
11 the recommendations they make to improve efficiency and
12 effectiveness, essentially fall by the wayside, don't they?

13 A. They do.

14 Q. Thank you. I'm going to go on to another report, and
15 it takes us back to the first bundle. Can I check, Mrs Corea,
16 are you happy to continue, or would you like a break?

17 A. A break would be preferred. Thank you.

18 MR RAWAT: I ask the Commissioner for a short break,
19 please.

20 COMMISSIONER HICKINBOTTOM: Yes, we will break for
21 five minutes. Thank you, Ms Corea.

22 MR RAWAT: Thank you.

23 (Recess.)

24 COMMISSIONER HICKINBOTTOM: Thank you, Mr Rawat.

25 BY MR RAWAT:

1 Q. Welcome back, Ms Corea.

2 I will take you to another report, but can I just
3 before I do, clarify one detail about the Belonger Status
4 process report that we were looking at. You remember that the
5 First Report in that audit was produced in June 2012, and it
6 looked at the years 2009, 2010, and 2011. As you may remember,
7 there was an election in 2011. The House of Assembly was
8 dissolved on the 13th of September 2011. There was then the
9 election on the 7th of November 2011, and the first sitting of
10 the House was on the 8th of December 2011.

11 Can you help the Commissioner with this: In relation
12 to that audit, was it looking at Belonger applications in 2011
13 before the election or after, or both?

14 A. Before.

15 Q. Before.

16 COMMISSIONER HICKINBOTTOM: Thank you.

17 BY MR RAWAT:

18 Q. Let's go to page 65 in the bundle, please.

19 COMMISSIONER HICKINBOTTOM: Which page?

20 MR RAWAT: Page 65, please.

21 BY MR RAWAT:

22 Q. You've got it?

23 A. I have it, sir.

24 Q. Thank you very much, Ms Corea.

25 This is part of a sequence of reports in which the

1 Internal Audit Department, and at that time it was called the
2 Internal Audit Unit, looked at assistance grants programs. And
3 this is the first in the sequence. It's from May 2009. And
4 it's looking at the grants programs from 2006 to 2008. If you
5 go to page 68, and I will take you through the introduction so
6 that we have some background to the reason for the Audit. At
7 2.1.

8 The report records: "Subhead 62410 (Assistance Grant
9 Programme) first appeared in the 1997 recurrent budget estimates
10 of revenue and expenditure with its supporting note being 'to
11 cover the cost of minor/territorial projects submitted by
12 elected Members.' At its inception, the funding for the
13 programme was limited to \$60,000 per District Representative and
14 \$75,000 per Territorial Representative."

15 The next paragraph reads as follows: "Over the years
16 the programme has evolved, both in usage and funding.
17 Presently, the programme is widely used to provide financial
18 assistance to individuals and organisations throughout the
19 Territory and also to finance constituency offices. Development
20 of minor district or territorial projects accounts for less than
21 1 percent of actual disbursements from the funds.

22 "For the period under review 2006-2008, approved
23 funding for the programme was \$60,000 for each District
24 Representative and \$75,000 for each Territorial Representative.
25 This represents a 50 percent reduction from the 2003 allocation.

1 In 2008, the allocation was increased by 150 percent from the
2 base year 2006."

3 And so, what we see in this part of the report is that
4 what the scope of the Audit was to look at financial
5 disbursements from the Assistance Grant Programme facilitated by
6 the Legislative Council/House of Assembly between January 1st,
7 2006 and December 31st, 2008. If we go to page 69, please. You
8 say this is under "facts findings", under "general": "It was
9 discovered that there are a number of other government agencies
10 that administer similar programmes for which funds from the
11 assistance grants are used. These include"--at 7.1.1--"the
12 Public Assistance Programme administered by Social Development.
13 Decisions on applications from this programme are made by the
14 Public Assistance Committee after assessments and reports from
15 social workers. Assistance currently being provided include:
16 Family and individual grants, emergency assistance, assistance
17 with utilities and funeral grants. Therefore, the grant
18 programme facilitated through the House of Assembly is a clear
19 duplication of the efforts already established by these
20 structured programmes."

21 7.1.2: "The Ministry of Education also administers an
22 assistance grants programme which provides miscellaneous grants
23 to students and organisations and committees."

24 And you then say: "Based on the assistance offered by
25 these already established programmes, the Audit Team is at a

1 loss as to what necessitated the evolution of this programme
2 from its original intent, of facilitating minor District
3 projects, to one where elected Members are solely responsibility
4 for deciding who is granted funds from the programme."

5 Can I just to understand, I appreciate that obviously
6 you were not, at this point in 2009, the Director of what was
7 then the Internal Audit Unit, but was the understanding of the
8 Audit that this programme had simply just evolved/changed
9 without any real sort of guidelines or criteria or review of
10 what its purpose was?

11 A. It was dramatically so, yes. That was the situation.

12 Q. The next page heading "Assistance Grants Guidelines,"
13 the Audit report records: "The Assistance Grants Programme is
14 regulated through guidelines developed and agreed upon by the
15 Members of the House of Assembly. These guidelines lack
16 objectivity and are easily changed at the Members' discretion."

17 Now, if we go, please, to 7.4, and I will look at the
18 guidelines in more detail. What the Audit Report says is:
19 "These guidelines are grossly inadequate as they are in some
20 cases difficult to enforce, contradictory, and vague."

21 And at 7.5, the Audit Report says: "In majority of
22 cases, the guidelines are not enforced as the Department has
23 failed to create the necessary controlled environment and
24 activities to manage the function effectively."

25 Where the Audit Report was referring to the

1 "Department" here, is that referring to the House of Assembly
2 itself as the Department?

3 A. Yes, that is correct, sir.

4 Q. Now, if you go to 78 in the bundle, the Audit Report
5 has as an appendix the document which set out the various of the
6 guidelines and raised deficiencies with a number of them, and I
7 would just like to take you through those.

8 The first guideline is Guideline No. 1, and it's under
9 "general guidance," and it's: "Assistance to 'self' by all
10 Representatives is prohibited. 'Self'--and self is in quotation
11 marks--"self for this purpose is defined as a grant of whatever
12 nature to the relevant representative, his/her spouse, parents,
13 offspring, offsprings' spouses, siblings or siblings' spouses."
14 Now, what the Audit Unit said in response to this was: "This
15 guidance lacks enforcement mechanism, in that representatives
16 are not required to submit a list of family members to the
17 Clerk; does not prohibit Members from entering into contracts
18 with relatives; reimbursement for utility payments incurred at
19 District Offices is submitted without supporting documentation;
20 does not prohibits Members from providing assistance to other
21 Members of the House of Assembly."

22 A second guideline which the Audit Unit had concerns
23 about was Guideline No. 2, which is as follows: "Assistance to
24 companies in which representatives have a majority ownership
25 interest is not allowed." And the point is made by the Audit

1 Unit that: "This guidance contradicts the prohibition of
2 assistance to self because Members with minority interest in
3 companies also benefit personally from any assistance rendered
4 hence it is assistance to self."

5 You then went on to look at Guideline No. 11, which
6 reads as follows: "Assistance is prohibited to any organisation
7 not registered and operating in the Territory, or for projects
8 not being carried out in the Territory where a BVIlander is not
9 a beneficiary." And the Audit Unit made the following comment:
10 "This guidance is difficult to enforce since the office does not
11 have access to an adequate Registry of companies and databases
12 of BVI nationals".

13 Now, I am going to pause there. When I say--when
14 you're referring there to "the Office," again, is that again the
15 Office in the House of Assembly?

16 A. That is correct, sir.

17 Q. The Audit Unit's report then went on to look at
18 guideline 13, which is reads as follows: "Representatives are
19 not to entertain application from Members of staff of the Office
20 of the Legislative Council from this subhead for the reasons
21 that (1) Members of staff would have an unfair advantage with
22 respect to 'inside information', (2) Members of staff would
23 compromise their professional objectivity; and (3) Members of
24 staff seeking such assistance would call into question the
25 overall integrity of the Office of the House of Assembly, except

1 in the rare instance of medical and educational need. Any such
2 requests should be vetted by the Clerk before presented to the
3 representatives, and any money granted should be paid directly
4 to the medical or educational institution."

5 What the Audit Unit recorded here is: "This guidance
6 is not fully enforced, as it was discovered that requests were
7 made by some staff members. These requests were honored and
8 checks were made payable in their respective names."

9 So, just so that we're clear, what this guideline is
10 intended to stop is Members--those who work for representatives
11 being able to claim under the Assistance Grant Programme?

12 A. Correct.

13 Q. And what the Audit found (sound interference) that was
14 happening and the requests would were being satisfied, and then
15 checks were not only being, not just being paid out, but being
16 paid out directly to the applicant?

17 A. Correct.

18 Q. Guideline 14 is: "A tracking system for multiple
19 and/or repeated grants to individuals and organisations is to be
20 implemented by the Office of the Legislative Council for
21 representatives' information for the avoidance of exploitation
22 by recipients." And the Audit Unit made two observations there.
23 Firstly: "A database was created but it is not used to track
24 duplicate requests.' Secondly: "It is not clear as to who or
25 what determines what is meant by exploitation. There is no

1 standard for exploitation. (for example, can multiple awards or
2 a large one-time disbursement be considered exploitation)."

3 Now, the "exploitation," going back to the guideline,
4 and it refers to exploration by recipients. I don't know
5 whether you can help further with this, but what was the concern
6 about or why did the Audit Unit consider it important to have a
7 clearer definition of "exploitation"?

8 A. Because if you have persons repeatedly getting
9 assistance, particularly in this case from the Legislative
10 Council, then there may be a number of, you know, people just
11 getting grants from--getting multiple grants from different
12 legislative Members. So they can be repeatedly getting from the
13 same subhead but from different Members, so that was a concern
14 that we had.

15 Q. The next guideline that was identified in the appendix
16 by the Audit Unit reads as follows, and it's 15: "Completed
17 application forms for assistance should be lodged by the
18 District/Territorial Representative with the Clerk of the
19 Legislative Council as the Accounting Officer, for consideration
20 under the appropriate head and subhead of the estimates approved
21 by the Legislative Council, and within the guidelines approved
22 by the Legislative Council." And what's said is: "This
23 guidance is not clear in outlining who is ultimately responsible
24 for disbursements from this subhead, the Clerk or the Members
25 lodging the requests?"

1 The report goes on to look at Guideline 16, which
2 records: "If the application requires further information or
3 discussion, the representatives will be so informed in writing
4 by the Clerk of the Legislative Council."

5 The concern that the Audit Unit raised was as follows:
6 "This guidance is not enforced as no documentation was found to
7 reflect the Clerk's disapproval of any application submitted.
8 Communication concerning the Clerk's disapproval is done
9 verbally."

10 Why--it may be an obvious question but particularly
11 since I'm asking it of an Auditor, why is it important that
12 there be documentation to record what decisions are made or what
13 concerns are raised?

14 A. Transparency and accountability and to make sure that
15 funds are distributed equitably.

16 Q. Then the last of the general guidance--guidelines that
17 the Audit Unit identified is 17 which records: "Supporting
18 documentation for all requests is to be provided by each
19 applicant."

20 And three concerns were raised firstly and to read it
21 out: "This guidance is not adequately enforced as from
22 documentation reviewed, it was discovered that awards are made
23 on simple one line letters indicating financial hardship
24 submitted by applicants."

25 Two: "It's not clear as to what the minimum

1 supporting documentation that is necessary for each category
2 (medical, financial, education etc.)

3 And three: "Proving that the requests are legitimate
4 by having applicants substantiate their need for assistance."

5 So, from the Audit perspective, what you would have
6 wanted to see again is an audit trail, it's again, sort of
7 evidence that to support the application, evidence that the
8 application had been properly considered, evidence as to the
9 basis on which it was either accepted or rejected. Essentially,
10 isn't it, Ms Corea, you would like to see a document trail from
11 start to finish because that is what you want in order to show
12 accountability and transparency; is that right?

13 A. That is correct, sir.

14 MR RAWAT: Give me a moment, please.

15 (Pause.)

16 BY MR RAWAT:

17 Q. Now, what you also--or in the Audit Report go on to
18 do--and this is at page 80, is to set out a number of additional
19 guidances or guidance as issued by what was then and still is
20 the House of Assembly, but under "Financial Guidance," the
21 guideline is: "Financial assistance for community organisations
22 such as schools, churches and non-profit organisations is
23 allowed accompanied by supporting documentation of need or
24 rationale." And the comment that has been made by the Audit Unit
25 is: "Proving that the requests are legitimate by having

1 applicants substantiate their need for assistance."

2 So, again, from the Audit Unit perspective,
3 documentation is key?

4 A. It is, sir.

5 Q. But when you're doing an audit, you want to be able to
6 understand that a legitimate place has been put forward and has
7 been assessed?

8 A. That is correct, sir.

9 Q. The same point is made that the need to prove the
10 requests are legitimate in relation to the guidance which is
11 No. 3 for financial assistance for scholarship and for
12 educational grants, whether for tuition, textbooks,
13 transportation or living expenses, the Audit Unit also raised
14 this in relation to what was Guideline 7 under "educational
15 guidance," which is: "Request for payment of taxi
16 transportation services are allowed subject to a signed
17 agreement between the Member and a driver showing rates and
18 times of services."

19 And what the Audit Unit noted was: "Members are not
20 providing the required agreements or the agreements are not
21 attached to the payment vouchers by the Department."

22 "From records reviewed the current rate is \$50 per
23 night. However, it's not justified as to whether this rate is
24 economical and if it is being applied across the board."

25 So, this was an example of the unit picking up in

1 relation to one guideline that again there was a lack of
2 justification--a lack of evidence to support the use or how that
3 guideline was being applied; is that right?

4 A. That's correct, sir.

5 Q. The Guideline 5 goes to medical assistance, and it
6 reads as follows: "Request for assistance with medical expenses
7 should be accompanied by evidence from the attending physician
8 which should be given as soon as possible or no later than 60
9 days after application is made."

10 What is said is: "This guidance is not enforced."
11 And again, it reiterates that the Audit Unit reiterated the need
12 for applicants to substantiate the need for assistance.

13 The guidelines also allow for the provision of a
14 monthly living allowance. And so, a Member could give a monthly
15 living allowance to a constituent. And that's under Guideline
16 9. And that guideline reads as follows: "The practice of an
17 individual receiving monthly living allowance from more than one
18 representative is allowed up to \$400.00. In any case, serious
19 consideration is to be given to linking these allowances with
20 the Social Development Department to ensure that, in the event
21 that the representative is not re-elected, the individual is not
22 left without means. Individuals already receiving monthly
23 grants should not be subject to evaluation by the Social Welfare
24 Department."

25 And two points are made by the Audit Unit: First, the

1 need to: "Proving that the requests are legitimate by having
2 applicants substantiate their need for assistance." And second,
3 that: "The guidance is incomplete since it does not stipulate
4 whether each Member is allowed to give \$400.00 or the total
5 allowance by all Members should not exceed \$400.00."

6 So, it wasn't clear whether somebody who is going to
7 get this kind of assistance has a cap of \$400, whoever it comes
8 from, or it's possibly open that more than one Member could give
9 the same person up to \$400.00, so one person could be receiving
10 \$400 and another person \$800.

11 A. That's correct, sir.

12 Q. The final two guidelines that the Audit Unit raised
13 concerns about relate to District expenses, and in Guideline 10
14 noted: "District Office Expenses relating to rent, staff, and
15 operating expenses are allowed up to a maximum of \$24,000 per
16 annum."

17 And what the Audit Unit recorded was: "From records
18 reviewed, it's apparent that the amount of \$24,000 per annum is
19 insufficient as Members with District Offices exceed this
20 limit." So, to be clear, did the Audit find that Members were
21 going over the 24,000 in order to pay for District Office
22 Expenses?

23 A. In some regards, yes.

24 Q. What's also noted is: "District projects are allowed
25 from the grant. Where a project exceeds \$7,500, it should an

1 accompanied by proper Bills of Quantity approved by the Public
2 Works Department or a recognized engineer or architect."

3 What the Audit Unit noted in relation to this guidance
4 is: "This guidance is being followed to some extent, as some
5 minor District projects such as bush trimming and drain clearing
6 have Bill of Quantities prepared by PWD. However, it is
7 discovered that not all of the minor district projects have a
8 Bill of Quantities attached, in some cases the supplier's
9 submitted cost was used." So, again, an example of a guideline
10 where the--it wasn't being followed by those involved in this
11 process, was it?

12 A. That is correct.

13 Q. And in relation to that one, No. 12, the reference to
14 minor District projects, that's the one guideline that relates
15 back to the original purpose of this grant programme, isn't it?

16 A. Yes, that was one of the initial bases that was
17 formulated for this grant programme.

18 Q. If we go back to page 70, and I won't go through the
19 detail of it, but the Audit examined the usage of the assistance
20 grants, and you did that by looking at the way the different
21 types of disbursements that were used. But if I take you to 7.9
22 on the next page, 72--sorry, two pages along, the Audit Unit
23 identified a lack of adequate control and regulation, and the
24 report records this: "As a result of the lack of adequate
25 controls and regulations a number of situation were discovered

1 which can be viewed as a conflict of interest, a breach of both
2 the House of Assembly guidelines and the established procedures
3 for committing public funds," and you give two examples:

4 Firstly: "The practice of entering into contractual
5 agreements with family members where the Member may also have a
6 private interest such as rental space for District Offices."

7 And the second was: "In one instance, it was discovered where a
8 Member made a private commitment with a financial institution to
9 assist an individual with mortgage payments; however, public
10 funds were used to satisfy the commitment. In addition, based
11 on the documentation submitted, the Member stood to personally
12 benefit from assisting the individual as the Member
13 simultaneously maintained a private business relationship with
14 the individual."

15 At that time--and this is obviously we've got to put
16 it in context, it's a 2009 Audit--aside from the guidelines that
17 we've looked at, was there any other guidance that you can
18 recall given to Members or given to the Clerk of the House of
19 Assembly in terms of identifying conflicts of interest?

20 A. Not that I can recall, sir.

21 Q. What the Audit also revealed was what I think the
22 Audit Unit questioned as perhaps grants that were going beyond
23 the scope of the programme because you give these examples.
24 Firstly, and I'll quote: "In one instance, it was discovered
25 that a grant was awarded to an inmate of HM Prison to provide

1 assistance to appeal his conviction. In another instance, an
2 award was granted to pay the court imposed fine for criminal
3 conviction. These two instances illustrate the unrestrained use
4 of the funds as both awards were made on the basis of financial
5 hardship." I will end quote there.

6 And when the report is referring to the unrestrained
7 use of the funds, does that mean that it was really down to the
8 Member concerned to interpret the guidelines and use their
9 discretion as to whether they would award a grant or not?

10 A. Yes, because the Member would recommend that the grant
11 be issued to the applicant, and then the Clerk will be
12 responsible for effecting whatever the grant amount was.

13 Q. Can I come back to the role of the Clerk in a moment
14 and what was understood by the Audit Unit at that time.

15 What's also said--and this is at 7.11 on page 72, and
16 I will quote: "It was discovered in a number of cases that
17 representatives granted awards to individuals to settle
18 outstanding bills which were due to other government agencies.
19 Examples of these included assistance to pay water bills and
20 income taxes. This practice shows that Government is
21 essentially granting assistance to pay itself and therefore does
22 not portray Government receiving any revenue as the money given
23 as assistance is Government funds."

24 So, in effect, there was no money coming in to
25 Government. What was happening was that Government money was

1 just being recirculated?

2 A. Exactly, sir.

3 Q. Now, I said would come on to the role of the Clerk of
4 the House of Assembly and you deal with that or the Report deals
5 with it at 7.14 on page 73. It explains that: "The Clerk is
6 the Accounting Officer for the House of Assembly. However, the
7 Clerk lacks the necessary authority to make expenditure from
8 this subhead without the express consent of the elected
9 representative. This begs the question, as the Accounting
10 Officer for the House of Assembly, where does the Clerk's
11 responsibility and accountability end?"

12 And you go to say, or the report goes on to say:
13 "Audit revealed numerous instances whereby assistance was
14 provided to individuals based on letter submissions from the
15 Members and disbursements being made without requesting the
16 Member to substantiate the request."

17 And it concludes--this is at 7.17: "There is no
18 communication structure in place throughout the programme to
19 disseminate information that would allow applicants to be
20 informed on the status of their applications and Members to be
21 aware of competing requests. The success and failure of the
22 programme is heavily dependent on an adequate flow of vital
23 information that facilitates a control environment where risk
24 events such as over-expenditure can be detected or event
25 prevented."

1 Bringing those together, and when remembering we are
2 in 2009 now, Ms Corea, at that time, what did the Audit Unit
3 understand the role of the Clerk to be in this process?

4 A. The role of the Clerk is to be their Accounting
5 Officer, and the Accounting Officer is responsible for all
6 expenditure from the Government subhead to which they are
7 entrusted. The Members would make recommendations to the Clerk,
8 where the Clerk is still responsible to hold up accountability
9 and make representations for those funds in which she or he is
10 entrusted.

11 Q. So, ultimate responsibility for justifying how funds
12 for which you are the Accounting Officer lies with the Clerk?

13 A. Correct.

14 Q. So, if the Clerk is simply put in a position where
15 they are just agreeing to Members' recommendations, they're not
16 fulfilling the role of an Accounting Officer; is that right?

17 A. Um-hmm. And that is my question, when it says in
18 7.14, where does their responsibility end, because not only are
19 you supposed to undertake the recommendation, but it is not
20 facilitated in the proper manner in terms of providing the
21 appropriate evidence and appropriate documentation, there should
22 be a question as to whether it should be expended or not.

23 Q. If we look at 7.8 on the next page--

24 COMMISSIONER HICKINBOTTOM: 7.18?

25 MR RAWAT: 7.18, I'm sorry. yes, thank you,

1 Commissioner.

2 BY MR RAWAT:

3 Q. At 7.18, what the Audit Unit's investigation said was
4 this: "Adequate control mechanisms are not in place to
5 safeguard public funds through the Assistance Grants Programme
6 from abusive practices."

7 And it then made two points. The first is that: "The
8 programme relies heavily on limited human checks as a control to
9 detect duplicate requests; as a result, the likelihood of
10 duplicate requests going undetected is significantly increased."

11 And secondly: "As the Accounting Officer, the Clerk
12 has the final authority to approve/disapprove any disbursement
13 from the assistance grants subheads that in his/her opinion is
14 questionable. However, the Audit revealed that it would be
15 difficult for the Clerk to exercise this right since it has
16 become the norm for Members to solely approve requests. Clause
17 6(1) of the Public Financial Management regulation states that:
18 'If an Accounting Officer believes that to comply with a
19 direction given to him by the Minister would be inconsistent
20 with the officer's duties, the officer shall give the Minister
21 written notice of the officer's disagreement and the reasons for
22 the disagreement and place a copy of the notice on the record.'"

23 Just break that down a little bit, please. Firstly,
24 if you go back to 7.18.1, you refer to the limitations where you
25 have human checks. At that time, what would have been an

1 alternative process that could have been in place--put in place
2 in 2009 so that you weren't relying on human checks?

3 A. Remember earlier in the report it talks about a
4 database that can actually rely on that data to do the checks
5 and balances whether it's for duplication or whether it's for
6 verification. Those are processes that you can utilize in hand
7 where there's the lack of human support.

8 Q. And in relation to 7.18.2, does it follow from what
9 the Audit Unit reports said there was that the Clerk, at least
10 in 2009, was in an impossible situation because Members were
11 approving requests and so the Clerk wasn't really able to act as
12 Accounting Officer and either, in effect, question any requests?
13 Was that what the Audit showed?

14 A. Yes, that's what it showed.

15 Q. If we look at 7.19, it says: "The budget for this
16 subhead is determined by the Members of the House of Assembly
17 during Standing Finance deliberations. There is no discernible
18 trend between funding and needs; however, there is a correlation
19 between administrations (Government of the day) and funding."

20 Again, Ms Corea, I appreciate that I'm taking you
21 quite a bit back in time when we're looking at these reports,
22 but can you clarify or elaborate any further as to what the
23 concern was in 7.19 about the absence of a trend between funding
24 and needs but the existence of a correlation between
25 administration and funding?

1 A. If you are going to have an Assistance Grants
2 Programme, there is going to be some historical information that
3 you would have to look back at to verify your need for future
4 use and purposes. And I find that even in the process of
5 Standing Finance, that is not a way of looking at budgeting
6 funds. Sometimes it's just a mere practice that this is how
7 much we spend and the possibility of needed additional funds, so
8 therefore the budget is increased. And when it says the
9 administration, between administrations--I get different
10 administrations have different views, so to have the funding
11 increase would be a view of maybe an old administration as
12 opposed to a new one. That is all it is saying in that regard.
13 But in terms of funding and need, we should be going off by
14 historic information instead of just the main practice of just
15 giving grants.

16 Q. I see.

17 So what you, as an Auditor here, what should be
18 happening is that there should be some assessment of how the
19 funds have been used in order to make a decision of how much
20 should be awarded going forward, how big the grants programme
21 should be?

22 A. That is correct, sir.

23 Q. Rather than it being perhaps just driven by the
24 decisions of the administrations of the day because one
25 administration might want an increase, another might want a

1 decrease, and so need isn't brought into the picture?

2 A. That's correct, sir.

3 Q. Can I just take you, before we leave that page, to
4 7.22. It was noted there: "The audit revealed that the manner
5 in which assistance is granted to applicants is very subjective
6 and therefore begs the question as to why an applicant
7 requesting \$3,000 receiving a grant of \$300 and an application
8 requesting \$5,000 receives the requested amount. In both
9 instances, the level of supporting information was the same."

10 And does that again go to the concerns that the Audit
11 Unit raised about the guidelines and how effective they were?

12 A. That is correct, sir.

13 Q. Because if--you could have a situation where two
14 Members of the House of Assembly presented with the same
15 information and approaching it diligently could still reach a
16 different view and one could award less and another one could
17 award more than the amount requested?

18 A. That is correct.

19 Q. Now, at 75, page 75--

20 A. I must say one thing before we move on.

21 In issuing--in issuing requests that were made by
22 application, it is the discretion of the Minister to determine
23 if the person will receive and how much the person will receive.
24 It's at the Minister's discretion.

25 Q. In this case it's the Member that decides, isn't it?

1 A. The Member's discretion, correct.

2 Q. And that I think that clearly emerges from the Audit
3 Unit Report, so the Member makes the decision, and it goes to
4 the Clerk of the House of Assembly as the Accounting Officer?

5 A. That is correct.

6 Q. Now, the recommendations are at page 75. I won't go
7 through them all, but I wanted to draw your attention to 8.3
8 because you made two long-term recommendations, and by "you," I
9 mean the Audit Unit. Firstly that consideration be given to
10 transferring the funding from the subhead to agencies that have
11 already established similar programmes. And so that
12 recommendation would essentially dispense with this grants
13 programme as it related to the House of Assembly but transferred
14 the funding elsewhere; is that right?

15 A. That is correct.

16 Q. And second was that--and this was the
17 long-term--recommended that an appropriate budget be prepared
18 for the programme with the view of returning it to its original
19 purpose of providing assistance to finance minor District
20 projects. So, I think to be fair to the Audit Unit, the
21 recommendation wasn't scrap it all together; it was transfer
22 some--return it back to its original purpose and transfer some
23 of the funding to other established programmes?

24 A. That is correct. To me, it would be more beneficial
25 and effective if you do that.

1 Q. Now, there were a number of short-term recommendations
2 made, which were quite specific in terms of the operation of the
3 assistance, so I only need to draw your attention to one of
4 them, and that's at 8.3 where it said: "It's recommended that
5 the present guidelines be revised by an independent body to
6 eliminate any inconsistencies which may exist. It is further
7 recommended that such guidelines be formally adopted by Cabinet
8 to better regulate the use of this subhead in the long term."

9 Now, I wanted to draw your attention to that because I
10 now want to take you to another report in the bundle, which is
11 the follow-up audit that the--of what had become the Internal
12 Audit Department then did, and that was in March 2011. You will
13 find that at page 554 in your bundle.

14 Now, 554 is a report headed "FOLLOW-UP AUDIT UNIT"--I
15 will read that again.

16 "FOLLOW-UP AUDIT REVIEW, Assistance Grant Programme,
17 2006-2008," it's dated March 2011, and it's still by the
18 Internal Audit Unit.

19 If you look at 556, which is the introduction, what's
20 recorded there is: "The Internal Audit Unit has completed a
21 follow-up review of the House of Assembly-assistance Grants
22 Programme resulting from an audit conducted in March 2009. The
23 objective of the follow up review were: To determine whether
24 management had taken corrective action or implemented the
25 recommendations, and 2) to determine whether the desired results

1 were achieved or if management has assumed the risk of not
2 taking action or implementing the recommendations."

3 And what is included as well is that: "The report of
4 March 2009 had highlighted some deficiencies that required
5 corrective action. These deficiencies relate to the manner in
6 which the programme is administered, the purpose for which funds
7 are being disbursed and the lack of adequate guidelines."

8 Now, in doing, and this is about the approach of the
9 Audit Unit, but in doing this follow-up, the unit held meetings
10 with the Clerk, who would be the Accounting Officer, the Deputy
11 Clerk and other Members of staff and what was recorded in your
12 follow-up report was this: "The Clerk noted attempts were made
13 to address the weaknesses discovered in the current guidelines;
14 however, this was not accomplished due to the lack of
15 cooperation from some Members of the Assembly. It is imperative
16 to note--also to note that the Clerk, in her Management Response
17 to the Report, stressed on the importance of adopting clearly
18 defined guidelines that would allow for transparency and
19 consistency in administering the programme with an anticipated
20 completion of 10 months after the issuance of the Report
21 (March 2010)."

22 So, does it come to this, Ms Corea, that your
23 March 2009 report is submitted, and it goes to the Department in
24 this case or the Authority that you're auditing is the House of
25 Assembly, and the person that responds in terms of a Management

1 Response is the Clerk to the House who anticipates that there
2 would be a completion of the recommendations within 10 months,
3 so by March 2010.

4 When you go back in March 2011, or September--yeah,
5 March 2011, the position is, isn't it, that none of the 10
6 recommendations that had been made in 2009 had been implemented;
7 is that right?

8 A. That is correct, sir.

9 Q. And the one reason that seems to have been given to
10 the Audit Unit was a lack of cooperation from some Members of
11 the Assembly?

12 A. That is correct, sir.

13 Q. So, it's not a lack of will on the part of the public
14 officers concerned that the Members of the House of Assembly
15 were not happy with the recommendations made?

16 A. That is correct, sir.

17 Q. Now, the Audit Report at 557 and that under follow-up
18 procedures. "As a result of not implementing the
19 recommendations provided in the report and not taking any other
20 corrective action to address the issues identified, follow up
21 procedures were conducted to reassess the risk and impact of not
22 taking action. The results of these procedures were as follows:
23 (1) the review found that there were no changes to the current
24 guidelines, to assistance grants usage and to the manner in
25 which the programme is administered."

1 Under 1(a), what was noted was "financial (hardship),
2 educational, medical assistances continue to be the main
3 categories of disbursements made from the assistance grant
4 subhead. These disbursements are still being made in a manner
5 inconsistent with the original intent of the subhead which is to
6 finance minor District projects.

7 "(b), there were numerous instances where assistance
8 was provided to individuals to pay their living expenses and
9 debt, such as house rent, utility bills, mortgage, car loan,
10 court fines and child maintenance.

11 "And (c), most importantly, there were no changes made
12 to the control environment for which the Assistance Grant
13 Programme is being administered. The programme still operates
14 from weak controls, minimal enforcement of requirements and
15 inadequate oversight. Such an environment increases the
16 likelihood of impropriety."

17 So, in effect, the position had not improved, and the
18 risks were still there?

19 A. That is correct, sir.

20 Q. The follow-up in terms of recommendation was and I
21 will quote this: "It is highly recommended that the
22 recommendations provided in the original report be implemented
23 expeditiously."

24 And two other recommendations were made: Firstly,
25 that the advice of the Attorney General be sought in relation to

1 the perceived conflict that exists where the Accounting Officer
2 may not have authority over the assistance grants subhead as
3 outlined in the description in the budget estimates.

4 Does that go to the point that although the Clerk of
5 the House was the Accounting Officer, still in March 2011, the
6 Clerk to the House was not the person--were not in the position
7 to question any approval?

8 A. That was the situation, sir.

9 Q. So, in actual fact, not really able to operate as a
10 proper Accounting Officer?

11 A. That is the case.

12 Q. Before we leave that, do you know--and the answer may
13 be no to this, Ms Corea, but do you know whether advice was
14 obtained from the Attorney General?

15 A. I'm not aware.

16 Q. The next point that was made was that it's recommended
17 that the Clerk, as Accounting Officer, become formalised and
18 guided by the following clauses of the Public Finance Management
19 Act of 2004 and the Public Finance Management Regulation of
20 2005, and you then set out a number of clauses.

21 Was that recommendation intended to put the Clerk to
22 the House of Assembly in the position where they knew what their
23 role was as Accounting Officer?

24 A. That was my understanding, sir.

25 Q. The conclusion that was made at 558 but the follow-up

1 audit is as follows: "As articulated in the report, the funds
2 disbursed from the Assistance Grants Programme as public funds
3 must maintain the same level of documentary evidence as any
4 other expenditure and must be accounted for in a like manner
5 with the same level of accountability and transparency in
6 compliance with the Public Finance Management laws.

7 "With this in mind and one year after the anticipated
8 date of completion, it must be noted that the 'House of
9 Assembly' has not made significant effort to implement any of
10 the recommendations and has not taken any corrective actions to
11 address the issues raised in the report. Although management
12 has provided some explanations for not implementing the
13 recommendations relating to the Assistance Grants Programme, it
14 is essential that every effort is made to correct the
15 vulnerabilities and the deficiencies identified in the report.
16 Management cannot remain non-responsive and must assume the
17 responsibility for any risk event resulting from the existence
18 of ineffective systems and controls.

19 "The recommendations provided, in our opinion"--I will
20 read that again.

21 "The recommendations provides, in our opinion, were
22 designed to address the most significant weaknesses in the
23 control environment and when implemented would help in improving
24 the administration of the programme. The House of Assembly is
25 therefore encouraged to implement the recommendations of the

1 report and the follow-up recommendations where possible."

2 Now, it's perhaps important to stress that--(sound
3 interference)--what the Audit Unit is doing, you're not--it's
4 not your job to say whether a policy is right or wrong, is it?
5 You're just looking at whether it's efficient or effective and
6 the risks are manageable?

7 A. That is correct, sir.

8 Q. And in doing this--I mean, this is March 2011, so
9 perhaps just shortly before the Internal Audit Advisory
10 Committee was set up and the Act came into play, but now that
11 you've gone a follow-up audit, there's nowhere further for you
12 to go with this issue, is there?

13 A. No, there isn't, sir.

14 Q. It's entirely dependent upon a committee, and I think
15 in that point you said that there was at one point a Committee
16 made up of Permanent Secretaries. Was that Committee in place
17 in 2011?

18 A. No, sir, it was not.

19 Q. And nor did you have--you didn't have an Internal
20 Audit Advisory Committee until 2014, did you?

21 A. That is correct, sir.

22 Q. So, at this time, 2011, having done the follow-up
23 audit, there is nowhere else for the Internal Audit Unit to go,
24 is there?

25 A. No, there isn't, sir.

1 Q. Can I take you back to page 63, please. Sorry to make
2 you jump around in the bundle, Mrs Corea.

3 A. That's okay.

4 Q. And I think in fairness to all, perhaps to put this
5 detail into the record. I'm taking you to a letter dated the
6 19th of May 2011, and it's addressed to Mr Wendell Gaskin, then
7 the Director of Internal Audit at that time, and it's from the
8 Speaker, the then speaker of the House of Assembly, Roy
9 Harrigan, and what Mr Harrigan communicated to Mr Gaskin was
10 this: "At a meeting of elected Members of the House of
11 Assembly, held on 5th of May 2011, I was directed to convey to
12 you the position of Members with respect to your Internal Audit
13 Unit report (May 2009) on the Assistance Grants Programme and
14 your follow-up Audit Review of the same Programme (March 2011)."

15 What was then raised and I will summarize this in the
16 next paragraph, was a point was taken that it was not the job of
17 the internal Audit Unit to audit the House of Assembly; that
18 that was--the Audit Unit did not have the Authority to do that.
19 The letter then continued.

20 "In 2005, the Assistance Grant Programme was expanded
21 to include persons experiencing certain hardships. Along with
22 this expansion, Members felt that they have a good idea of what
23 happened in the community. Members reported that they use their
24 discretion to give funds after hearing from the applicants.
25 Their resolve is that this discretion must be left with elected

1 Members. Further, Members said that they are at a loss to
2 perceive what mischief is being corrected by the recommendations
3 in the reports.

4 "There is a general sentiment among Members that there
5 is no impropriety as far as they are concern and that the
6 Assistance Grant Programme is being handled the way they want it
7 done. According to Members, the Assistance Grant Programme must
8 be kept simple and not complicated or encumbered by a lot of
9 paperwork. However, Members are aware that there will come a
10 time when the Programme will have to be overhauled, but until
11 that time, they will continue to have the allowances and give
12 assistance in their usual way." And the letter ends there.

13 And I will read, and this is at 60 in the bundle, and
14 this is a letter of May 27th, 2011 from Mr Gaskin addressed to
15 the Honourable Roy Harrigan, and again, I'm going to summarize,
16 Commissioner, if I may.

17 COMMISSIONER HICKINBOTTOM: Yes.

18 BY MR RAWAT:

19 Q. The first paragraph makes this point, that--and
20 Mr Gaskin respectfully points out that the letter should have
21 been written by the Clerk of the House of Assembly rather than
22 the Speaker because the Speaker neither has constitutional nor
23 legal responsibilities relating to the matters under review.

24 Mr Gaskin then sets out the basis on which the
25 Internal Audit Unit has a proper right to audit this particular

1 programme.

2 And then he continues as follows: Contrary, to the
3 Members assertion that disbursements from the fund are
4 discretionary, this assertion is invalid since disbursements
5 should be guided by the guidelines produced by the House of
6 Assembly. Please refer to the note provided in the
7 Appropriation Act. Another misconception that must be addressed
8 is that Members are of the stance that the report produced to
9 highlight the "mischief" being perpetrated by them through the
10 programme. As a practice, this office endeavors to conduct its
11 engagements objectively and unbiased, report the facts as found
12 and offer recommendations that add value or improve the
13 processes. Furthermore, this office have not and will never
14 attempt to dictate to any Accounting Officer how to manage their
15 finances. What we do is offer sound advice effective management
16 of such, in compliance with our finance management laws. We
17 have again reviewed our reports and are too at a loss as to how
18 the Members deduced from their contents that we are making
19 recommendations to correct some mischief being perpetrated by
20 them."

21 The report continues as follows: "The most troubling
22 aspect of your letter is that the Members believe that the
23 Assistance Grants Programme is being handled the way they, the
24 Members, want it done. We staunchly disagree as to the
25 disbursement of public funds"--I'm sorry, I will read that

1 again.

2 "We staunchly disagree as the disbursement of public
3 funds is governed by the Public Finance Management Act and
4 Regulations. Although the law does not explicitly bind Members
5 of the Houses, the Accounting Officer of the House of Assembly,
6 who approves the disbursements is bound by the standard set
7 forth therein. Section 21(2) of the Public Finance Management
8 Act 2004 expressly states that 'Accounting Officers' are
9 personally accountable for public funds received, collected or
10 disbursed from monies appropriated. In addition, the Accounting
11 Officer, according to Section 73 of the Public Finance
12 Management Regulations as amended, must certify the accuracy of
13 disbursements in addition to ensuring that they are adequately
14 supported. We are at a quandary to comprehend what is meant
15 when you said that 'the Assistance Grant Programme must be kept
16 simple and not complicated or encumbered by a lot of paperwork.'
17 We are not suggesting that the process be overly complicated or
18 cumbersome. What we are advocating is that there should be a
19 minimum standard of documentation to support disbursements from
20 public funds. We are just asking that the House of Assembly, in
21 administering the programme, maintain sufficient documentation
22 to promote transparency and accountability, which are
23 fundamental principles of good governance, a responsibility for
24 which the Members should lead."

25 Gaskin concluded his letter as follows: "In closing,

1 it would be enlightening to know what conditions must exist that
2 would warrant an overhaul of the Assistance Grant Programme?
3 Would it not be more prudent to correct the issues as identified
4 by being proactive rather than reactive? We hope that this
5 letter is received with the sentiment in which it is sent and
6 that it clarifies any misconception that the Members may have as
7 it relates to our authority and to the Audit of the Assistance
8 Grants Programme. It is our hope that the recommendations
9 provided will now be accepted and implemented."

10 Now, just again to reiterate, Mrs Corea, you cannot
11 compel an Accounting Officer--and this is you as the Internal
12 Auditor--to follow particular rules. That's ultimately the
13 Accounting Officer's responsibility; is that right?

14 A. That is right.

15 Q. All that you can do as the Internal Auditor is to
16 point to risks. You can highlight where a rule may not be being
17 appropriately applied, and then identify the potential risk?

18 A. That is correct.

19 Q. But ultimately, as we've seen now from two sets of
20 reports, there comes a point, doesn't there, as the Internal
21 Audit Department, having made follow-up recommendations, there
22 is in effect nothing more that you can do?

23 A. That is correct, sir.

24 Q. Unless you have an Internal Audit Advisory Committee
25 available to add an additional level of "pressure," for want of

1 a better word, or--

2 (Overlapping speakers.)

3 Q. I'm sorry, I spoke over you. Could you just repeat
4 your last answer, please?

5 A. That is correct, sir, and that was as of the existence
6 of the Internal Audit Department and its achievement of its
7 goals and objectives.

8 Q. Does it--the Commissioner has previously received
9 evidence from the Members of the House of Assembly about the
10 Assistance Grant Programme, and some of that evidence is from
11 Members of the House of Assembly applying the Programme some
12 years after your follow-up audit, some of it in 2019 onwards.

13 Would it come as a surprise to you, Mrs Corea, to
14 learn that the guidelines which have been provided to the
15 Commissioner are exactly the same guidelines that your team
16 reviewed in 2009?

17 A. It's not surprising me.

18 Q. Sorry, I'll clarify. The small changes that have
19 occurred is just simply where it's Legislative Council, it's
20 changed to House of Assembly, but other than that, they're the
21 same guidelines.

22 Does that surprise you?

23 A. It does not, sir.

24 Q. Why doesn't it come as a surprise, Mrs Corea?

25 A. Because I have recently looked at the guidelines, and

1 I realized that they have not changed.

2 Q. Thank you.

3 MR RAWAT: Commissioner, I've reached a convenient
4 point, and I will be moving on to another report, so perhaps
5 this might be a good time to allow Ms Corea a break for lunch.

6 COMMISSIONER HICKINBOTTOM: Yes.

7 Shall we say half an hour? Quarter to 2:00, Ms Corea,
8 if that's okay?

9 THE WITNESS: Thank you, sir.

10 COMMISSIONER HICKINBOTTOM: Good. Thank you very
11 much. Thank you, Mr Rawat.

12 MR RAWAT: Thank you.

13 (Recess.)

14 COMMISSIONER HICKINBOTTOM: Mr Rawat.

15 MR RAWAT: Thank you, Commissioner.

16 BY MR RAWAT:

17 Q. Ms Corea, we should be at another report that I would
18 like to look at with you, which is at page 2691 in the bundle.
19 Do you have that report?

20 COMMISSIONER HICKINBOTTOM: 2691?

21 (Overlapping speakers.)

22 COMMISSIONER HICKINBOTTOM: Yes.

23 BY MR RAWAT:

24 Q. We should be at the report of the Internal Audit
25 Department dated August 2014. The title of it is "GOVERNMENT

1 MINISTRIES--ASSISTANCE GRANTS PROGRAMMES," and it's headed or
2 marked as a draft report. So that's a report to which there was
3 no Management Response?

4 A. Correct.

5 Q. If we go to 2693, under the heading "background,"
6 what's explained is the, I suppose, the route that led to the
7 report, and it's as follows: "Assistance Grants Programmes were
8 developed to provide various assistance to citizens who require
9 or need financial help because of various reasons, but the
10 Government of the Virgin Islands operates various Assistance
11 Grants Programmes through different government ministries and
12 departments. Amounts are allocated through the Budget Process
13 each year ranging from an approximate cumulative total of Three
14 Million Two Hundred and Thirty-Seven Thousand Dollars
15 (\$3,237,000) in 2009 to Two Million nine Hundred and
16 Seventy-Eight Thousand One Hundred Dollars (\$2,978,100) in 2013.
17 Although the amounts allotted to each Ministry may not be
18 significant in comparison to their individual annual budgets, it
19 is important in any service delivery industry that processes are
20 reviewed to ensure that customer satisfaction is maintained.
21 Additionally, it is important to make sure that in administering
22 such programmes with public funds, adequate processes and
23 controls are in place to govern the disbursements from abusive
24 practices."

25 And then in the next paragraph, the report notes: "Of

1 the seven (7) Ministries/Departments of government only five (5)
2 facilitate Assistance Grants Programmes. The reasons for the
3 need for these programmes encompass medical, financial,
4 educational purposes, civic and social, religious,
5 organizational, legal and special needs."

6 If you go to 2.1 which is on the next page, noted at
7 2.1 is the scope of the Audit, and it's recorded as being "an
8 examination of assistance grants issued for the last five (5)
9 years. Assistance grants issued under departments were not
10 included in the scope of this exercise, however, information
11 pertaining to their purpose and structure were considered in
12 evaluating and assessing the programmes administered by
13 Government Ministries." So, does it following, Ms Corea, that
14 the focus of the Audit was on grants being managed by a Ministry
15 level?

16 A. That's correct, sir.

17 Q. If you look at 2695 now, you cover in the report or
18 the report covers Audit Criteria, the last time that there was
19 any kind of audit linked to the current audit, and then under
20 "Audit Limitations" it's noted: "Files were requested from the
21 Ministry of Finance and Economic Development and the Ministry of
22 Health and Social Development to assess their request and
23 approval processes for Assistance Grants Programme. However,
24 these documents were not presented as the Ministry of Finance
25 recently relocated to a new office due to their office being

1 under renovations. Therefore, the files were not readily
2 accessible and as a result were not submitted for our review.
3 The Ministry of Health and Social Development, although having
4 access to their files stated that the files were in an unhealthy
5 condition"--and you've put in brackets there--"(mold). It was
6 explained that efforts would be made to sanitize these files;
7 however this was not done within the requisite timeframe
8 allotted for the exercise and therefore the exercise proceeded
9 without this information.

10 And you then say: "As a result of these two
11 situations, the Auditors relied on information documented within
12 the JDEdwards Accounting Software to present their findings and
13 conclusions in relation to these Ministries."

14 Now, there you have reasons that have been given by
15 two ministries as to why they have difficulty providing you with
16 information.

17 Do situations like that arise from time to time?

18 A. Yes, it does.

19 Q. And in circumstances like that where there isn't an
20 outright refusal but the Ministry raises difficulties, what's
21 the approach of the Internal Audit Department?

22 A. Well, we try to find alternate ways to
23 accommodate--accommodate the information that's needed; and in
24 the absence of that, then that portion would not be a part of
25 our audit exercise.

1 Q. And in terms of recent experience, has it been easier
2 because more and more information is now being held
3 electronically?

4 A. In some cases, yes, sir.

5 Q. And in other cases, are you still having to rely on
6 paper files?

7 A. In most cases, yes.

8 Q. So, paper is still used within the Public Service to
9 quite a great extent?

10 A. Widely used, sir.

11 Q. If you look at 2696, you set out there--and it's two
12 figures, one for the Assistance Grants Programmes for 2009 and
13 the one for 2013. That's on the other page, 2697. And just
14 show how the budget for assistance grants is divided up.

15 In terms of the five Ministries, certainly in 2013,
16 which is on page 2697, the five Ministries that administered
17 grants programmes were the Ministry of Natural Resources and
18 Labour, the Premier's Office, the Ministry of Finance and
19 Economic Development, the Ministry of Education and Culture, and
20 the Ministry of Health and Social Development.

21 If you go to 9.2 and 9.3, the observation is made, and
22 it links back to what we were looking at earlier, that there are
23 multiple Assistance Grant Programmes throughout Government, and
24 when one compares that administered by the House of Assembly and
25 those by various Ministries, there is an overlapping purpose

1 between the different grant programmes; is that right?

2 A. That's correct.

3 Q. What's noted is that the only difference observed was
4 that the Ministry's programmes were in most cases based on
5 Ministry's subject matter, for example, the Ministry of
6 Education and Culture administers assistance for education and
7 cultural purposes. While the House of Assembly's program was
8 broader encompassing grants for all subject matter.

9 And the point is made at 9.3 that some of the
10 duplication within programmes may be attributed to a lack of
11 awareness by internal stakeholders that numerous grant
12 programmes exist throughout Government, and there is therefore a
13 lack of coordination among the various Ministries when issuing
14 assistance. Consequently, there is an inability for officers to
15 conduct adequate scrutiny of requests for assistance.

16 Again, could we just clarify that a little. The point
17 being made here is that even within the Public Service and
18 within Government, there wasn't sufficient awareness of what
19 other programmes were being operated by Ministries?

20 A. In some regards, so no.

21 Q. Could you clarify a little bit further in terms of
22 what you mean by "in some regards"?

23 A. For example, since the House of Assembly has a whole
24 wide array of different assistance grant opportunities, some
25 persons were not aware that some of these grant forms can be

1 offered and received in select areas across Government. For
2 example, Health and Social Development. Social Development has
3 more grants for Social Development issues and programmes, and at
4 the same time the House of Assembly also provides granting that
5 subject matter.

6 Q. If you have a situation as appears to have pertained
7 into 2014 where different parts of government are administering
8 grants or grants programmes that cover the same subject matter,
9 and don't know the detail of each other, what risks could arise
10 from that sort of approach?

11 A. People have our bills, because for example,
12 scholarships. In the Ministry of Education, you have a
13 structured scholarship programme where students are issued
14 scholarships to study in different areas and capacities.
15 However, you also have the Premier's Office awarding
16 scholarships, and you also have the House of Assembly as
17 awarding grants or scholarships as well, so it could be
18 abusive--an abusive situation where persons getting same grants
19 for the same purpose from different areas.

20 Q. If we go to 2698, you set out there or the report sets
21 out there that Objective 1 was: "To give assurance to the
22 adequacy of the control systems in place to safeguard
23 disbursements from abusive practices," and at 9.4, the
24 observation is made: "For each of the Assistance Grants
25 Programmes reviewed, it was observed that Ministers have

1 ultimate authority to approve requests for assistance.
2 Permanent Secretaries/Accounting Officers although vested with
3 the responsibility, by law, to manage and account for the funds
4 allocated to the various programmes have little to no
5 involvement in the approval or denial of the assistance".

6 And then you make the point that this puts "Permanent
7 Secretaries in a compromising position whereby they are
8 accountable for funds for which, in essence, they lack the
9 necessary authority to approve or deny expenditure without the
10 Minister's approval. This, in turn, misrepresents the role of
11 the Accounting Officer." I'm going to pause there.

12 The observation that Ministers have ultimate authority
13 to approve requests, where did that come from?

14 A. A person can submit an application, whether in writing
15 and sometimes verbally to the Minister, and the Minister in
16 conversation with that person will take up the situation and
17 bring it to the attention of the Permanent Secretary in a
18 decision form. And thereafter, the Accounting Officer, which is
19 the person responsible for the funds, will receive the directive
20 of the Minister.

21 Q. And so the situation across these Ministries was very
22 much the way you earlier reported described the position in the
23 House of Assembly. The Accounting Officer has no role in making
24 the decision?

25 A. In most cases, no. They're just final directives.

1 Q. That puts the Accounting Officer in a difficult
2 position; is that the view of the Audit Department?

3 A. It is, sir.

4 Q. And because the Permanent Secretary in these cases is
5 the Accounting Officer, what risks fall on the Permanent
6 Secretary who is placed in that position?

7 A. Well, they have to be accountable to the funds and
8 they have to report on how the funds are being used on an annual
9 basis, so it would put them at risk.

10 Q. What the Audit Report also says at 9.5 is that: "The
11 audit revealed that there are no formal procedures in place
12 within the Ministries for requesting assistance. Letters are
13 accepted by all Ministries to substantiate requests for
14 assistance. However, these letters are generic in nature and
15 provide little documentation/information to support the request.
16 Some Ministries, depending on the request, indicated that they
17 would require individuals to submit additional information.
18 However, this does not occur in all cases and is not mandatory,
19 as was evident from the documentation reviewed. Therefore, the
20 Audit could not find any objective basis on which assistance was
21 being approved and denied." Again, was that a finding that ran
22 across the Ministries?

23 A. Very much so, sir.

24 Q. And does it follow, then that, different Ministries
25 would have had different processes?

1 A. There would have the instrument to process it but for
2 the most part, assistance is usually an application by letter,
3 and it goes to, in most cases, to the Minister via the Permanent
4 Secretary. However, at the end of the day, the decision is
5 made, and then the Permanent Secretary as the Accounting Officer
6 is required to effect those assistance grants.

7 Q. What you also say is that the Audit Department says
8 that a control that's found to be effective in ensuring a grant
9 award is used for its intended purpose, is it's paid directly to
10 the institutions for which the applicant requested the
11 assistance. So, rather than paying an educational grant to the
12 applicant, paying it to the educational institution is a better
13 course.

14 But what was noted was that this wasn't evident across
15 all grant programmes administered by Government. As in most
16 instances, grant payments are issued in the name of the person
17 making the request.

18 So, what the Audit was showing was that there's no
19 system as to how to make an application, and then variability as
20 to whether when an award is granted, whether it goes to the
21 applicant or goes to the institution that will actually
22 ultimately get the payment. And does that, as you note at 9.6,
23 that leaves the programmes open to abuse, doesn't it?

24 A. It does.

25 Q. So, stepping back from this, would a better course be

1 for a single transparent process to apply across all grants
2 programmes?

3 A. Yes, it should have one.

4 So, again, it can be streamlined across all
5 Ministries, and then they would have an idea I guess to what
6 grant programmes are available in each Ministry to avoid
7 duplication of payment.

8 Q. If we go to 2700, which is--this is under the heading
9 where the Audit Report made a number of findings of specific
10 issues that require a special mention with reference to the
11 Assistance Grants Programme administered by the Ministry of
12 Education and Culture. But when one looks at it in the context
13 of it, there are points here that apply to other Grant
14 Assistance Programmes being administered. So, for example, to
15 go through these and summarise them, one of the points that the
16 Audit picked up in relation to the education Assistance Grants
17 Programmes was that you would have students making applications
18 to more than one programme. That's at 9.10.

19 A. That is correct, sir.

20 Q. And that would happen even when, as we see at 9.10.2,
21 persons were only granted assistance on the basis that they get
22 it once a year but they could get around that by making multiple
23 applications?

24 A. That is correct.

25 Q. And so the example is given that the Audit discovered

1 there were at least 55 repeat applications of which 20 received
2 assistance within the same year and you go on to say, "this
3 indicates that these awards were made contrary to the
4 practice/policy and indicates that the practice/policy, in
5 essence, is not enforced or adhered to making it easy for the
6 programme to be abused.

7 Another point that is picked up, and this is at 2701,
8 at 9.10.3, the Audit did a sample of 100 scholarship students
9 and essentially found that there was a risk that information
10 being put on scholarship applications was possibly false or
11 misrepresented, and that was again something that the system
12 wasn't designed or wasn't designed to correct or pick up on; is
13 that right?

14 A. That is correct.

15 Q. What is also highlighted then, and this is at 9.11--is
16 that there was no audit of how progress was being made on a
17 package of study even although that was a requirement. So,
18 there was a requirement that students who received assistance
19 should submit to the Ministry evidence of whether they were
20 making progress on their course of study. But what was found
21 was that in more than 90 percent of cases there was no evidence
22 of, for example, a Transcript or a programme audit being
23 submitted to the Ministry, and what's said is again a weakness
24 in the enforcement practices of the Ministry.

25 A. That is correct, sir.

1 Q. Now, this goes to, doesn't it, Ms Corea, that the
2 system design, because if you want transparency and
3 accountability, presumably, you want to be able to have a system
4 in place that allows a fair opportunity to make an application,
5 allows that application to be assessed by written criteria, and
6 allows the system--the effectiveness of the system to be
7 monitored. So, for example, a ministry is giving out grants.
8 Part of their process should be to ask themselves do we have
9 evidence whether the grants are working?

10 A. Quite, yes.

11 Q. And are those the sort of things that an audit would
12 point to, where you have gaps in the system that don't do that?
13 Is that the sort of thing that an audit would pick up on?

14 A. Yes, because there should be a system to measure that
15 the objective of the programme is actually being met.

16 Q. If you look at 9.12, the Audit did a further sample of
17 requests submitted to the Ministry of Education and Culture, and
18 it records this: "The review revealed the following observation
19 which highlights various means through which the programme can
20 be further abused due to the absence of adequate controls to
21 govern the process." And the examples that are given are
22 someone obtaining initial assistance but then returning to say
23 that the amount granted was insufficient and, therefore
24 requesting further consideration for additional funds. And what
25 the point that's made is that sometimes resulted in multiple

1 assistance amounts being granted. Or the initial award being
2 revoked and the larger amount being approved. And this, we
3 find, disenfranchises other individuals as due to the limited
4 availability of funds, if one person receives multiple
5 assistances, limited funds would be available to assist other
6 individuals.

7 And was that the case that someone was coming back to
8 the Ministry but without any new evidence?

9 A. That is correct, sir.

10 Q. So, they would just come back saying, well, let's, you
11 know, my circumstances haven't changed but the amount you've
12 given me is not enough. They were getting an increased amount
13 and the point the Auditor is making is that because it's a
14 finite pot, that means that there is less for others?

15 A. In all due course, yes, that's the case.

16 Q. And again, at 9.12.2, a point is made that--which
17 echoes a point that was made when we were looking at the Audit
18 Reports of the House of Assembly's Assistance Grant Programmes,
19 and that is that grant awards are determined on a discretionary
20 basis because it was observed that some applicants request a
21 certain amount and received the full amount, while others were
22 given less than what was requested, but what you couldn't find
23 was a clear justification to determine how that decision was
24 reached, which meant that there was a risk of unequal treatment
25 in terms of the way amounts were approved; is that right?

1 A. Yes, sir, because they also use their discretionary
2 powers to decide and determine what amounts are actually granted
3 for the award that was applied for.

4 Q. When you say use their discretionary powers, who is
5 the "they" you're referring to?

6 A. The Ministers.

7 Q. And this issue, was that something you saw not just in
8 the Ministry of Education and Culture but elsewhere across the
9 Ministries?

10 A. That is correct, sir.

11 Q. If we go over to the next page, what's pointed out at
12 9.12.3 is that persons working in the Ministry of Education and
13 Culture could also submit requests for assistance. And the
14 Auditor makes the point that when you have that situation and
15 officers are eligible to participate in the programme, special
16 care should be exercised to ensure transparency and
17 accountability is maintained by ensuring that these individuals
18 submit adequate documentation to support their requests, as the
19 perception of favoritism can materialize.

20 And what you say is that the Audit found that adequate
21 information, such as the cost of programmes, invoices, and
22 submission of grades to support requests were not submitted in
23 all such cases.

24 And leaving aside that there may be the reality of
25 favoritism, in circumstances where it might be perceived that a

1 public officer is being treated differently by a ministry
2 compared to an ordinary Member of the public, where there is
3 that perception, that in itself is enough to erode transparency
4 and accountability, isn't it?

5 A. I was distracted by a noise. Could you repeat the
6 question, please?

7 Q. Yes.

8 The part of the report that I've read out refers to
9 the perception of favoritism can materialize. Where there is a
10 perception that public officers are getting an advantage over
11 ordinary members of the public. And that perception in itself
12 is enough to erode transparency and accountability, isn't it?

13 A. Definitely so.

14 Q. Because it goes to undermining public confidence in
15 the way the systems work and whether a member of the public can
16 get a fair opportunity to apply for a grant?

17 A. That's the case, sir.

18 Q. You also note and this is 9.12.4, that: "Requests for
19 educational assistants were forwarded from the House of Assembly
20 to the Ministry of Education on at least three (3) occasions.
21 This highlights the question as to whether the Assistance Grants
22 Programme at the House of Assembly can adequately support and
23 evaluate such request or whether such grants should be awarded
24 solely by the Ministry responsible for the subject matter."

25 I wonder if you could elaborate on that a little

1 further because we've taken you through the reports now, and you
2 have a situation where you have subject matter grants being
3 administered by Ministry, but the House of Assembly grants
4 programmes spans a whole range of different subjects. What
5 difficulty did the Audit Team identify arising from this overlap
6 between these grants programmes?

7 A. Now, on these three occasions, those were three
8 occasions that were identified and were picked up. There would
9 be instances where assistance would be requested and actually
10 processed. So, when you can identify and have knowledge that
11 the same subject matter can be dealt with at another Ministry in
12 their subject matter, you would actually provide that
13 information for the Ministry to award that grant. But in cases
14 where you find that there is an overlap, but you don't
15 necessarily pick up or don't have the knowledge that the same
16 assistance programme is available in the Ministry, then you run
17 the risk of having maybe duplicate payment in some cases and in
18 some cases abuse.

19 Q. At 9.12.5 in the report, the Audit picks up on another
20 example, and that was a scholarship being withdrawn from a
21 student because that student failed to maintain the grade point
22 average stipulated by the Ministry. But the effect was that the
23 student then made a request for assistance which was approved,
24 and that was assistance in order to complete the student's
25 degree, so the student got as a result of that request, \$9,000

1 which is the same amount that the student would have received
2 under the scholarship. And what's said is that: "The approval
3 of this Request provided a means to circumvent the Ministry's
4 policies and highlights the manner in which the Assistance Grant
5 Programme can be susceptible to abuse. This case also
6 highlights a communication deficiency within the Ministries
7 across the various programmes being administered, as there
8 appears to be a clear case of breakdown in communication where
9 in one programme funding was withdrawn, however, approved within
10 another programme within the same Ministry."

11 So, does that point, though, to a wider issue about
12 communication, Mrs Corea? Because you've got two difficulties
13 that the Audit is highlighting, haven't you? Firstly, is that
14 the overlap between the purposes of different grant programmes,
15 risks duplicate applications, and that can only be solved by
16 communication between the two different programmes, but also
17 even within the Ministry itself there must be communication to
18 avoid, as in this case, somebody getting around the policy,
19 which was you won't get your--you won't get your scholarship if
20 you don't maintain a grade point average?

21 A. That is correct.

22 Q. And so, stepping back from it, and looking across the
23 range of these grants programmes--and this is we must remember a
24 2014 audit--what the Audit was identifying, wasn't it, was that
25 programmes were not being monitored effectively; that there was

1 insufficient guidance in place as to how awards would be
2 granted, and that goes to a lack of, in effect, prudent
3 budgeting. Would you agree with that?

4 A. Yes, sir.

5 Q. If we go to 9.16 on page 2703, please. It begins like
6 this: "From interviews conducted, it was revealed that the
7 amount of assistance awarded to a single applicant is left to
8 the Minister's discretion."

9 Now, what kind of interviews did the Audit conduct?
10 Who was being interviewed?

11 I could help you, perhaps, if you look back to 5.1.
12 5.1.1 you referred to interviewing staff members?

13 A. Right, correct. Staff members within those Ministries
14 who have responsibility over the activity that's being audited.

15 Q. And so, that's public officers that are giving you
16 this information?

17 A. That is correct, sir.

18 Q. And what 9.16 continues is "the Minister determines
19 the amount deemed suitable based on the need for the assistance
20 and the amount being requested. It was revealed during testing
21 that some applicants received one hundred percent (100%) of
22 their requests while others received only ten percent (10%) of
23 the amount requested. No criterion was found being used to
24 determine how much assistance would awarded in response to each
25 request. It was conveyed that at times meetings may be held

1 between the applicant and the Minister to assisted in
2 understanding and determining an amount to approve in response
3 to a particular request, but no documentation of these meetings
4 was found on the files reviewed. The lack of such information
5 removes transparency and equity with reference to the decisions
6 made. Additionally, the absence of clear standards and
7 criterion in approving assistance grants has the potential for
8 the programme to be viewed as unfair and non-transparent."

9 Does it come down to this, that it's just up to the
10 Minister to decide what criteria should be applied, how much
11 someone should get, how they go about deciding how much someone
12 would get? Was that what it comes down to?

13 A. In most cases, yes, because there was no documentation
14 to support the request, you unilaterally would have the
15 discretion of the Minister being applied.

16 Q. And from an Auditor's point of view, if there is no
17 documentation to the process, you have no way of gauging whether
18 the discretion is being fairly applied to all applicants or not?

19 A. No, we don't.

20 Q. And what--there is the risk as well, isn't there, that
21 different Ministers will approach the exercise of their
22 discretion in entirely different ways?

23 A. And that's possible.

24 Q. Some Ministers might want more documentation than
25 others, some Ministers might consider a criterion important,

1 others may consider it less so?

2 A. That is true.

3 Q. And again, isn't the point that's being made by the
4 Auditors is that you end up with a process, however benign
5 people may want to be, but you just end up with a process that
6 isn't obviously--it's not transparent and it's not auditable?

7 A. That is the case, sir.

8 Q. Could I take you, please, to 9.20 on 2705. And this
9 is about the point we've touched on before, and that is the sort
10 of duplication of programmes. So what's said there, is that on
11 research conducted, "it was found that there are other
12 departments who administer similar assistance grants programmes
13 to those of other Ministries. Those instances again all
14 illustrate the manner in which avenues can be opened whereby
15 persons can exploit the programmes to their advantage." And so,
16 you point out, for example, that the House of Assembly's
17 Assistance Grants Programme is similar to Programmes
18 administered by the Ministry of Finance and Economic Development
19 and the Premier's Office. The Ministry of Health and Social
20 Development administers a special need programme which, whilst
21 the Social Development Department administers an Assistance
22 Grants Programme to persons in need. The Department of Culture
23 through the Ministry and Education and Culture administers a
24 programme for cultural assistance, but assistance with such
25 subject matters can also be received from the Premier's Office.

1 And just to clarify, the fundamental risk there is
2 duplicate applications, isn't it?

3 A. It is so.

4 Q. Which means that, because there is no effective
5 monitoring, because there is no communication between
6 Ministries, some people will succeed more than once while others
7 won't succeed at all?

8 A. That is correct.

9 Q. Can I just take you now just to the last part of this
10 report, which is at 2707, and that's the conclusion.

11 What the Audit Report says is this: "The Assistance
12 Grants Programmes administered by various Ministries is largely
13 administered at the sole will of the respective Minister. In
14 their current state these programmes lack adequate controls to
15 safeguard them from abusive practices. Various questionable
16 practices have materialized that has resulted in one individual
17 receiving multiple assistances across various programmes and
18 even within the same programme. This is largely due to lack of
19 verification activities and the lack of adequate policies and
20 guidelines to govern the administration of the programmes. The
21 methods by which amounts are approved and decisions made lacks
22 transparency which can cast a dark cloud over the programmes.

23 "While most of the awards appear to have been granted
24 under the particular Ministry to which the purpose relates,
25 their evolution and in some cases their structure has left much

1 to be desired. Within at least two of the programmes
2 redundances were identified as they reflect similar
3 characteristics of other assistance grants programmes in
4 existence within other Ministries and departments. Duplication
5 in resources removes the ability to optimally use those
6 resources in administering programmes. It further hampers the
7 programme's efficiencies and effectiveness and thereby at times
8 results in wasted resources and efforts.

9 "These programmes provide a necessary support for
10 individuals who may not be able to obtain the services without
11 their assistance. However, Ministries need to exercise special
12 care to ensure that the process is fair of biases and provides
13 all eligible persons with the opportunity to obtain the help
14 they require. We are aware that due to the limited availability
15 of funds it will not be possibly for Government to assist all
16 persons, ensuring that processes are fair, lucid, and that
17 guidelines are in place to guide decision makers in making
18 decisions and add greater value to the programme and its
19 administration will help to ensure that the programmes are
20 guarded from abusive and fraudulent practices that can create
21 negative perceptions in the public's eye."

22 Now, you had made recommendations, and in total you
23 made the--the Auditors made 10 recommendations. Including that
24 although the funds are approved at the discretion of the
25 Minister, Ministries be allowed to conduct adequate due

1 diligence as part of the approval process before processing
2 assistant grants. So, that one would involve the Accounting
3 Officer more directly, wouldn't it, in the process; is that
4 right?

5 A. That is correct, sir.

6 Q. You also recommended the development of guidelines and
7 policies to govern the assistance programmes.

8 Now, this was a draft report. You've got no
9 Management Response. What happens to the Report after that?

10 A. It's finalised in draft form. And I bring you right
11 back to the need for having the Committee instituted so that we
12 could have that collaboration and have that second arm to
13 enforce compliance to the Audit recommendations and
14 implementation thereof.

15 Q. Because otherwise the report, despite the hard work of
16 the Internal Audit Department, would just end up sitting on the
17 shelf, wouldn't it?

18 A. It would be shelved, sir, yes.

19 Q. And do these reports have--do they have a lifespan?
20 Is there a time when rather than pick it up off the shelf and
21 dust it down and look at the recommendations, the need really is
22 for a new audit to see what systems are in place so that you can
23 see whether the recommendations still have value?

24 A. That is correct, sir. In a case like this the report
25 is submitted in draft form, that is what usually constitutes

1 looking back at the same subject matter.

2 Q. Where you have a draft and you haven't had a
3 Management Response, can you do a follow-up audit, if you want?

4 A. We would go back to the Report, yes, and identify if,
5 for example, if the Accounting Officer had changed and there
6 wasn't a response from the current Accounting Officer, this is
7 an area that would bring up this report that's in draft and
8 submit it to the new Accounting Officer to review for further
9 action. In other circumstances, if the findings were grave
10 enough, we would usually utilize, and if they had a financial
11 implication, utilize the Ministry of Finance as an endorsement
12 to make sure that the report is responded to, and then we would
13 have further follow-up after Management Response is received.

14 Q. Now, in this case, you were looking at grants
15 programmes administered by five Ministries, so would you have
16 sent this draft report to all five Ministries?

17 A. Yes. This report was sent to all five Ministries for
18 a response.

19 Q. And you got no response from any of the five?

20 A. No, we did not.

21 Q. And so then your recourse is, perhaps, trying to
22 resubmit it and ask them to look at it again, raise it with the
23 Ministry of Finance, or take it to the Committee if the
24 Committee is in place?

25 A. That is the case, sir.

1 Q. Could we move on to another report now. That's in
2 Part 2 of the bundles at 2026.

3 A. One minute, sir.

4 (Pause.)

5 A. Yes, I'm there.

6 Q. Have you got the page?

7 A. The page is? Sorry.

8 Q. At 2026, please.

9 A. 2026?

10 Q. Yes, 2026, and it's in the bundle that's labeled
11 Part 2.

12 A. That's with Her Majesty's Customs, sir?

13 Q. Yes.

14 It's a letter dated December the 1st, 2015.

15 A. Okay, I have it, sir.

16 Q. Right. The reason I wanted to look at this, this is
17 an example of what might be described as a Section 16 report or
18 where the Internal Audit Department is asked to look at issues
19 of suspicion of fraud, so it's a fraud investigation involving
20 Customs.

21 Now, could I ask you, as we go through this report,
22 Mrs Corea, not to name the people involved or precise locations
23 because there is no need for us to do that. If we call those
24 involved just "importers," that will be enough. If I give some
25 background and if we go, please, to paragraph 2.2 on page 2029.

1 A. Yes, sir.

2 Q. Again, it's just by way of background. So, Customs is
3 a revenue collecting agency within Government, and it used an
4 electronic receipting system through the JDEdwards Accounting
5 Software, but in circumstances when the system wasn't working or
6 was down, manual receipt books were used; that's right, isn't
7 it?

8 A. That is correct, sir.

9 Q. And these would be issued by the Treasury Department
10 to, in this case, Customs Officers, but what they were expected
11 to do is once the system was back and running, they would put
12 the details back into the JDEdwards software; is that right?

13 A. That is correct, sir.

14 Q. Now, the last bit of that paragraph 2.2 says this:
15 "If manual receipts are not entered into the system, then the
16 cash book clearance process is used." Could you just explain
17 what the cash book clearance process is, please.

18 A. Okay. Once you have collected revenue from any
19 customer for the purpose of the Accountant General, you would
20 write a receipt. It is lawful to write a receipt every time you
21 collect revenue. There are times when because we are
22 electronic, there are times when the electronic system is
23 non-functional, there is the process of manual receipting.
24 Manual receipting is handwritten and issued to the customer
25 likewise and is electronically received.

1 Once the system become active, the officers are
2 required to input the information and manual receipts into the
3 system.

4 There is also a cash book system where you would log
5 all your revenue at the end of the day in a cash book. This
6 cash book is usually taken to the Treasury along with your
7 receipt books for reconciliation.

8 Q. Thank you.

9 A. And if I do recall, it was also incorporated deposits
10 that were made. Sorry.

11 Q. Your voice dropped a little, could you just repeat
12 that, please.

13 A. I was saying along with your receipt books and your
14 documentation in your cash book, if I recall correctly, you will
15 also identify your deposits that were made for the cash
16 transactions or whatever transactions there were, the revenue
17 transactions, and they would be taken to the Treasury for
18 reconciliation.

19 Q. Now, in this case, again just to look at the
20 circumstances of a report--and we will--don't need to get too
21 much into the detail, if you look at 2030 and in particular on
22 paragraphs 2.4 and 2.8, I'm just going to summarize it.

23 Essentially, it comes to this, that on November 16,
24 2015, the Internal Audit Department received information from
25 the Ministry of Finance in relation to an allegation of missing

1 revenue at Her Majesty's Customs. And what was reported was
2 that--and this was by the Commission of Customs, that was a
3 preliminary investigation had been conducted, and that had
4 revealed that the customer had presented receipts substantiating
5 payments for import duties at a particular location, but no
6 corresponding revenue was deposited.

7 And so--and we look we at--we can see this at 3.1, an
8 Audit Team from the Internal Audit Department was put in place,
9 and to ascertain whether the revenue that has been identified as
10 missing had indeed not been deposited. And what was noted was
11 that because of the sensitivity of the situation, what the Audit
12 Team limited itself to was interview with management at the
13 Treasury Department; review of their revenue reports for January
14 to June 2015; and receipt distribution logbooks to determine if
15 the revenue that was paid as indicated on the customer's receipt
16 was deposited on the Government's accounts.

17 A. Correct, sir.

18 Q. And so what the customer had presented was effectively
19 receipts from a receipt book saying effectively I have paid
20 these, and the question was whether those payments had actually
21 been received by the Treasury ultimately, wasn't it?

22 If you go to 3.2 on page 2031?

23 A. Correct, sir.

24 Q. What the review conducted by the Internal Audit
25 Department revealed was that no revenue in the amounts detailed

1 on the customer's receipts had, in fact, been deposited.

2 A. That is correct, sir.

3 Q. And so the loss we can see at the bottom of the table
4 at page 5, the loss, therefore, was \$264,885.33; is that right?

5 A. That is correct.

6 Q. If you look across at the next page, at 3.4, as part
7 of the investigation by the Internal Audit Department, the
8 receipt books had zero numbers on the receipts presented were
9 matched to a manual receipt book that had been issued, but it
10 wasn't--it was to a receipt book that was issued to other
11 locations. We see that in the table at 3.3 rather than to the
12 location at which the customer's transactions were said to have
13 taken place.

14 A. That is correct.

15 Q. And then what's also noted at 3.5 was that, there were
16 two aspects of the receipt. Firstly, there was an electronic
17 version of the distribution receipt books presented by the
18 Treasury Department showed receipt books issued for the
19 Years 2011 to 2015, but didn't contain any signatures as to who
20 received the books.

21 And also at 3.6, that the receipts didn't detail the
22 method of payment used by the customer, but following
23 discussions with the Ministry of Finance, the report back was
24 that the method of payment used was cash.

25 A. That is correct, sir.

1 Q. That was as far as your--the investigation could be
2 taken, given that you, as you pointed out in the Audit Report,
3 there were limitations on what the Department could do. I just
4 want to take you to the conclusion.

5 At 4.1, what's said is: "There are other issues
6 surrounding this matter that begs the question of whether other
7 criminal activities are also being perpetrated".

8 Now, can I ask you just to be careful not to name
9 either any individual by name or any company by name, but where
10 the report is referring to "other issues surrounding this
11 matter," what did the Audit Team have in mind?

12 A. I can't recall at this stage, but I'm sure there were
13 papers that would identify what those other matters would have
14 been.

15 Q. What is said is that best practice would dictate the
16 businesses conducting transactions of such magnitude, and we've
17 looked at the amounts involved which came to \$264,000, would
18 ultimate payment by using some banking instrument such as a
19 money order or a banker's check or for an established company, a
20 company check. In this case, the importer chose to regularly
21 pay for his import charges in a manner contrary to this
22 practice. This method of payment raises some red flags.

23 For an Auditor where payments are--large payments are
24 being made in cash for a commercial transaction, is that always
25 a red flag?

1 A. I think from the services that you're paying for, yes.
2 It has to identify with the type of service you're paying for.
3 And given the amount, of course, they would raise a red flag,
4 yes.

5 Q. Now, what's said at 4.2 is: "Based on our preliminary
6 investigations, this office has concluded that there exists a
7 high probability that fraud has been perpetrated at Her
8 Majesty's Customs, and this fraud has possibly resulted in the
9 Government of the Virgin Islands suffering a financial loss of
10 approximately two hundred and sixty-five thousand dollars
11 (\$265,000). As stated in the Commissioner of Customs Report, on
12 the advice of the Attorney General, we recommend that the matter
13 be submitted to the competent and appropriate authority for
14 further investigation."

15 Now, in this case, can you remember, Mrs Corea, what
16 further steps were taken after this?

17 A. From the top of my head, no, sir, but I'm trying to
18 breeze the document to verify.

19 Q. If you want a moment to look at it, please take it.

20 A. Thank you.

21 (Witness reviews document.)

22 A. I don't see any further action on our behalf taken on
23 this matter other than what it says in the conclusion.

24 Q. If you look back at the beginning of the document
25 which is at 2029--this is a November 2015 Report--what's set out

1 at the beginning of the document at 2029 is effectively
2 Section 16 and what the requirements of Section 16 are. If you
3 look at 1.3 or 1.2 refers to the Director informing a Permanent
4 Secretary, Auditor General and the Committee about his or her
5 findings. 1.3 says that where the Director reports to the
6 Committee that irregularity of fraud concerning Government asset
7 or property of a public authority may have occurred, the
8 Committee could then inform a Minister. And the final thing,
9 1.4 is that where there is what appears to be an offense against
10 any law, the committee shall submit all information submitted to
11 it by the Director to the Commission of Police for
12 investigation.

13 In this case, you remember whether there was any of
14 those steps were taken?

15 A. I'm trying to remember, but I cannot recall: Based on
16 the correspondence, though, dated December 1st, 2015, it did
17 make mention to have the competent authorities or instead of the
18 Internal Audit Department to look at the matter, but I can't
19 recall right now what actually took place after our initial
20 review. I cannot recall it.

21 Q. In circumstances like this where you've in this case
22 Customs did the initial investigation, then the Internal Audit
23 Department was brought in essentially to review and confirm the
24 position, where you've got that overlap, is it possible that it
25 might have been left to Customs to refer it to the competent

1 authorities, or would it be a matter that would sit with the
2 Internal Auditor or the Ministry of Finance as the line manager
3 of Customs?

4 A. It can take the channel of either authority. The fact
5 that it was brought to our attention from the Department placed
6 it in our hands at the end of the day, so we also had a
7 responsibility to follow what is outlined in our Act to transfer
8 it to the proper authorities. As I said, as of right now I
9 can't recall exactly if that was done but I know it is mentioned
10 in the correspondence of December 4th, 2015, saying that that is
11 a course that it should take.

12 Q. Yes.

13 A. But right now I cannot recall if that was actually
14 done.

15 Q. I don't think we can take it any further today, but
16 perhaps is that something that we could leave with you and
17 perhaps you could check your Department's records at some point
18 just to confirm whether there were further steps taken?

19 A. I can certainly do that, sir.

20 Q. Thank you.

21 Can I take you to another report--and I think we're
22 going back to the--we're going to go back to the Part 3 bundle
23 at page 2334?

24 A. 2334, you said?

25 Q. Please.

1 In fact, if you look at 2332, actually.

2 A. I have it.

3 Q. It should be an audit report that's dated
4 December 2020, and it's "Her Majesty's Customs courier clearance
5 operations and partial payment programmes."

6 A. Correct.

7 Q. If you turn to 2334, you will come to the
8 "introduction."

9 A. Correct.

10 Q. If you look at the fourth paragraph down, there is an
11 inquiry there of the two areas that were the subject of the
12 Audit exercise, and they are identified as the Partial Payments
13 Programme and the Courier Clearance Operations. And the
14 introduction says this about partial payments programme. It
15 focused on the administration of a programme whereby customers
16 who desire to import large-valued items are allowed to make
17 installment payments over a certain period of time which is
18 calculated on these items. The customer applies to the
19 Commissioner of Customs, who, in turn either approves or denies
20 the request. The Deputy Commissioner and Assistant
21 Commissioners can also approve requests for partial payment.
22 Then over the approved installment payment period the customer's
23 account is managed until all calculated duties have been paid in
24 full.

25 "The second area deals with the facilitation of trade

1 for courier companies operating in the territory. Currently,
2 there are numerous courier companies operating in the BVI that
3 provide courier services through air and sea shipments. These
4 courier companies are required to register with Her Majesty's
5 Customs in order to conduct business. Several sections of the
6 Customs Management and Duties Act, 2010 and its amendments
7 govern the administration of these operations."

8 Now, the way, as we'll see, that the Audit was done
9 was that, in 2019, that the Audit Department reported on the
10 partial payments part of it, so it was almost a split audit.
11 The 2020 exercise was looking at the Courier Clearance
12 Operations. So, if we take partial payments first and if we go
13 to 2360, please. This is the first page in effect of the Audit
14 Report on partial payments, so it's dated October 7th, 2019.
15 And if you go to 2361--sorry, go back to 2360. There's just a
16 bit I wish to draw your attention to.

17 At the bottom in terms of "background," if we pick it
18 up on the second sentence, what's recorded there by the Audit
19 Team is this: "Over the years, HM Customs has approved requests
20 from importers to make payments of the assessed Customs duties
21 through partial payments on large-valued items. Initially, this
22 courtesy was only afforded to Government employees as repayment
23 could be easily managed through salary deductions. However, the
24 programme has evolved and now includes any importer who is
25 approved by the Commissioner or an authorized officer to make

1 custom duty payments through partial (installment) payments. A
2 down payment on the assessed duties required and the balance is
3 to be paid in installment payments over a defined period. Once
4 approval is given an agreement is to be entered into which sets
5 out the terms and conditions governing the payment of the
6 outstanding duty for the particularly approved T-12. A file is
7 created for the importer and accounts receivable record is set
8 up within the JDE System to manage repayment."

9 So, the JDE System is the JDEdwards System; is that
10 right?

11 A. That is correct, sir.

12 Q. Could you just clarify for the Commissioner, a T-12,
13 what is that?

14 A. A T-12 is a Declaration form that is used to declare
15 imported goods.

16 Q. If you go to "Facts and Findings" which is on
17 page 2361, what's noted is that Customs has operated the partial
18 payment programme with various levels of success in terms of
19 collecting outstanding revenue, and as of--

20 (Overlapping speakers.)

21 A. Mr Rawat, where are you? Sorry?

22 Q. 2361, please. If you go to 2361, please, Mrs Corea.

23 A. Okay.

24 Q. And at the top you will see the heading "facts and
25 findings".

1 A. I found it.

2 Q. And the point is made that the Customs has operated
3 the system with varying success. As of June the 1st, 2019, the
4 programme had \$490,145.60 outstanding, and that was based on
5 information provided from HM Customs, and that was a period, it
6 seems, that spanned 1996 to 2019; is that right?

7 A. That is correct.

8 Q. What the report then goes on to do is to identify a
9 number of issues with the partial payments programmes, and I
10 just want to kind of summarise those. So, if we look at (1),
11 the first point is made that there were no policies or
12 procedures in place to guide the administration of the system,
13 leaving, therefore, it's poorly managed and it's at the
14 discretion of the officer managing the file for the importer.

15 Does that mean that where you have no policies and
16 guidance, you can get inconsistent decision?

17 A. That is correct, sir.

18 Q. And that links, doesn't it, to the point that's made
19 by the Audit Team at (2), that "the approval of request for
20 Customs duties to be made via partial payment lacks appropriate
21 controls to guide approvers in arriving at a decision. The
22 audit found that sufficient due diligence is not conducted or
23 sufficient information collected to inform Customs on the
24 importer's ability to pay when deciding on requests."

25 And so, what there wasn't for those officers who were

1 authorized to make the decision is any guidance as to how they
2 should apply their discretion?

3 A. There is none.

4 Q. Decisions were in effect made on a somewhat arbitrary
5 basis; is that right?

6 A. Yes. And on ad hoc case-by-case basis as well.

7 Q. Now, you illustrate that with your .3, which goes to a
8 lack of due diligence because what the--and again, the Audit
9 Team undertook a sample process. You found an employee who had
10 left the Government's employ in 2017, defaulting on significant
11 outstanding balances for both vehicle and personal loans but was
12 then approved for a partial payment in 2019 of which only the
13 down payment was made. And that speaks, doesn't it, to a lack
14 of checks and balance in the system?

15 A. That is correct.

16 Q. And you make a similar point at Point 4, that partial
17 payments were approved for multiple T-12s for the same importer,
18 even though the importer was delinquent in his payments on a
19 previous agreement.

20 So, the fact that the importer was behind on payments
21 or hadn't made payments under a previous agreement, didn't seem
22 to stop them having a new agreement for the partial payments.
23 Is that how we should understand it?

24 A. Yes, sir, that's how it is.

25 Q. At Point 5 you also say that--or what the Audit

1 revealed was that Customs was collecting inadequate information
2 on importer that is had been approved to make partial payment;
3 and so, the Department, you note, usually collects the telephone
4 number and only recently began collecting forms of
5 identification. And the problem there is this, isn't it: It
6 makes it very difficult for Customs to monitor whether someone
7 is complying with the payment programme and also to try and
8 enforce non-payment when it becomes a problem?

9 A. That is correct, sir.

10 Q. The audit also noted that the partial payments
11 agreements seemed to vary in their content, and some of them
12 were poorly drafted, which meant that, if there was a legal
13 claim, it might be difficult to enforce the Claim.

14 A. That is correct.

15 Q. You also noted that agreements are not collateralized.
16 Now, that's at 7. on 2362. Could you just help the Commissioner
17 just with understanding what is meant by "collateralized"?

18 A. So, you have requests for partial payment, and the
19 information would be provided on a T-12. Depending on what the
20 words are, they would have varying values. Therefore, if you
21 are to collateralize them, you will have the estimated value of
22 all the goods are listed, and that would incorporate those
23 payments, those--those values on the partial payment document.

24 Q. Thank you.

25 The other point and this is at 8., that the Audit

1 revealed that there were cases where partial payments were
2 initiated without even a signed agreement being obtained, which
3 would mean that if someone defaulted, there would be no
4 documentation to show that an agreement had been entered into in
5 the first place.

6 Do you see that?

7 A. That is the case.

8 Q. And so the Agreements were--the agreements, when they
9 were there, were poorly drafted, poorly executed, which would
10 have made it much harder for Customs to recover monies.

11 A. That is correct,.

12 Q. If you look at 9., which is on 2363, what the Audit
13 highlighted was a lack of adequate monitoring and enforcement,
14 which it was said stemmed from a number of factors, and those
15 are all listed out in the report; but firstly, "No policies or
16 procedures to guide monitoring and enforcement."

17 Secondly, that there was a failure to monitor files
18 "on a consistent basis", which means that accounts would fall
19 into delinquency.

20 Thirdly, that given some the accounts were now so old,
21 there would actual difficulty in recovering sums of money, and
22 what you note--and this is at the bottom of the page--was that
23 an opinion had been obtained from the Attorney General which was
24 to the effect that Government may be statute-barred from
25 recovering approximately \$265,000. So, when we looked at what

1 the Auditor identified was that \$490,000-odd were outstanding
2 and it would appear that the majority of that would no longer be
3 recoverable.

4 A. Based on the years, that is correct.

5 Q. And what was also a problem with monitoring we see at
6 2364 at (d) was that Government employees who had agreements for
7 partial payment "left the service with unpaid balances".

8 A. That is correct.

9 Q. In here what was noted was that for some Government
10 officers, the basis of repayment was--differed, so there wasn't
11 a consistent approach to Government officers and that's at (e)
12 because some Government officers would pay back under the
13 partial payment programme by salary deductions, whereas "others
14 were allowed to make direct payment to the Customs Department".
15 And that second option weakens the control, according to the
16 Auditor, that the Department has over recovery; is that right?

17 A. That is correct.

18 Q. The other two points that--examples that you gave for
19 why there was inadequate monitoring and enforcement, are firstly
20 that repayment plans were not being adhered to; that's at (f).
21 And then at (g) which is at 2365, it was noted that "It was
22 found that outstanding balances for customs duties for deceased
23 persons are still being carried as outstanding amounts even
24 though the chance of collection is nil as in most instances the
25 agreements do not make any outstanding balance a part of the

1 decedent estate".

2 And so, bringing that together, Ms Corea, was the
3 effect that because of the way the system had been run, there
4 was a significant outstanding balance, but most of it or a good
5 part of it was no longer recoverable and a good parts of it
6 included sums that, because the person had died, were never
7 going to be recoverable?

8 A. That is correct.

9 Q. Now, if you go to point 10 on 2365, the Audit noted
10 that there were no performance measures to assess how the
11 programme was operating. So this goes back to points that had
12 been made in other audits, doesn't it, that there is nothing in
13 place to show whether your system is actually effective because
14 you don't measure whether it's working or not?

15 A. That is correct, sir.

16 Q. And taking you away from this but sort of stepping
17 back as the Auditor role, is that something that, as an Auditor,
18 you see time and time again that systems are put in place do not
19 include measures by which performance is benchmarked?

20 A. That is true. In a lot of instances, yes.

21 Q. And presumably, in those instances, the Internal Audit
22 Department is raising this as an issue, the importance of having
23 performance measurements.

24 A. Yes, that is true. The only way it can determine if
25 you're effective and you're achieving your objectives is to have

1 performance measures in place.

2 Q. (Unclear.)

3 REALTIME STENOGRAPHER: I'm sorry, Mr Rawat, could you
4 please repeat that? There was a little sound overlap.

5 MR RAWAT: Certainly, Mr Kasdan.

6 What I was saying to Mrs Corea is to again take you
7 back from the detail and to the more general question of the
8 benefit of performance indicators.

9 BY MR RAWAT:

10 Q. You've confirmed that the Internal Audit Department
11 will raise the need for performance indicators with public
12 authorities. Do you think that that's a message that has sunk
13 in, the importance of having performance indicators?

14 A. Across the board, no.

15 Q. Is it still for the Internal Audit Department a work
16 in progress?

17 A. It still is, sir, yes.

18 Q. What you did--and we see this at 2365--was attempt to
19 look at performance measures using the information available to
20 try and assess how the operation--how the programme was
21 operating. And if we look at--there is a table on page 2365
22 which shows the outcome of that. And so, one--the first
23 performance measure was "Default Rate". And the description of
24 that was: "The percentage of all outstanding payments that have
25 been outstanding after a prolonged period of missed payment",

1 and you took six months. So how many--the question was how many
2 payments is outstanding after six months of prolonged
3 non-payment; is that right?

4 A. That is correct, sir.

5 Q. And the calculation of that was 83 percent.

6 The next performance measure that the Audit adopted
7 was to ask for the "Longest outstanding period", and that, the
8 longest outstanding period, was "14 years and 6 months".

9 A. That is correct.

10 Q. And that is taking it back pretty much to the start of
11 the scheme, isn't it?

12 A. That is correct, sir.

13 Q. The "Shortest outstanding period" was the next
14 measure, and that was reported as "1 month", and then the next
15 measure that you looked at was "The largest outstanding amount
16 waiting to be collected", which was \$22,647.99.

17 A. That is correct.

18 Q. Now, the last one was--is recorded as a measure as
19 "Active Customer Accounts per collection Officer", and its
20 description is the "Ratio of customer accounts to employee
21 managing the account" and you found that the ratio was 25:2, so
22 each employee was managing 25 files.

23 Now, why was this a useful performance measure? And
24 what did the ratio indicate to you as an Auditor?

25 A. (1) the resourcefulness of actually monitoring the

1 payments; and (2), if you don't have persons in place to monitor
2 the payments that are being collected, chances are they would
3 become uncollected because there is no one filling a gap between
4 contacting the customer to verify and to inform the customer
5 that payments are due, so there is a gap that needs to be filled
6 with that ratio.

7 Q. The last measure that I want to draw your attention
8 to, Ms Corea, was at 2366, and this was to look at
9 accounts--it's the last one in the table--"Accounts Outstanding
10 61 or more days as of 8/31/19". So it's customer accounts
11 outstanding 90 days or more, and you found 47 accounts
12 outstanding. That was--the greater majority of accounts had
13 been outstanding for a significant period of 90 days or more; is
14 that right?

15 A. That is correct, sir.

16 Q. Now, you made recommendations, and we see those at
17 page 2366, and they fall into, effectively, two camps. The
18 first was this: "Given the high default rate and the lack of a
19 discernible business or economic value, it is recommended that
20 the partial payment programme be discontinued". And you then
21 recommended getting advice from the Attorney General's Chambers
22 as to how easy it would be to recover delinquent balances.

23 I just wanted to ask this: Why was it that the Audit
24 Department came to the conclusion that it was appropriate to
25 recommend that the programme be discontinued?

1 A. Because the programme was not functioning, and you're
2 only adding more importance to a process that was not being
3 monitored and a possibility of not collecting the funds were at
4 risk, so it was determined that it should be canceled.

5 Q. Did you--we see this if I take you to the conclusion.
6 I mean, the conclusion was that--which is at page 2367--is that
7 the system lacked appropriate and effective controls; it was
8 void of a strict management structure and system to ensure
9 compliance of importers, some of them being Government employees
10 and Customs Officers. As a result, duties under the programmes
11 had been in arrears for lengthy periods without any definitive
12 actions taken to collect the debt.

13 And what you noted was that the programme, as
14 currently structured and managed, serves more of a social
15 interest and detracts from the revenue collection mandate of the
16 Department. As a result, significant Government revenue is at
17 risk of being lost.

18 So, was it--would it be fair to say that the Internal
19 Audit Department didn't see this as a viable programme at all?

20 A. It can be a viable programme, yes, but if the controls
21 and processes are not in place, then it detracts from even
22 becoming a viable programme.

23 Q. And left as it was, it couldn't--it was not viable.
24 It wasn't delivering value for money or transparency or
25 accountability, was it?

1 A. No, it was not.

2 Q. I said that your recommendations fell into sort of two
3 parts. What you did do was, as the Internal Audit Department,
4 was to say that, in the event that it was determined that the
5 programme serves a legitimate business or service delivery
6 objective for the Government of the Virgin Islands, there were a
7 number of recommendations that were necessary to strengthen the
8 programme, and those were--and I'll summarise them--a need to
9 put in proper procedures and policies; need to have guidelines
10 to determine a proper repayment system; the use of a draft
11 agreement provided by the Attorney General's Chambers; that any
12 public officer wanting to use the system should have payments
13 deducted through salary deductions; that there was a need to
14 decide how much would have to be written off as uncollectible;
15 the need to develop relevant performance indicators; and then
16 that you recommended an administration fee be adopted.

17 Now, if we look at 2389, this is part of the
18 Management Response from Customs. It's the beginning of it, and
19 it's that part that relates to the partial payment programme,
20 and it seems that, in terms of all of your recommendations--or
21 the recommendations of the Internal Audit Department, Customs
22 agreed with all of them save for the last one, which was about
23 the administration fee, because it was said that this was done
24 by the--the response was it had to be a matter for the Financial
25 Secretary, whether there was an administration fee or not.

1 You responded to that--

2 A. Mr Rawat?

3 Q. Yes.

4 A. --the page you're reading is 2339, you said?

5 Q. 2389.

6 A. I'm missing one page. Just one minute.

7 (Pause.)

8 A. Okay. Go ahead.

9 Q. I wanted to take you to the Management Response,
10 because this is an example of where the Public Authority agreed
11 with all of your recommendations, the 2389 is the first one, and
12 I think what the agreement came down to was that they did not
13 agree to scrap the system but they agreed to take steps to adopt
14 your other recommendations so that to improve the system. The
15 only one that was disagreed with we find at 2396, which is that
16 the fee, administration fee that your Department recommended,
17 the response to that was that it had to be a decision for the
18 Financial Secretary. But again for completeness, if we go to
19 2405, the Director's response to that was that whilst it's a
20 matter for the Financial Secretary to submit the request to
21 Cabinet, the Department--and that is the Customs
22 Department--should take the lead in beginning the process so
23 that it could reach Cabinet for a review.

24 Now, that's the sort of timeline that was given by
25 Customs would take us into the end of the first quarter of 2021.

1 Having made those recommendations and having received
2 that response and a timeline, do you know if any changes have
3 been put in place for the partial payment programme?

4 A. No, I don't know if any anything has been put in
5 place, but I do know that they have been contacting us to get
6 information with regards to partial payment regarding our report
7 in terms of implementation, but I'm not certain if they have
8 already started the implementation process with regards to that.

9 Q. Thank you.

10 MR RAWAT: Commissioner, could I ask we take
11 a--perhaps give Ms Corea and the Stenographer five minutes now
12 before we--I'll deal with--the next topic will be courier
13 clearance processes--

14 COMMISSIONER HICKINBOTTOM: Yes.

15 MR RAWAT: --so I'll go on to that.

16 COMMISSIONER HICKINBOTTOM: Yes. Thank you, Mr Rawat.
17 Five minutes. Thank you.

18 MR RAWAT: Thank you.

19 (Recess.)

20 COMMISSIONER HICKINBOTTOM: Yes, Mr Rawat. Thank you.

21 MR RAWAT: Thank you.

22 BY MR RAWAT:

23 Q. Mrs Corea, can I take you back--it's in the same
24 report but now to page 2336, please.

25 As I indicated, there were two aspects to the Audit.

1 We've looked at the partial payments programme, and the second
2 aspect was in relation to facilities of trade for courier
3 companies. And if we look at 2336, so this was the 2020 aspect
4 of the Audit.

5 A. Correct.

6 Q. There is an explanation there which I think is helpful
7 to put into the record of courier trader processing, and so then
8 this is under "FINDINGS AND RECOMMENDATIONS", and "Courier
9 Trader Declaration Processing General Findings."

10 What's said there is this: Customs trader
11 declarations are used by importers or licensed customs brokers
12 acting on their behalf, to clear imported goods from customs
13 control into the commerce (home consumption) or into a licensed
14 warehouse. Generally, all goods imported into the British
15 Virgin Islands are liable for duties and taxes unless an
16 exemption or concession applies. An Import Trader Declaration
17 is a statement made by the importer (owner of the goods) or
18 their agent (licensed customs broker) to provide information
19 about the goods being imported. There are three specific types
20 of declaration an importer uses when importing cargo into the
21 Territory: An Import Trade Declaration used for all cargo being
22 directly imported into the Territory; a Deposit Trader
23 Declaration used for the importation of cargo under the
24 following circumstances, when at the time of importation
25 sufficient information is not available to make the complete and

1 true declaration, or (ii) for perishable cargo or cargo with
2 time constraints. Importers are however at all times required
3 to make a complete and true declaration even when utilizing this
4 time of declaration."

5 And the third one is an Adjustment Trader Declaration
6 which is needed once you have declared cargo using a Trader
7 Deposit Declaration in order to settle and clear the deposit.

8 What's also said is that in the BVI there has been the
9 emergence of a significant amount of imports through the use of
10 courier services, which are third parties, and you give some
11 examples of courier services. But the report then continues:

12 "With the proliferation of the use of this method of
13 importation, HM Customs has implemented processing procedures to
14 facilitate the processing of imports through couriers. The
15 Audit found deficiencies in the processing of imports through
16 these courier services."

17 Now, part of that or the deficiencies that you have
18 found, a number of those in relation to what's known as the
19 Customs Automated Processing Systems, or "CAPS". We will find a
20 summary of what CAPS is about at page 2346. Perhaps if we could
21 go that first so we can orientate ourselves.

22 At the bottom of 2346, under the heading "Customs
23 Automated Processing System," or "CAPS", what the report
24 recorded was this: "On November 1st, 2016, HM Customs rolled
25 out the implementation of CAPS which allowed all trader

1 declarations to be completed and submitted electronically to the
2 Department for processing. The implementation of CAPS was to
3 facilitate the collection of accurate trade data, reduce the
4 amount of time spent at the customs port, and expedite the
5 clearance process of goods, efficiency in data mining for all
6 stakeholders and risk profiling of non-compliant importers.
7 Furthermore, the implementation of CAPS also assists in the
8 development of accurate trade statistics in the classification
9 of goods. The collection of trade statistics allows the
10 Executive Branch of Government to make policy decisions on
11 imports and/or export as incorrect classification results in
12 flawed government policy. All couriers are required to utilize
13 CAPS to submit their declarations. Due to the evolving business
14 structure of couriers' operations, particularly at the T.B.
15 Lettsome International Airport, the Department has initiated
16 standing deposits arrangements with some couriers in an effort
17 to facilitate this business model. As a result, some couriers
18 are allowed to submit a deposit declaration which is charged
19 against the standing deposit, and within 15 days of the cargo
20 being released an adjustment declaration must be submitted along
21 with the requisite payment."

22 Going to pause there, what I would like to just also
23 direct your attention to, please, Ms Corea, is if we go to 2335,
24 under "Audit Limitation", the report noted that CAPS utilized in
25 the processing of courier trader declarations was utilized in

1 reviewing couriers' deposit and adjustment declarations.
2 However, during the course of the Audit exercise, the Auditors
3 were informed that customs officers have not been utilizing CAPS
4 in the manner in which it should be used and as such the system
5 contains a number of trader declarations that have possibly been
6 processed (adjustments declaration prepared and subsequent
7 payment made) but for which no entry clearing the deposit
8 declaration was entered into the system. This has occurred due
9 to officers accepting and processing manual adjustment
10 declarations without entering the information in CAPS
11 thereafter."

12 So, just to understand that, does that mean that, in
13 approaching the CAP System, you had to do so with a degree of
14 caution as to the accuracy of the records it held?

15 A. That is correct. There was a question of the
16 integrity of the information that it was actually providing.

17 Q. If I take you now to 2337, and we start just--I don't
18 want focus on recommendations but firstly the deficiencies that
19 the Audit identified. If we go to 2337, and you look at 1, what
20 you could not establish as part of the Audit was what written
21 agreements and bonding mechanisms--and that means insurance,
22 banking arrangements, et cetera--exist for all couriers allowed
23 to operate under the standing deposit schemes. You found
24 agreements and supporting documents for only two couriers, and
25 then went on to say: "Although standing deposits were

1 established for these couriers, the Audit found that the
2 Department had not put in place adequate controls to monitor the
3 balances of these deposit accounts."

4 So, essentially in relation to the couriers
5 themselves, it was not possible for all of them to find the
6 written arrangements in place?

7 A. That is correct.

8 Q. And in relation to the two where you did find written
9 arrangements, the system that they had, which was that they
10 could eventually work against a standing deposit was not
11 effective because the balance of those deposits was actually not
12 being monitored properly?

13 A. That is correct, sir.

14 Q. If you go to 2, you note this, or the Audit does:
15 "The Department has not established documented guidelines for
16 the processing of declarations. As a result, there is no
17 consistent approach to the processing of declarations within
18 CAPS from officer to officer and from station to station.
19 Furthermore, officers are allowed to select, on a discretionary
20 basis, which declaration they process. The audit is concerned
21 that this situation exposes the Department to two significant
22 risks."

23 And those two are (a), "the situation promotes an
24 environment for inappropriate relationships to be fostered,
25 where officers can offer preferential treatment to importers in

1 the processing of their declaration which may include the offer
2 of gifts and/or payments."

3 And (b), "given that it is alleged that a number of
4 customs officers provide brokerage services, whether
5 legitimately or illegitimately, as a private interest for
6 supplemental income, poses a significant conflict in that
7 officers may be reviewing and releasing declarations for which
8 they had a direct involvement in the preparation or at least may
9 have had significant influence in the processing of such
10 declarations. Absent of appropriate controls to monitor,
11 manage, and minimize this conflict, the current process is ripe
12 for fraud."

13 Now, just breaking this down, if I go back to 2, "no
14 consistent approach to the processing of declarations within
15 CAPS from officer to officer and station to station," does that
16 not go back to your point about integrity of information? If
17 there is no consistent process either from locations or between
18 individual officers, there is a serious question mark over the
19 information that is held in CAPS, isn't there?

20 A. That is correct, sir.

21 Q. And that frustrates not only the Auditor but it
22 frustrates the Department in terms of understanding how the
23 system is being utilized? Would you agree with that?

24 A. That can be the case as well.

25 Q. Now, the two risks that you identify at 2 is an

1 environment for inappropriate relationships to be fostered.

2 Did--I take it from that, and correct me if I'm wrong, that the
3 conclusion of the Auditors was that, on the way that the absence
4 of guidelines for processing of declarations meant that that was
5 the environment that was in existence?

6 A. That is correct, um-hmm.

7 Q. And did you see or receive as part of the Audit any
8 evidence of inappropriate relationships?

9 A. No, sir.

10 Q. But the point is that it's ripe for that kind of
11 situation, is it?

12 A. It is so.

13 Q. And it would only be remedied by the Customs
14 Department taking swift action?

15 A. That is correct, sir.

16 Q. The second risk is the Customs Officers providing
17 brokerage services and that risk of significant conflict.

18 Now, brokerage services would be them acting as an
19 agent for an importer; is that right?

20 A. That is correct.

21 Q. Now, I would just like to break that down a bit
22 because the Audit Report says "providing brokerage services,
23 whether legitimately or illegitimately."

24 Now, in what circumstances could a Customs Officer
25 legitimately provide a brokerage service?

1 A. If they had the authorization to do so, which is, if
2 they have an approved trade licence to do so, then they can
3 legitimately.

4 Q. And illegitimately would be if they haven't--if they
5 haven't either got an approved trade licence and/or declared
6 that activity to the Customs Department?

7 A. That is correct.

8 Q. And you pointed to the significant risk that that
9 poses in terms of a conflict. Were you aware or was the Audit
10 Team during the Audit, was it aware that there were Customs
11 Officers that were providing brokerage services?

12 A. There was an assumption that was raised in terms of
13 officers doing customs brokerage, yes, and--

14 Q. Sorry to cut you off. Please finish.

15 A. And before the investigative final, that was the in
16 case a fact.

17 Q. Your voice dropped a little, Ms Corea. Could you just
18 repeat that again, please.

19 A. I said there was an assumption that was made that yes,
20 perhaps there might have been some officers doing brokerage
21 work, and in verifying the investigative work that was a fact,
22 and it was.

23 Q. So, the Audit established there were officers
24 providing brokerage services in the Customs Department?

25 A. Correct, sir.

1 Q. And did the Audits establish that there were officers
2 who were providing those services illegitimately?

3 A. Illegitimately possibly not making the Department
4 aware. However, they have had approved trade licences to do the
5 activity.

6 Q. And so where the difficulty for them arises is that
7 they haven't made the Department aware that they had that side
8 job, if you like?

9 A. That is correct, and that creates a conflict of
10 interest.

11 Q. And it's a particularly important conflict of interest
12 because if they haven't declared it to the Customs Department,
13 nobody can identify--there is nobody independent to assess
14 whether there is, in fact, a conflict of interest or not?

15 A. Correct.

16 Q. There is no good reason, is there, for a Customs
17 Officer not to let the Customs Department know that they
18 have--they are offering a brokerage service for supplemental
19 income?

20 A. No, sir.

21 Q. And in circumstances where they do that, and they
22 don't let the Customs Department know they're doing that, it
23 raises an immediate suspicion, doesn't it?

24 A. Yes, sir.

25 Q. As part of the Audit, were the Auditors able to

1 confirm whether there were systems in place to identify
2 potential conflict arising out of officers offering brokerage
3 services?

4 A. Yes, there was.

5 Q. And did the Auditors form a view about the adequacy of
6 those systems?

7 A. Yes, we did.

8 Q. And what was the conclusion about the adequacy of
9 those systems?

10 A. The systems may need to be reviewed to ensure that,
11 just as it said in Point (b), that these persons were not
12 actually doing the declarations and submitting the declarations,
13 so there was a need for the system to be reviewed to assess who
14 was doing what.

15 Q. During the course of the Audit, did the Auditors or
16 did the Audit Team become aware of Customs Officers offering
17 brokerage services but using other people's trade licences?

18 A. Not that I can recall.

19 Q. When you say that you can't recall, does that mean
20 that it's possible that that information was uncovered during
21 the course of the Audit?

22 A. Well, I don't--I don't recall remembering anyone using
23 somebody else's trade licence, perhaps using their own.

24 Q. Have you, otherwise than in the course of this Audit,
25 ever come across that situation, Customs Officers offering

1 brokerage services but under somebody else's trade licence?

2 A. No.

3 Q. If you could just turn up page 2376, please, this is
4 part of the management's response to the recommendations that
5 were made in this Audit, and it flows on from what we were just
6 looking at, Ms Corea, but the recommendation that the Audit Team
7 made was, if I look at the second sentence: "It's recommended
8 that the Department develops internal processing guidance for
9 its officers in administering their duties as it relates to the
10 processing of trader declarations and the clearance of imports.
11 These guidelines should consider how each type of declaration is
12 to be processed and ensure that appropriate processing controls
13 are in place, such as segregation of duties, user accessibility
14 considering roles and responsibilities, et cetera."

15 The response of the Customs Department was to say:
16 "We agree to the findings stated and we are confident that the
17 above will correct concerns in this section."

18 And then it continues in these words: "Although the
19 Department does not succumb to allegations, we're aware of the
20 temptations of participating in illegitimate (actions that may
21 bring the Government into disrepute) brokerage services."

22 This was obviously a management response addressed to
23 the Internal Audit Department, but I just wanted to ask you
24 this: What did you understand by the phrase "the Department
25 does not succumb to allegations"?

1 A. I can recall at one point in having that discussion in
2 the exit meeting about the possibility of officers doing
3 brokerage that we didn't--was not aware of, and at that point we
4 indicated that there should be a segregation of duties for what
5 they are doing. And because they made that comment, we were
6 told that that's an allegation.

7 Q. Now, when you referred to an "exit meeting", what part
8 of the process does the exit meeting happen?

9 A. Once we have completed our draft report, we have what
10 is called an "exit conference", which is meeting with the
11 client, going through the findings of the report, identifying
12 what our recommendations are; and then in that meeting the
13 client, which would be the department head, would be responsible
14 for clarifying any information that was inaccurately stated, and
15 we would make any amendments as necessary. So, it was having a
16 collaboration with the Department or with the client to effect
17 the accuracy of the draft report.

18 Q. And by the time that you came to that exit meeting,
19 from the perspective of the Audit Team, you knew as a fact that
20 Customs Officers were offering brokerage services; that's right,
21 isn't it?

22 A. That's right.

23 Q. And that the way that CAPS was being operated had a
24 significant risk of--gave rise to a significant risk of
25 conflict?

1 A. That is correct.

2 Q. And from the perspective of the Customs Department,
3 they saw it as the risk that some officers may be illegitimately
4 offering brokerage services as no more than an allegation?

5 A. That is correct.

6 Q. If we go, please, now to 2338--and this is if you look
7 at no. 3, this is the third deficiency that is identified, and
8 it's said to be based on research. Does that mean that it's
9 based on research undertaken by the team, by your team, during
10 the course of the Audit?

11 A. That is correct, sir.

12 Q. And what it comes down to is this, that because CAPS
13 was not fully functioning, there was no system in place to
14 ensure that deposit accounts had sufficient balances?

15 A. That is correct.

16 Q. And so the risk there was that someone couldn't
17 actually pay the duty that they were bound pay; is that right?

18 A. Correct.

19 Q. If you look at 4 now, the next deficiency that's
20 highlighted is that, because of a lack of adequate monitoring,
21 the Department couldn't--and that's the Customs
22 Department--could not provide the current standing
23 balances--standing deposit balances for the couriers
24 participating in the scheme, although this is information that
25 should be considered in determining whether a declaration will

1 be released against the deposit or immediate payment would have
2 to be made.

3 And again, is that just demonstrating that the CAP
4 System was just not being used properly at all?

5 A. I suppose so, sir.

6 Q. Well, it's important that we have your view,
7 Mrs Corea. What do you think it shows as a deficiency?

8 A. It shows that the CAPS programme was not being used as
9 intended.

10 Q. If you go to the next page, the fifth issue that was
11 identified as a deficiency was that deposit declarations were
12 being used in a manner which circumvented the requirement for
13 the proper classification of imports, and in a manner that fails
14 to adequately identify and assess the Government's risk
15 exposure. And you conclude there that the Government's
16 operational objectives for the implementation of CAPS are not
17 being achieved while being exposed to revenues.

18 Does that mean that what the Audit Team was concluding
19 was that, firstly, CAPS was not being utilized in the way that
20 it was intended; and, secondly, the consequence was that
21 revenues were not being collected so increasing government's
22 risk?

23 A. There was a potential that the risk it was not being
24 collected because, if you use the deposit declaration, you can
25 actually circumvent the system in what revenue is actually paid.

1 And when we get further into the report, you realize how that
2 can be reduced.

3 Q. Perhaps if we could pick it up at that point. When we
4 get to that point in the report, if you could just draw it to
5 the Commissioner's attention, that would be very helpful,
6 Ms Corea.

7 A. Okay. I will.

8 Q. No. 6--and I'm trying to summarise these, so if I
9 over-summarise, do stop us and clarify, but no. 6 is the point
10 that the Audit found that freight charges on deposit
11 declarations are significantly understated in comparison to the
12 same charge on the corresponding adjustment declaration,
13 therefore significantly reducing the amounts that are charged
14 against the standing deposits.

15 Could you just develop that a little for the
16 Commissioner, please. What was--firstly, how was this being
17 done, and what was the consequence?

18 A. Okay. Let's go back to no. 5 because I think that's
19 the point I actually was raising before.

20 When have you a deposit declaration that's being
21 sought, it's actually to facilitate the import of goods to be
22 released before you actually make the payment because you're
23 supposed to have a standing deposit in place in order to submit
24 a deposit declaration.

25 You with me?

1 Q. Yeah.

2 A. Once that deposit declaration is made and the goods
3 are released, there is what you call an "adjustment
4 declaration." The adjustment declaration is submitted against
5 the deposit declaration which will identify how much charges are
6 to be placed against the good, and that is when payment would be
7 made under--a payment summary would be--a payment summary would
8 be executed from that adjustment declaration, and that's on what
9 basis the payment will be made.

10 So, it's like marrying two documents in order to
11 identify what the actual payment amount should be. So, once you
12 get that adjustment submitted against the deposit declaration,
13 then you would know exactly how much money you're supposed to
14 pay. At that time, the funds are already released, remember?
15 So you're actually paying on the back end and not where you
16 actually have the goods released to, if you understand.

17 Q. You're catching up with the payment?

18 A. Correct.

19 (Overlapping speakers.)

20 Q. You just catch up with the payment?

21 A. Correct.

22 So, that's what no. 5 is basically trying to identify,
23 and that's why it says "adjustment declarations are also
24 submitted and processed in the same manner. Consequently,
25 Government's operational objective for the implementation of

1 CAPS and being achieved while being exposed to significant risk
2 of revenues", so you brought in your goods, you've done a
3 deposit declaration, the goods are released, you come and you
4 put your adjustment declaration against that deposit
5 declaration. That's when you would make your payments, and
6 that's when the Government will receive its revenue.

7 Q. So, how does that, then, link to 6?

8 COMMISSIONER HICKINBOTTOM: 6 is illustrated, isn't
9 it, by Table 1 over the page, Ms Corea?

10 THE WITNESS: It is.

11 COMMISSIONER HICKINBOTTOM: And that shows that the
12 difference between the initial declaration, just in aggregate
13 \$47,000, and the adjustment of \$224,000, there is a big
14 difference between those?

15 THE WITNESS: That is correct, sir.

16 COMMISSIONER HICKINBOTTOM: And the difference which,
17 in that case, was about \$170,000. That was at risk in the sense
18 that the goods were already in the Territory?

19 THE WITNESS: That is correct.

20 BY MR RAWAT:

21 Q. If you go to 7, which is 2340, and we can look at
22 seven and eight together, but the point that's made at 7 is that
23 Customs has two roles: Firstly, it's revenue-generating, but
24 also it's about protecting society by preventing restricted and
25 prohibitive goods from entering the Virgin Islands. And the

1 point that's made at 7 is that there was insufficient resources
2 at Beef Island, which meant that officers were prioritizing
3 trade over border protection, which, therefore, increased the
4 risk know illegal items coming into the Territory.

5 And then at 8, because of the short turnaround time
6 for the submission of declarations and the declaration of cargo
7 meant that there wasn't adequate time for reviewing the
8 declarations, and so both those again increase the risk to
9 Government, don't they?

10 A. That is correct, sir.

11 Q. At 9, which is at 2342, what's picked up by the Audit
12 Team is that when a courier service picks up--collects the
13 cargo, it has to present additional supporting documentation in
14 the form of various invoices and that you found a lack of
15 standards and guidelines relating to the invoices. And so, for
16 example, invoices were of a poor quality, sometimes written in
17 foreign languages, sometimes illegible, which again means that
18 it makes it even harder to process the declaration through,
19 doesn't it?

20 A. That is correct, sir.

21 Q. And then at 10, deficiency 10 points to inadequate
22 record-keeping in the Customs Department itself, so not only
23 were couriers required to submit documentation electronically,
24 they were also required to submit them physically, but there
25 were no adequate systems to actually manage the physical

1 documents?

2 A. That is correct, sir.

3 Q. And what you then also say is not all documents are
4 stored electronically within CAPS, which again that undermines
5 the usability of CAPS as a system, doesn't it?

6 A. Yes, sir, that is a fact.

7 Q. If we go to page 2342--43, rather--if you look at no.
8 11, what it records there is: "The Audit found there was a
9 general lack of understanding of the requirements for processing
10 courier entries in CAPS or unwillingness by seasoned customs
11 officers to adapt to changes in service delivery."

12 Does that mean that the more, I supposed, long-serving
13 Customs Officers were reluctant to change their practices to use
14 CAPS?

15 A. That is correct.

16 Q. And generally, was the result of the Audit, the system
17 was being poorly used by the Customs Department in 2020?

18 A. That is correct, sir.

19 Q. I don't need to go to it because that's a point that's
20 made in 12, but if we go to look at 13, what's noted there, one
21 of implementation objectives of CAPS was to facilitate
22 reporting. The Audit found that the reporting suite within the
23 software is currently non-functional, and that the Department
24 was in the process of procuring an additional reporting
25 programme. But the Audit then noted that, based on the poor use

1 of CAPS, significant amount of missing data and the
2 acknowledgment from HM Customs personnel about the reliability
3 of the data currently in CAPS, the additional expenditure to
4 obtain reports will be of little benefit.

5 Is the sort of way of summarizing what was happening
6 with the CAP System in 2020 was that, in a way, the Customs
7 Department would have to draw a line in the sand and start again
8 with CAPS because you couldn't trust the integrity of the
9 information that it held?

10 A. In most regards, sir, yes.

11 Q. If you go to 2344, this is now about the processing of
12 courier declarations, and what's noted is that for delays
13 processed at two locations, firstly within the CAPS Unit, which
14 is called "centralized processing", and then at the Port of
15 Entry where the cargo enters the Territory.

16 Now, what's said is that, when centralized processing
17 was being conducted, there was adequate segregation of duties
18 within the process. On pausing there, can you just expand on
19 what's meant by "adequate segregation of duties" and explain why
20 that's important, please.

21 A. Well, in the CAP System, in the whole process of cargo
22 declaration, then there are different steps from the time you
23 declare an import until when the importer actually receives the
24 cargo. And I'm talking about the regular importation
25 declaration.

1 So, you have the importer declaring that these goods
2 are coming into the Territory. They have to provide the
3 declaration. The declaration is then accepted and reviewed as
4 the review process. Once it's reviewed, there is also a release
5 process. And then once it's released, there is a payment
6 process.

7 So, at the defence stages, there would be a
8 segregation of duty as opposed to one officer dealing with the
9 whole entire process.

10 So, within the CAP System, those different
11 functionalities was separated.

12 Q. And from an Auditor's point of view, separating
13 functionalities is a good thing?

14 A. It is.

15 Q. And that contrasts with the process at the--when you
16 say it's the Port of Entry when the cargo enters the Territory,
17 so what you seem to identify is there was firstly when the goods
18 are coming in physically at the Port of Entry, there was no
19 updating of CAPS, there was a disconnect between the operations
20 of the CAPS Unit and at the Port of Entry, courier declarations,
21 you say, are now being processed at the Port of Entry but that
22 removes the key control of segregation of duties.

23 So, shifting from the CAPS Unit to the Port of Entry
24 introduced risk because it got rid of segregation of duties; is
25 that how we should understand it?

1 A. Yes, sir.

2 And if--if when we're at this stage, if you want to
3 look at 2353, no. 9, it also gives you an outline as to when the
4 entry begins, that it's validated, it's reviewed, and then it's
5 released, so no. 9 would give you all those different steps from
6 the CAPS processing system.

7 Q. But if you're--so, in a CAPS process, you would have
8 segregation of duties. When you're doing the system at
9 the--physically at the Port of Entry--

10 A. It's different.

11 Q. --you don't have that, which means, I think, as the
12 point that's made at 14 is that you get proper verification and
13 validation of the cargo that's been released?

14 A. Correct, sir.

15 Q. Now, 15 on the same page--and we're going back to you
16 were speaking of a few moments ago, Ms Corea, of the difference
17 between the deposit declaration and the adjustment declaration,
18 what's--the deposit declaration, if you file that as an
19 importer, it means that the cargo's released to you and you're
20 then expected to file your adjustment declaration at which point
21 you make the payment?

22 A. That is correct, sir.

23 Q. What the Audit appears to have found is that there was
24 a very low compliance rate with that second requirement, with
25 the result that there is a risk of payments going uncollected,

1 isn't there?

2 A. Yes, sir.

3 Q. I think at the bottom of the last part of that
4 deficiency, the Audit had considered some adjustment payment
5 summaries and found that, in terms of confirmation level, it was
6 only 18 percent?

7 A. That is correct, sir.

8 Q. So, that's confirming--18 percent confirmation rate of
9 payments actually been made an adjustment declaration; is that
10 right?

11 A. That is correct, sir.

12 Q. I will jump ahead and just take you to 17 on 2345.
13 What the Audit found was that enforcement action was seldom
14 taken against couriers for non-compliance, and what's noted is
15 that the lack of penalties to encourage compliance could foster
16 or may have fostered an environment whereby couriers
17 intentionally breached protocols or become complacent in
18 fulfilling their obligations.

19 In terms of the Audit, can you remember whether that
20 was seen as a significant problem, this...

21 A. It was. It was.

22 Q. Finally, if we go to 2346, please--this is at 18,
23 please, Ms Corea--you note that, or the Audit notes wharfage
24 charges are underpaid in some instances, and that's collected by
25 the BVI Ports Authority, which--and you've set it out in the

1 table, but you note that the practice means that it's got the
2 potential to deprive the Authority of a significant amount of
3 revenues. How does the wharfage charges relate to the work of
4 the Customs Department, please?

5 A. When you import goods, you have two charges. You have
6 the freight charges, and you have the wharfage charges. If
7 you're doing the deposit declaration, you're only--only those
8 freight charges are considered in calculating what is actually
9 due.

10 So, when the adjustment completed, you will realize
11 that the wharfage charges that were not incorporated in the
12 deposit declaration is now being considered and factored into
13 the cost, so you will have some times where you would lose this
14 money on the wharfage charges and gain on the wharfage charge,
15 but for the most part because of the level of the costs, it
16 would be that the wharfage charge would be low.

17 Q. Thank you.

18 MR RAWAT: Commissioner, I think I've reached a
19 convenient point. There are a few more matters on this report
20 that I could deal with first thing tomorrow morning. I
21 appreciate for Ms Corea it's been a long day. She's kindly
22 agreed that she will come back at 10:00 tomorrow, and we will
23 finish her evidence tomorrow.

24 COMMISSIONER HICKINBOTTOM: Good. Thank you,
25 Mr Rawat.

1 And thank you, Ms Corea. So we'll break now and we
2 will start again at 10:00 tomorrow. Thank you very much for
3 your time and responses today, and we will see you again
4 tomorrow--again, of course, remotely.

5 THE WITNESS: Thank you.

6 COMMISSIONER HICKINBOTTOM: Thank you very much.
7 Anything else, Mr Rawat?

8 MR RAWAT: That's it for today.

9 COMMISSIONER HICKINBOTTOM: Good. Thank you very
10 much.

11 (Whereupon, at 4:31 p.m. (EDT), the Hearing was
12 adjourned.)

CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

A handwritten signature in cursive script, reading "David A. Kasdan", is written above a solid horizontal line.

DAVID A. KASDAN