

CAYMAN ISLANDS

2019/2020 Session of the

LEGISLATIVE ASSEMBLY

REPORT

of the

STANDING

PUBLIC ACCOUNTS COMMITTEE

on the Report of the
Office of the Auditor General on the Customs in the Cayman Islands - May 2019

Laid on the Table of Legislative Assembly on this day of 2020

TABLE OF CONTENTS

1. REFERENCE 3

2. DOCUMENT CONSIDERED 3

3. CHAIRMAN AND MEMBERS OF THE COMMITTEE 3

4. MEETINGS OF THE COMMITTEE 3

5. ATTENDANCE OF MEMBERS 3

6. PERSONS IN ATTENDANCE 4

7. WITNESSES CALLED BEFORE THE COMMITTEE 4

8. PRACTICE AND PROCEDURE OF THE COMMITTEE (S.O 77 (6)) 4

9. PAC RECCOMENDATIONS ..... 4 - 5

10. GOVERNMENT MINUTE 6

ACKNOWLEDGEMENT 6

REPORT OF THE COMMITTEE TO THE HOUSE 6

REPORT OF THE STANDING PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE OFFICE OF THE AUDITOR GENERAL ON CUSTOMS IN THE CAYMAN ISLANDS - MAY 2019

1. REFERENCE

The Standing Public Accounts Committee of the Cayman Islands Legislative Assembly, established under Standing Order 77(1), met to consider the following Report prepared and submitted by the Auditor General:

Customs in the Cayman Islands - May 2019

2. DOCUMENT CONSIDERED

In accordance with the provision of Standing Order 77(3), the Committee considered the following Auditor General Report which was referred in the House of the Legislative Assembly:

- Report of the Office of the Auditor General on *Customs in the Cayman Islands - May 2019*

3. CHAIRMAN AND MEMBERS OF THE COMMITTEE

The following Members of the Legislative Assembly are the present Members of the Standing Public Accounts Committee:

Mr. D Ezzard Miller, MLA – Chairman

Mr. Christopher S. Saunders, MLA – Member

Mr. Austin O. Harris, Jr, MLA – Member

Mr. Bernie A. Bush, MLA – Member

Hon. Barbara E. Conolly, MLA – Member

4. MEETINGS OF THE COMMITTEE

The Committee held three (3) meetings to consider the Report:

(i) Thursday, September 5th, 2019 (*Administrative Meeting)*

(ii) Tuesday, September 17th, 2019 (*Administrative Meeting)*

(iii) Wednesday, 2nd October 2019 *(Hearing)*

5. ATTENDANCE OF MEMBERS

The attendance of Members at the meetings is recorded in the Minutes of Proceedings which are attached to and form part of this Report.

6. PERSONS IN ATTENDANCE

In accordance with Standing Order 77(8), the following persons were in attendance at the meeting held with witnesses on **Wednesday, 2nd October 2019**:

- Mrs. Sue Winspear - Auditor General, Office of the Auditor General
- Ms. Angela Cullen - Director of Performance Audit, Office of the Auditor General
- Mr. Julius Aurelio - Audit Manager, Office of the Auditor General
- Mr. Kwame Afrane - Audit Project Leader, Office of the Auditor General
- Mr. Kenneth Jefferson - Financial Secretary & Chief Officer, Ministry of Finance and Economic Development
- Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development

7. WITNESSES CALLED BEFORE THE COMMITTEE

In accordance with the provisions of Standing Order 77(4), the Committee invited persons to give information and explanations to assist the Committee in the performance of its duties.

The following persons appeared before the Committee to give evidence on **Wednesday, 2nd October 2019**:

- Mr. Kenneth Jefferson - Financial Secretary & Chief Officer, Ministry of Finance & Economic Development
- Mr. Charles Clifford - Director, Cayman Islands Customs & Border Control
- Mr. Wesley Howell - Chief Officer, Ministry of Employment & Border Control

8. PRACTICE AND PROCEDURE OF THE COMMITTEE (S.O 77(6))

The Committee agreed that in accordance with the provisions of Standing Order 77(6), all meetings at which witnesses were invited to provide information should be held in an open forum. This decision was taken to promote openness and accountability in Government.

9. PAC RECOMMENDATIONS

Customs is often the first official organisation encountered by people when entering a country and by traders importing and exporting goods. Customs makes a significant contribution to the Cayman Islands economy, through collecting duties on behalf of the Cayman Islands Government and helping to protect the borders by restricting the entry of contraband goods. The objective of the Office of the Auditor General's audit was to determine how efficient and effective Cayman Islands Customs is at collecting revenue and protecting the border.

9.01 The Committee endorses the 15 recommendations made by the Auditor General as set out in Appendix 3 of the OAG report and encourages the Government and Customs and Border Control to implement these as soon as possible.

9.02 The Committee is disappointed that despite the OAG and this Committee recommending in 2015 that a revenue concessions policy be put in place that this has not yet happened. The Committee notes that a policy has been drafted but is concerned that it may not be sufficiently detailed to provide the clarity and robustness to the process that is needed. The Committee urges the Government to approve and implement this policy as soon as possible.

9.03 The Committee is concerned that the awarding of some concessions are not in line with legislation, specifically the *Hotels Aid Law (Revision) 1995*. The Committee recommends that the Government ensures that it is complying with the *Hotels Aid Law* when awarding concessions, or repeals this legislation.

9.04 The Committee is concerned that concessions are being awarded with conditions, for example, creation of jobs for Caymanians, but these are not being followed up or monitored by the Government. The onus should be on the recipients of concessions to provide regular updates on how they are meeting the conditions of the concessions awarded, and any anomalies should be followed up the relevant government agency. The Committee recommends that that the Government requests all recipients of concessions to provide regular updates on any conditions of concession awarded and that these should be in electronic format. The Government should then monitor progress against these conditions and follow up with concession recipients as necessary.

9.05 The Committee is concerned that that there is not a shared understanding of the concessions being awarded across government, including conditions of concession, which is resulting in a lack of monitoring. The Committee heard that Cabinet extracts of approved concessions are shared with relevant Chief Officers but this does not allow for detailed monitoring. The Committee recommends that the Ministry of Finance and Economic Development share approval letters for concessions with other government entities, such as WORC, so that the conditions can be monitored, followed up as necessary, and monies clawed back if the conditions have not been met.

9.06 The Committee is concerned that duty rates are outdated and those used for alcohol and fuel are not based on the appropriate measurement as duty is calculated on volume rather than value. This may result in lower revenues than could be achieved. The Committee recommends that the Government review duty rates to be paid and specifically considers basing alcohol and fuel duty rates on value rather than volume.

10. GOVERNMENT MINUTE

The Public Accounts Committee wishes to draw Government's attention to Standing Order 77 sub-order 7 which reads:

> *"The Government Minute shall be laid on the Table of the House within three months of the laying of the report of the Committee and of the report of the Auditor General to which it relates."*

The PAC expects the Government to honour the requirements of this Standing Order.

ACKNOWLEDGEMENT

The Committee is most appreciative of the efforts of the Auditor General and her staff in presenting a very fair, comprehensive and informative Report and for the support, assistance and constructive advice given throughout its deliberations.

The Committee also thanks the staff of the Legislative Assembly for the assistance provided.

REPORT OF THE COMMITTEE TO THE HOUSE

The Committee agrees that this Report be the Report of the Standing Public Accounts Committee to the House on the following Report of the Office of the Auditor General: *Customs in the Cayman Islands - May 2019*

Mr. D. Ezzard Miller, MLA – Chairman

Mr. Bernie A. Bush, MLA – Member

Mr. Christopher S. Saunders, MLA – Member

Hon. Barbara E. Conolly, MLA – Member

Mr. Austin O. Harris, Jr, MLA – Member

Legislative Assembly of the Cayman Islands

PUBLIC ACCOUNTS COMMITTEE

MINUTES
Meeting held
Thursday, 5th September 2019 at 10:17 am

Present:
Mr D Ezzard Miller, MLA - Chairman
Mr Christopher S. Saunders, MLA - Member
Ms Barbara E. Conolly, MLA - Member
Mr Austin O. Harris, Jr., MLA – Member
Hon Bernie A. Bush, MLA - Member

In Attendance:
Mrs Sue Winspear - Auditor General
Mr Julius Aurelio - Audit Manager
Ms Manesa Webb - Committee Clerk

1. Meeting to Order

There being a quorum present, the Chair called the meeting to order at 10:17 am.
Mr Austin O. Harris, Jr. arrived at 10:23 am.

2. Apologies:

None.

3. Approval of PAC Minutes

- Tuesday, May 7th 2019 (Administrative Meeting) subject to the following:

(1) Item 6, **Office of the Auditor General's (OAG) Report:**
by deleting the words " as well as 2018".

(2) Item 6, **Office of the Auditor General's (OAG) Report:**
by deleting the 4th paragraph which states "The Committee agreed that the AG would submit an update on the 2016 Audits for 5 CIG entities: Cayman Islands Airports Authority, Ministry of Education, Ministry of Health, Cayman Islands Port Authority and the Cayman Islands Turtle Farm by the 30 June 2019."

(3) Item 6, **Office of the Auditor General's (OAG) Report:**
by deleting the paragraph from Item 7, and insert the paragraph in Item 6: "Overall, the AG opinion embodied the assumption that the CIG and its Statutory Authorities and Companies (SAGCs), had presented improvements over the years."

(4) Item 6, **Office of the Auditor General's (OAG) Report:**
by inserting the following paragraph which states "This improvement was demonstrated with the low amount of qualified opinions issued to date. Of the 39 audits completed, there were only 4 qualified opinions and 35 unqualified opinions issued."

(5) Item 6, **Office of the Auditor General's (OAG) Report:**
by deleting the section from Item 7, and insert the section under Item 6:

The 4 qualified opinions identified were:

- Health Services Authority – its inability to present controls for recording revenue, and consequently the account receivables and accumulated deficit were competed.

- Cayman National Cultural Foundation - its contingent liability of being named as a defendant in a personal injury claim and paid by CIG.

- Ministry of Community Affairs and the Ministry of Human Resources and Immigration- were both held to be found in breach of the International Public Sector Accounting Standards of transparency and with management integrity. For example, both ministries had material terminations benefits included in their expenses for the fiscal period but opted to not disclose these amounts separately in the notes to the financial statements.

(6) Item 6, **Office of the Auditor General's (OAG) Report:**
by deleting the paragraph from Item 7, and insert the paragraph under Item 6: "A discussion amongst the Committee pursued about whether a Hearing should be scheduled and which entities should be called. Mr Christopher Saunders noted that when selecting entities to be called, a distinction should be made between those who were meeting their outputs from those who were meeting their finance obligations. This is because despite meeting financial obligations, a department can fall foul of achieving value for money. This is of grave concern; particularly, when the CIG operates under a 2 year budget cycle."

(7) Item 6, **Office of the Auditor General's (OAG) Report:**
by deleting the paragraph from Item 7, and insert the paragraph under Item 6: "The Committee agreed to undertake Hearings. However, the date and the election of persons to be called as witnesses are to be determined at the next Public Accounts Administrative Meeting."

(8) Item 7, **Auditor General's Update**:
by inserting the words under the Quarterly Report section:
"The Auditor General presented the report for information and highlighted the main items of interest which included the updated position on the 2018 financial audits."

(9) Item 7, **Update on the renewal of the OAG Audit Contract**:
by inserting the words "the contract for financial audit of the OAG" before the word "need" and delete the word " renewed " and insert the word "retendered".

(10) Item 7, **Update on the renewal of the OAG Audit Contract**:
by deleting the words "enter into negotiations with Baker Tilly (Cayman) Ltd on renewing its audit contract" and replacing it with the words "Move to retender the contract for the financial audit of the OAG's financial statements for a three year period 2019 to 2021 inclusive on behalf of the PAC recognizing that the PAC".

by deleting the words "The committee granted the AG permission to liaise directly with the Procurement Office on the tendering of the audit contract. However the Committee resolved that its body is" and replacing it with the word "has".

The Committee **agreed** to incorporate the suggestions above made by the Auditor General.

The Minutes was **approved as corrected** on a motion moved by Mr Christopher S. Saunders and seconded by Ms. Barbara E. Conolly.

4. Matters arising from Minutes

None.

5. Approval of the Office of the Auditor General's Invoice

Invoice# 207256 dated 31 May 2019 in the amount of $53,508.33 was discussed and unanimously **approved** on a motion moved by Mr Christopher S. Saunders and seconded by Ms. Barbara E. Conolly.

Invoice#207295 dated 30 June 2019 in the amount of $29,133.66 was discussed and unanimously **approved** on a motion moved by Mr Christopher S. Saunders and seconded by Ms. Barbara E. Conolly.

Invoice#207297 dated 31 July 2019 in the amount of $50,686.60 was discussed and unanimously **approved** on a motion moved by Ms. Barbara E. Conolly and seconded by Hon Bernie A. Bush.

The Chair acknowledged the Committee's approval, by returning a signed copy of the three invoices to the Auditor General.

6. Consideration of the OAG Reports

Customs in the Cayman Islands - May 2019

The Auditor General introduced the Customs in the Cayman Islands report, May 2019 and provided a summary of the Report with an emphasis on "revenue collection." The audit covered the old customs department, as well as customs in the sister islands when it was under district administration and subsequent to the audit Cayman now has a combined customs and border control department.

The Auditor General highlighted concerns relating to the three main areas: strategic and business planning, revenue collection, and border protection. On the strategic and business planning, there were things being put in place with the new customs and border control operation. The Auditor General also highlighted concerns with the IT systems and poor management in phase one.

On the revenue collection side, which was with the Ministry of Finance previously and now more under the focus of the new customs, and border control department. Many of the revenue collection issues were things that the OAG made previous recommendations about such as concessions and revenue waivers and the inability to know what the tax gap was.

The Committee reviewed the report and expressed concerns regarding leakage issues around the revenue and questioned if there were any recommendations on how to deal with leakage.

The Auditor General answered the Committee's questions relating to the leakage, in that they were unable to estimate revenues foregone (the tax gap) because there was no systematic recording and monitoring of the value of tax concessions granted. When the auditors asked through this report for a list of all the concessions and waivers only partial information was available. So the recommendations

are that the information should be captured, because it is not always and there is currently no monitoring or follow-up process either to see whether the benefit for which the concession was granted was actually delivered.

The Committee determined to have a public hearing on the report and invite the following witnesses:

PAC Hearings Date : October 2nd, 2019	
Witness	**Government Entity**
Mr. Kenneth Jefferson - Financial Secretary	Ministry of Finance & Economic Development
Mr. Charles Clifford – Director	Department of Customs & Border Control
Mr .Wesley Howell – Chief Officer	Ministry of Employment & Border Control

It was suggested that the new CFO should be invited to attend to support the latter two witnesses and better understand what changes needed to be put in place under the new CBC operation.

Financial Reporting of the Cayman Islands Government – 2016-17 General Report

The Auditor General introduced the Financial Reporting of the Cayman Islands Government (CIG), General Report on the results of the 2016-17 Financial Audits, May 2019. She reminded the Committee that the report was first discussed in May 2019. However, at the time it was determined not to do anything and now given the statutory period for the 2018 financial audit had passed, this report was less relevant. She provided a brief summary of the Report with an emphasis on the "qualifications" which took place during the periods of 2016-2017.

The Committee **agreed** with the Auditor General suggestion to combine the awarding of PAC certificates to entities with unqualified opinions for 2016-17 with those for 2018 given the timeframes.

Auditor General also noted that the aim is to present the General Report 2018 to the Committee before the end of the year.

Government's use of Outsourced Services - June 2019

The Auditor General introduced the Government's use of Outsourced Services-June 2019. The report was laid in the Legislative Assembly on 7th June 2019 and relates to the government's use of outsources services. It covered the core government and not SAGCs, and focused on seven ministries. The report covered the five years between July 2012–2017.

The Auditor General highlighted Appendix 2 on page 43 where it recommended that the government should use its combined buying power to get best value for the contracts let rather than continue to let similar contracts separately. Since the procurement function came in there is now a better opportunity to make the most of government collective buying power and do a lot more to have standard specifications and contract terms.

The Committee determined to have a public hearing on the report and invite the following witnesses:

PAC Hearings Date : October 3rd , 2019	
Witness	**Government Entity**
Mr. Kenneth Jefferson - Financial Secretary	Ministry of Finance & Economic Development
Mr. Taraq Bashir - Director	Procurement Office, Ministry of Finance & Economic Development
Ms. Cetonya Cacho - Acting Chief Officer	Ministry of Education, Youth, Sports, Agriculture & Lands

OAG Annual Report – 31 December 2018 (asked to be tabled)

The Auditor General introduced the final version of the OAG Annual Report – 31 December 2018. She noted that this is the final bound copy of the report and the contents remained the same as that discussed in May 2019 but that the report still needed laying in the Legislative Assembly .

The Committee **agreed** that the report should be prepared to be laid at the next sitting of the Legislative Assembly.

7. Auditor General's Update

Quarterly Report

The Auditor General highlighted the position on the 2018 financial audits and that at the end of June; the Ministries of Education and Health had not yet started their audits.

The Auditor General highlighted that Education is picking up speed, and pleased with the progress that's happening within that ministry but is concerned about the rate of movement in Health. However, the positive thing to report is that the 2018 entity audits completed to the date have resulted in no qualifications being given at this time.

The Auditor General updated the Committee on the upcoming performance audits and said that education is now in clearance, and will be presented to the Committee possibly early next month. She also stated that the budgeting and financial reporting and the court efficiency reports are close to going into clearance and both would come before the Committee before the end of the year.

A discussion amongst the Committee pursued in terms of the overtime within the Royal Cayman Islands Police Service (RCIPS) and Cayman Islands Fire Service (CIFS). The AG enlightened the Committee that the management letters (ISA260 reports) issued through the financial audit in 2018 dealt with these matters amongst other things.

The Committee **agreed** that Auditor General should provide them with the 2018 ISA260 as they become available.

8. Review of reports tabled in the Legislative Assembly since January 2019

The Committee **deferred** until the next meeting.

9. Any Other Business

A discussion amongst the Committee ensued about having a hearing on the Owen Roberts International Airport (ORIA) Terminal Redevelopment Project Report. The Committee **agreed** to have the hearing and invite the following witnesses:

PAC Hearing Date : October 4th , 2019	
Witness	**Government Entity**
Mr. Albert Anderson - Chief Executive Officer	Cayman Islands Airport Authority
Mr. Tom Guyton - Chairman	Cayman Islands Airports Authority
Mr .Stran Bodden - Chief Officer	Ministry of Tourism

10. Scheduling of Next Meetings:

The next administration meeting was confirmed for Tuesday, 17th September, 2019 at 10:00 am.

The public hearings were confirmed for the following dates:

- Wednesday, 2nd October, 2019 at 10:00 am
- Thursday, 3rd October, 2019 at 10:00 am
- Friday, 4th October , 2019 at 10:00 am

11. Adjournment

There being no further business, the Chair adjourned the meeting at 11:30 am.

Legislative Assembly of the Cayman Islands

PUBLIC ACCOUNTS COMMITTEE

MINUTES
Meeting held
Tuesday, 17th September 2019 at 10:32 am

Present:
Mr D Ezzard Miller, MLA - Chairman
Mr Christopher S. Saunders, MLA - Member
Ms Barbara E. Conolly, MLA - Member
Mr Austin O. Harris, Jr., MLA – Member
Hon Bernie A. Bush, MLA - Member

In Attendance:
Mrs Sue Winspear - Auditor General
Mr Winston Sobers - Audit Manager
Ms Angela Cullen - Director of Performance Audit
Ms Manesa Webb - Committee Clerk

1. Meeting to Order

There being a quorum present, the Chair called the meeting to order at 10:32 am.
Mr. Austin O. Harris, Jr. arrived at 10:39 am.

2. Apologies:

None.

3. Approval of PAC Minutes

- Thursday, September 5th, 2019 (Administrative Meeting)

The Minutes were **approved** on a motion moved by Mr. Christopher S. Saunders and seconded by Ms. Barbara E. Conolly.

4. Matters arising from Minutes

ISA 260 report from 2018 audits

The Auditor General introduced the ISA260 reports and said that these reports go to the Audit and Risk committees (or equivalent) of the statutory authorities and government companies and most of them have now have such a Committee. However, Core Government has been lacking an Audit and Risk Committee and this has been an outstanding OAG / PAC recommendation to core government to have such a Committee for many years.

The Auditor General highlighted that one had recently been created and the first meeting of the Audit and Risk Committee happened on Monday, September 9th, 2019. During the meeting, matters relating to ministries, offices (save OAG & the Ombudsman) and portfolios including relevant ISA260s were considered. The advisors to the Deputy Governor on this Committee are: Ms. Patricia Estwick, Mr. Chris Wobshall and Ms. Delores Gordon.

The Auditor General highlighted that the ISA260 reports are available for the Committee's information, and not all of these had been completed for 2018 and neither had all the annual reports, including financial statements yet been tabled in the Legislative Assembly.

The Committee thanked the Auditor General and her team for providing the ISA260 reports completed to date and requested to continue receiving them as they became available as this will assist with determining whom the Committee would want to question and invite to future PAC hearings.

In response to a question, the Auditor General highlighted that the Fire Services concerns raised are covered in the Financial Services and Home Affairs ISA260 which was currently awaiting management responses and would be brought before PAC when it was concluded.

The Committee **agreed** that the Auditor General should continue to provide ISA260 reports as they are completed.

5. Approval of the Office of the Auditor General's Invoice

Invoice# 207298 dated 31 August 2019 in the amount of $32,070.14 was discussed and unanimously **approved** on a motion moved by Mr. Christopher S. Saunders and seconded by Ms. Barbara E. Conolly.

6. Witness Session preparation

Briefing for PAC Hearing

The Auditor General introduced the briefing documents for the upcoming PAC hearings on Customs and Government's use of Outsourced Services in the Cayman Islands reports.

The Committee Clerk confirmed the attendance of the following witnesses for the upcoming Public Accounts Committee public hearings scheduled for October 2019:

PAC Hearings Date : Wednesday, October 2nd, 2019			
Witness	**Government Entity**	**Time**	**Confirmation**
Mr. Kenneth Jefferson - Financial Secretary	Ministry of Finance & Economic Development	10:00 - 11:00 am	Confirmed
Mr. Charles Clifford – Director	Department of Customs & Border Control	11:00 - Noon	Confirmed
Mr .Wesley Howell – Chief Officer	Ministry of Employment & Border Control	2:00 – 3:00 pm	Confirmed

Mr. Austin Harris indicated that he would recuse himself from the Customs hearing on 2nd October due to his role as Coucillor in that Ministry.

PAC Hearings Date : Thursday, October 3rd, 2019			
Witness	**Government Entity**	**Time**	**Confirmation**
Mr. Kenneth Jefferson - Financial Secretary	Ministry of Finance & Economic Development	10:00 - 11:00 am	Confirmed
Mr. Taraq Bashir - Director	Procurement Office, Ministry of Finance & Economic Development	11:00 - Noon	Confirmed
Ms. Cetonya Cacho - Acting Chief Officer	Ministry of Education, Youth, Sports, Agriculture & Lands	2:00 - 3:00 pm	Confirmed

A discussion amongst the Committee ensued about the request from the Chief Executive Officer of the Cayman Islands Airport Authority, Mr. Albert Anderson, asking the Committee to reschedule the hearing scheduled for Friday, October 4th, 2019 to accommodate him because he is expected to be off Island.

The Committee **agreed** to reschedule the hearing from Tuesday, November 26th, 2019 to Tuesday, December 3rd, 2019:

PAC Hearings Date : December 3rd, 2019		
Witness	**Government Entity**	**Time**
Mr. Albert Anderson - Chief Executive Officer	Cayman Islands Airport Authority	10:00 - 11:00 am
Mr. Tom Guyton - Chairman	Cayman Islands Airports Authority	11:00 - Noon
Mr. Stran Bodden - Chief Officer	Ministry of Tourism	2:00 - 3:00 pm

The Auditor General highlighted that the OAG did not provide a briefing for the Owen Roberts International Airport (ORIA) hearing because they knew of the timing issue and wanted to provide the updated figures, which would be available in early November as financial close on the project was at the end of July and there is a three month settlement period.

The Auditor General suggested that the Committee schedule a 15-minute private session before each hearing if the Committee were not going to agree the questioning approach some other way. The Committee **agreed** with the Auditor's General suggestion to have a 15-minute private session before each hearing. The private session will begin at 9:30 am.

7. Auditor General's Update

PAC decision on award of OAG financial audit contract 2019 to 2021

The Auditor General tabled a paper updating the Committee on the OAG Tender Committee report on the provision of audit services for the Office of the Auditor General, 2019- 2021.

The Auditor General highlighted that the office went out to tender, and provided the Committee with a chronology summary of how the process was completed. The tender closed on Monday, September 16th, 2019. To help develop the OAG staff, she invited three members to form a tender evaluation panel, and then present their recommendations to the Departmental Tender Committee and her as chief officer who then formally make the recommendations to the PAC. The second page of the report explains the attendee evaluation model.

The Auditor General recommended that the Committee award the contract to Baker Tilly who got 97 out of 100 on the evaluation being best on both price and technical components.

On September 16th, 2019 the following persons from the Office of the Auditor General Office signed the back of the report to show that it is recommended that the Committee accept the proposal:

- Mrs. Sue Winspear - Auditor General - Recommending Officer
- Ms. Angela Cullen - Director of Performance Audit - Departmental Tender Committee
- Ms. Katrina Thomas - Finance & Administration Manager - Departmental Tender Committee
- Ms. Wilma McLaughlin - Administrative Assistant - Tender Evaluation Panel
- Ms. Erin McLean - Professional Audit Trainee - Tender Evaluation
- Ms. Sasha Rochester - Auditor Project Leader - Tender Evaluation Panel

The Committee **agreed** to accept the recommendation by the OAG Office to appoint Baker Tilly as the auditors. The motion was moved by Mr Christopher S. Saunders and seconded by Ms. Barbara E. Conolly.

8. Review of reports tabled in the Legislative Assembly since January 2019

The Committee **deferred** until after the budget session.

9. Any Other Business

The Utility Regulation and Competition Office (OfReg)

Mr. Austin Harris asked the Auditor General if she can confirm whether or not she was conducting a review of OfReg, and if so, when will the Committee be able to review the report.

The Auditor General answered Mr. Austin Harris's question by stating that they have had an introductory meeting with the existing senior executives and the OAG is beginning the work now. The aim is for the report to be finished by early next year.

The Director of Performance Audit stated that it's going to be a best value review for OfReg, and that their founding legislation prescribes that the Auditor General should review the organization once every three years. The scope of the audit is largely in this law, and the OAG team is going to cover the legislative framework and the governance arrangements as part of an all-encompassing review of the whole organization and how it operates.

The Auditor General confirmed that the ISA260 report on the financial audit of Ofreg for 2018 would highlight a lot of issues, and that will be available to the PAC once management have responded. Mr. Austin Harris stated that he is pleased that the OAG is in the process of doing the report.

10. Scheduling of Next Meetings:

The public hearings were confirmed for the following dates:

- Wednesday, October 2nd, 2019 at 10:00 am
- Thursday, October 3rd, 2019 at 10:00 am
- Tuesday, December 3rd, 2019 at 10:00 am

11. Adjournment

There being no further business, the Chair adjourned the meeting at 11:00 am.

Legislative Assembly
of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

MINUTES of Meeting with Witnesses
Wednesday, 2nd October 2019 at 10:12 am

CUSTOMS IN THE CAYMAN ISLANDS – MAY 2019

Present:

Hon. D. Ezzard Miller, MLA - Chairman
Mr. Christopher S. Saunders, MLA - Member
Mr. Austin O. Harris, Jr., MLA - Member
Hon. Bernie Bush, MLA - Member
Ms. Barbara E. Conolly, MLA - Member

Attendees:

Ms. Manesa Webb - Committee Clerk

Mrs. Sue Winspear - Auditor General, Office of the Auditor General

Ms. Angela Cullen - Director of Performance Audit, Office of the Auditor General

Mr. Julius Aurelio - Audit Manager, Office of the Auditor General

Mr. Kwame Afrane - Audit Project Leader, Office of the Auditor General

Mr. Kenneth Jefferson - Financial Secretary & Chief Officer, Ministry of Finance and Economic Development

Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development

Witnesses:

Mr. Kenneth Jefferson - Financial Secretary & Chief Officer, Ministry of Finance & Economic Development

Mr. Charles Clifford - Director, Cayman Islands Customs & Border Control

Mr. Wesley Howell - Chief Officer, Ministry of Employment & Border Control

1. Meeting to Order

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the Public Accounts Committee Meeting to order at 10:12 am.

2. Welcome

The Chairman gave a brief welcome to Members of the Committee and thanked them for attending the Public Accounts Committee ("PAC") Hearing. He also welcomed and thanked Mrs. Sue Winspear and the OAG Team, along with Mr. Kenneth Jefferson and Mr. Matthew Tibbetts.

Ms. Barbara E. Conolly indicated that she would recuse herself from the Customs hearing.

The Committee was advised that they would be dealing with the Auditor General's Report entitled, *Customs in the Cayman Islands –May 2019*.

Review of the Customs in the Cayman Islands –May 2019

- *Customs in the Cayman Islands – May 2019*

The Chairman invited the witness, Mr. Kenneth Jefferson, and his support, Mr. Michael Nixon, to the Chamber. Administration of oath was administered, and thereafter, Mr. Kenneth Jefferson and Mr. Michael Nixon were welcomed and thanked by the Chair for attending the meeting and told to state their name and title for the record.

Discussion ensued with questions being asked to Mr. Kenneth Jefferson by the PAC members. Before departing the Chamber, Mr. Kenneth Jefferson was again thanked by the Chair.

The Chairman invited the witness, Mr. Charles Clifford, and his support Ms. Camille Beckford-Johnson and Mr. Jeffery Walton, to the Chamber. Administration of oath was administered, and thereafter, Mr. Charles Clifford and his team were welcomed and thanked by the Chair for attending the meeting and told to state their name and title for the record.

Discussion ensued with questions being asked to Mr. Charles Clifford by the PAC members. Before departing the Chamber, Mr. Charles Clifford was again thanked by the Chairman.

The Chairman invited the witness, Mr. Wesley Howell, to the Chamber. Administration of oath was administered, and thereafter, Mr. Wesley Howell and Mr. Michael Ebanks were welcomed and thanked by the Chair for attending the meeting and told to state their name and title for the record.

Discussion ensued with questions being asked to Mr. Wesley Howell by the PAC members. Before departing the Chamber, Mr. Wesley Howell was again thanked by the Chairman.

3. Any Other Business

There was no other business on the agenda.

4. Scheduling of Next Meeting

The next public hearing was confirmed for:

- Thursday, October 3rd, 2019 at 10:00 am

5. Adjournment

There being no further business, the meeting was adjourned at 2:46 pm.



CAYMAN ISLANDS LEGISLATIVE ASSEMBLY
COMMITTEE OF PUBLIC ACCOUNTS

CUSTOMS IN THE CAYMAN ISLANDS
~ May 2019 ~

Official verbatim report relating to the Official Report of the Standing Public Accounts Committee Meeting
2 October 2019

CONTENTS **Page**

PAC Members present	2
Witnesses present	2
Others in attendance	3
Ministry of Finance, Mr. Kenneth Jefferson	5-18
Ministry of Finance, Mr. Michael Nixon	6-9, 11-12
Customs and Border Control, Mr. Charles Clifford	19-23
Ministry of Employment and Border Control Mr. Wesley Howell	24-31
Undertakings to be provided in writing	15, 28, 29

PAC Members Present:

Hon. D. Ezzard Miller, MLA, Chairman
Hon. Bernie A. Bush, MLA, Member
Mr. Austin O. Harris, Jr., MLA, Member
Mr. Christopher S. Saunders, MLA, Member
Ms. Barbara E. Connolly, MLA, Member

In attendance:

Ms. Manesa Webb, Committee Clerk
Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development
Mrs. Camille Beckford-Johnson, Finance Manager, Customs and Border Control
Mr. Jeffery Kevin Walton, Deputy Director, Customs and Border Control
Mr. Michael Ebanks, Deputy Chief Officer, Ministry of Home Affairs, Human Resources and Immigration

Audit Office:

Mrs. Sue Winspear, Auditor General, Office of the Auditor General
Ms. Angela Cullen, Director of Performance Audit, Office of the Auditor General
Mr. Julius Aurelio, Audit Manager, Office of the Auditor General
Mr. Kwame Afrane, Audit Project Leader, Office of the Auditor General

Witnesses:

Mr. Kenneth Jefferson, Financial Secretary and Chief Officer, Ministry of Finance and Economic Development
Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development
Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control
Mr. Charles Clifford, Director, Customs and Border Control

PAC VERBATIM TRANSCRIPT
STANDING PUBLIC ACCOUNTS COMMITTEE
WEDNESDAY
02 OCTOBER 2019
10:12 AM

Meeting with witnesses

"CUSTOMS IN THE CAYMAN ISLANDS—MAY 2019"

Verbatim transcript of the Standing Public Accounts Committee Meeting held 02 October 2019, at 10:12 am, in the Chamber of the Legislative Assembly Building, George Town, Grand Cayman.

[Hon. D. Ezzard Miller, Chairman presiding]

The Chairman: Good morning everyone.

Let the record show that we have a quorum and I am calling this public inquiry into the Auditor General's report on Customs in the Cayman Islands—May 2019, to order, at 10:12 am.

The first order of business is the swearing in of the witnesses. So, let me take care of that.

[Pause]

MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT

ADMINISTRATION OF OATHS OR AFFIRMATIONS

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Good morning.

I, Kenneth Jefferson, hereby swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly, shall be the truth, the whole truth, and nothing but the truth.

[Pause]

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development: I, Michael Nixon, swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly, shall be the truth, the whole truth, and nothing but the truth.

[Pause]

The Chairman: Again, I ask the members to forgive me. My mother would spank me because I haven't told you all good morning and I thank you all for coming.

At this time, we will invite the Auditor General to make her opening remarks on "Customs in the Cayman Islands—May 2019" Report.

Mrs. Sue Winspear, Auditor General, Office of the Auditor General: Mr. Chairman, members of the Public Accounts Committee, colleagues, ladies and gentleman, good morning. Thank you for the opportunity to make some opening remarks. The report we are considering today is "Customs in the Cayman Islands", which my Office published in June 2019.

This performance audit assesses how efficient and effective customs walls are collecting revenue and protecting the border. Our audit, focused on three main areas: Strategic and Business Planning, Revenue Collection, and Border Protection.

As the first witness relates to revenues, I will start with revenue collection, since Customs is a significant government revenue source, around the $165 million per year. It is disappointing that four years after my office reported on collecting government revenues, we look again at this significant area of revenue generation and find that minimal progress is being made in processing and managing revenue waivers and concessions. There is still no policy in place for awarding them, and, an unknown amount of revenue is being lost, as waivers and concession approvals are not being tracked or monitored. In addition to creating an unquantifiable tax gap, this also means that it is unknown if the benefits expected as a consequence of awarding these concessions are being delivered or not.

Budget setting also needs to improve as government is consistently collecting more revenue than is budgeted for.

Customs did not have a strategic plan, workforce plan nor performance management information in place, to manage their business effectively. However, we do now see some building blocks in place and the relatively recent creation of the new Customs and Border Control Department is a positive development, creating a holistic approach to the dual functions of

revenue collection and border control, and it now extends across all three Islands. We see this new entity starting to change its approach to both managing its business and protecting the jurisdiction's borders, but with more needing to be done over time on better using intelligence to inform risk management.

Finally, phase one of the implementation of the IT [Information Technology] system to modernise Customs was not well managed, being both late with significant cost overruns and having considerable sums ultimately written off. We hope these problems will be avoided with the next phase.

Government has accepted the 15 recommendations set out in Appendix 2 and plans to implement these between 2019 and 2022.

Thank you very much, Mr. Chairman.

I have here with me, Mr. Kwame Afrane, who undertook the audit, along with the Director and Manager of the Performance Audit, Angela Cullen, and Mr. Julius Aurelio.

Thank you.

The Chairman: Thank you very much, Auditor General for the opening remarks. I think Mr. Austin will lead the first question.

As usual, Mr. Jefferson, you are here with us all the time, so you know the routine. When you are asked the first question, just identify yourself by name and title, and the same goes for Mr. Nixon. Thank you both for coming. We appreciate the effort you make at this time, because we know that there is a little thing underfoot that begins with "B" and ends with "T" which is occupying quite a bit of time.

Ms. Barbara E. Connolly: Mr. Chairman, before we proceed, I would humbly like to recuse myself from this session with Mr. Jefferson and Mr. Nixon, as I am the Councillor for the Ministry of Finance and Economic Development.

Thank you.

The Chairman: Thank you.

Mr. Austin.

Mr. Austin O. Harris, Jr.: Thank you, Mr. Chairman.

Before I begin, I certainly want to echo your sentiments by saying good morning to my colleagues on the Public Accounts Committee [PAC] on both sides of the aisle; the Auditor General's Office and the Accountant General and likewise, to our two witnesses who have appeared to answer questions of this Committee.

I only have one or two questions. I will ask the witnesses to turn to page 32 in the Auditor General's Report, "Customs in the Cayman Islands—May 2019" and draw your attention to paragraph 82, which, for the convenience of the witnesses and those listening in, I will read.

Paragraph 82, page 32 says: **"Some concessions are awarded with related conditions, such as the creation of jobs. However, these are not monitored. The Government therefore does not know whether businesses are delivering the conditions that were specified as a requirement of concessions being granted."**

As the Government is regularly and repeatedly held to account for the promised job creations that come when we engage in, whether it is public/private partnerships, or whether we give concessions to new businesses, business ventures, hotels and the like, we are often times asked, *Where are those promised new jobs that our Caymanians would otherwise occupy?*

Therefore, my question to the witnesses is: Can they advise this Committee what actions have been taken that confirm approved concessions are validated, but also that those validated concessions and the commitments made by the respective companies are both monitored and reported, on a regular basis?

Thank you, Mr. Chairman.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, member Harris, and good morning, Mr. Chairman, honourable Members of the Committee, the Auditor General and her staff from the Audit Office.

Mr. Chairman, before I attempt to answer that question directly, I just wanted to make some preliminary remarks in general. I won't be long.

I want to say sir, that the importance of Customs to government is acknowledged. It is quite significant when 20 to 25 per cent of government's annual revenue comes from the Custom's import duty. It is therefore very important that we have a good forecast of those numbers, principally because our expenditure level that we set is based on the revenues we collect.

I would make the observation that the Auditor General makes in the report, that there are variances. The variances stated in her report are, I think, around 7 to 10 per cent was the number quoted. Also, from the time period that she looked at, the variances in dollar terms were between $10 million and $23 million variance. I will very quickly say that that trend has continued into 2018 because the Auditor General's report stopped at December 2017.

In 2018, quickly, for the Committee's benefit, the total amount of import duty collected on various sources (motor vehicle, duty, gasoline, alcoholic beverages, et cetera, and the big category of other import duty) for the year 2018 amounted to $156 million; that was the budgeted number. The actual revenue number was $181 million. So, expressing one as a percentage of the other, when we also take into account that the revenue for government for the year 2018 was approximately $838 million, the actual import duty

revenue of $181 million would represent 22 per cent. So, it is directly in the ballpark that the Auditor General is speaking to of 20 to 25 per cent, so that trend continues in 2018.

In terms of a variance, Mr. Chairman, the $156 million budget versus the $181 million in actual revenues, obviously, gives us a variance of around 16 per cent, which is even higher than the range quoted in the Auditor General's report. So, those are just some facts, Mr. Chairman, that validate the Auditor General's comments in her report.

Just very quickly, as well, to obviously say that we don't expect variances will be zero at all times. We don't expect actual revenues to equal budgeted revenues but, we do expect that there will be some variances.

Mr. Chairman, Customs obviously now falls under the Ministry of Employment and Border Control and that was effective the 1st February 2019. Mr. Chairman, directly to member Harris' question, this has been quite frankly, a problematic area for the Government to monitor. The honest answer is that in the Ministry of Finance itself, I do not believe that we have ever undertaken going out onto worksites to question contractors and to obtain evidence of the number of Caymanians on the site, which I think is quite frequently, on the large concessions, is a condition of the concession being granted. Sometimes it is as general as "as many Caymanians as possible", would be a condition of the concession.

Simply sir, and Committee members, the Ministry of Finance, doesn't have the resources to go out and do job site visits. I think if you were to press the elected Government a bit closer, the answer would be, *Well, certainly with the reworked WORC agency, it is hoped and believed that, because of the new enhanced systems that they may put in place, they should be able to get a better idea as to whether that particular condition of the concession is being adhered to.*

[Inaudible interjection]

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, if I missed anything from member Harris' question, he could let me know.

Mr. Austin O. Harris, Jr.: Thank you, Mr. Chairman. Thank you for that response.

Mr. Chairman, through you, the witness talks about not having the resources to conduct on-site job site visits. However, I am aware of other companies operating in the Cayman Islands being asked to provide a report via e-mail, on a monthly basis, either to the Department of Labour and Pensions, WORC or other Ministries, simply stipulating the breakdown in staff at various development sites. For example, the breakdown between foreign professionals, skilled and unskilled Caymanians, et cetera. Certainly, this is something that can be achieved via vis-à-vis digital communication and thereafter, if any irregularities are noted, then perhaps it might warrant a site visit. But, to say to this Committee that "we don't have the resources to do jobsite visits and that is the reason why we cannot monitor whether companies have delivered on concessions", I think, respectfully, is a bit of a copout.

My question is: Has the Ministry explored this sort of communication and requiring firms that are given concessions by the Government, to provide monthly or quarterly reports that can then be scrutinised by the Ministry of Finance and other government ministries, to ensure that concessions granted are, in fact, being followed through on, without the need and the initial sense of making site visits unless there are issues that warrant those visits?

[Pause]

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman.

Mr. Chairman, I wish to reassure Mr. Harris that my answer certainly wasn't meant to be a copout. It was an honest answer. Nevertheless, what he suggested sir, is certainly quite possible. It is simply the case that I and Mr. Nixon are not aware. We cannot say it is or is not happening. We are not aware of information being essentially returned electronically to the NWDA or now, WORC. It may be happening. If it is happening then, great, but in the Ministry of Finance, we are not getting feedback that it is happening. It may be happening and that is the best answer I can give sir.

The Chairman: Mr. Jefferson, maybe you could shed some light for us and the listening public. Can you take us through the process of granting concessions and whether the concessions are granted on a contractual agreement which has quantities based on the concession, or whether this is just some kind of laissez-faire agreement that is announced in public and Customs is then expected to take the developer's word, that this piece of pipe is for that concession and not for his cousin's house?

Can you take us through the process of how these concessions are granted, what are the normal conditions that are attached to these concessions, if there are any; and whether government has an overarching policy on how the concessions are granted or whether it is usually an individual negotiation with each developer or whoever is seeking concessions?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman.

Mr. Chairman, definitely, there is no final approved concession policy as of this morning. There is a draft one and I am sure we are going to get questioned a bit more on that later on. There is a draft concession policy which was presented to Caucus as recently as Monday of this week but it is not in final form.

Mr. Chairman, the most problematic concessions for the Government to monitor are typically those involving requests for waivers of import duty. In simple terms, the Cabinet is only enabled to grant a concession if it is in accordance with the law. So, typically, what was the Customs Law before, which has now become the Customs and Border Control Law, I believe, grants Cabinet legal ability to grant waivers, concession or abatements of import duty of any magnitude. The Cabinet has delegated $20,000 of that unlimited amount to the Minister of Finance, in his discretion, that he can waive. But obviously, a significant project is going to be far in excess of $20,000; therefore, the Minister of Finance cannot individually agree on it and cannot waive it.

Typically what happens, Mr. Chairman and members, is that a contractor or developer would write to the Ministry of Finance seeking a concession and detail what the development was all about—be it a luxury condo, development, small hotel—making the request for an import duty waiver. That is going to result in a Cabinet paper because it is always going to be more than $20,000. The Minister of Finance would take the paper to Cabinet and the paper would obviously set out what the request is and what the likely dollar impact will be on government's revenue if the concession were granted. The paper would detail what sensible conditions Cabinet should attach to the approval of that concession. That is then all documented in the form at the very end of a Cabinet extract that makes the decision whether to grant the waiver abatement or not, with any conditions attached to it. Typically, those conditions can be that it is for a certain monetary limit as to how much the value of the concession can be in its maximum form. Recently, it typically has an expiry date as to when the concession is valid until and also, the conditions, typically now, about the employment of Caymanians as far as possible.

Mr. Chairman, I think those are the main points. So, a developer or contractor would typically write to the Minister of Finance and the Minister of Finance would produce a Cabinet paper to Cabinet.

The Chairman: How is that decision communicated to Customs and what authority is presented to the requesting body to show to Customs that he is entitled to Customs duty? Are there sufficient details in that grant to allow Customs to monitor it and say, *Well, yeah, these 15 windows are okay, but these five are not the kind of windows you put in a hotel, these are all bathroom windows, so you can't have that?*

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman.

Mr. Chairman, I am going to give Mr. Michael Nixon an opportunity to assist the Committee with this. I can do so, but I want to give him an opportunity.

The Chairman: Sure.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Just very briefly: Mr. Nixon is in charge of the corporate unit within the Ministry of Finance that typically deals and processes these applications for concessions. So, I am going to ask Mr. Nixon if he can address what you just posed.

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development: Good morning and thank you, Mr. Chairman.

Mr. Chairman, further to what Mr. Jefferson just described; whenever a concession is granted, a letter is issued to the individual or entity that has been awarded the concession and we are very specific in those letters as to what items are to be included in the concession and highlight things that are specifically excluded. That letter is also provided to the Customs and Border Control Department.

If in the processing of the concessions as imports come through, there is any grey area, we have an excellent working relationship with the Customs Department and those issues are highlighted to us and clarified. Any clarification or instructions that need to be issued are issued from the Ministry to Customs and also to the entity.

The Chairman: Does that letter contain quantities of individual items or is it just a dollar value and it may say "building material, furniture, chattels" or does it relate to a mill-list for the building?

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development: It does not always include a specific bill of quantities because of the nature of most of the developments.

Where we can obtain a specific bill of quantities, we do. In recent circumstances, within the last year, in particular, we have put particular emphasis on having the contractor or developer obtain specific approval from the Ministry prior to the approval being granted to Customs to clear the particular goods. So, where they can produce the bill of quantities, obvious-

ly, that is the preferred approach, but that is not always possible on the developer's part until, unfortunately, the goods are being imported.

To your point, Mr. Chairman, and to use an example: Sometimes they may propose at the beginning that they are going to bring in, say 50 windows of a certain spec and then when it comes down to it, that number has either increased or decreased and so, accordingly, the concession needs to be amended to allow for that change.

Just to clarify, when I use that example which would be for the specific goods to be imported; what is not changed is the dollar amount of the concession. So, it is not that that concession would be increased in terms of, let's say it was up to $1 million of import duty waived, that amount would not be increased but it may be how it is applied to specific items that are to be imported under that concession.

Hon. Bernie A. Bush: Mr. Chairman, through you.

How does the process that you just described, tie in with the Hotels Aid Law?

[Pause]

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development: Mr. Chairman, I thank member Bush for that question.

I am advised that in the Ministry of Finance we have never worked with that particular Law in granting a concession. We never reference that Law in granting a concession.

The Chairman: We will accept that the Minister of Finance, under the new Customs and Border Control Legislation has bespoke provisions to grant concessions, right? But, when we have bespoke legislation such as the Hotels Aid Law, which specifically defines what can be granted to hotels, for instance, the Law says that any hotel being built along the Seven-Mile Beach corridor cannot be given any concessions at all and hotels being built in other parts of the Islands can get, I think, the duty rate that is fixed at 2 per cent.

Has the Ministry of Finance obtained legal opinion that the authority given to the Minister of Finance or even to Cabinet has the specific authority to override that bespoke legislation?

[Pause]

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman.

Mr. Chairman, I am not aware that the Minister of Finance has obtained that legal position. I am not aware as to whether or not he asked for it, and if he has asked, I don't know what the answer is.

Mr. Chairman and Committee members, it obviously presents a legal challenge because on the one hand, if you do have the Hotels Aid Law that specifies certain positions, in contrast then, you have the Customs and Border Control Law which gives the Cabinet general ability to waive any amounts in unlimited fashion. That somewhat presents a dilemma that can best be resolved by making a legal change to one or the other. That is the best way I can answer that question, sir.

The Chairman: I am not a lawyer and I wouldn't recommend you to take my legal advice, but I don't think it is possible for government policy—based on some general caveat in one law—to override the specific provisions that exist in bespoke legislation for that specific purpose. In the regulation for the Hotels Aids Law, the format by which one applies for concessions, specifically on hotels, is very deliberate and specific. "Hotel purposes" is defined in the Law to say:

a. "the provision of accommodation for guests for reward;
b. the provision of supplies, services, amenities and facilities for cultural and recreational pursuits, primarily for consumption by, or the enjoyment or use of, guests accommodated for reward at the hotel in relation to which the expression is used; or
c. any purpose directly ancillary to the purposes specified in paragraphs (a) and (b);"

You may not be able to answer this question but we still have a Hotel Licensing Board, right?

[No audible reply]

The Chairman: Okay. That licensing board is authorised by this Law, so the Law is still active and subject to the Committee, but I think one of our recommendation is likely to be that the Government needs to follow Hotels Aid Law or repeal the legislation. I mean, the Government is the Government and it can do whatever it pleases, so to speak, but I don't think we can continue to have this conflicting interpretation of bespoke legislation.

[Inaudible interjection]

The Chairman: This is the 1995 Revised Law.

The other thing that it does is that it requires a specific material list for the concessions and if the person imports this material and does not use them on the site, they have to get Customs permission to dispose of them.

We will recall the situation with the Ritz Carlton some time ago, where they got all these concessions—there's still a $6 million loss somewhere around the region—and they held auctions to sell very

expensive Brazilian wood that was imported for some of their stuff at almost sheriff's sale rates with no reference back to Customs. I am certain they didn't go back to pay the duty on it after they sold it. Our understanding is that because Customs does not have the kind of detail in the concession granted, they cannot enforce anything.

I don't know about other Members, but I have had specific reports, quite recently, where people have been granted concessions for one facility and they are in fact using the material to build houses and apartments and selling them. Because of the volume in this, this Committee, as Mr. Jefferson will be aware, has been trying to tighten up this position for at least eight years; certainly since 2009 that I have been here.

Mr. Austin.

Mr. Austin O. Harris, Jr.: Mr. Chairman, I just want to take us back to the jobs issue and the monitoring of concessions, in particular, the creation of jobs. Often times, we incentivise companies to establish businesses through certain subsidies, import duty waivers and, in some cases, work permit waivers as an easier time in acquiring personnel. The Financial Secretary stipulated that the Ministry of Finance does not presently monitor whether promised job creation is in fact being delivered. I think he went on to suggest that this may be a function of WORC or one of the employment departments. The WORC, Department of Labour and Pensions and other employment-related agencies of government are not privy to certain concession agreements made at the point of agreement. Therefore, I wonder if the Financial Secretary can guide this Committee as to what information could be provided to relevant government employment agencies, so that this monitoring can in fact take place, as it relates to concessions.

[Pause]

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman, and I thank member Harris for his question.

I was just conferring, in a short answer to his question, when a Cabinet decision is made to grant a concession, it takes the form of a Cabinet extract. To the best of my knowledge, Cabinet extracts are sent to all Ministers of government and all official members. So, the relevant chief officer in each of the ministries and portfolios would get a copy of the Cabinet extract that detailed the decision. If one of those conditions were that the concession is granted on the basis of X number of Caymanians being employed or as many Caymanians as possible being employed, the chief officers in every ministry, even if the subject matter is not theirs, would become knowledgeable as to that decision and the one in charge of WORC and employment related agencies would become aware of that decision.

Mr. Chairman, the further honest position is that as a matter of routine, the Ministry of Finance does not necessarily pass the approval letters directly to the WORC agencies. We don't tend to copy the letters coming from Finance to the requesting applicant, but nonetheless all ministries and portfolios in government get Cabinet extracts.

The Chairman: Mr. Saunders.

Mr. Christopher S. Saunders: Thank you, Mr. Chairman, and through you sir, to the honourable Financial Secretary.

Just understanding the process: You said that a letter is written to the Minister asking for the concession?

[Pause]

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development: Thank you, Mr Chairman. To Mr. Saunders question; yes.

Just a recap of the process: Typically when someone is requesting a concession, it does start with a letter to the Minister of Finance or it can sometimes go via another Minister. It will end up eventually with the Minister of Finance.

A concession, just by its very nature, is an iterative process and you will often have a series of discussions, meetings and letters to obtain information about the request. For example: Who is requesting it, who the entity is, who the beneficial owners are behind it, what are they proposing to the government, does it fit with the objectives and priorities of the government, the determination as to how feasible the project is, is it something that can be realised within fairly short order or is this a much more long-term, long-range type project. Those are the types of things that are taken into consideration and are articulated in a Cabinet paper that goes before the Cabinet for a decision.

Mr. Christopher S. Saunders: Thank you very much for that response, Mr. Nixon.

I will give a backdrop for the reason I am asking. Looking at page 32 of the Auditor General's report, item number 83, and expanding on what my colleague for Prospect raised, I will read it for the sake of the public: **"The Ministry of Finance does not carry out any formal assessments to ensure that companies or individuals approved for deferred duties payments have sound financial standing to pay the duties in the future."**

The reason I am asking is that I am looking at the NAU [Needs Assessment Unit] process, which is a very lengthy, detailed and invasive process of questions that people must answer just to get a few hundred dollars or even a food voucher. I am trying to put that in context with people receiving millions of dollars in concessions from the Government, in terms of the process they go through from a vetting perspective. In essence, they are asking for something from the Government or for the Government to give up something. I am trying to compare someone looking for a food voucher and the process that they go through, which I think is a six-page document for their own financial standing, with people who are looking for millions of dollars, who are basically given a much easier process. I am trying to weigh those two to better understand the process.

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development: Through you, Mr. Chairman.

In terms of the issue of assessment and analysis on persons or entities applying for concession, the new concessions policy has taken that into consideration and significantly stepped up the due diligence and scrutiny that would be applied for applicants for new concessions.

In terms of paragraph 83 which we interpret refers to deferrals of import duty, where persons are allowed timeframes to pay their customs duty, I can report that those circumstances are few and far between, in terms of persons who are actually granted deferrals and there is some scrutiny. Nevertheless, it is not a very extensive background check in terms of the ability to repay. The reason for that is, typically, persons who are granted deferrals, in most cases, are individuals, and it is for a very short period of time, less than 12 months, and for relatively small amounts of money.

Mr. Christopher S. Saunders: Thank you, through you, Mr. Chairman.

One issue that comes to mind immediately is the KABOO festival, where the Government agreed to certain concessions based on the fact that they would be doing the festival for at least five years and now we understand that the festival has been cancelled. So, the question is, they received a concession based on doing something for five years and now that is not going to happen. Is there some enforcement or some process where we go back and say, *Well, guys, we need to claw back at least 80 per cent of what we gave you because you only completed 20 per cent of what you said you would do?* I am just trying to understand how it fits in.

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development: Through you, Mr. Chairman.

Yes, the Ministry of Finance does monitor active concessions for the key deliverables and we would monitor things like that. For example, a developer who was supposed to have started construction by a certain date and obtained planning approval by a certain date, we are monitoring those more closely; and if they have not reached that particular milestone, then that is brought to the attention of the Minister and Cabinet and an amended concession. So, in some cases the concession may be cancelled and, in some cases, a concession may be altered, but certainly, we are monitoring and flagging those critical deliverables and critical dates.

The Chairman: I just want to ask a follow-up on this.

You keep referring to the new policy which I am really delighted to hear. I hope that we are not back here next year and it has gotten deferred again. A couple questions about that: Does the policy that you are proposing to put in place, provide for agreeing to these concessions prior to planning approval, particularly, when it relates to infrastructure fees, and duty on material to be used in construction?

[Pause]

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Sorry, Mr. Chairman, could you just repeat? You said prior to . . .

The Chairman: What I am asking is: Does the policy for granting concessions provide that concessions will not be granted prior to planning approval? Certainly, one of the simplest things for any developer to do is to seek planning approval.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, thank you, sir.

The draft policy is fairly extensive and as I said earlier, it was presented to Caucus on Monday.

I must say, in all fairness and honesty, that there was absolutely no resistance to the policy from the Ministers and Councillors that were there. There was no resistance. The comments received were that they were all for it, they certainly wanted established criteria to be put in place, and they were all for transparency, fairness and integrity. So, there is no resistance to the policy.

The one stare that we got when we did the discussion was that the policy itself must not be overly prescriptive as to what the Cabinet can and cannot do because it was the reserved powers, if you like, of the Cabinet, in the Constitution, to make policy. So, that

was the only stare that we got, which was that it cannot be overly prescriptive in specifying what the Cabinet can do.

The policy itself, Mr. Chairman, does speak to, for example: Does the Government wish to develop certain geographical areas more so than the others by reference to differing percentages of import duties that is offered, in say, East End, as opposed to Seven-Mile Beach. It speaks to those but those are obviously for Cabinet's consideration.

Getting to your question, Mr. Chairman, yes there is a section in the policy that speaks to the need to reference other agencies in its application forms. So, if you have a project that is dependent upon approval from another agency, there are quite extensive application forms to be completed with evidence provided by the applicant as to, *Yes I have planning approval or not*

The Chairman: What is the point of the policy if it is not going to be sufficiently prescriptive to be enforced? Certainly, that does not interfere with Cabinet's general condition because all Cabinet has to do is change the policy. However, if the policy is going to be so general that they still have the freedom to do as they wish, then it is not worth the paper it is written on.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman.

Mr. Chairman, what I would obviously say, is that the policy was put there before Caucus and ultimately, it will be approved by Cabinet with possible revisions. It was put there obviously, as guidance for them. The clear impression that we got was that the vast majority of times, once we have an agreed policy that is acceptable to the Cabinet, Ministers fully intended to abide by that policy; but the sentiment stated was that there will be occasions or compelling circumstances which cause the Cabinet to deviate from that policy. As such, it needed that flexibility in those small percentages of cases.

The Chairman: Auditor General.

Mrs. Sue Winspear, Auditor General, Office of the Auditor General: Thank you, Mr. Chairman.

Just a point of clarity and thank you for following up on the policy, which isn't in place yet.

In the recommendations that relate to the Ministry of Finance around concessions, I noticed most of the implementation dates that management gave were actually June. I heard Mr. Nixon say that the Ministry does monitor, whereas the Ministry wasn't monitoring. So for clarity, I just wanted to ask whether that means that the things they were intending to do in June are now done and so the responses being given are post-June? Just to be completely clear.

Thank you.

[Pause]

The Chairman: Then you can tell us which ones were done before June and which ones are still outstanding.

Mr. Christopher S. Saunders: Sorry, Mr. Chairman; just as a matter of clarity.

I realise from my last statement that we are getting into the policy, in terms of the Ministry of Finance and I couldn't help but wonder in recognising that the Constitution gives Cabinet the responsibility to develop policy, if some of the questions relating to the policy shouldn't be directed to the Minister of Finance as opposed to the Chief Officer. Technically, they are not equipped to answer policy and I think it is kind of unfair. I know they are being very polite and nice, but I think—

The Chairman: I think they are fully equipped to answer us on the policy that they are about to implement.

Mr. Christopher S. Saunders: I just want to put that out there to the public that, at the end of the day, the policy is still that of the Minister of Finance and the Cabinet and not the Chief Officer.

The Chairman: We accept that the Public Accounts Committee does not normally interfere with policy but based on the report, I think it is quite relevant for the public authorities to question whether a policy being implemented, that we have been asking for during eight years, achieves what the Public Accounts Committee and auditor generals have been recommending for years, before it is passed into Law.

Mr. Austin O. Harris, Jr.: Mr. Chairman, if I could just assist, because—

[Inaudible interjection]

Mr. Austin O. Harris, Jr.: Well, the question of policy and—

[Inaudible interjection]

The Chairman: My question was the timelines that the Ministry of Finance gave for implementation.

[Pause]

Mrs. Sue Winspear, Auditor General, Office of the Auditor General: For clarity, earlier, Mr. Jefferson said that they weren't at building sites monitoring employment, yet Mr. Nixon then said, "We now monitor the key provisions."

I was just trying to get clarity about whether one (Mr, Jefferson) was talking about the timeframe in which we did the audit, and Mr. Nixon talking subsequently, because I noticed the implementation dates were June. So, I am just after clarity around what has happened recently.

Thank you.

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development: Through you, Mr. Chairman.

The Ministry of Finance has internally changed its practices prior to the 30th June, 2019 to make sure that we would get ready for the adoption of the formal policy. So, while we are not making site visits, we are tracking any concessions that do have key deliverables in terms of dates; whether it is expiration of a concession or a developer or contractor has to meet a certain timeframe. Those are being flagged and tracked with the developer or whoever is awarded the concession, to find out whether or not they are complying with them.

In terms of the issue of employment and jobs that are being created, we have already touched on that. I will just take the Committee back to when those types of conditions were being applied to concessions. It was envisaged at that time, that the Department of Labour and Pensions and the NWDA would be the agencies that would be able to do that. H0owever, very early on, we met with them and discovered that they were having extreme difficulty in collecting this information.

Earlier in his contribution Councillor Harris spoke to e-mails that some developers were providing. That is true, sir and those e-mails, I know, have happened. What was then NWDA was having difficulty in being able to vet and follow-up to see if what people were reporting was in fact the situation on the ground. With all of the systems and development that is happening now at the new WORC Agency, it is hoped that on the labour front, at least, that that will become far easier and automated. Easier for the entity that is reporting it but also for the government agency to be able to vet it, to see what is actually going on from the labour front.

In terms of moving forward with public recording, et cetera, being able to track the actual value consumed against these concessions has been a work in progress. The Ministry of Finance knows in aggregate what has been approved. What we have difficulty with is what has actually been consumed against it. That, again, has been a work in progress and maybe when the Customs folks come in later today, they can speak to it.

They also have had a massive change to their IT systems over the last several years, the various iterations to improve the reliability of information that they have. For instance, someone may be approved for a concession of up to $100,000 for something, it is not until those goods are actually cleared and processed by Customs do we know whether the goods that are cleared are $50,000, $80,000, $100,000 or $200,00 worth of duty. It is not until that point that we know what that duty is. So, a concession is approved and granted in advance of the clearance of the goods. The Customs systems previously did not allow them to be able to properly track and report the amounts consumed. They have made amendments to their systems and should very shortly be able to produce the detailed reports which would allow us to be able to comply with the intended revenue concession policy.

The Chairman: You had a follow-up. Go ahead.

Mr. Austin O. Harris, Jr.: Just sticking with page 32 and the whole issue of policy, the Auditor General's Office, in recommendation 9, provides what seems to me, to be a clear blue print as to what that concession policy should look like and what the Ministry of Finance, vis-à-vis the government, should be seeking to develop. It states, specifically, **"The Ministry of Finance and Economic Development should develop a formal, comprehensive concession policy and procedures that sets out consistent roles, responsibilities and accountabilities and includes criteria for the assessment of concession requests."**

Now, if I were to break that sentence down into two words or less, it tells me that the Auditor General is recommending that the Ministry of Finance, when approving or setting the criteria for concessions, needs to incorporate some form of concession agreement in various contracts.

If the witnesses would agree, Mr. Chairman, the first question is: Can they stipulate whether a concession agreement is either being drafted, has been drafted or will form part of a policy going forward in accordance with recommendation number nine?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, member Harris and through you Mr. Chairman.

The Member is absolutely correct, in that, the policy does include, in the section entitled "decision criteria", the relevant considerations that should be taken into account when deciding whether or not to grant a requested waiver or concession. It speaks, for example, to relevance and some of the questions that are put for what will ultimately be Cabinet's consideration are: is the project or programme relevant to government's strategy? Does it fit within current government policy? Another section is entitled "transparency". Is the applicant of reputable character or does it warrant doing business in the Cayman Islands? Are

they treated fairly? Have all conflicts of interest been declared?

Feasibility is another factor to be taken into consideration and, under feasibility, there are questions posed such as: Is the project or programme feasible? It is not going to collapse before it reaches the end. Has the financing for the project been confirmed before, obviously, a decision is taken to grant any concession? What are the risks to the project not being completed? Then the final section as a criterion would be what impact granting a concession would have on government's revenue and policy, is it a significant loss of revenue or not? So, those are the criteria stated in the draft policy document that the Cabinet would be ultimately asked to consider.

Mr. Chairman, just in terms of practicality as well, the policy envisages that the Ministry of Finance essentially be the hub for all of the concessions coming in to government. So, the Ministry of Finance would get to deal with a request for planning fees being waived; anything even outside of the domain of the Ministry itself, but once it is a concession, the Ministry of Finance would be the hub and would control things.

The policy speaks to the need to present a complete checklist and the checklist obviously asks for different pieces of information, proof as to the good standing of a company, et cetera, if it is a company involved. Then, those completed applications and details are then essentially vetted and considered by the Ministry of Finance and it can use the help of other agencies if the project is particularly complicated. So, we could draw on persons from Planning or persons from the Environment, if it were an environmental issue that we consider might arise. Those are some of the thinking within the policy itself.

Finally, to answer member Harris' question, yes. The policy does speak to large concessions and it defines what a large concession is. It goes on to say that in the event that a large concession is requested, a concession agreement would have to be signed with the applicant and the Government, if the decision is to award the concession. So, there would be an agreement in place that speaks to, for example, satisfaction of certain conditions to make that grant.

I hope that is helpful to the Committee.

Mr. Austin O. Harris, Jr.: Just to follow-up, Mr. Chairman. First of all, I am delighted to see that the recommendations outlined in recommendation number nine by the Auditor General are in fact being followed as it related to concessions on the establishment of a concession plan and concession agreement.

Earlier, we talked about being able to monitor these concessions and some of the shortfalls were lack of communication of respective concessions being made and what departments are responsible for following up and tracking that. Those departments that have been identified, for example, speaking specifically to employment concessions, we have heard from the employment agencies that they lack the resources in which to do that follow-up. I wonder if the concession agreement also contains the criteria for a concession management plan. Whereby, we put the responsibility of delivering these stated concessions between two parties; the Government and the entity, on the entity to manage these concessions. Is that a consideration, because I see a "manage concessions", management plan" as one of the pillars of an effective concession agreement. I wonder if the witnesses would agree.

[Pause]

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development: Through you, Mr. Chairman.

Yes, a concession management plan, from the perspective of enforcing any sort of concessions agreement and to ensure that both parties are essentially meeting their obligations under a concessions agreement is definitely envisaged and captured in the policy.

The Chairman: What penalties are going to be in those concession agreements?

Right now, if I don't declare something at the airport and it is discovered that it was dutiable, what's it, three or five times the duty? Are similar penalties being put when these people depart from what they say they are going to do? What penalties are included in this policy?

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development: Thank you, Mr. Chairman.

Currently, the penalties are not specified in the policy but it is envisaged that they would be very similar to what exist now, as well as they may involve other things, depending on the specific agreement. In some cases, the agreements may involve us placing liens against property but the intention is to have very clear sanctions for non-compliance specified in the agreements.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, just to assist the Committee a bit further on that particular aspect.

It does speak to the consequences of a breach and whilst they are not explicitly stated, it speaks to general areas such as termination of the concession is possible. I think one of the members asked earlier: it speaks to payment of funds that were previously waived is a possible penalty under this

agreement and, of course, any legal action that the Government may have to take to recover and protect its government revenues.

So, the policy does actually have general areas that would be drafted in more explicit details when it comes to a particular concession that was granted; it would be drafted specifically to detail the penalties and consequences of breaching the agreement.

The Chairman: Any there other question on the concessions?

Mr. Christopher S. Saunders: No, not on concessions.

The Chairman: Okay.

I want to talk about revenue as well.

Mr. Christopher S. Saunders: Thank you, Mr. Chairman and through you.

Just looking at the Auditor General's report, in particular, starting in the area on page 21 speaking about the TRIPS [Total Revenue Integrated Processing System], in terms of the project concerning the TRIPS where roughly $970,000, close to $1 million was written off; we are trying to understand:

1. How did that happen?
2. What lessons have we learnt from that and going forward, what are we going to do to make sure something like that doesn't happen again?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, member Saunders, and Mr. Chairman.

For the Committee's benefit, TRIPS stands for Total Revenue Integrated Processing System. Just a little bit of history very quickly. About 2014, the Government made a decision that it wanted to implement new Customs Tariff codes; eight digit codes. The selling point for doing those was that government would get much more detailed information as to the type of imports coming into the Islands. So, by way of a very simple example, it might be that if previously the Customs Tariff Law used a general tariff that covered "bread and flour"—I don't know if it does, but just by way of illustration—what the eight digit code would give the Government would be much more detailed information. So, instead of saying "bread and flour", as a general category, it might then say that code number 12345678 actually refers to "wheat bread" and so forth.

It was sold to the Government at the time by civil servants. If you want better decision-making abilities, you need a greater level of code and a greater level of code requires a different system to what you have now. To be brutally frank, the amount of procurement, analysis and shopping around was limited. It was decided that at the time, the best system to obtain was a system from Crown Agents in the UK. That turned out to be not great at all. There should have been red flags from the very beginning because the implementation of that system in the Cayman Islands was the very first use of that particular piece of software. So, we were the first ones.

To be fair to them, I think Computer Services were asked if they could develop something in-house and they either said that they didn't have the time to do it within the timeframe that the Government wanted to introduce the Law or they didn't have the technical capabilities. So, Computer Services were asked, but they couldn't manage it. So, we went our merry way and acquired the system from the UK and the very first time it was in operation, it gave lots of problems. Apparently, it shut down quite frequently and if you are an importer and you are standing in line and it shuts down on you, three hours later Customs officers were having to put back the information that you spent three hours ago trying to give them. So, it was very problematic for Customs and members of the general public.

It was also said to be not secure. It was not a very secure system at all and there was fear that hacking was certainly real even within or outside the Cayman Islands, and I don't think importers were very comfortable with their imports being known to others or their competitors. So, that was a major concern as well. It was fraught with a lot of difficulties.

Mr. Chairman, in terms of lessons learned, I think it is clear that it should be a red flag if a country is acquiring a product for the very first time and no one else had it in operation. That should certainly be a lesson learnt and to avoid that.

This is perhaps into tomorrow's area but we now have the procurement regime, the Procurement Law, the procurement regulations which call for business cases where the value of the items that an agency in government is acquiring is $100,000 or more, you have to do a business case and that is specified in the Law. That business case requires the relevant agency to specify, in particular, the risks to the project.

In terms of the amount written off, we obviously recognise that it was substantial; $970,000 I think was written off from the books of the Ministry of Finance in 2018. I think that was the sensible thing to have done. The accounting standard rules would require that if you have any asset that is useless and its value is negligible, you wouldn't continue carrying it on your books with a value of $970,000; you should write it off if it is no use to you. So, we actually did that and it was noted in the Auditor General's report as being a substantial write-off.

There should be lots of lessons learnt, Mr. Chairman, from what I have described.

We are certainly hopeful that the new procurement regime would frustrate that from happening again in the future. We now have the requirement, as I said, where these business cases are required and there are at least two levels of scrutiny:

1. If it is $100,000 or more, you have what is referred to as an Entity Procurement Committee which looks at acquisitions by government procurement by the public sector.
2. If it rises to $250,000 and over, there is a Public Procurement Committee, which is separate to the Entity Procurement.

The Public Procurement Committee does, in practice, look to see if there is approval for business cases by the lower entity procurement committee. So, there should be a lot more scrutiny of acquisitions of this nature, currently, and much more bodies involved, and that in itself should frustrate the possibility of what occurred in Customs many years ago.

Mr. Christopher S. Saunders: Mr. Chairman, through you, and I thank Mr. Jefferson for that answer.

I am just trying to understand the process going forward. When you say "public", will that include the statutory authorities? The reason I am asking this question is that, when I consider what happened with the CarePay System, where again, we are guinea pigs, in terms of that whole process, which would have included CINICO, which would fall under the Ministry of Finance. Then, you also look at the HSA with the Cerner Billing System; not in terms of the Cerner System but the Billing Module, which again, the HSA was a guinea pig for. Considering those issues that we have had in the past, coupled with this in terms of becoming guinea pigs, which has now, in essence, cost the country millions of dollars.

The question is: In terms of oversight or the governance, granted that one issue is central government and one is in a statutory authority, is there an overarching body that looks across the entire public sector to make sure that the lessons we are learning that happens also in the SAGC is factored into central government also? At the end of the day, where the public is concerned, this is still government, even though on the books, we know they are kind of separate.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, member Saunders.

Mr. Chairman, through you: The member is absolutely correct in that the Procurement Law and Regulations apply not only to central government but to the entire public sector. So, the statutory authorities and government companies fall under the regime of the Public Procurement Law and the Procurement Regulations. Those came into effect, I think the 1st May 2018. The Law itself had been passed almost two years earlier. So, there is quite a lot of lead time there but the Law is now in effect and applies to all public entities, government and statutory authorities included.

The Public Procurement Committee that we spoke about, Mr. Chairman, which consist of about eight members: You as the former Leader of the Opposition were entitled to appoint one person to the Committee, the Deputy Governor possibly three, and the Premier has the ability to appoint four members, all outside of government. So, we should get that external scrutiny and hopefully that will frustrate, avoid and minimise the chances of what the member has spoken about happening again.

The Chairman: Can we get back a little bit to the revenue projections, since we are in the process of preparing the 2021 budget. What is being done to make the revenue projections from Customs more accurate?

Here is my concern: When we under budget,—and we can go back to the 70s—Customs was always given accolades every year because they exceeded their budgeted allotment. Therefore, there was no scrutiny and no concern of whether they were collecting all the revenue they should collect or not. However, when you get these kinds of high percentage variances, one has to question whether the budget preparation is adequate and whether it is given fair consideration to factors that will impact the budget; that is, what has been approved at Planning; what is the population growth; has a new supermarket been opened, et cetera. For, when you deprive me of getting a couple of thousand dollars for a senior citizen programme in North Side because Customs under budgeted by, in this case, was $22 million, we are depriving our citizens of services that they need because we are allowing a department to under budget in order to get the accolades because they went over the budget.

Are there any changes being made in the way Customs revenue budget is being prepared for 2021, given the history of consistently under budgeting the performance? Also, is it prepared by you or by the Customs Department?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman. I understand your position and what led to the question.

What I have seen this year, in terms of the preparation of the revenue estimates for Customs import duty lines that go into the budget, it has been collaboration between Customs itself. They now have more control over the estimation and I think that simply reflects the fact that the Customs Department has moved from under the ambit of the Ministry of Finance

to a different Ministry. However, I have seen in March or April this year, e-mail correspondence between finance officials in the Customs Department and the Economics and Statistics Office [ESO] officials where their input is sought on the revenue estimates that has been proposed. I have seen where those emails have gone back and forth and comments made, for example, by the ESO that the price of gasoline and diesel products have changed significantly in recent times but the import duty is based on volumes and there is back and forth.

Also, Mr. Chairman, there has been reference to the Ministry of Finance, the Revenue Unit within the Ministry of Finance, which honestly, is only one person. So, he has gotten involved in the revenue estimation process as well. So, the revenue estimate numbers for 2020 and 2021 is collaboration between Customs, the ESO and the Revenue Unit.

I honestly cannot say, Mr. Chairman, whether that's going to result in a much tighter number than before, but I see that the effort is definitely being made to improve the revenue forecasting in Customs. Mr. Chairman and Committee members, I have no evidence that there is anything deliberate being done to understate the revenue estimates and then when the actual revenues come in, they are in excess of that and therefore congratulations are called for. I don't have any evidence of that at all.

I think every effort has been made to improve the revenue estimation process and I have seen e-mail correspondence to that effect, back and forth.

I take the Auditor General's comments in her report that there was no evidence of past collaboration and they couldn't get evidence of that. Mr. Chairman, that is most unfortunate because I am absolutely convinced that the collaboration has always taken place. It is really unfortunate if it wasn't recorded but I know the collaboration has taken place even if it is by phone but I do concede that it is very difficult to believe that it shouldn't have been evidenced in some documented form. That is unusual.

Mr. Christopher S. Saunders: Mr. Chairman, through you sir. Just to expand on the issue you raised a while ago.

I am looking at page 139 on the Compendium of Statistics that is prepared by the Economic and Statistics Office. Considering the budget for the 2018 that Mr. Jefferson spoke about earlier, I just want to read the import duties highlighted as per the report.

Taxes on International Trade, 2009-2018

(CI $Million)

Years	2012	2013	2014	2015	2016	2017
Import duties	153.0	158.2	162.6	156.0	158.4	161.9

Looking at the last three years, 2015, 2016 and 2017 of $156 million, $158.4 million and $161.9 million and then, considering government's own projection in growth in the local economy; I am beginning to wonder why is it that the budget number that was used for 2018 of $156 million is pretty much the same result as what we got in 2015, considering that both 2016 and 2017 were higher. So, going back even three years, we would have seen that the average would have been higher than what we budgeted last year and then you factor in the growth and population. We are trying to at least get some idea of how can the two previous years be higher in actual when we are expecting growth but we still went back and budgeted less for 2018 of $156 million, which is the actual for 2015.

[Pause]

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman. I noted most of the numbers but I did not get them all but I certainly understand what member Saunders is getting at.

Mr. Chairman, the best response I could make would be to give an undertaking to the Committee to attempt to explain why in later years, the revenue projects were much the same as even actuals in previous years. I cannot do that here and now but I would undertake to get an answer and give it to the Committee.

On the face of it, it does look a bit curious.

Mr. Christopher S. Saunders: Thank you, Mr. Chairman.

I have two final questions because I recognise that we are well over time.

In terms of the duties actually paid by the major merchants and so forth, is that duty paid immediately as the goods come in, do we normally extend credit to some of the supermarkets, or do they pay up front?

[Pause]

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, I don't know the precise answer to that. I will start by saying that the general principle should be that as items are imported into the Islands the duties become payable immediately. That is the general principle.

I do know that, for example, some of the large supermarkets, for perishables in particular, they do have deposits with Customs and as the imports come in, the value of those deposits are drawn down and importers do have to keep topping it back up as they are drawn down. Apart from that and apart from any concessions granted that we were talking about earli-

er, there should not be significant delays in the collection of revenue, it should be on the spot but perhaps the collector could answer that.

The Chairman: Based on revenue: Who is responsible for reviewing the rates of duty? Is that something that the Minister of Finance does or is that left for Customs to review the rates and make recommendations to the Ministry of what could be increased or what should be decreased?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, in the Ministry of Finance, we have not undertaken that exercise for quite some time. We have not done that at all. I think over the years Customs officials have recommended certain changes.

Also, Mr. Chairman, pressure input from members of the public, as to changes to the import duty rates. Obviously, Honourable Ministers of Government as well, have made changes to import duty rates; in particular, during much more difficult economic times in the Cayman Islands, have lowered and sometimes made many items duty-free. So, the sources for change of the import duty rates come from various quarters: the public, the Ministers themselves and Customs officials. I don't remember, to be honest with you, Mr. Chairman, the Ministry of Finance initiating a review of import duty rates.

The Chairman: As I recall, there were only two items import in this country that are not imported on cost, insurance and freight and those are alcohol and fuel.

Has the Ministry of Finance ever performed an exercise to see how much duty is being lost? Take liquor, for instance: If I a buy a $4 bottle of rum in Cuba and I am over the limit, it is $11 per litre, but if I buy a $500 bottle of rum, it is still only $11. It has always been curious to me, personally, what lobby exist in the country that is able to promote those two items, in particular, to be treated differently from every other thing that is imported into the country. What is being done is that the poor people are subsidising the rich people because the $3,000 bottle of wine is $11 and the QQ of rum that the poor people are drinking is also $11. So, I am wondering if that is not an exercise that the Government should undertake.

When it gets to fuel and we interrogated OfReg [The Utility Regulation and Competition Office], they told us that they cannot control the prices because they don't know what the cost is because the Government only knows what volume was imported and they have no way of knowing whether it is being triple priced, double priced or whatever. So, it may be something that the Finance Ministry may want to take on and take a shipment of alcohol and apply a percentage duty to it, cost, insurance and freight, versus volume and see if there is a difference in whether who is winning and who is losing.

Any other questions?

Mr. Christopher S. Saunders: Yeah. Just one last area I want to touch on, Mr. Chairman and this relates to the issue of governance.

Looking at page six of the Auditor General's report and reading roughly, in the last sentence from point five, where it says: **"The Customs Department operated in three sections: Administration, Revenue Collection, and Border Protection, each headed up by a Deputy Collector. The Finance Unit was headed up by the Finance Manager and reported directly to the Collector of Customs. The three sections covered the following:**

- **Administration . . .**
- **Revenue collection . . .**
- **Border Protection . . ."**

What I am trying to understand from a governance standpoint is why the finance function is not a part of the administrative function, which would be like HR or IT? Why is that treated differently? I am just trying to understand why that one is an outlier from the other administrative sections.

[Pause]

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, thank you, sir.

I don't know the answer to member Saunders' question. Again, perhaps with the Collector being next, that could be an area that could be addressed to him, without meaning to pass the buck. I don't know for the moment, the real answer to what member Saunders asked.

Mr. Christopher S. Saunders: What I am trying to understand is the governance model.

If you look within the Public Service Management Law, the overall responsibility is within the Chief Officers. What we are trying to understand, and one of the things that we are trying to enhance across the civil service, is a culture of accountability, whereas, the ministries and everyone are watching departments to make sure that they are doing what they are supposed to be doing; that kind of thing.

Ultimately, yes we do know the Collector of Customs will, but from a ministry standpoint, in terms of what the ministry does regarding monitoring the different departments under the remit, do they have regular departmental meetings? Do they get into the HR [Human Resource] issues? I'm just trying to understand the overall governance in terms of who is checking who and who is making sure that everyone is doing what they are supposed to be doing.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman.

Mr. Chairman, before the Customs Department left the Ministry of Finance, there was a senior assistant financial secretary who had the responsibility for Customs within the Ministry of Finance. So, certainly of course, there was quite good oversight knowledge of what was happening in Customs from her knowledge and keeping contact with officials in Customs.

I think just as good as that or better, we have biweekly meetings held by the Minister of Finance, and they are currently still going on, subject to having to push the dates back because of budget preparations and so forth. But, there have been consistently, biweekly meetings between the Minister of Finance and Heads of Department under Finance. So, the ESO director attends those meetings, the Collector of Customs attended those meetings, the Accountant General attended those meetings and other officials within the Ministry of Finance. Written reports were prepared, submitted and considered at those meetings. In particular, I recall from Customs, there were discussions around how the revenues were performing. There was a section on HR and Personnel and what changes were taking place and there were section within his report that dealt with security issues, arrests and so forth.

It got to the point where we were almost expecting every two weeks to read about a person leaving the Cayman Islands being apprehended with a firearm. So, there were fairly good feedback from the Collector of Customs to the Minister of Finance every two weeks and it covered those areas that I talked about, certainly, the revenue estimates were there, as well as HR.

The Chairman: I think what Mr. Saunders is asking is more from the governance model: Who is responsible? For instance, who is responsible to make sure that Customs meet their revenue projections? Is that someone in Finance? Who is held accountable, if per chance they don't collect the amount that they were supposed to collect?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thanks.

Mr. Chairman, not in Finance now, but it was. The ultimate person responsible is the Chief Officer for whichever Ministry Customs happens to fall under. Currently, it is within the Ministry of Employment and Border Control. So, the Chief Officer for that Ministry would ultimately be responsible.

Mr. Christopher S. Saunders: Mr. Chairman, I just want to thank Mr. Jefferson for that answer and it confirms my high confidence in the Finance function.

I must say that from being here a little over two years, I have found the Ministry of Finance to be one of the better run ministries. They are normally the first with their reports and one that actually has some of the least adjustments that we have seen, even from the Auditor General's report. So, from that standpoint, I just want to thank Mr. Jefferson and his team for the job that they have done. I think we have a very good Finance team, I must say that.

I know we went over a lot of things but I think that you guys answered the question as bluntly and frankly as we could want and that is all that we can ask for.

I want to ask one last question, Mr. Chairman, which is my standard question. Is there anything that you gentlemen believe that we, as legislators, can do or need to do in terms of changing any laws or anything that would enhance the process, make Customs better or just anything overall? If you don't have an answer now, that's fine. It is something you can always get back to us with, but we kind of always put it out there because we are always trying to look at ways in which we can improve what we do.

Thank you very much.

Mr. Austin O. Harris, Jr.: Mr. Chairman, I do have one question relevant to the Auditor General's report that is contained on page 34 and is found in paragraph 89 that we haven't touched on.

The Auditor General's Report identified this section as **"the extent of tax gap"** being unclear in the Cayman Islands. Now, we hear the word "tax" and "gap", and automatically the listener's attention says, *We are a tax free jurisdiction, that doesn't apply to us. How do even bother to calculate this type of conversation?* The point that the Auditor General is making, I think, is a sound point because it speaks to the real value of goods and services that represents revenue to the country, versus the concessions that we agree on time and time again, which is virtually giving up revenue for the country, representing lost revenue.

Some points of discussion highlighted by the Auditor General were very topical conversations. We look at the Government's agreement with Dart 2010, $1 billion worth of infrastructure investment, but also, what the Government gave up in land and otherwise. It gave the example of Health City and the numerous inducements, including $800 million in Customs duty concessions.

The Auditor General went on to stipulate: **"The tax gap refers to the difference between the total amounts of taxes owed to the government compared to the actual amounts received."** Again, if we substitute the word "taxes" for "revenue"; it goes on to state that, **"Neither Customs nor the MFED**

[Ministry of Finance and Economic Development] calculates the extent of the tax gap, so they do not know how much revenue is potentially lost to the government."

Now, I am no accountant, but there are standard methodologies that are used by accountants to determine loss of revenue and they are: The before and after method, the benchmark or yardstick method, and there are revenue trend analysis methods that are standard in accounting and standard in general business principle. When the Government or the Ministry is seeking to apply—as we spoke about earlier—a concession agreement, which may very well include a concession management plan, is it possible to utilise these standard accounting principles to determine lost revenue so that we can manage or at least be able to stipulate how much money the country is giving up as a result of concessions versus the amount of money that it could otherwise grant in import duties?

Again, I think we sometimes get bogged down on the word "tax" and think that's a lacuna and something that is outside our remit as a tax free jurisdiction.

My question is: Cannot the simple practices of lost revenue calculation or otherwise, be used in this scenario stipulated by the Auditor General, so that the people can understand how much revenue the country is truly giving up when we agree on concessions for companies or business interests?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman, and I thank member Harris for his observations. I think he posed a situation in the Auditor General's report quite well.

Mr. Chairman, members will see in paragraph 90 of the Auditor General's report how the tax gap is defined, as including the following import duties wrongly applied. I think what that means is that if you have a situation where import duty that should have been charged at 22 per cent was actually charged at 14 per cent, that is actually a loss of revenue. Non-declaration of goods imported, you simply cheat; an importer cheats and doesn't declare the full value of items imported is a loss of revenue to government as well.

I think the lion's share of the tax gap would have to come from the last bullet point that is mentioned. The concession or waivers on duty would be the vast majority of any figure that is calculated.

Just very quickly sir, I think we need to decide whether we want the tax gap purely for knowledge and you are not going to do anything else with it; you just want to know you are giving away X million dollars in the course of a year, or you want to know it because you want to take action to replace it with another source of revenue of equal or lesser amount. So, it obviously can be both, but what is the principle driving that tax gap: knowledge or taking action?

The calculation of the tax gap is made very difficult for the Government at the moment; simply because we do not have a good handle on the value of concessions that are essentially drawn down. So, we should be able to compile, fairly easily, a list or register of the concessions granted, of the dollar figures applied against each of those. But, the further step is to say, *Well, in 2019, were all of those amounts drawn down or only 50 per cent?* I think at the moment, that is the difficulty that we are having in government, being able to come up with a number as to the value of the concession that have actually been utilised in the course of a year. I know that there have been discussions with the Ministry of Finance and Customs on improving their computer systems to enable that to take place, but that is not the reality right now. There are deficiencies there.

So, Mr. Chairman, the first step in this whole tax gap exercise would certainly be the finalisation of the concessions policy to determine or to help guide as to what should or should not be subject of a concession. Step two should be making sure that the information gathering systems that we have in place in government, in particular, Customs, are able to capture what amount of concession are being drawn down each year. Then, I think, the calculation should be straightforward thereafter. The Government would then decide: Do we simply do this calculation for the purpose of our knowledge and the public's knowledge, or are we going to attempt to recover some or all of the gap by application of revenue measures in another area?

I think that is the summary I would give, Mr. Chairman.

Mr. Austin O. Harris, Jr.: Thank you, Mr. Chairman, and I thank the witnesses for their attendance and their willingness to answer the questions as put to them. As always, it is a pleasure to have that kind of witness. We thank you for your time taken away from your very busy schedule.

I have no more questions, Mr. Chairman.

The Chairman: Okay.

Mr. Jefferson and Mr. Nixon just let me thank you for your indulgence in answering the questions and enlightening us in many areas. We look forward to that policy being implemented and carrying sufficient details that we can monitor it.

Thank you all for your time.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman, and other Committee members.

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development: Thank you.

[Pause]

CAYMAN ISLANDS CUSTOMS AND BORDER CONTROL

ADMINISTRATION OF OATHS OR AFFIRMATIONS

Mr. Charles Clifford, Director, Customs and Border Control: I, Charles Clifford, swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly, shall be the truth, the whole truth, and nothing but the truth.

Ms. Camille Beckford-Johnson, Finance Manager, Customs and Border Control: I, Camille Beckford-Johnson, do solemnly, sincerely and truthfully declare and affirm that the evidence I shall give to this honourable Legislative Assembly, shall be the truth, the whole truth, and nothing but the truth.

Mr. Jeffery Kevin Walton, Deputy Director, Customs and Border Control: I, Jeffery Kevin Walton, swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly, shall be the truth, the whole truth, and nothing but the truth.

[Pause]

The Chairman: Thank you, Mr. Charles Clifford, the Director of the Cayman Islands Customs and Border Control. We thank you for accepting our invitation and we look forward to an informative session.

We apologise for the delay and for keeping you outside for close to an hour, but that was because the Ministry of Finance was being so forthcoming and generous in their answers. In fact, they might have shortened your time by some of the answers they have given.

The rule is that when you are asked the first question, you identify yourself by name and title that is just for the records in the Hansard. So, welcome and Mr. Saunders will start off.

Mr. Christopher S. Saunders: Thank you very much Mr. Chairman.

Mr. Austin O. Harris, Jr.: Mr. Chairman, sorry. I hate to interrupt my colleague but it is a matter of housekeeping.

Mr. Chairman and Committee members, it is my duty to disclose conflict of interest by virtue of my being Councillor for Border Control. As such, I wish to recuse myself from this part of the Q and A, but I will humbly request that I be allowed to remain in the Chamber to listen to the questions being asked.

The Chairman: Granted.

Mr. Saunders.

Mr. Christopher S. Saunders: Thank you, Mr. Chairman, and through you, Mr. Chairman.

Going straight into the report on page 15, looking at items 37, 38 and 39. I will just read it for the witnesses' benefit.

37. **"Customs does not collect information to measure performance against the outputs specified in the *Annual Plans and Estimates*. There is therefore no mechanism in place to report performance against the measures set. Neither does Customs have comprehensive performance information or performance management system in place to support effective decision making and help manage the business.**
38. **"We were told that Customs had started to develop a performance management system in 2016 but this was never implemented because it was hard to allocate time and cost against particular objectives, which made the development of performance measure difficult. The system was also limited because the proposed measures were for border protection only and did not include revenue collection, trade facilitation or corporate functions.**
39. **"Customs does measure its performance in relation to the collection of revenue, and it reports this information monthly to MFED. However, this performance information is limited to outputs – the value of revenue collected by type of duty, fee or fine. It does not include any efficiency or effectiveness measures such as the cost per dollar of revenue collected."**

What we would like to know, Mr. Chairman, through you to the witness, is: What plans are in place to develop or implement the performance measures that covers inputs, outputs and outcomes?

[Pause]

Mr. Charles Clifford, Director, Customs and Border Control: Thank you very much, Mr. Chairman. I am Charles Clifford, Director of Customs and Border Control.

As the report indicates, we have in draft form, a performance measurement system, but we need to do substantially more work on that at this point. We understand and value performance indicators and developing metrics to measure performance. Mr. Chair-

man, it is a work in progress. We have recently merged the original Customs Department with the Border Control components of the Immigration Department. That has impacted a number of things because our scope is expanded as a result of that but it is a project that we are going to be actively working on and bringing greater focus to.

In addition to that, the performance indicators that are listed as an example in the Annual Plan and Estimate, we have continued to improve upon those and we will see those improvements reflected in the 2020 and 2021 budgets. However, there are some elements of our work and performance, that it is difficult to develop performance indicators for. As an example, "investigations": When you look at things like the timeliness of an investigation, it depends on the nature of an investigation. I would say that an average investigation can probably be wrapped up within a 30-60 day period, whereas, you could have an investigation that involves international connections that could span several years. So, those are just some of the challenges we have, in terms of trying to make sure that we have a meaningful performance measurement plan, and policy in place.

Thank you, Mr. Chairman.

Mr. Christopher S. Saunders: Thank you, Mr. Chairman, and I thank the Director also for that response; it is greatly appreciated.

I just want to get a quick update and this is relating to page 12 on points 28 and 29 of the Auditor General's report, with regards to strategic planning.

We know that something was being worked on before, but that was put on hold because of the creation of the CBC [Customs and Border Control]. Has there been any update, in terms of where we are in developing the strategic plan for the CBC?
[Pause]

Mr. Charles Clifford, Director, Customs and Border Control: Thank you, Mr. Chairman.

Yes, we have made progress on that. Let me just back up from that to say that, when I was appointed as Collector of Customs, back in August 2015—for the want of a better description—there were a number of fires burning at the time and, my objectives and the things that I know I needed to focus on had to be prioritised. So, I had a list of priorities and then I had to create priorities within priorities to address those. Fortunately, I also found a group of officers, including Administrative Officers who were extremely hard-working, ready to serve, ready to continue to serve, and ready to commit themselves to change.

So, there were obvious things, Mr. Chairman, such as the need to create three clearly defined portfolios and then to rationalise the various sections within the department under those three portfolios. So, those were quick wins; low-hanging fruit. I didn't need a strategic plan to tell me that I needed to do that and it was more important for me to achieve these things as early as possible, rather than spending the first six months looking at a strategic plan. So, in order to provide some context, I just wanted to say that.

As we progressed with implementing various changes within the department, we also had two of our long serving deputies retire and they were replaced by two Assistant Collectors. So, that sort of set the stage then for the beginning of the transformation of Border Control in the Cayman Islands. At that point, we began to speak about, *Okay, now is the time and we have achieved certain basic objectives. Let us move forward now with a proper strategic plan to chart the course forward.* That unfortunately, or fortunately, was over-taken by the policy announcement, in relation to the merge in late 2017. So, I took the decision at that point, that we would put our plans on pause to develop a strategic plan for the Customs Department because there was no point in doing so when we would have to renew the plan within a matter of months, once the merge had taken place.

I know this is a long answer, but what we also looked at was whether we should put in place, a strategic plan to manage the merger, but we had such a compressed timeframe to achieve the merger, so that didn't seem feasible either. So, we knew that we had four basic objectives to achieve in order to have the two agencies merged in time for the beginning of this year, 2019. Those four objectives were:

- A new name
- New uniform; obvious things like that. We consulted staff extensively on that. They decided what they wanted for a uniform and they made recommendations in relation to the name.
- We also knew that we needed to have the legislation in place. So, we needed to look at repealing the existing Customs Law, repealing elements of the existing Immigration Law and then merging those and making what improvements we could in the interim, to create a Customs and Border Control Law.
- We also knew that we needed to reconcile salaries and job descriptions for the former Customs and for Immigration Officers because there were differences in salaries and we couldn't have a merged Agency, essentially with people of equal rank earning different salaries.

At the top level, those were things that we knew we needed to achieve. When we talked about reconciliation of salaries and job descriptions, that was quite an undertaking because we had to rewrite all job descriptions for the new agency, have them valued by the Portfolio of the Civil Service (POCS),

salaries assigned, et cetera. So, that was a substantial undertaking.

We knew that we needed to get these basic things in order to merge the two agencies and we decided that we would do that; focus on those things, rather than trying to build a strategic plan within that compressed timeframe. Then, after the merger, once we had a clearly defined department with clear objectives, mission statements, et cetera, we would then build out a meaningful strategic plan.

I think we are now seven and a half months in to the merger and we are currently looking at building out that plan.

What I have done so far, is to consult with the Strategic Reforms Implementation Unit within government to see whether they could assist us with preparing a strategic plan. I didn't want to take any of my senior staff away from their duties to spend a substantial amount of time focusing on a strategic plan. We know what our objectives are and what they need to be over the next several years but we need some assistance in putting that plan together. I didn't want to go to one of the big companies and pay them half a million dollars to create a strategic plan. We felt that within central government, we had the resources to do that.

The Strategic Reforms Implementation Unit (SRIU) advised me that they didn't have the resources within their Unit, but they referred me to the Management Support Unit (MSU) within the Portfolio of the Civil Service and they have indicated that they can assist. In fact, there is a meeting with them next week to begin to progress this matter.

So, that is essentially where we are at this point, Mr. Chairman. The strategic plan that we are looking at is a five-year strategic plan. We think that while we have achieved the basic elements of a merger, in terms of, we are all operating under one brand, in one uniform at this point, the functional merger and the operational merger is quite a different matter. That is a multi-year project because it involves a lot of training and cross training, et cetera. So, we are sort of looking at it in five-year increments and we will plan the way forward for the next five years.

I will end my answer on this note: We consulted quite extensively with our colleagues in the United States, the United Kingdom and in Canada, on the merger. While those are much larger countries, they have undertaken similar merges and the issues that we expect to encounter locally, have very little difference to what they encounter in those bigger countries. It is just a difference of scale, in Cayman. I say all of that to say that in the US, as an example, they are in year 13, I think, of their merger and they are not quite finished yet. I think the UK is in year nine or year 10. We don't expect that it will take us that long, but of course, it is subject to available funding as well.

I hope that answered the question.

Thank you, Mr. Chairman.

Mr. Christopher S. Saunders: Mr. Chairman, through and I want to thank the Director for that response.

I must say that most of the other questions that I do have were answered by the previous witnesses, Mr. Jefferson and Mr. Nixon. The other questions that I have, I will not get into those questions for the public forum because at the end of the day the CBC is also an enforcement division and I am not too quick to point out any weaknesses or deficiencies that may be inside their capabilities.

What I want to state for the record—and I think this is something that many Members in this House have already stated—is our confidence in the Director and the team that he has assembled to manage to Customs function. I must say that we are very pleased, thus far.

One last question: We understand that the CBC is now going through a modernisation process, where they are trying to be more intelligence driven. How is the progress of that?

Mr. Charles Clifford, Director, Customs and Border Control: Thank you, Mr. Chairman.

The answer to that question is that it is also a work in progress because this is not something we can achieve overnight.

Again, to put it into perspective and context, the Customs Department has been traditionally focused on revenue collection for a really long period of time. We had and still have a relatively small pool of officers who are trained and equipped to deal with the border control aspect of things within Customs. So, there is a huge learning curve for a large portion of the staff to go through that process to get to the point where we can have the meaningful implementation of a rotations policy. What I mean by that is that there is little point, Mr. Chairman, in me taking an officer who has been focused for the last 20 years, for example, solely on revenue collection, and put that person in an investigative branch and expect them to function effectively. That wouldn't be fair to them and I shouldn't expect that of them. I am required to ensure that they have the required training to enable them to carry out that function. So, these are some legacy issues that I inherited, but I have to say that the officers are very willing to make the transition, those that have not been involved in both aspects of our operation.

Mr. Chairman, I am somewhat reluctant to get into more detail, in relation to the sort of transitions and intelligence led operation; only to say that it is the way to go. The traditional gate keeper's approach is an outdated methodology and it is not as effective as you would expect it to be. For the reason that when you put an officer on the front line and you ask them to process every single officer, in the exact same way, after the first 20-25 minutes they will lose focus and

they will lose their effectiveness. That is just human nature and that would happen in any country. So, all the countries that have made the transition to an intelligence led risk management organisation have seen an increase in their detection rates and in their effectiveness. Therefore, we expect that the same will happen here.

If we know, as an example, that the majority of passengers arriving on most aircrafts or vessels in Cayman are not people that we need to focus on, the majority are not criminals and they are not smuggling contraband. There is a small percentage that is doing that and we need to get better at identifying who those people are. Ultimately, where we intend to get to is when that aircraft or vessel arrives in Cayman, we already know who is on board that aircraft or vessel, or who we need to target on board that aircraft or that vessel and the others can go through what we call a "Green Channel", the fast track.

For those who we need to target, unfortunately, their processing won't be as quick as the others, but that is the nature of the job and that is the way that we intend to transition the organisation in the future.

Hon. Bernie A. Bush: Through you, Mr. Chair.

How many airlines are working with you on the advance information?

Mr. Charles Clifford, Director, Customs and Border Control: How many airlines?

Hon. Bernie A. Bush: Yeah, how many of them? Are all of them working with you or just some?

Mr. Charles Clifford, Director, Customs and Border Control: Thank you, Mr. Chairman.

The answer to that question is that some of them are, at the moment. The law is not yet in effect. I think it is about to come into effect shortly. I believe it is either later this month or next month. I don't remember precisely, so forgive me for that, but the legal requirement is not yet in place, but the majority of airlines cooperate with us.

I want to make a distinction, Mr. Chairman: There is a difference between providing a manifest and providing advanced passenger information. Advance passenger information involves a lot more detail than a manifest. Again, for national security reasons, I don't want to get into the detail of that, but we have had an indication from all airlines, we have spoken to all of them, that they are on board. They are ready for the implementation date and we don't expect that we are going to have any issues.

It works to a large extent already, on a voluntary basis for outgoing. So you would have noticed that a couple years ago the outgoing immigration controls were removed and it is a similar system operating that allowed that to happen.

Hon. Bernie A. Bush: Mr. Chairman, thank you.

What kind of assurance can you give us that the high risk areas are sufficiently resourced, including appropriate staffing and fully functioning equipment, and assurance that the X-Ray scanner in the CPIU [Container Processing Inspection Unit] is fully operational?

Mr. Charles Clifford, Director, Customs and Border Control: Mr. Chairman, I have redeployed staff to the high risk areas within CBC but I am not going to sit here and tell you that we don't need more resources.

As we make this transition to an intelligence-led organisation, you will see operations change. So, in a similar way as what you experience going through the Miami International Airport where on the frontline, you see very few Customs and Border Protection Officers in the US. The reason for that is the majority of the work is being done behind the scenes. So, to my earlier point, they know who they need to target before the aircraft arrives. We want to get to that point too, which would mean a further redeployment of staff once we have everybody trained to the required level, but, we don't have enough resources in some areas.

We have, as an example, a need for more resources at our seaport. We process cruise passengers quite differently, like all countries, than we do with air arrivals, but if you look at the number of cruise arrivals, we do need to have a greater focus in that area. We have requested resources in the upcoming budget for that and also for post-auditing functions, because that is a critical area for us. We have also requested more resources for the airport and a number of other areas. So, it remains to be seen what we will receive, in terms of additional resources, but we have put a request in for additional resources.

In relation to Mr. Bush's question, relative to the X-Ray Machine, as the report indicates, it was down for a substantial period of time. It was on and offline intermittently. The truth of the matter, Mr. Chairman, is that piece of equipment should be back online shortly but it is on life support. It has passed the end of its useful life and we are looking now to replace it. The question is whether we should replace it with another mobile unit or a stationary unit. So, that is a policy decision that we haven't decided yet.

Hon. Bernie A. Bush: Mr. Chairman, through you.

I think, in your answer, sir, you gave me what I was looking for, that you have requested what you needed in the upcoming budget.

Thank you very much and good luck

Mr. Charles Clifford, Director, Customs and Border Control: You are very welcome, sir.

Mr. Christopher S. Saunders: Mr. Chairman, I do not have any more questions.

The Chairman: I want to get back to the actual budgeting because we have consistently seen where Customs has under budgeted. The actual revenue it collects every year seems to be substantially greater than what they budget. I think the risk you are running with that is we can't more accurately budget when you ask for your resources because when you get to the Ministry of Finance, they are looking at revenue and expenditure.

I am wondering if there are any changes being made at your department level for the 2021 Budget to get closer. I think last year you budgeted $156 million and you collected $181 million. That is quite a divergent because that $20 million there could probably have resourced you very well for the first nine months of this year.

What changes have been made, or are there any changes under consideration to improve the accuracy of your budget?

Mr. Charles Clifford, Director, Cayman Islands Customs and Border Control: Thank you, Mr. Chairman.

Mr. Chairman, I think that there has always been a consultation between the department and the Ministry of Finance and the Economics and Statistics Office. I think a part of our issue though, is that we haven't properly documented those consultations and sometimes they are informal. As a long serving former civil servant once said, (Mr. Harry McCoy) if it wasn't documented, it didn't happen.

The Chairman: Right.

Mr. Charles Clifford, Director, Customs and Border Control: So, we understand that, but we continue to consult with those agencies, Mr. Chairman. We look at economic forecast and historical information in the budget, in terms of the amount of revenue that we collected in the previous year, or projected to collect, and we try to make our best guestimate based on that. We have not deliberately under budgeted, in terms of revenue forecast. We do the best we can with the information we have.

I think it is a positive thing that we have exceeded our targets but I understand your point, that what it does is you may—

The Chairman: Right. You have avoided scrutiny of your revenue collection because once you exceed it, then people kind of give you a green light. However, when you consistently do it, I think you need to have some consideration because when we look at the numbers now, we see that what you budgeted last year was the same or less than you collected two or three years ago. So we would expect that the budget for 2020 would be closer to $190 million given that the Government is projecting all this growth, right? I think it would add to your credibility if once in a while you fell short.

[Laughter]

Mr. Charles Clifford, Director, Customs and Border Control: Mr. Chairman, I think I appreciate your point but I am sure there are others who would disagree with you.

[Laughter]

Mr. Charles Clifford, Director, Customs and Border Control: Mr. Chairman, I certainly take your point and we are trying to improve as we go along, to make changes so that the figure is more accurate.

We know, as an example, that tourism is on the increase, so that is one of the factors that we need to consider and to look at the projections going forward. Nevertheless, we will continue to refine the numbers and try our best with that.

The Chairman: Yeah.

Mr. Clifford, thank you very much for—

Mr. Christopher S. Saunders: Hold on, sorry. I just want to make a statement.

I want to thank the Director and his team also. With the transition and everything that have been going on, I think they have been doing a good job, in terms of coping. They have maintained a very high confidence, both in the public and the Members in the House, on both sides.

My last question is: Is there anything that you think we can do as legislators that could make your job, your function or your Unit more efficient or effective to serve the public better?

Mr. Charles Clifford, Director, Customs and Border Control: Thank you.

Mr. Chairman, the answer to that is that if you would support a request for additional resources when you see it come forward, we would certainly appreciate that.

Also, I will just say that in terms of customer service, you know that we have Kiosks set up in various locations within CBC and the results of the customer service 'Happy-or-Not' Kiosk is very encouraging. They are consistently upwards of 80 per cent, in terms of customer satisfaction.

If there are no other questions, Mr. Chairman, I would just like to thank my staff who is here today with me, the Finance Manager, Mrs. Camille Beckford-Johnson and Deputy Director, Mr. Kevin Walton. In addition to those two, I would like to thank the entire staff of CBC, including the administrative staff, because it takes every member of staff to make it happen and they are all committed and motivated, and we

continue to try our best to support them on a daily basis.

Thank you, Mr. Chairman.

The Chairman: You could convey our gratitude for those who have worked so hard for the transition and we look forward to continued success.

Mr. Charles Clifford, Director, Cayman Islands Customs and Border Control: Thank you very much, Mr. Chairman.

The Chairman: The Meeting is suspended until 2:00pm.

Proceedings suspended 12:34 pm

Proceedings resumed at 2:00pm

The Chairman: I call the Committee back to order at 2:00 pm. This afternoon we are continuing our questioning on the Auditor General's report on the Customs Department and we have Mr. Howell.

[Pause]

MINISTRY OF EMPLOYMENT, BORDER CONTROL, COMMUNITY AFFAIRS, INTERNATIONAL TRADE, INVESTMENT, AVIATION AND MARITIME AFFAIRS

ADMINISTRATION OF OATH OR AFFIRMATION

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: I swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly, shall be the truth, the whole truth, and nothing but the truth.

The Chairman: Thank you sir.

[Pause]

The Chairman: Good afternoon, Mr. Howell and Mr. Ebanks, I think it is, right? He has that North Side haircut. Thanks for coming sir.

I think you have been here before, so you know the rules: When you answer the first question state your full name and position for purposes of the Hansard record.

We will open the floor for questions.

Mr. Saunders.

Mr. Christopher S. Saunders: Thank you very much, Mr. Chairman.

Firstly, I would like to welcome the Chief Officer and the Deputy Chief Officer to this hearing.

I would like to start out with a simple question: This morning Mr. Jefferson explained the governance model in the previous Finance Ministry and that there was a senior assistant secretary that was given responsibility, in terms of the Customs. I am just wondering, from a transitional standpoint (from one Ministry to the other) and recognising that the scope of Customs has been changed to Customs and Border Control, which also includes some aspect of Immigration, what governance structure is now in place to manage this new, very large and dynamic Department?

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: Thank you. Wesley Howell, Chief Officer for the Ministry of Employment and Border Control.

Through you, Mr. Chairman, that is a very excellent question.

I can start by saying that some of the roles that were being performed under the Ministry of Finance when Customs, as a department, fell under Finance, still falls under Finance, in relation to concessions and those sorts of things. So, those bits that have to go through the Minister of Finance and Cabinet remain with Finance.

In relation to CBC as an entity, we recognise that in addition to the staffing, we would also take on the additional oversight of revenue for the revenue that CBC collects on behalf of government, and together with the revenue collected by the WORC Agency, that is a significant part of the government overall revenue.

So, we did a couple of things:

1. We moved into the Ministry, a Senior Policy Officer who is a qualified attorney to provide legislative support, work more closely with the Attorney General's Office in relation to advice and other things related to the legal side of things; and
2. We reached out to Internal Audit and developed a MOU [Memorandum of Understanding] with them. So, we have assigned to our Ministry, a fulltime auditor that we pay the Internal Audit Unit for and they work to review our internal processes, good governance and all those issues, and flag matters for us to address proactively. We saw that as a proactive move towards good governance and operation around that particular side.

In relation to policy and IT [Information Technology] again, we have bolstered the IT support within CBC by adding an additional resource within CBC for IT support and expertise. We have also added a second Project Manager within the Ministry. So, we will

have two fulltime Project Managers to help provide that oversight.

I can say that as CBC and Immigration was a merger, we have a number of deputy directors within CBC that we have been working very closely with to build additional capacity within CBC to take on some more of the strategic and policy type issues from within CBC as well.

I am sorry for the long answer.

Mr. Christopher S. Saunders: No, no, no, that is fine, and thank you very much for that comprehensive answer. Ultimately, one of the things that we want from these Public Account Committee [PAC] hearings is not for the public to believe that it is all bad and all "Got you", but also as a tool to provide information to the public to let them understand how the government and their representatives are working.

We don't want to get back into the previous issues because:

1. We do recognise that the CBC itself is roughly eight months old, there about; and
2. We also recognise that there were some legacy issues and lessons learnt, in terms of some of the challenges, like with the TRIP [Total Revenue Integrated Processing] system, which both the previous witnesses touched on before.

One of the things I am more interested in learning or knowing is not where we are or where we are coming from, but rather where we are going. In terms of the whole modernise process of the CBC as a whole, where do you or your Ministry see this eventually evolving into as soon as the transition and growing pains have passed. In a nutshell, what would success look like to you?

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: Thank you for the question, sir.

Mr. Chairman, through you, the CBC as it stands now is primed for continued transformation. My view on this is that once the ground starts shaking, that's the time to continue to make transformation before it settles back into a new normal, then you need a whole lot of empathies to get off the ground and go again.

With the alignment of the policy from the government initiating and giving us a timeline to implement CBC, to the approach that we took during the transformation—if I may touch on that briefly—that CBC and Immigration Border Control were two like-organisations. They are uniformed divisions, with substantial administrative and financial oversight as well.

We initiated a merger steering committee which was co-chaired by the then Collector of Customs and the acting Chief Immigration Officer. We broke off into sub-committees that were jointly made up of Customs and Immigration Officers. So, we had a top down and bottoms up approach to the transformation. That allowed us to almost get full and complete buy-in from individuals (officers) within both organisations. They selected their uniforms, they voted on their logo and they even voted on the name of the organisation to which Cabinet was kind enough to allow that to be reflected in the final product. So, the ownership of CBC on day one from officers across the board was a really high pride that they were part and parcel of a ground-up and a top-down approach to building that.

With that said, as we go forward, we are looking at a high level strategic plan, a multi-year plan, in which we are utilising some of the expertise within POCS for that. We have already started training individuals at the lowest rank within the organisation on business process, analysis and re-engineering. There is some IT work that has been underway from before Customs joined CBC, which is continuing, and we are adding to that, the project management, the business analysis, the requirements, those sorts of things to build it out. What we have in front of us is opportunity and we have started down the road of a top-down. So, Ministry support into the senior management of CPC and ground up. In that, the ranking file officers who are the ones who really know what the answers are, in any way, are now getting the tools to properly document what it takes to solve some of the issues that they have on the ground and take advantage of some of the automation that we are doing to redesign our processes prior to automation or post automation to be a more efficient and more effective intelligence led organisation.

Again, another long answer, sorry.

Mr. Christopher S. Saunders: No, no, no, listen, we don't mind the long answers because that is what we want, as long as it makes sense, it is fine.

One of the things that members of the Committee have raised thus far has been the issue of budgeting, in terms of financing for the budget. Now, I recognise that this would be the first budget for the CBC under the new set up. One of the things that we wanted to understand from the Ministry's standpoint and as being the Chief Officer, who has overall governance responsibility for that entity: What processes or steps is being taken to ensure that we don't have a situation like we did last year where the budget was 22 per cent above?

Now, there is nothing wrong with doing better than budgeted, and we expect that, and not expect it to be perfect. But, what we would expect is at least some level of further analysis going into that for your Ministry to take ownership of the numbers so we can be comfortable to say it is not going to be 22 per cent out again, et cetera.

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: Thank you again for the question.

Through you, Mr. Chairman, as Chief Officer, it is my signature and that of the Minister that goes on the budget document. Therefore, this is something that I take very seriously and I have, since my tenure as Chief Officer.

I can say that one of the directives that we did really rally earlier on was to ensure that the budget preparation as done in close consultation with ESO. We are looking at ESO to provide the technical expertise to us to the macroeconomic indicators, what the growth projections are and specific industries, and how that would have an effect on the revenue that is collected through the CBC Agency.

The other thing that we have done over the years, as a ministry, is to document what assumptions we add to that, in addition to what we may get from ESO.

In general though, in prudent budgeting, I want to be really aggressive on the expenditure side. Therefore, I don't want to underestimate what it is going to cost to do something and I don't want to overestimate what the revenues are because getting that wrong could be detrimental across the entire government, particularly because of the significant revenue impact that one Ministry has in relation to the government budget. With that said, our goal this time around is to be as accurate as we can with the budget preparations and where we are varying from what would be a straight line projection or otherwise, we would document what those assumptions are. Assumptions could be that there are no further reductions in duty concession for a particular product or those sorts of things which has a significant flow on our impact on overall revenue projections.

We are a service based industry as well. So, if there is a contraction worldwide in the service industry that would have an impact on our economy as well, we are looking at all those factors, but again, we are taking the time to document, what those are.

In relation to the audit, having reviewed the document, one of the things highlighted was not so much that there weren't consultation on the budget preparation but it wasn't documenting what process it was. So, we have immediately addressed those and started documenting what those assumptions are.

Mr. Christopher S. Saunders: Thanks again for that answer.

One of the things naturally needed as you are transitioning into the entity that you have now, is resources. One thing that we are curious to know now, especially with budget looking to be around next month and bearing in mind that this is singularly the largest department for revenue within government, naturally, leakage et cetera, would be something that would be a concern to Members and the public as a whole.

I understand from listening to the Director, in terms of where they are looking to move, it's not a gatekeeper approach, but more intelligence gathering approach. What is your department looking at, in terms of resources, next steps, talent and skills that you would need to take it to the next level for the entity to function?

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: We have been fairly aggressive in our training budget and CBC is predominantly Caymanian staffed. We have some work to do with building capacity in the middle management area, retraining and retooling individuals to work and think differently about how they work. We expect significant resources to be in the 2020-2021 Budget to help with that transition as we go forward.

There are some new positions as well, but I want to temper with the fact that we are going very heavy on the automation side for the folks who are doing goods clearances that would normally go to the CBC Headquarters, that is now being done online. Persons are submitting things electronically, getting their payments done electronically and getting a response once that is done. The security checks are done based on this profiling and such. We are receiving, for example, information both on the check point one, which is the traditional immigration bit and checkpoint two, which is the traditional customs bit. That collaboration is now working where immigration officers are sensing something that is not quite right about someone and then they highlight checkpoint two and they deal with issues there.

The Anti-Money Laundering (AML) role for CBC is another one where we are building capacity in relation to risk assessment and evidence based approach, to not only assessing the risk but demonstrating that we are actively working to reduce the level of money laundering that may be happening in our jurisdiction or through our gates. It is sort of the approach that led to the Venezuelan plane being seized a couple months ago with gold shipments and those sorts of things. That's an example of connecting the dots, in relation to things not seemingly being legitimate and then delving into deploying the assets necessary to investigate those.

I say a lot to say that we are going about it from a training/retooling perspective. We do have some new positions that we are asking for but the primary goal is to equip our officers with the training and tools necessary to get on with their jobs at this new level of high level functioning.

Mr. Christopher S. Saunders: Thanks very much again, Mr. Howell.

You mentioned the whole automation issue but I think up to yesterday, there were some issues where the customs clearing thing that people use, the online process, has been extremely slow. Now, I know that naturally there would be some growing pains et cetera, but when would you expect that those teething issues will be sorted and the platform is working correctly?

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: I can say that overwhelmingly, the support has been very positive for CBC unlike the implementation of the TRIPS programme.

If you would indulge me a little to go backwards: One of the things that we didn't get quite right when we did TRIPS was that at that time, the government IT department of which I was a part, was competing with a private company for the business of developing a system for Customs. At the time, Customs had a government developed system called CTSS (Customs Technology Support System). The leadership of Customs at the time didn't have the benefit of any technical advice from the government IT agency because we were actively competing against the private sector, in relation to this development. So, the negotiations and implications of what was bought are not being properly fit for purpose. We didn't get to have the technical expertise applied to it, so those are lessons learned and have been applied now.

The e-government now plays a role in that cross-government approach to technology standardisation, contract negotiations, and those sorts of things, interoperability. The development that has taken place thus far has had heavy consultation with the primary importers. These are the Customs brokers, the large importers such as the supermarkets and wholesalers. Those are the persons who traditionally use the bond approach. So, they pay government a sum of money and then draw down on that as they clear their goods, they are overwhelmingly in support of what we are doing, and hands down appreciate that. The teething problems, particular for small importers who are importing for the first time and have to go through the accreditation process and those sorts of things can be a bit tedious. However, for the large percentage of our customers, it is actually a positive move in the right direction.

Mr. Christopher S. Saunders: Sorry, you opened a door that I can't help but go down. Let me get this straight, the Computer Services Department (a government department) was competing with an external provider? Let me get this straight, the previous system that we had was developed by government's Computer Service Department?

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: Yes sir, you are correct.

Again, those were the days of interagency billing and such. So, the service entities within government were being positioned sort of service delivery, not so much as assets, in relation to good governance and oversight of technology project. We are going back several years now, but that was the playing field at the time.

The Chairman: Is it possible for an individual to import anything through Customs anymore without having to go through this whole certification process if you are just importing one item, for once, or do you have to get a broker?

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: I don't know the details sir but I can share the experience from my 104 year old father.

[Laughter]

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: If you don't mind me indulging into that, I can.

The Chairman: It is important.

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: He imports about once yearly, he buys material for his shoe shop and last year he had some delays, in that, he didn't have a current driver's license, which is the ideal choice for registration. Consequently, the registration process took him a couple weeks but he finally got his goods cleared for his business. This year, his shipment that came in had absolutely no issues and within days of it arriving, he was able to collect it from the freight forwarder that used.

Again, from my own experience, through my father, his initial registration was a bit painful, but after that it was . . .

The Chairman: So, what you're saying is that it is not possible? Before, you could go up to Customs if you had a shipment coming in for yourself, fill out the form, pay your duty and walk away. It appears that everybody, whether it is a one off importation or whether you are in business or not, you now have to go through this accreditation process to get signed up for this electronic processing.

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: I am not sure sir.

The Chairman: That is the general feeling I get from the public and I think that if that's the situation, I can

understand it for business people or even private people who are importing—not like your dad, once per year... However, if you have a shipment come in and you want to clear it, you should be able to go and clear it without having to get a broker to do it or go through this elaborate process of getting accredited or certified or whatever you call it.

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: I will undertake to get a confirmation on whether or not there is still a manual process in place and I can provide that to you in writing sir.

Hon. Bernie A. Bush: I was right there with your father, remember? Mr. Chairman, you are right sir, with regards to the question that you asked. I have asked this question before. Do you realise that there are Caymanians who don't have a driver's license? Also, do you realise that there are Caymanians who don't even have a passport? The question I have asked before and no one has been able to give me an answer is: What happens when one of these individuals walk in and want to clear their package? This is what must be made clear to the public.

Mr. Chairman, through you, it's so frustrating, it forces you, almost, to go to a broker. Of course, that is extra money again.

The Chairman: I maintained that was the original plan.

Hon. Bernie A. Bush: Correct.

We have to keep in mind, when these things are in place that there are poor people who are not computer literate but they are not idiots. What was so complicated about going to the counter and clearing your own things? And, the timeframe takes forever. I do hope that is still being looked into and trying for it to be improved because I was right there and you were right there, so we know what we went through that day. Luckily, you kept calm; I didn't say anything but I wasn't calm. It is really frustrating and a lot of constituents are complaining and have complained.

[Inaudible interjection and laughter]

Hon. Bernie A. Bush: Yes.

I hope you are all looking into trying to make this better.

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: Mr. Chairman, I can undertake to look into that and I will respond in writing to you and the Committee.

The Chairman: Just one more question for my clarification. The electronic system that you are replacing TRIPS with; is it another off the shelf programme or is that being developed by Computer Services locally?

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: It is a bespoke custom system developed—not custom in relation to Custom's duty— specifically around the business process for Customs in conjunction with Computer Services and dedicated contractors that were sourced within the skillset and supervised by CSD. So, it is an amalgamation of in-house government and some external expertise as well.

Mr. Christopher S. Saunders: Sorry, I am trying to understand that. In terms of developing such a system, was it envisioned that that system would have been standalone or it would have been integrated into a bigger government system?

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: So, the plans that I have seen from Customs when we looked at it pre-merger, was for the system to eventually take on a lot of the administrative responsibilities for Customs. Now, post-merger with Border Control, we have another system that is in use by Border Control that is also tied to work permits and residents, et cetera. So, we are now looking at how best to couple those systems together as we go forward and whether or not they move all to the Customs platform, we have some integration that we are building going forward or otherwise.

Mr. Christopher S. Saunders: Thank you very much for the answer.

This may go a little bit outside of Customs or CBC, but while I understand that the government system is robust, in the sense of its own firewall security, et cetera, for every time we add on or integrate another system that speaks to the government core system, we are basically opening ourselves up to cyber-attacks, being hacked or something like that.

One of the things I am curious about is government's Computer Services Department that's also tasked with government's security, from an IT standpoint, is competing against someone else for service. I always believe that if something can be done in-house, it should be done in-house. In so doing, the expertise stays in-house, the maintenance stays in-house and more importantly, security stays in-house. So, the question is: Where are we going, as a government? That model cannot continue, where we allow someone to have a bolt on here, or a little piece here because every time we open that door to third party providers, in a sense, we are giving them a backdoor possibly, into central government. Now, that is something that gives me pause.

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: Through you, Mr. Chairman, thank you. Again, it is sort of a unique position because of my background with technology. I am actually pleased to say that the move that was made to separate e-government, and in particular, the government's IT security from CSD was a good move. In that, the e-government Department has the IT security folks in their portfolio. They are not completely resourced as they should, so they are relying on some other sharing arrangements, but they are building out that responsibility. As a Ministry, we undertook to closely couple ourselves with them, in relation to system design and system requirements, particularly around services that are exposed to the internet, and even on the internal side that are exposed to folks within government to ensure that the security is as solid as it can be, and to minimise our exposure by piggybacking on their sort of 'bolt-on' approach at the front aspect.

Work is also being done in relation to cross-connecting the system so that individuals and organisations could be better tracked. One of the discussion points in the audit report was duty concessions. I don't want to open back up that can of worms but I can say that by tying the systems together, where entities are referred to in a common understanding from system to system, would help to be able to track what individual entities are doing, in relation to different departments; may it be Trade and Business or Pensions or Health Insurance or some of these other things.

So, that is where e-government is headed. We are working very closely with them and we are working very closely with the government's head of IT Security as well.

The Chairman: Explain to me why there is a difference.

If it is coming through the airport on a passenger plane, and I declare a computer, I fill out a little form right there and pay my duty, and I am done. However, if I ship that same computer in, and I have to clear it, I have to go through this whole process of getting certified and qualified. Why can't we treat individuals like that the same way we treat them at the airport?

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: Again, that is a legacy thing and I am sure that we are looking to address that, but I will detail that as well when I respond.

The Chairman: I think that would increase the number of smiles that you get on that little machine because it is very frustrating.

Have you been involved in developing the policy and concessions, and, are you comfortable that you can monitor and implement how concessions are imported with the policy as it has been drafted?

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: No sir, I haven't been involved in the policy thus far, but I do welcome such a policy. As a Ministry, we have several agencies through which would either be a sort of beneficiary to having a better centrally supervised and coordinated approach to concession monitoring and particularly, the more difficult bid on what the outcomes are from the concession in the longer term.

I understand that there is a role to be played by the WORC agency, in relation to the employment aspects which also impacts the sort of information that we get from Pensions and Labour, in relation to the good treatment of Caymanian labour, et cetera. So, we are looking forward to having some input on the policy and benefiting from an overall coordinated approach.

The Chairman: If a member of society wanted to report what they believe is abuse of concession, and they have evidence that a company or entity has concession for this particular job, but they are aware that the material imported for that job is being used on other jobs, who do they contact? Would they contact you, the police, or the Anti-corruption?

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: I would recommend that they contact our confidential tip-line. There is also the government whistle-blower hotline that is directed through an entity in the US, so no one is going to recognise…

The Chairman: Are you confident that no one in this government would want to hang our whistle-blowers? I mean, we all watch TV, right?

[Laughter]

The Chairman: I don't think we can get anything from any whistle-blower for years to come.

[Laughter]

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: We have added some layers to divorce the whistle-blower from internal processes. So we don't get any voice recordings or any of those sorts of things; we get the information that is passed on to us. The person who is making the tip gets a code that they can use for rewards and other things down the road, but there is no direct linkage to us. However, I can say that individuals will—like they do with your windshield, sir—pull me aside in the supermarket and other places and whisper in my ear

as well. So, I encourage folks to tell whomever they are comfortable with telling, but we have mechanisms setup that those kinds of abuses can be reported.

Mr. Christopher S. Saunders: The Director, Mr. Clifford, mentioned the development of the strategic plan. I know that's one of the things still outstanding. I understand that some progress is made on it but to some extent, I understand that as it is still a young agency and you are going through the teething problem, that the operational issues will naturally take precedence over the more nice-to-have things.

One thing I would ask, or that we expect with that Strategic Business Plan, is for it to be developed very quickly. We expect that to be something within your Ministry.

However, overall, I just want to say thank you, on behalf of myself and those whom I represent, for the fine work that your Ministry has done, and what the departments under your Ministry have done. I know there are challenges and we have WORC that you are also responsible for and we have other issues for, but from a CBC standpoint . . . I know someone was texting me telling me to ask you about WORC but I had to remind them that this was CBC and WORC is a separate entity. However, for where we are with CBC, we think it is a step in the right direction because it plays a very important role, not just in the collection of revenue, but also protecting our borders and keeping a lot of things out.

Looking at the Auditor General's Report, I didn't even realise that there are 22 different pieces of legislation that goes into the overall management of that department, when you start looking at it, from the agricultural coming right down, all of the different legislation that affects it. So, it is a very dynamic department and the most that we can do, is encourage you guys.

I will leave you with the last question, which probably won't be relevant, seeing that the Premier is responsible for this Ministry, if he can't get what he wants then no one else will. Nevertheless, with the budget upcoming, is there anything in your opinion that you believe we, as legislators, can do to make your life, department or the Ministry much better, more effective or more efficient and how best we can serve the public?

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: Thank you for that question.

Mr. Chairman, I will say that the support of the entire House and this Committee is quite welcome. I am extremely pleased to be working with the calibre of individuals that we have within the CBC and the other agencies across the Ministry.

I can say that when we make our requests, it is usually based on sound business cases for it to pass my office. They have to justify it to me first before I try to argue it, because I can't argue for it and then there is very little success of getting it argued otherwise. So, we would ask for your support there as well.

I would also encourage you to continue to encourage Caymanians to look at this particular area. I know that as MLAs you interact with young people and it is one of the things that I am really proud about. Meaning, when we argue and successfully defend funding for hiring recruits and we go through and get a solid batch of Caymanians coming in, we are able to develop them over the years and see them grow into excellent officers; that is something that is great as well. So, if you can continue your efforts as well to help guide Caymanians into the law enforcement arm of government, then that would be extremely helpful.

The Chairman: We try to send them, but they seem to have a lot of difficulty getting accepted. I mean they turn them down because they can't run a 100 yard dash in five seconds and I don't think there are too many policemen who can do that now. However, they pass all the academic section and then they turn them down because they are not fit. You need to do lot of improvement, encouragement and availability.

You need to go into the schools. We just had a whole pile of people graduate from Clifton Hunter with high qualifications. Some of them have unbelievable qualifications. You need to go and recruit those people specifically. That's what we used to do in the 60s and 70s, right? But that's not being done and when they come out and try to get these positions, the red tapes slow them down. We always seem to have Caymanians jump the 13 hurdle. We are giving jobs to foreigners on a subjective interview where the foreigner got four points more than the Caymanian and if you ask him where North Side is when he gets here, he doesn't know.

Hon. Bernie A. Bush: Just to give you a perfect example, backing up what the Chairman just said: a young Caymanian goes off to jolly old England, gets a Bachelor degree in criminology, and a Master degree in counter-terrorism. He then applies to the police force and can't get a job. Yet, just recently, there was a foreign policeman sent off to England on a counter-terrorism course. So, these are the things that our young people have to fight through. So when you say, "send them" I will not send them sir, I will bring them to your office.

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: Thank you.

Mr. Chairman, if I may, I literally had goose bumps on my arm when I was at UCCI [University College Cayman Islands] a couple months ago and we had the uniform branch across the government

participate. We had primary school children coming in, and our officers in their uniform with all their gears were able to talk to them about all the offerings across not just our Ministry, but other Ministries as well; and to hear those young people saying, "You have scientific people who test drugs and figure out what things are and even if I am academic, there is a role for me to play in this organisation." So, we are taking that on board, sir. I know there is work to be done and we are starting young and following through. If we treat people like the way I was treated coming in as an intern and ending up as a Chief Officer, then we will have good times ahead.

Thank you, sir.

The Chairman: That's why I referred to the years gone by and how we were used to it. It is not happening that way now and we need to get back to that.

Thank you very much for your time, sir. We appreciate it and we give you your get out of jail card early this evening. Thank you very much.

Mr. Wesley Howell, Chief Officer, Ministry of Employment and Border Control: Mr. Chairman, please forgive me. I wanted to sincerely thank the Auditor General and her team for the detailed work that they put forward in this report. The action items and the recommendations are things that we can take on board and have taken on board as we go forward. I just want to go on record, thanking them for their work.

The Chairman: She's not Trump you know. Flattery is not going to get you anywhere with her.

[Laughter]

The Chairman: Thank you, because, what we have been trying to do, particularly with the PAC over the last couple years, is exactly that. We want to take it from a confrontational situation, to where we are all working collectively to achieve the best for everyone. That's a good example of how things can be done without getting into all of this contention. So, I thank you and your staff very much.

The meeting is adjourned until 10:00 am tomorrow morning.

At 2:44 pm the Public Accounts Committee stood adjourned.