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Fourth Session (2013/2014)

TENTH PARLIAMENT

SEVENTH REPORT OF THE JOINT SELECT COMMITTEE ON MINISTRIES, STATUTORY AUTHORITIES AND STATE ENTERPRISES (GROUP 1)



ON THE ADMINISTRATION AND OPERATIONS OF THE NATIONAL INSURANCE APPEALS TRIBUNAL

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OF THE

JOINT SELECT COMMITTEE ON MINISTRIES,
STATUTORY AUTHORITIES AND STATE ENTERPRISES
(GROUP 1)

**THE ADMINISTRATION AND OPERATIONS OF THE
NATIONAL INSURANCE APPEALS TRIBUNAL**

Date Laid: HoR: 22/11/2013

Senate: 19/11/2013

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The Joint Select Committee on Ministries, Statutory Authorities and State Enterprises
(Group 1)

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ABBREVIATIONS

CEO	CHIEF EXECUTIVE OFFICER
CMO	CHIEF MEDICAL OFFICER
ILO	INTERNATIONAL LABOUR ORGANISATION
NIAT	NATIONAL INSURANCE APPEALS TRIBUNAL
NIB	NATIONAL INSURANCE BOARD
MOFE	MINISTRY OF FINANCE AND THE ECONOMY
PS	PERMANENT SECRETARY

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EXECUTIVE SUMMARY

Consequent on a review of the Tribunal's Reports received by the Committee and the identification of major operational issues, the Committee at its 16th Meeting held on January 30, 2013, agreed to conduct an inquiry into the National Insurance Appeals Tribunal (NIAT). In preparation for the inquiry, the Committee requested and reviewed written submissions pertaining to specific aspects of the administration and method of functioning of the Tribunal that in its opinion required examination. Subsequent to these preliminary deliberations, the Committee engaged NIAT in a public hearing on April 19, 2013, to further scrutinise its administration and operations.

The Committee's inquiry focused on areas such as: the backlog of appeals, the Tribunal's relationship with the National Insurance Board (NIB) and the Ministry of Finance and the Economy (MoFE), staff structure, frequency of hearings, the management of the Tribunal, and the legislation governing the operations of NIAT.

The Committee was able to acquire useful insight into these matters. Major shortcomings identified included:

- unsuitable staffing arrangements;
- unqualified personnel;
- an appeals process in need of reform;
- a large number of pending matters;
- strained work relations with the NIB;
- a lack of Ministerial oversight, among others.

As a consequence, the Committee after due consideration, has put forward several recommendations in respect of the various issues confronting the Tribunal, which we anticipate would be carefully considered by Minister of Finance and the Economy, the Appeals Tribunal, the National Insurance Board and other stakeholders in the National Insurance system.

Chairman of the Committee

MEMBERS OF THE COMMITTEE



**Mr. Elton Prescott, SC
Chairman**



**Dr. Dhanayshar Mahabir
Vice-Chairman**



Mr. Emmanuel George



Mr. Jairam Seemungal, MP



Mrs. Carolyn Seepersad-Bachan, MP



Mr. Gerald Hadeed



Mr. Ganga Singh



Ms. Stacy Roopnarine, MP



Dr. Delmon Baker, MP



Mr. Faris Al Rawi



Dr. Amery Browne, MP



Mrs. Patricia McIntosh, MP

THE COMMITTEE

Establishment

1.1. Section 66 of the Constitution of Trinidad and Tobago declares, that not later than three months after the first meeting of the House of Representatives, the Parliament shall appoint Joint Select Committees to inquire into and report to both Houses in respect of Government Ministries, Municipal Corporations, Statutory Authorities, State Enterprises and Service Commissions, in relation to their administration, the manner of exercise of their powers, their methods of functioning and any criteria adopted by them in the exercise of their powers and functions.

1.2. Motions related to this purpose were passed in the House of Representatives and Senate on September 17, 2010 and October 12, 2010, respectively, and thereby established, inter alia, the *Joint Select Committee to inquire into and report to Parliament on Ministries with responsibility for the business set out in the Schedule as Group 1, and on the Statutory Authorities and State Enterprises falling under their purview with regard to their administration, the manner of exercise of their powers, their methods of functioning and any criteria adopted by them in the exercise of their powers and functions.*

Powers

1.3. Standing Orders 71B of the Senate and 79B of the House of Representatives delineate the core powers of the Committee which include *inter alia*:

- to send for persons, papers and records;
- to adjourn from place to place;
- to appoint specialist advisers either to supply information which is not otherwise readily available or to elucidate matters of complexity within the Committee's order of reference; and
- to communicate with any other Committee of Parliament on matters of common interest.

1.4. The entities which fall under the purview of the Committee is attached as *Appendix I*.

Members

1.5. The Committee comprises the following members:

- | | | |
|--|---|---------------|
| 1. Mr. Elton Prescott, SC ¹ | - | Chairman |
| 2. Dr. Dhanayshar Mahabir ² | - | Vice Chairman |

¹ Mr. Elton Prescott, SC replaced Mrs. Corrine Baptiste McKnight w.e.f.23.09.2013

3.	Mr. Jairam Seemungal, MP	-	Member
4.	Mrs. Carolyn Seepersad-Bachan, MP	-	Member
5.	Ms. Stacy Roopnarine, MP	-	Member
6.	Dr. Amery Browne, MP	-	Member
7.	Dr Delmon Baker, MP	-	Member
8.	Mrs. Patricia Mc Intosh, MP	-	Member
9.	Mr. Emmanuel George	-	Member
10.	Mr. Ganga Singh ³	-	Member
11.	Mr. Faris Al Rawi	-	Member
12.	Mr. Gerald Hadeed ⁴	-	Member

Changes to Membership

1.6. **Mrs. Corinne Baptiste-McKnight** was appointed to the Committee on October 12, 2010 and served as the Committee's Chairperson from October 22, 2010 until the termination of her Senatorial appointment on August 01, 2013. **Prof. Harold Ramkissoon** served as a Member of the Committee with effect from October 12, 2010 until the termination of his Senatorial appointment on August 01, 2013. **Mrs. Christlyn Moore** served as a Member of the Committee with effect from October 16, 2012 until the termination of her Senatorial appointment on September 06, 2013. Mrs. Baptiste-McKnight, Prof. Ramkissoon and Mrs. Moore were replaced by **Mr. Elton Prescott, SC, Dr. Dhanayshar Mahabir** and **Mr. Gerald Hadeed** respectively, who were all appointed to serve on the Committee with effect from September 23rd, 2013.

Secretarial Support

1.7. The following officers were assigned to assist the Committee:

○ Mr. Julien Ogilvie	-	Secretary
○ Ms. Candice Skerrette	-	Assistant Secretary
○ Ms. Katharina Gokool	-	Graduate Research Assistant
○ Mr. Indar Sieunarine	-	Parliamentary Intern

² Dr. Dhanayshar Mahabir replaced Prof. Harold Ramkissoon w.e.f. 23.09.2013

³ Mr. Ganga Singh replaced Mrs. Verna St. Rose-Greaves with effect from October 16, 2012.

⁴ Mr. Gerald Hadeed replaced Mrs. Christlyn Moore on w.e.f. 23.09.2013 who had replaced Mr. Danny Maharaj w.e.f October 16, 2012.

2. INTRODUCTION

Background of Inquiry

2.1 The National Insurance Appeals Tribunal (NIAT) was established under Section 60 of the National Insurance Act Chapter 32:01⁵ (herein after “the Act”) for the purpose of receiving, processing, hearing and determining appeals from persons who are dissatisfied with any decision of the National Insurance Board in respect of claims for benefits and/or other matters under the said body.

2.2 The functions and procedures of the Tribunal are stipulated in the National Insurance (Appeals) Regulations as set out in Legal Notice No. 131 of 1980, which came into effect on July 15, 1980 and are now consolidated into the Act. The Tribunal is an independent quasi-judicial body and is not under the direct control of the National Insurance Board or any other state agency or department of Government. However, as per Regulations 4 and 29 of the National Insurance (Appeals) Regulations, the Tribunal has an obligation to report certain aspects of its administration to the Minister of Finance. The Tribunal comprises a Chairman and three (3) members, representing Government, Business and Labour, appointed by His Excellency the President. The Act also requires the Chief Medical Officer to advise the Tribunal on medical matters generally. The Tribunal is administered by a Registrar and other support personnel. It was convened for the first time in September 1982.

2.3 Tribunals of this nature have been preferred over courts for settling disputes in the social services since:

- Tribunals allow for disputes to be settled at a faster rate;
- Tribunals are less costly;
- Tribunals are more convenient than courts; and
- Tribunals allow for informality.

⁵ http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/32.01.pdf

2.4 However, the decisions of the National Insurance Appeals Tribunal are subject to review by the High Court on Appeal or by Judicial Review.

2.5 Based on a review of the Tribunal's Annual Administrative Reports (2009/2010 and 2011/2012) and other official documents, the Committee acquired some insight into its operations. Further to this review, the Committee noted with interest, certain areas of the administration of the Tribunal that in its opinion required examination. Among these were the unsatisfactory number of appeals that were pending before the Tribunal and the increase in the number of matters being withdrawn from the NIAT.

2.6 As a result, the Committee concluded that an investigation into the administration and operations of the National Insurance Appeals Tribunal was warranted.

Objectives

2.7 The Committee identified the following as the main objectives of the inquiry:

- 1. To understand the appeals procedure;**
- 2. To establish the frequency of meetings of the Tribunal and Tripartite Committees;**
- 3. To determine the number of appeals received by the Tribunal for the period 2010-2012;**
- 4. To gain insight into the number of appeals which have been resolved during the period 2010-2012**
- 5. To determine the timeframe for resolving an issue which is brought before the Tribunal; and**
- 6. To examine a Status Report on the Appeals Tribunal.**

Conduct of the Inquiry

2.8 The Committee held one (1) public hearing with representatives of the National Insurance Appeals Tribunal on Friday April 19, 2013.

2.9 In preparation for the hearings, your Committee communicated with the Ministry of Finance and the National Insurance Appeals Tribunal to solicit initial written responses. These responses were used as the basis for supplementary questions pursued at the hearing.

2.10 The Table hereunder identifies the representatives from the National Insurance Appeals Tribunals who attended the hearing:

Name	Portfolio
Mr. Eugene J. Tsoi-a-Fatt	Chairman
Mr. Premraj Lyman	Registrar (Ag.)
Ms. Herschel Joseph	Research Officer

2.11 Several issues raised at the hearing warranted detailed responses. These responses were submitted in writing to the Committee on May 09, 2013. In addition, in the process of finalising this report, further requests for information were made and responses were received on June 24th and 25th, 2013 respectively.

2.12 The Minutes of the meeting during which the public hearing was held are attached as **Appendix II**.

2.13 The Verbatim Notes of Evidence of the hearing are attached as **Appendix III**.

Written Submissions/evidence

2.14 The Committee obtained and reviewed written submissions from the NIAT as follows:

- i. Letter dated 12th March 2013 from the Chairman of the Tribunal;
- ii. Submission dated 26th March, 2013 from the Registrar detailing: - the Appeals Procedure and list of appeals received by the tribunal for the period 2010-

2012 and the status of appeals for the financial years October, 2010 to September, 2011 and October 2011 to September, 2012;

- iii. Overview of the creation of the National Insurance Appeals Tribunal received on April 18, 2013;**
- iv. Detailed Report on the Role and Function of the National Insurance Appeals Tribunal received on April 18, 2013;**
- v. Registrar's Reports – in response to request for additional information from the Committee;**

2.15 Additional submissions were received from the following Members of the public (specialist in the area of National Insurance) who offered their expertise to assist the Committee further to the public hearing held with NIAT on April 19, 2013:

- vi. Letter dated 10th April 2013 from Mr. Hubert B. Dolsingh, H.B.M (Gold), Commissioner of Affidavits and National Insurance Consultant; (See Appendix VII)**
- vii. Letter dated 25th April, 2013 from Mr. Ramnath Ramcharitar, National Insurance Consultant. [See Appendix V]**

3. THE EVIDENCE

THE ORIGIN, ROLE AND FUNCTION

3.1 The NIAT was created as part of an attempt to develop a comprehensive and Universal System of National Insurance in Trinidad and Tobago. To this end, in 1969 a Government White Paper was published, entitled *‘Social Security in Trinidad and Tobago- introduction of the National Insurance Scheme.’* The white paper identified the need for some form of national Social Security, to complement what was being provided mainly by religious bodies, charitable organizations and more significantly by friendly societies. In response to this need, technical assistance was obtained from the International Labor Organization (ILO) to formulate a National Insurance Bill which eventually was enacted as Act No. 35 of 1971. This Act provided for the establishment of the National Insurance Board (NIB) and also established an Appeals Tribunal; a quasi-judicial body responsible for receiving, processing, hearing and determining appeals from persons who are not satisfied with any decisions of the National Insurance Board (NIB) in respect of claims for benefits and/or other matters emanating from the said body.

3.1.1 The responsibilities and statutory procedures of the Tribunal are outlined in Sections 60 to 62 of the National Insurance Act Chapter 32:01 and the National Insurance (Appeals) Regulations as set out in Legal Notice No. 131 of 1980, which were effected on July 15, 1980.

3.1.2 The Act as it relates to the National Insurance Appeals Tribunal (NIAT) provides for the following:

- The establishment of The National Insurance Appeals Tribunal;
- The appointment of Members;
- The division of the Country into Administrative Divisions; and
- The making of Regulations for the smooth and orderly conduct of Hearing and Determination of Appeals.

3.1.3 The Tribunal's role is further emphasised in its Mission Statement. Which is as follows:

“to act as the first line of adjudication between the Appellant and the National Insurance Board (NIB) ensuring timely determination of Appeals based on Openness, Fairness and Impartiality and to pursue ways and means for the continued development of The National Insurance Appeals Tribunal to keep astride with International Standards of Social Security Appeals Machinery.”

3.1.4 As was alluded to at paragraph 3.1 above; the Tribunal is an independent quasi-judicial body and is not under the direct control of the National Insurance Board or any other state agency or department of Government. However, as per the requirements of the Regulations and for the purpose of overseeing the administration of the Tribunal, there is a reporting relation with the Minister of Finance.

3.1.5 The NIAT established that Tribunal Hearings should be held twice (2x) monthly, scheduling ten (10) appeals per hearing, with one hearing held in North Trinidad and one in the South. However, the Registrar expressed an intention to increase the number of appeals per hearing to fifteen (15). Although hearings are also supposed to be held in Tobago the NIAT has not convened any hearings in Tobago during 2012 or in 2013 thus far.

3.1.6 Under existing arrangements, the Chairman must preside over all the hearings. With respect to Medical Appeals, the Chief Medical Officer (CMO) is required to be present at those hearing. Medical hearings are therefore often adjourned due to the absence of the CMO, resulting in a back-log of Medical Appeals.

3.1.7 The services of the Tribunal are at no cost to claimants seeking redress.

ADMINISTRATION OF THE TRIBUNAL

3.2 Currently, the NIAT Secretariat operates with a complement of ten (10) members of staff. The officers are as follows:-

1. One (1) Registrar/Manager; - Range 46D

- | | |
|---------------------------------------|---|
| 2. One (1) Administrative Officer II; | - Range 46D* ⁶ (Seconded) |
| 3. One (1) Research Officer I; | - Range 46* ⁷ (Seconded) |
| 4. One (1) Clerk III; | - Range 24E |
| 5. One (1) Clerk Stenographer IV; | - Range 30E |
| 6. One (1) Stenographer II; | - Range 20 |
| 7. One (1) Clerk /Typist I; | - Range 13 |
| 8. One(1) Messenger I; | - Range 9 |
| 9. One(1) Cleaner; and | - Contracted (MTS) |
| 10. One (1) Security Baton Guard | - Contracted (Property Protectors Limited) |

3.2.1 These officers provide administrative support to members of the Tribunal.

3.2.2 The Members of the Tribunal convene to conduct hearings and are not involved in the routine administration of the body. Section 60 of the Act provides for the President to appoint members of the Tribunal as follows:

1. A Chairman – independent of the Government, Business and Labour to serve a three (3) year term;
2. Three (3) persons nominated by the Government; (on a two (2) years basis)
3. Three (3)persons nominated by the associations most representative of Business; (on a two (2) years basis)
4. Three (3) persons nominated by the associations most representative of Labour; (on a two (2) years basis) and
5. The Chief Medical Officer (ex officio).

3.2.3 The Act also requires that Board Members be selected equally from North Trinidad (including counties of St. George, St David, St. Andrew and Caroni), South Trinidad (including counties of Nariva, Mayaro, St. Patrick and Victoria) and Tobago. Each appeals tribunal established in the different regions must comprise the Chairman and three

⁶ On loan from the Ministry of Finance and the Economy

⁷ On loan from the Ministry of Finance and the Economy

Members (one each from among persons nominated by the Government, Business and Labour respectively). Additionally, where an appeal involves questions of a medical nature the Chief Medical Officer must be present.

FUNDING

3.3 The Tribunal is funded by monies approved by Parliament through the Appropriation Act. For fiscal year October 2011 to September 2012, the NIAT was allocated \$1,595,900.00.

OFFICE LOCATIONS/ACCOMMODATION

3.4 The Secretariat of NIAT is located on the fourth (4th) Floor at Capital Plaza, 11-13 Frederick Street, Port of Spain, where the Registrar and Staff attend to members of the public on a daily basis. The Registrar is also available to meet with the public on Thursdays from 8:00a.m. to 1:00p.m. at the District Revenue Office, 80 Independence Avenue, San Fernando.

3.4.1 The current accommodation arrangements for the Tribunal are considered inadequate. There is no Hearing Room in which to conduct hearings at either the Port of Spain or San Fernando offices. Additionally, the Port of Spain office is plagued by overcrowding, poor air-conditioning and insufficient lighting. As a result, the NIAT is forced to rent for this purpose from the City Hall, Port of Spain.

3.4.2 It is noteworthy that the NIAT, Port of Spain Office has relocated three (3) times within the past ten (10) years from:

- Richmond Street to Independence Square,
- Independence Square to Maritime Plaza; and
- Maritime Plaza to Capital Plaza, Port of Spain.

3.4.3 Hearings in South are accommodated at the WASA Building, 40-42 St. James Street, San Fernando or at the Ministry of Labour and Small and Micro Enterprise Development,

Conference Room, San Fernando at no cost; however, access to the latter facility is dependent upon the Ministry's schedule. Hearings in Tobago are accommodated at the Division of Infrastructure, Public Utilities Office, Shaw Park.

SCHEDULE OF HEARINGS

3.5 The following details the number of hearings scheduled for the period October 2009- September 2012:

- October 2009 to September 2010- 5 hearings;
- October 2010 to September 2011- 16 hearings (10 were convened);
- October 2011 to September 2012- 18 hearings (12 were convened).

3.5.1 Details of the time and location of these appeals are at **Appendix IV**.

3.5.2 The NIAT has proposed that a Deputy Chairman and a representative of the CMO be added to the membership of the Tribunal as well as three (3) alternate Tribunal Members (representing Government, Business and Labour) to obviate the cancellation of hearings due to the inability to attain a quorum.

THE APPEALS PROCEDURE

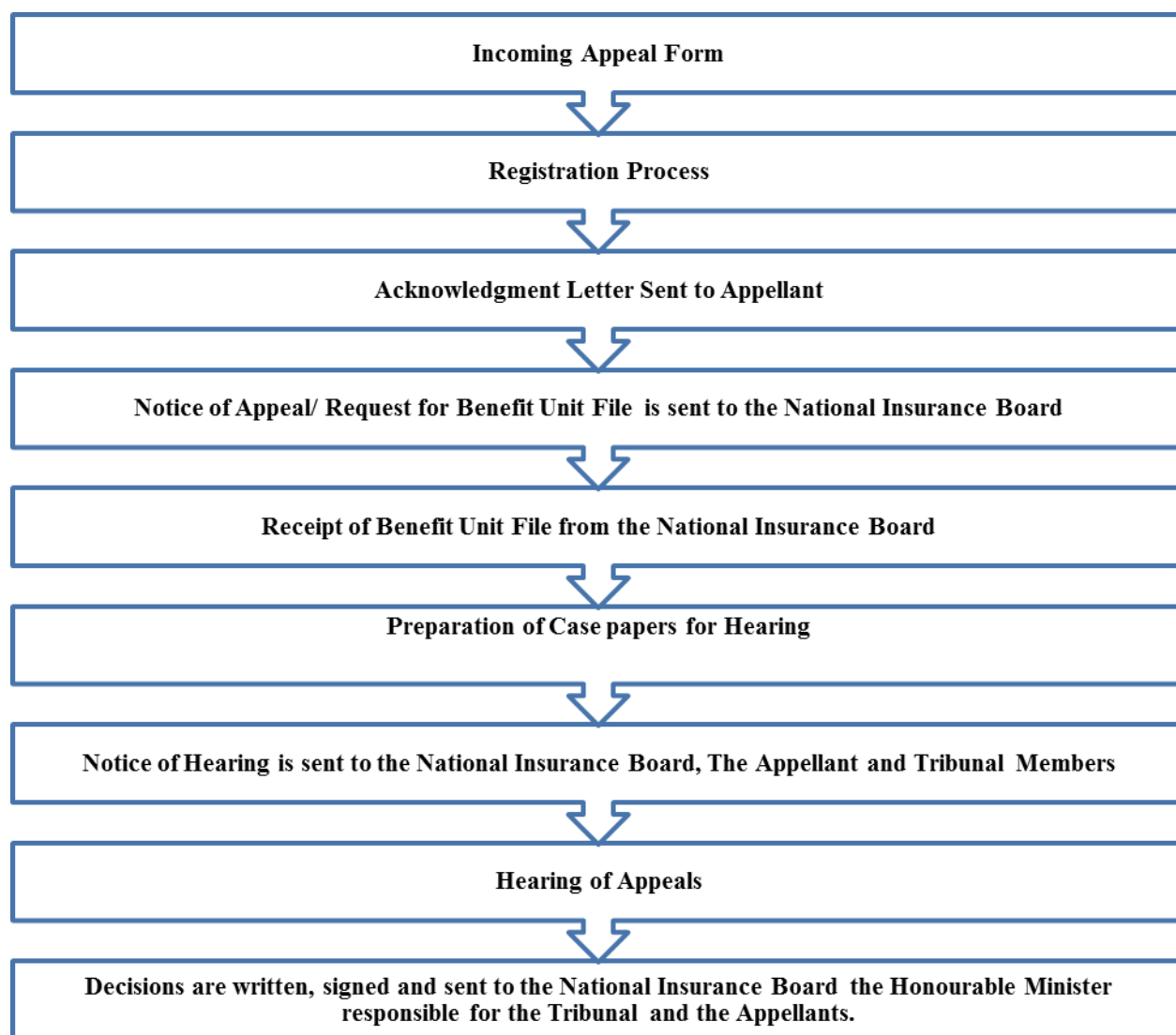
3.6 The process to be followed by an individual desirous of lodging an appeal with the Tribunal is as follows:

1. A person seeking an appeal completes an appeal form, obtainable at all NIB offices or writes a letter addressed to the Chairman of the Tribunal
2. A maximum time limit of six (6) months from the date of the Board's decision is allowed within which an Appeal must be lodged;
3. Appeals are filed in Triplicate on an Appeal form;
4. Applications are registered and the NIB is notified about the appeal. A copy of each appeal must be forwarded to the NIB for review;
5. The NIB is required to respond within three (3) weeks (Regulation 15, of the National Insurance (Appeals) Regulations Chapter 32:01);
6. The decision is reconsidered by the NIB and a response is given whether the Appeal has merit and will be settled by the Board or alternatively, the NIB refers the matter to the Tribunal for the hearing;

7. Appeals filed after six (6) months but no more than twelve (12), may be accepted at the sole discretion of the Chairman;
8. Appeals filed after twelve (12) months are considered 'Out of Time' and are not entertained by the Tribunal.

3.6.1 **Diagram 1** below outlines the process that follows when an appeal is officially lodged:

Diagram 1
Tribunal's Appeals process



TIME FRAME TO RESOLVE AN ISSUE BROUGHT BEFORE THE TRIBUNAL

3.7 Regulation 3 requires the NIB to respond to a Notice of Appeal within three (3) weeks. However, it has been the practice of the NIB not to adhere to this deadline and Benefit Unit Files are often received between six (6) to twelve (12) months after Notice of Appeal is given.

3.7.1 As such, the NIAT has suggested that the NIB be served with reminder letters, once in each month after the expiration of the three week deadline for a maximum of three months, thereafter, the Permanent Secretary, MoFE (Investments Division) will be duly informed of the tardiness of the NIB. The PS, MOFE (Investments Division) will be requested to urge the CEO of the NIB to rectify the situation.

APPEALS STATISTICS

Appeals Received

3.8 Statistical information on appeals received for the last three (3) years, October 2009-September 2012 is as follows:

TABLE 1
Receipt of Appeals
October 2009- September 2012

No.	TYPE OF BENEFIT	October 2009 - September 2010	October 2010 - September 2011	October 2011 - September 2012
1	Sickness Benefit	6	16	12
2	Maternity Benefit	8	6	5
3	Employment Injury Benefit	14	17	13
4	Medical Expenses	1	7	0
5	Disablement Benefit	28	24	20
6	Invalidity Benefit	64	47	43
7	Retirement Benefit	56	64	66
8	Survivor's Benefit	6	8	7
9	Funeral Grant	1	3	2
10	TOTAL APPEALS RECEIVED	184	192	168

3.8.1 Using the statistics given above the following illustrations were used to provide a comparison between the three (3) financial periods; October 2009-September 2012.

Diagram 2

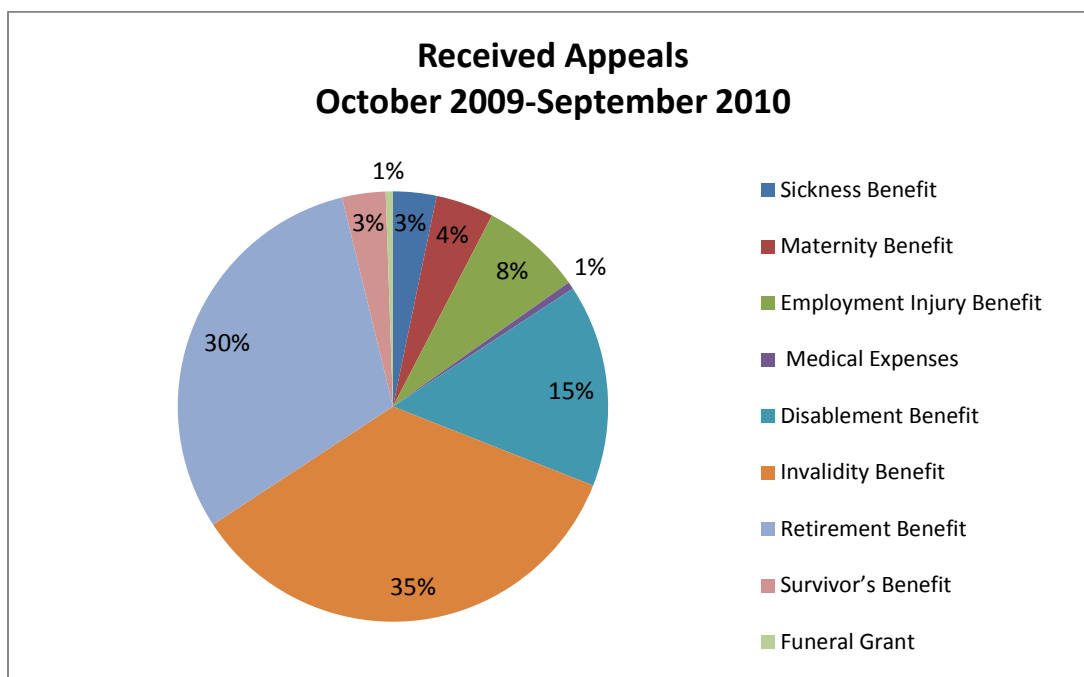


Diagram 3

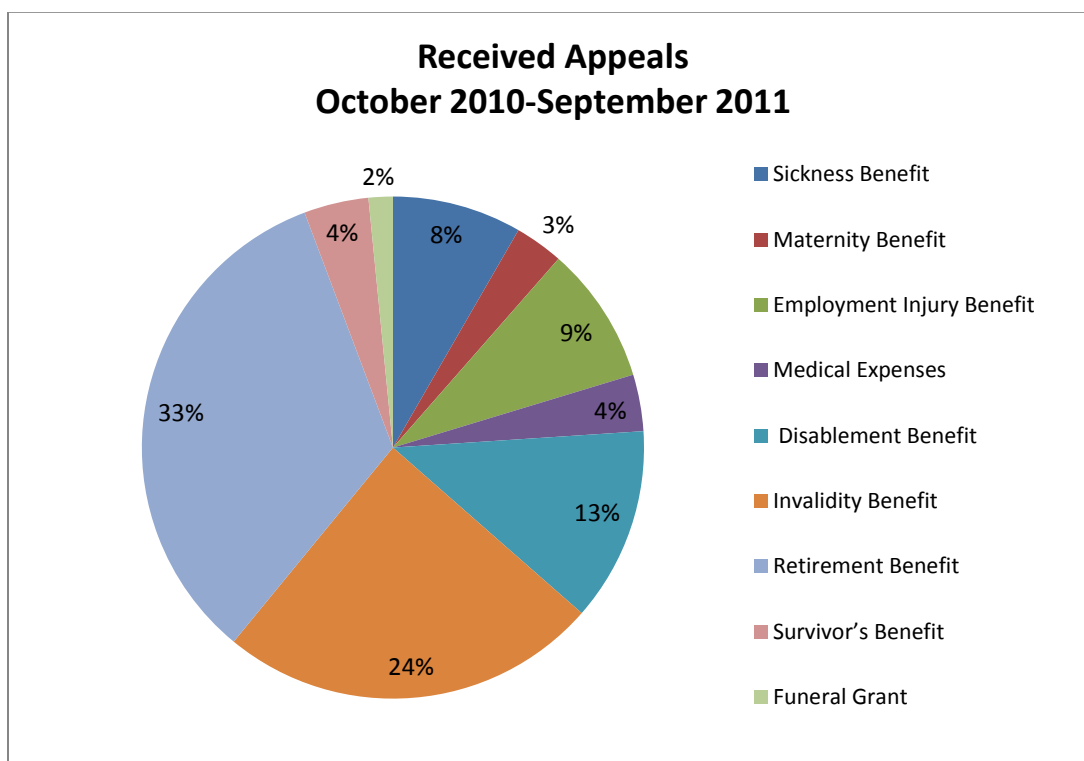


Diagram 4

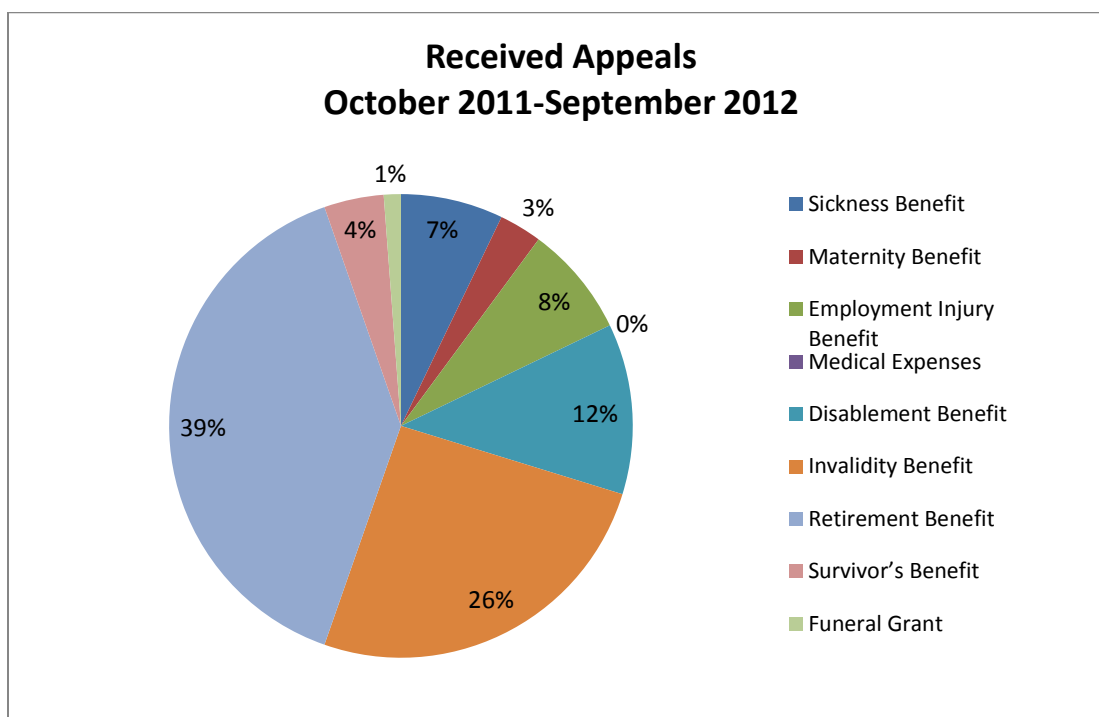
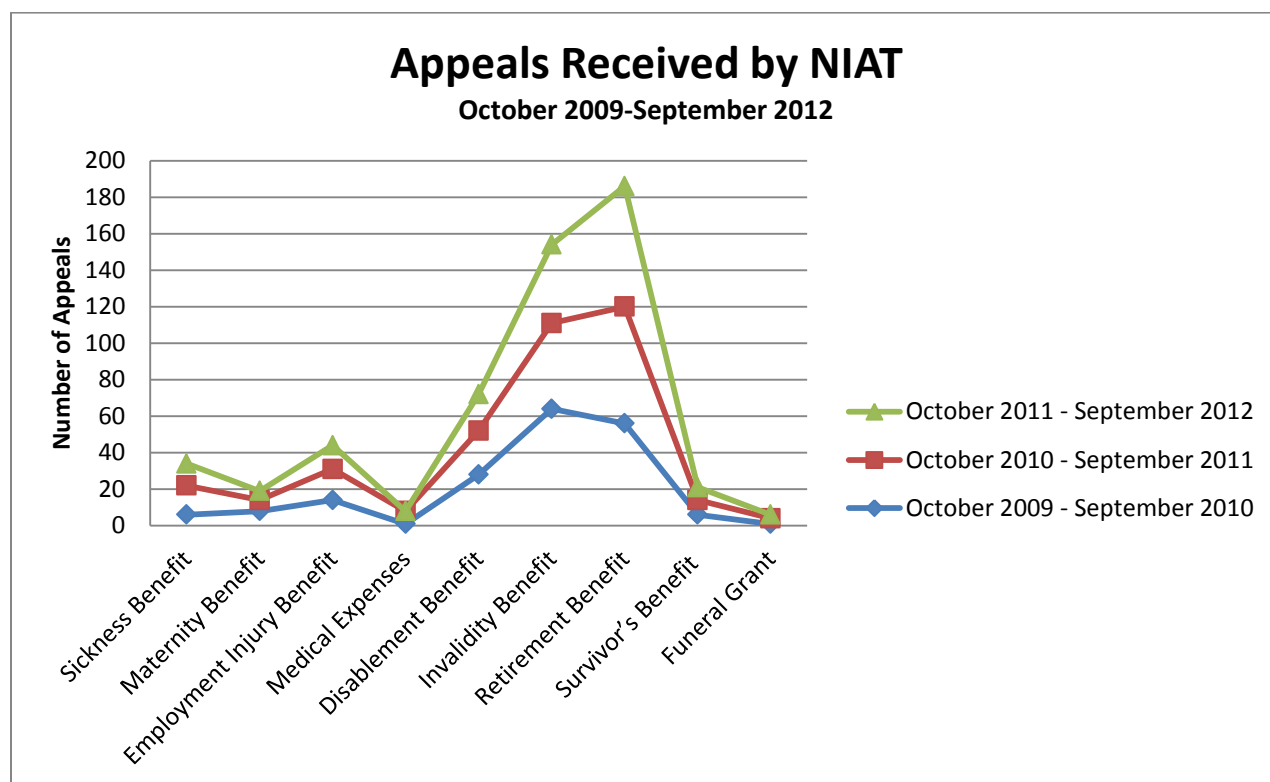


Diagram 5



3.8.2 From the information illustrated in Table 1 and Diagrams 2 to 5 the following were revealed:

- The largest number of Appeals received in 2009-2010 was in regard to Invalidity Benefits;
- However, in 2010-2011 and 2011-2012 the largest number of Appeals received pertained to Retirement Benefits.
- The least number of Appeals are received with respect to Funeral Grants and Medical Expenses.

APPEALS RESOLVED

3.9 During financial year October 2009 to September 2010, seventy four **(74)** Appeals were settled by the Tribunal; sixteen **(16)** via hearings and fifty eight **(58)** were withdrawn by Appellants. In financial year October 2010 to September 2011, forty **(40)** Appeals were settled by the Tribunal; eighteen **(18)** as a result of hearings and twenty-two **(22)** were withdrawn. During financial year October 2011 to September 2012, seventy one **(71)** Appeals were settled by the Tribunal; forty-two **(42)** as a result of hearings and twenty-nine **(29)** withdrawn.

3.9.1 It was submitted that the major reasons for unresolved appeals were as a result of:

➤ **Failure of the NIB to submit Benefit Unit Files**

The National Insurance Board is very tardy in the submission of Benefit Unit Files to the Tribunal. Without these files the Registrar is unable to prepare Case Papers.

➤ **Adjournments**

Appeals are adjourned frequently; sometimes up to four (4) times. These adjournments are made at the request of the Tribunal, the appellants or their representatives and other times by the NIB themselves.

➤ **Lack of Quorum**

Hearings are often aborted because the Tribunal is unable to acquire a quorum. A quorum includes the Chairman and at least two (2) members of the Tribunal.

Currently there is no Deputy Chairman, no alternative Tribunal Members and no CMO Representative to sit in, in cases of absenteeism.

MANAGEMENT OF APPEALS

3.10 Stated below are statistics regarding the management of appeals for the last three (3) years; October 2009-September 2012.

Table 2

**Statistics on the status of appeals for the period
October 2009 to September 2012**

DETAILS	OCT 2009- SEPT 2010	OCT 2010- SEPT 2011	OCT 2011- SEPT 2012
No. of Appeals brought forward	633	742	892
No. of Appeals received	184	192	168
TOTAL NO. OF APPEALS	817	934	1057
No. of Appeals determined by the Tribunal (<i>allowed, dismissed</i>)	16	18	42
No. of Appeals withdrawn by Appellants	58	22	29
No. of Appeals where the Tribunal has no jurisdiction	2	4	20
	(76)	(44)	(91)
BALANCE OF APPEALS ON HAND AT SEPTEMBER 2012	741	890	966

3.10.1 The statistics stated above illustrate that the number of Appeals resolved increased from forty-two (42) in October 2010-September 2011 to ninety-one (91) in October 2011-September 2012. In addition, the number of Appeals determined by the Tribunal increased significantly from sixteen (16) in October 2010-September 2011, to forty-two (42) in October 2011-September 2012.

REASONS FOR WITHDRAWN APPEALS

3.11 An Appeal against the decision of the NIB can be withdrawn by the Appellant for the following reasons:

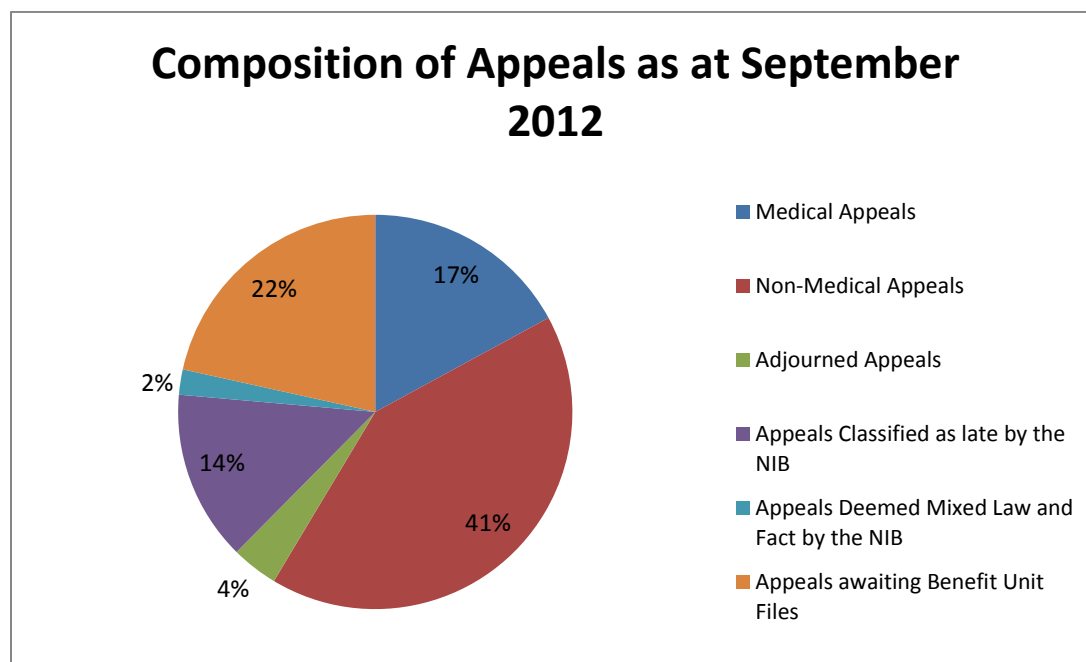
- The Claim was settled prior to Hearing between the NIB and the Appellant;
- The Appellant made his/her appeal '**Out of Time**', that is more than one year after the decision of the National Insurance Board;
- After consultation with NIAT staff an Appellant with an incorrect assessment of his NIS claim may withdraw his/her appeal;
- The Appellant withdraws his/her Appeal on the advice of the NIS Consultant who withdraws an Appeal on the Appellant's behalf; or
- The Appellant no longer has interest in continuing with his/her appeal.

Table 3

Total Number of Appeals on hand as at September 2012

Type of Appeal	No. of Appeals
Medical Appeals	165
Non-Medical Appeals	401
Adjourned Appeals	37
Appeals Classified as Late by the NIB	135
Appeals Deemed Mixed Law and Fact by the NIB	20
Appeals awaiting Benefit Unit Files	208
Total Number of Appeals in the System	966

Diagram 6



KEY	
Medical Appeals	Appeals that must be forwarded to the Chief Medical Officer for his advice. These refer to Appeals for Invalidity Benefit and Disablement Benefit.
Non-Medical Appeals	Other Appeals which include appeals for Sickness Benefit, Maternity Benefit, Employment Injury Benefit, Retirement Benefit, Survivors Benefit and Funeral Grant.
Adjoined Appeals	Appeals that have been brought before the Tribunal for Hearing and Determination but have been rescheduled to be heard again at a later date.
Late Appeals	Claims made by persons who applied for their Benefit more than one year after the contingency arose and their Claims denied by the National Insurance Board.

BACKLOG OF APPEALS

3.12 A total of 76% that is; seven hundred and thirty-eight (738) Appeals in the Appeal system are before the Tribunal awaiting Hearing. These Appeals can be classified as '*NIAT's Backlog*' as they are considered within the jurisdiction of the Tribunal and are in the possession of the Tribunal. They consist of:

- Non-Medical Appeals **41%**;
- Medical Appeals **17%**;
- Adjourned Appeals **4%**;
- Late Appeals **14%**.

Table 4

Classification of appeals pending consideration by the Tribunal

Type of Appeal	No. of Appeals
Medical Appeals	165
Non-Medical Appeals	401
Adjourned Appeals	37
Appeals Classified as Late by the NIB	135
Total	738

Stagnated Appeals

3.13 Stagnated Appeals consist of Appeals deemed *Mixed with Law and Fact* and Appeals awaiting Benefit Unit Files. These Appeals account for **24%** that is; two hundred and twenty-eight (228) Appeals of the total number of Appeals in the system.

3.13.1 Benefit Unit Files for Appeals deemed to contain an element of '***Mixed Law and Fact***', are commonly withheld by the NIB. The NIB erroneously writes NIAT indicating that these Appeals are not "***Within the Jurisdiction of the Appeals Tribunal***" and request that the Appeals not be listed for Hearing. These Appeals account for **2%** of Appeals on Hand. As such, the NIAT requested by letter that all Benefit Unit Files be forwarded to the

Tribunal. However, the NIB has maintained that such Mixed Law and Fact files did not fall under the ambit of the NIAT and therefore the relevant files are not forwarded to the NIAT.

3.13.2 Similarly, **22%** of the Appeals on hand are ***“Awaiting Benefit Unit Files”***. Without receipt of these files, Case Papers cannot be prepared and ultimately these Appeals cannot be brought before the Tribunal. NIAT has sent letters to the NIB with regard to Outstanding Benefit Unit Files. **Table 5** below illustrates the number of stagnant appeals that are deemed Mixed Law and Fact by the NIB and those awaiting Benefit Unit Files:

Table 5
Total Number of Stagnated Appeals

Type of Appeal	No. of Appeals
Appeals Deemed Mixed Law and Fact by the NIB	20
Appeals awaiting Benefit Unit Files	208
Total	228

NON-STATUTORY TRIPARTITE COMMITTEES

3.14 In the past, NIAT instituted three (3) Non-Statutory Committees to assist with the administrative and technical functions of the office of the Registrar. These Committees were established by the Chairman and Members of the Tribunal to evaluate the needs of the Tribunal and report on recommendations for its improvement as follows:

1. **Administrative Committee** - to examine the administrative practices employed by the Tribunal with a view to making recommendations to the Ministry for improvement in terms of staffing, office accommodations, office equipment, financial resources and upgrading human resources through training both locally and overseas for staff and Tribunal Members.
2. **Legislative Review Committee** - to examine existing National Insurance Legislation and make recommendations to the Tribunal with a view to getting the Ministry to make required amendments for the effective functioning of the organizations i.e. the Board and the Tribunal.

3. **Public Information Committee** – to examine the method of Public Information employed by the Board, and ascertain whether the required information is reaching its target and having the desired effect and to make recommendations and suggestions through the Ministry for improving the information flow. Additionally, in the past at a juncture, the NIAT was assisted by the Ministry with a grant to pursue a communications plan, however, the Registrar's office did not use the grant and it was returned.

3.14.1 These Committees were intended to assist in creating and sustaining a structural policy for the development of the fullest potential of the NIAT. However, the Legislative Review Committee and the Public Information Committee have become non-operational. The Administrative Committee which operates as an informal committee continues to function and provides assistance to the Registrar in the form of a 'think tank'.

3.14.2 The Administrative Committee met several (7) times during the period June 2011 to October 2012. The main issues addressed by this Committee included:

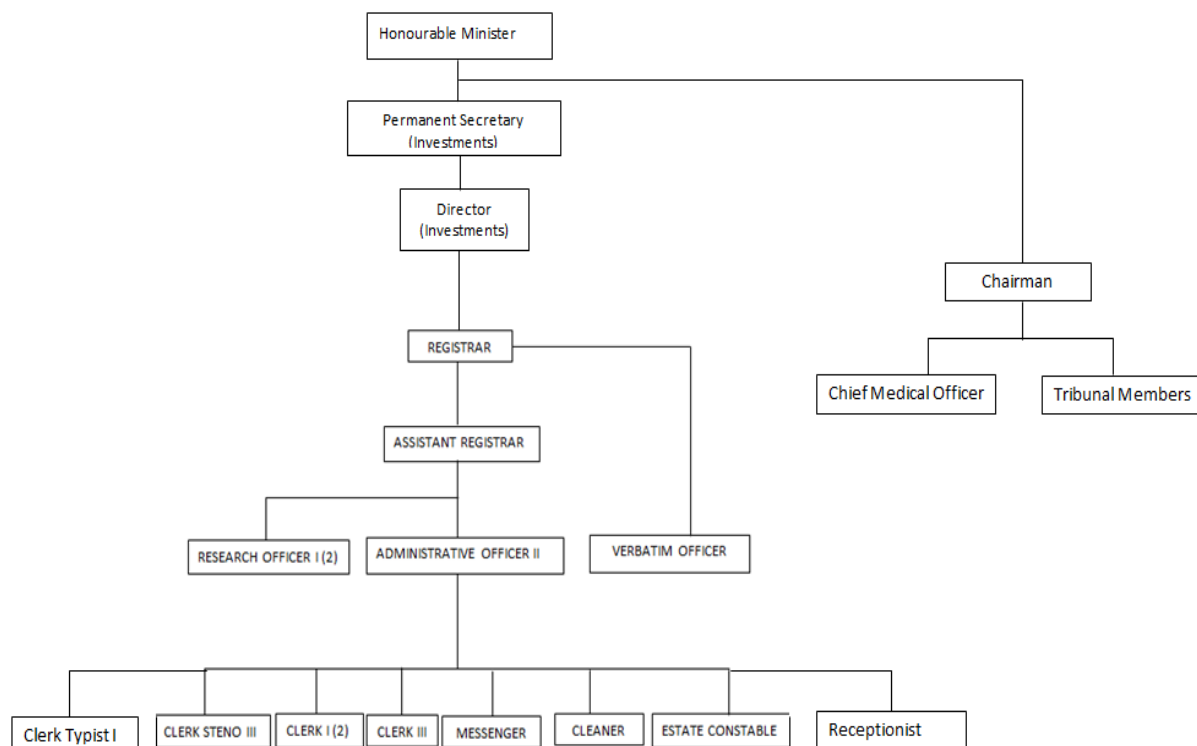
- i. Case Paper Management;
- ii. Training;
- iii. Development of a Strategic Plan;
- iv. Review of Administrative Reports; and
- v. Administrative Issues such as staffing, accommodation and procedural operations.

PROPOSAL FOR ORGANIZATIONAL RESTRUCTURING

3.15 To operate efficiently, the NIAT proposes to undertake Organizational restructuring (see Figure 3 below) to include the personnel required as follows:

Diagram 7

**PROPOSED ORGANIZATIONAL STRUCTURE
FOR THE NATIONAL INSURANCE APPEALS TRIBUNAL**



3.15.1 The proposed organizational structure will include the following positions:

Table 6

Position	Duties/Responsibilities
Registrar	To head the Division, and be in charge of all aspects of the Tribunal in terms of Administrative and Appellate functions.
Assistant Registrar	To act as a substitute in cases of vacation leave, sick leave or retirement by the Registrar and ensure succession planning so that the operations of the Division will not cease in cases of absences.
Research Officers (2)	To assist the Registrar in field work, conducting interviews with appellants and NIB staff for the preparation of complete Case Papers.
Administrative Officer II (AOII)	To assist in the supervision of the staff and to assist the Registrar in the writing and distribution of completed Case Histories and Decisions for signing by Tribunal Members as well as to do other field work that is requested by the Registrar.
Verbatim Reporters	To provide complete transcript of the Tribunal Hearings and to provide accurate transcripts prior to the preparation of the Decisions by the Registrar.

Clerk Stenographer III	To type all memorandums, letters, Case Papers as required by the Division and also to assist in other related duties.
Clerk III	To prepare goods and services required by the Tribunal as well as to prepare all allowances and remuneration of the Tribunal Members and to be responsible of maintaining the Registry and supervising both Clerk I Officers
Clerk 1 (2)	To do routine Clerical Duties, e.g. filing, photocopying, and related Registry duties.
Receptionist	To be the first line of communication with members of the public who come in personally to source the services of the Tribunal.
Estate Constable	To provide security for staff members, building and equipment.

3.15.2 Additionally, the NIAT has proposed instituting Help Desks at Port of Spain, San Fernando, Point Fortin, Sangre Grande, Arima, Rio Claro and Tobago where Research Officers will be assigned to visit each venue once per month to assist prospective appellants.

TRAINING FOR STAFF

3.16 The NIAT recognised the need for training of its staff and has identified the International Labour Organisation (ILO) as the competent and preferred organisation to provide this training. In the short term however, the NIAT recommended that National Insurance Consultants and the Industrial Court be used to facilitate training since they are cognizant of the NIS System and can offer guidance on the Appeals Procedure; particularly the preparation of case papers and the writing of decisions.

3.16.1 Additionally, in its submission the NIAT cited the need to make provisions for the Registrar to visit other CARICOM countries where Tribunals of similar nature exist to acquire an appreciation of best practices and procedures that are employed.

PROPOSAL FOR IMPROVING PUBLIC AWARENESS

3.17 NIAT conceded that greater efforts should be made to increase the level of public awareness concerning the work of the Tribunal. To this end, the Tribunal has proposed the following as strategies for increasing public awareness subject to the guidance and advice of the Public Information Committee:

- Using information commercials (infomercials) through the Government Information Services Limited (GISL);
- Broadcasting infomercials at NIB offices; and
- Printing information in the newspapers and in leaflets for distribution.

3.17.1 Paradoxically, the NIAT indicated that the Public Information Committee was non-operational at this time.

ISSUES WITH EXISTING LEGISLATION

3.18 Hereunder are some of the issues the tribunal raised regarding the National Insurance Act and Appeals Regulations and corresponding recommended amendments.

Table 7
Proposals for the amendment of governing legislation

Law to be amended	Why amend the law	What is recommended
Regulation 13 National Insurance (Appeals) Regulation <i>13 (1) Subject to this Regulation, Notice Of Appeal given after the expiration of six (6) months from the date of the decision of the Board giving rise to the Appeal, shall not be considered by the Tribunal.</i> <i>Where a Notice of Appeal is received Out of Time, but within one year from the date of the decision of the Board giving rise to the Appeal, it shall be acknowledged by the Registrar who shall request the Appellant to furnish reasons for its late submission.</i> <i>Where an Appellant furnishes reasons for the late submission of his Appeal the Chairman shall decide whether or not the late appeal shall be considered.</i>	Regulation 13 removes the right of appeal upon the expiration of twelve (12) months from the date of the decision of the Board giving rise to the appeal to the detriment of many late claims for benefit intended appellants.	Four (4) years be granted as an alternative which is in keeping with normal Statue of Limitation period and should not pose a challenge to the production of records by the Board.
Regulation 15 - National Insurance (Appeals) Regulation	The NIB has made it the norm to ignore Regulation 15 which admonishes the Board to respond to the Chairman within	Regulation 15 be amended to sanction the Board where it fails to comply with the provision within the three (3) weeks

<i>The Board shall, where a copy of a Notice Of Appeal has been served on it advise the Chairman not later than three weeks after such service, whether it has reconsidered its decision which gave rise to the appeal or whether it intends to join issue with the appellant.</i>	three (3) weeks of a notice of appeal being served. Eventually, the NIB may respond after years have elapsed in some instances or may refuse to respond at all. As a result, of the approach adopted by the NIB: - the appellant is denied the right of Appeal by law; - rules of natural justice are violated which requires that the parties be heard; and - currently, one hundred and ninety eight (198) cases are outstanding.	as stipulated, it shall be assumed that the Board has reconsidered its decision and shall award the appellant with the Benefit so claimed.
Regulation 7 – National Insurance (Benefits) Regulation The Statutory time limit for the submission of Claims except Retirement and Survivors Benefits is three (3) months (Adjusted in the case of Injury Benefit in 2008 – fourteen (14) days). A Claimant may succeed in his claim if he has made the same within twelve (12) months and can show "good cause" for his late submission. Save in the case of Retirement and Survivors if a person fails to make a claim for benefit within twelve (12) months from the date on which the contingency arose, such person shall be disqualified for receiving such benefit.	Public Officers are repressed as they cannot make a legal claim until the leave consequent upon the contingency is classified by the Employer (Government of Trinidad and Tobago) which usually takes more than twelve (12) months. As a result, claims can no longer be legally made. This occurs particularly with Maternity contingency and Injury in the case of employment. Claimants who are not public officers who sustain injury, maimed and completely disabled with no one to take responsibility for their assistance are also not allowed by the board to claim outside of the twelve (12) month period.	The legislation should take into consideration these factors and allow for late claims in all circumstances.
The National Insurance Act defines Invalid as follows: "Invalid" means a person who is unable to engage in any kind of gainful occupation or	Historically, the Board has required medical evidence that a person is in a vegetable or motionless state in order to be a successful applicant however, the issue is one of health and a person may	Accordingly, the provision of the English Social Security Laws could be considered as they describe a patient's dilemma as a "A person is incapable to work (unable to work in our case) if

who is unable to perform any work for wage or benefit for a period of not less than twelve (12) months as a result of mental or bodily disease or injury.	be able to move but ill or hurt and consequently unable to work.	<i>having regard to his age, education, experience, state of health and other personal factors, there was no work or type of work which he could reasonably have been expected to do."</i>
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EVIDENCE RECEIVED FROM NATIONAL INSURANCE CONSULTANTS

3.19 Subsequent to the broadcast of its public hearing with NIAT held on April 19, 2013, the Committee received correspondence from Mr. Ramnath Ramcharitar, National Insurance Consultant and former Registrar of the Tribunal dated April 25, 2013 comprising a number of recommendations for the improvement of the operations of the Tribunal. After reviewing Mr. Ramcharitar's submission, the Committee agreed to invite him to an *in camera* meeting to hold discussions.

3.19.1 As such, at a meeting held on June 07, 2013, Mr. Ramcharitar met with the Committee and gave an oral presentation regarding the recommendations contained in his submission. Mr. Ramcharitar's submission comprised recommendations regarding the following areas:

- Staff structure;
- Amendment to the Legislation;
- Appeals management conference;
- Extending the term of office of Tribunal members;
- Addressing the backlog of appeals;
- Ministerial oversight of the Tribunal; and
- Post-Tribunal determination of appeals.

3.19.2 The Minutes of the Committee's meeting during which Mr. Ramcharitar appeared are at **Appendix VI**.

3.19.3 The Committee also received a written submission dated 10th April 2013 from Mr. Hubert B. Dolsingh, H.B.M (Gold), Commissioner of Affidavits and National Insurance Consultant. Mr. Dolsingh's submission was a compilation of the following:

- i. 27 items of recommendations for the improvement of the National Insurance System;
- ii. 10 random queries and proposed amendments re: the National Insurance Act, Chapter 32:01;
- iii. Recommendations to resolves outstanding appeals before the Tribunal;
- iv. The National Insurance Scheme under the National Insurance Act, Chapter 32:01;
- v. Recommendations to improve the services and revenue of the National Insurance Scheme under the National Insurance Act, Chapter 32:01.

3.19.4 A copy of document (iii) of Mr. Dolsingh's submission is at **Appendix VII**

4. FINDINGS AND RECOMMENDATIONS

4.1 Based on the written and oral evidence received, the Committee has determined that the under mentioned issues were of the utmost importance to the operations of the NIAT and therefore proposes the subsequent recommendations to the Tribunal and also the Ministry of Finance and the Economy for the enhancement of the operations of the entity.

STAFF STRUCTURE, HUMAN RESOURCES AND MANAGEMENT

4.2 The effective operation of the Tribunal is largely dependent on the Office of the Registrar and the Secretariat. Neither the Chairman nor the members make any input into the administration and operations of the Tribunal. Their role is limited to holding Hearings, making decisions on appeals and certifying these decisions. This situation is not unique as other quasi-judicial bodies such as the Integrity Commission and the Service Commissions operate under a similar model, where there is a dichotomy between the administration and the Members of the body. However, there appears to be a difficulty in communication between the Registrar and the Tribunal Chairman, which may be a contributory factor in the unsatisfactory delivery of service on the part of the Tribunal.

1. It appears that the Tribunal has not acclimatized well to its change of location from the Ministry of Labour to the Ministry of Finance and the Economy. It feels that this has adversely affected its operating philosophy as well as limited its access to resources and training. Officials of the Tribunal insisted that the Ministry of Labour was considered a more suitable environment for the growth and guidance of Tribunal.
2. Based on the current establishment, the Registrar is at the Level of an Administrative Officer II, (Range 46). However, the Committee agrees with the Tribunal that given the significant managerial role the Registrar is required to perform, the officer holding this position should be at least at the level of an Administrative Officer IV. The Committee was informed that as far back as 1986 representation was made, unsuccessfully, to upgrade the post of Registrar to that of Administrative Officer IV (Range 54).

Subsequently, a request was made for the creation of a post of Deputy Registrar (Range 35). The Organization and Management Division of the MoFE responded with the provision of a Clerk III, (Range 24). Evidence received suggests that the current holder of the Office may lack the required skills and competencies to effectively manage the operations of the Tribunal.

3. Noting the need to enhance the performance and output of the Office of Registrar, the Committee considered the proposals made in submissions from the Tribunal concerning training for staff as well as those of Mr. Ramcharitar. (See Appendix V)
4. Moreover, it was evident that in addition to enhancing the Office of Registrar, a comprehensive training programme tailored to the needs of the staff of the Tribunal must be implemented.

RECOMMENDATIONS

- A. The Committee recognises an urgent need to establish a functional line of communication between the Secretariat and Tribunal of the NIAT. A productive working relationship among the two elements of the NIAT is essential for the efficient running of that body.**
- B. The Committee advocates that a review of the Tribunal's operations be conducted to determine whether in fact reassigning it to the Ministry of Labour and Small and Micro Enterprise Development would enhance its operations.**
- C. Unless the staffing of this agency is urgently addressed, the situation will deteriorate to the detriment of both the agency and its clients. The Committee therefore strongly recommends:**
 - Address the issue of lack of administrative capacity within NIAT which is one of the major contributory factors to the inefficient appeals**

process, in light of the recommendations proposed by the Tribunal and Mr. Ramcharitar;

- **Address the intractable problem of lack of leadership and management in the Secretariat;**

D. We endorse the recommendation for training in the short-term to be provided by local National Insurance Consultants while requests for subsequent training assistance are discussed/negotiated with the International Labour Organisation.

ACCOMMODATION

4.3 The case has been made that the NIAT office currently located at 4th Floor, Capital Plaza, Port of Spain is unsuitable for carrying out the affairs of the Tribunal. The size of the venue has been deemed as inadequate and existing conditions (lighting, air conditioning etc.) are unsatisfactory. The office cannot accommodate the core business of the Tribunal, its hearings.

RECOMMENDATION

The Committee strongly encourages the procurement of accommodation suitable to meet the needs of the Tribunal and its staff.

APPEALS PROCESS

4.4 Submission of appeals and pre-hearing procedures

1. The Committee concluded that there is a clearly established procedure for filing and considering appeals. The fact that the key aspects of the appeals processes are outlined in the Act provides a measure of certainty and reliability in the process. However, it was noted that the appeals process was being seriously undermined by the failure of National Insurance Board to respond to the Tribunal as is required under Regulation 15. It was certainly evident that this time lag along with the delay in the submission of

Benefit Unit Files is responsible in substantial measure for the existing backlog and considerable delays in the appeals system.

2. Submissions received lamented that in some instances the NIB may determine that a claim has lapsed and as a result does not forward the claim to the Tribunal. The Tribunal submitted that the withholding of those files was inappropriate since it is the responsibility of the Tribunal to determine whether or not a matter should be discontinued. The Committee considers this contentious situation grossly inappropriate and recognizes that effective measures must be instituted to obviate instances whereby delays on the part of the NIB result in a matter being declared *Out of Time* as is provided for in Regulation 13. It is unacceptable for the NIB, the entity against whom a claim is being made, to withhold information required by the dispute resolution body. The Committee considered this an affront to the principle of Natural Justice and recommends that a collaborative approach be adopted between NIAT and NIB, perhaps with the mediation of the Ministry of Finance to resolve this situation.
3. The Committee noted that the service provided by the Tribunal is people centred, critical and sensitive and therefore, the processes and procedures adopted by the Tribunal must be seen to be fair and transparent so as to promote public confidence. It also suggests that because there is no cost associated with filing an appeal, it is a feasible option for any qualified claimant and therefore the Tribunal must have the unhindered capacity to respond adequately to the demand for its services.
4. Delay in the submission and /or verification of contributions owed to the Board by employers was also cited as a factor that has militated against the proper functioning of the appeals process. The Permanent Secretary should bring this to the attention of the NIB with a view to having them streamline their systems to correct this problem.

4.5 *Hearing and determination of appeals*

5. The Committee noted that besides the administrative issues with the NIB, there were shortcomings inherent in the Tribunal that have adversely impacted the appeals process:

- Among these were the frequent postponement and adjournment of hearings. Of particular interest was the issue of obtaining a quorum for hearings, which the Committee believes must be resolved in the short-term through the appropriate amendment of the Act and Regulations.
- Submissions reviewed confirmed that for the period 2010 to 2012 a considerable number of matters were withdrawn for various reasons. However of great concern, were those withdrawals that were as a result of the slow pace at which matters were being dealt with, which resulted in claimants becoming disenchanted with the process and surrendering their quest for justice due to inordinately lengthy delays in the appeals process. It is hoped that this situation would be addressed by the early implementation of recommendations in this report.

4.6 Backlog of appeals

6. The Committee was extremely concerned about the number of pending matters before the Tribunal. This number currently stands at over one thousand (1000), to the detriment of the appellants. There is dire need to implement a system to treat effectively with this backlog especially considering that new matters are continually being referred to the Tribunal. Moreover, the Committee was of the firm view that the Tribunal should as a priority, determine the dollar value of the claims that are currently before it that have not been considered. The Committee thought that this information would emphasize the total value of the benefits owed or potentially owed to those insured persons. In pursuance of this information, the committee wrote to the Tribunal requesting it, however, the Committee was advised that the Tribunal was not in a position to assist and suggested that the Committee approach the NIB. The Committee did not pursue the matter further.

4.7 Appeals received by the Tribunal for the period 2010-2012

7. Statistics received from the Tribunal indicated that it received 544 appeals during the period 2010 to 2012. Further details are set out in Table 1 and 2 and Diagrams 2 to 5 above. The Committee also acquired an appreciation of the types of benefits and claims that were the subject of the majority of the appeals before the Tribunal for the period concerned.

4.8 The number of appeals which have been resolved during the period 2010-2012

8. Statistics received also revealed that a total of 76 appeals were 'resolved' (that is either allowed or dismissed) by the Tribunal. Further details are at Table 2.

4.9 Timeframe to resolve an issue which is brought before the Tribunal

9. It was submitted that there was no stipulated timeframe for the resolution of a matter before the Tribunal. However, the three (3) week timeframe for a response from the Board as prescribed by Regulation 15, suggest that appeals ought to be dealt with expeditiously. Naturally, it would be in the best interest of all concerned to have matters resolved expeditiously. However, it was also clear that the plethora of internal

and external elements, which have been treated above that impact the appeals process have to be addressed in order to ameliorate the situation.

RECOMMENDATIONS

The Committee strongly recommends that:

- A. The MoFE appoint a Consultant, to work with the Registrar and the NIB to develop an effective strategy for reducing the backlog of appeals. Consideration should be given to adopting a project oriented approach supported by an approved timetable. It is anticipated that such a methodical approach could result in the reduction of the backlog within two (2) years if the Tribunal were to commit to four (4) Hearings per month, (i.e. forty-eight (48) Hearings per year) with each Hearing having 12 appeals listed and heard.**
- B. The Consultant could simultaneously provide hands-on training to the staff.**
- C. As a priority the Tribunal should work with the Board to determine the dollar value of the claims that are awaiting its review and determination.**
- D. In attempting to reduce the backlog of appeals, the Committee recommends that particular consideration be given to senior citizens; 65 years and over.**

APPEALS MANAGEMENT CONFERENCE

4.10 To streamline the appeals process, the Committee was impressed by the suggestion offered by one of the Consultants that the Tribunal should, in addition to its pre-hearing discussions with applicants, go a step further and implement a Case Management System (CMS) or an Appeals Management Conference (AMC). It is anticipated that the introduction of this system will assist in reducing the number of matters submitted to the Tribunal since this would involve pre-hearing discussions among the NIB, the appellant and the Registrar to review matters and so determine those that need to be heard and those that should be discontinued.

RECOMMENDATION

The Committee strongly recommends the establishment of such a CMS/AMC to review all appeals with a view, where possible, to resolving issues prior to the appeal being listed for a Hearing. The unresolved issues will then be submitted to a Tribunal Hearing.

Recommended Process:

- i. When an appeal is sent to the National Insurance Board, the response will be within 21 days as required by law, i.e. the Board decides either to review its decision and pay the claim or join issue with the appellant and contest the appeal, when the Benefit Unit file of the appellant is promptly processed and forwarded to the Tribunal.
- ii. At this point the Registrar will review the file with the Appellant or Representative and allow the appellant to produce facts/further information to substantiate the claim. Once this is achieved, the Registrar will set up an Appeals Management Conference and attempt to resolve the issues totally or narrow down the issues after which the appeal is listed for Hearing. The entire process could be completed within three months or if necessary proceed to a full Hearing of the Tribunal.
- iii. Once all the issues are identified it becomes easier for the Tribunal, the Board and the appellant/Representative to focus on these unresolved issues and a decision could be arrived at in a single hearing. This will eliminate the several adjournments which now occur.

POST TRIBUNAL DETERMINATION OF APPEALS

4.11 Both the appellant and the NIB can pursue Judicial Review proceedings in the High Court to seek recourse further to a decision of the Tribunal. However, the Board holds an advantage over an appellant by way of resources to pursue litigation. Over the years, the NIB has from time to time challenged the Tribunal's decisions and has been successful in having the Judge set aside the Tribunal's decision in all but one case.

RECOMMENDATION

To level the playing field, the Committee strongly recommends the appointment of a Commissioner of National Insurance. The Commissioner should be qualified to be High Court Judge and should be appointed as the final arbiter for National Insurance matters so that all matters relating to the Registration of Employers and Employees, interpretation of the National Insurance Laws and appeals against decisions of the Tribunal will be determined by the Commissioner. Appeals regarding decisions of the Tribunal would be at equal and minimal cost to all parties involved. It is suggested that this approach would be more expeditious and cost effective in favour of the parties involved.

MEMBER'S TERM OF APPOINTMENT

1. The law does not delineate a specific time period for a member's term of office. The previous norm was a three (3) year term for the Chairman and all members. Currently the Chairman retains a three (3) year term, but members have been reduced to two (2) years. The difficulty arises when new members are appointed. It takes approximately six (6) months to be trained and to be orientated, that leaves an eighteen (18) month period to really function after which the time expires. In addition, during the period of orientation for new members no hearings are held. The question of lack of continuity also arises.
2. Additionally, the function of a member of the Tribunal is an onerous one, whereby the member is required to put the laws and regulations in proper perspective, balancing it at all times with the facts and evidence provided at the Hearing. A member must have an intimate knowledge of the rules and regulations governing benefits from the National Insurance Board. It was also learned that there is at present a vacancy in the Membership of the North Tribunal, by way of the Government's representative, who has retired.

RECOMMENDATIONS

- A. The Committee proposes that the term of the Chairman and Members of the Tribunal be established as five (5) years. In addition, Members should also be eligible for re-appointment.**
- B. The Committee recommends that vacancies in the Membership of the Tribunal be treated with urgency, given the fact that there are already challenges to attaining a quorum. The Government is requested to pursue the replacement of its representative on the North Tribunal expeditiously.**

MINISTERIAL OVERSIGHT

The Committee was concerned by the fact that there appears to be a lack of ministerial oversight of the operations of the Tribunal. Notwithstanding the fact that the Tribunal was intended to operate as an independent body, the provisions of the Act and Regulations established a reporting relationship between the Minister responsible and the Tribunal. In furtherance of this obligatory relationship, there ought to be a mechanism for the Minister of Finance to exercise oversight of the general administration of the body. The Committee was astonished that officials of the NIAT indicated they were unaware of a consultancy group being established by the MoFE to undertake a comprehensive examination of the Tribunal aimed at addressing the inherent weaknesses.

RECOMMENDATION

The Committee encourages the implementation of a system of reporting to the Permanent Secretary on a quarterly and annual basis on all activities of the Tribunal. It is hoped that through the introduction of this reporting requirement issues and shortcomings regarding the operations of the body can be addressed in a timely manner.

MEETINGS OF THE TRIBUNAL

The Committee noted that the Tribunal has set a benchmark of 24 hearings per year that is, two (2) per month, one (1) in the North and one (1) in the South. However, alarmingly,

statistics received revealed that the Tribunal has been unable to attain this modest target as a result of various challenges. The Committee considers this situation as unsatisfactory given the number of outstanding matters before the Tribunal. Within the evidence received, there was a proposal from NIAT for the Tribunal to increase the number of matters considered per hearing from ten (10) to fifteen (15).

RECOMMENDATIONS

- A. The Committee recommends an increase in the number of members that comprise each Tribunal from 3 to 4 and the creation of the post of Deputy Chairman as a means of increasing the odds of attaining a quorum for hearings. This recommendation is further elaborated hereunder in the section dealing with amendments to legislation.**
- B. The Committee also endorses the intention of the Tribunal to attempt to consider at least 15 matters per hearing.**

MEETINGS OF NON-STATUTORY COMMITTEES

With respect to the non-statutory Tripartite Committees, it was confirmed that two of the three Committees are currently non-functional. The dormant Committees were the Public Information Committee and the Legislative Review Committee. The last time the Legislative Review Committee convened was in February, 2002. However, the Committee was informed that the Administrative Committee was still functioning on an informal basis. A noted contradiction in evidence received was that NIAT had intentions of pursuing a public awareness campaign under the guidance of the Public Information Committee, which was not functioning at this time.

RECOMMENDATIONS

- A. The Committee recommends the reinstatement of all three (3) Committees (Administrative, Legislative Review and Public Information Committee. The**

Committee believes that the Tripartite Committees could be effective mechanisms to assist the NIAT in efficiently achieving its mandate.

- B. The Committee also recommends the comprehensive review of the mandates of these committees to reflect appropriate terms of reference to further strengthen the NIAT.**
- C. The information regarding these Committees that is currently posted on the website of the Ministry of Finance should be updated to reflect the current status of these Committees.**

AMENDMENTS TO LEGISLATION

The current legal framework governing the NIAT is outdated and should be amended to make provision for additional staff, proper procedures as well as a sanction should the NIB default on its obligations under Regulation 15.

RECOMMENDATION

- A. The Committee endorses the proposed legislative amendments submitted by NIAT and listed above in Table 7 as well as proposals for legislative modifications received from Mr. Ramcharitar (See Appendix V). Therefore, the Committee requests that the NIAT review proposals from Mr. Ramacharitar and submit definitive draft of proposed legislative amendments to the Ministry of Finance and the Economy and further, that the Ministry of Finance attend to same with alacrity so that the necessary amendments can be instituted.**
- B. The Committee strongly recommends the introduction of the following amendments:**
 - i. Creation of the post of Deputy Chairman;**
 - ii. The appointment of three (3) Independent Members by the President, one from each region, as such the Tribunal would comprise four (4) members, along with the Chairman or the Deputy Chairman. The Committee believes that an increase in the number of Members serving on the Tribunal(s) can**

- allow four (4) Hearings to be convened per month. Two can be chaired by the Chairman and two chaired by the Deputy Chairman. The members in each Division will now number four (4), i.e. Labour, Business, Government and Independent with the quorum remaining the same, i.e. Chairman or Deputy Chairman and any two (2) members.
- iii. Provisions to allow the Chief Medical Officer to nominate a substitute to tender advice to the Tribunal
(N.B. The Chief Medical Officer is ex-officio on thirty-five (35) Boards and Commissions within the Public Service in addition to his substantive Portfolio).
- iv. Use of video conferencing and or other suitable Information and Communication Technology to facilitate the conduct of hearings;
- v. The MoFE is called upon to oversee/ensure the relevant amendment to Act 32:01.

The Committee respectfully submits the foregoing for the consideration of the Parliament.

Sgd.
Mr. Elton Prescott, SC.
Chairman

Sgd.
Dr. Dhanayshar Mahabir
Vice-Chairman

Sgd.
Mrs. Carolyn Seepersad - Bachan, MP
Member

Sgd.
Mr. Emmanuel George
Member

Sgd.
Mr. Ganga Singh
Member

Sgd.
Dr. Delmon Baker, MP
Member

Sgd.
Mr. Jairam Seemungal, MP
Member

Sgd.
Ms. Stacy Roopnarine, MP
Member

Sgd.
Mr. Gerald Hadeed
Member

Sgd.
Dr. Amery Browne, MP
Member

Sgd.
Mrs. Patricia Mc Intosh, MP
Member

Sgd.
Mr. Faris Al-Rawi
Member

Dated: October 25, 2013

APPENDIX I

List of Ministries and associated entities falling within the purview of the Committee

List of Ministries, Statutory Authorities and State Enterprises which fall under the purview of this Committee:

1. ARTS AND MULTICULTURALISM

Carnival Institute
Naparima Bowl
National Academy for the Performing Arts (NAPA)
National Carnival Commission of Trinidad and Tobago
National Cultural Commission
National Theatre Arts Company
Queen's Hall Board
Trinidad and Tobago National Steel Symphony Orchestra

2. ATTORNEY GENERAL

The Law Reform Commission
Environmental Commission
Industrial Court
Council of Legal Education
Hugh Wooding Law School
Anti-Corruption Investigation Bureau
Equal Opportunity Commission
Equal Opportunity Tribunal
Tax Appeal Board
Central Authority
International Law and Human Rights Unit

3. COMMUNICATIONS

Board of Film Censors
Caribbean New Media Group Limited (CNMG)
Government Information Services Limited (GISL)
National Broadcasting Network (NBN)

4. COMMUNITY DEVELOPMENT

National Association of Village and Community Councils
Village Councils
Export Centres Company Limited

5. EDUCATION

Local School Boards
National Commission for UNESCO
Education Facilities Company Limited
National Schools Dietary Services Limited
National Library and Information System Authority (NALIS)

6. ENERGY AND ENERGY AFFAIRS

Lake Asphalt of Trinidad and Tobago (1978) Limited
National Gas Company of Trinidad and Tobago Limited
National Quarries Company Limited
Petroleum Company of Trinidad and Tobago Limited (PETROTRIN)
Trinidad and Tobago National Petroleum Marketing Company Limited (NP)
Alutrint Limited
Alutech Limited
La Brea Industrial Development Corporation
National Agro Chemicals Limited
National Energy Corporation of Trinidad and Tobago Limited
NATPET Investment Company Limited
NATSTAR Manufacturing Company Limited
NGC NGL Company Limited
NGC Trinidad and Tobago LNG Limited
Phoenix Park Gas Processors Limited
Powergen
Trinidad and Tobago LNG Limited
Trinidad and Tobago Marine Petroleum Company Limited
Trinidad Nitrogen Company Limited
Trinidad Northern Areas Limited
TRINMAR Limited
TRINTOC Services Limited

7. ENVIRONMENT AND WATER RESOURCES

Institute of Marine Affairs (IMA)
The Environmental Management Agency
The Green Fund Advisory Committee
Water and Sewerage Authority (WASA)
Water Resources Agency

8. FINANCE AND THE ECONOMY

Central Tenders Board
National Insurance Appeals Tribunal
National Insurance Board
National Insurance Property Development Company Limited (NIPDEC)
National Lotteries Control Board (NLCB)
Trinidad and Tobago Civil Aviation Authority
Trinidad and Tobago Unit Trust Corporation
Corporation Sole
Divestments
Investments
BWIA West Indies Airways Limited (New BWIA)
Caribbean Airlines Limited
First Citizens Holdings Company Limited
National Enterprises Limited (NEL)
Rum Distillers Limited
The Sugar Manufacturing Company Limited
Trinidad and Tobago Forest Products Company Limited (TANTEAK)

Taurus Services Limited
Caribbean Investment Corporation
Tourism and Industrial Development Company (TIDCO)
Trinidad and Tobago (BWIA International) Airways Corporation (Old BWIA)
Trinidad and Tobago Development Finance Limited
Caribbean Development Network Limited
Caribbean Microfinance Limited
Colonial Life Insurance Company Limited (CLICO)
First Citizens Bank Limited (FCB)
First Citizens Mortgage & Trust Company Limited
First Citizens Investment Services Limited
Trinidad and Tobago Mortgage Agency Company Limited

9. FOOD PRODUCTION

Agricultural Society of Trinidad and Tobago
Caribbean Agricultural Research and Development Institute (CARDI)
Cocoa and Coffee Industry Board
Livestock and Livestock Products Board
Caroni (1975) Limited
National Agricultural Marketing and Development Corporation (NAMDEVCO)
Agricultural Development Bank (ADB)
Caribbean Food Corporation
Sea Food Industry Limited

10. FOREIGN AFFAIRS

11. GENDER, YOUTH AND CHILD DEVELOPMENT

Adoption Board
Children's Authority

12. HEALTH

Boards regulating the Practice of Medicine and Related Professions
Children's LIFE Fund Board of Management
Eastern Regional Health Authority
North Central Regional Health Authority
North West Regional Health Authority
South West Regional Health Authority
Dental Council of Trinidad and Tobago
Drug Advisory Committee
Emergency Medical Personnel Council of Trinidad and Tobago
Food Advisory Committee
Medical Council of Trinidad and Tobago
National Emergency Ambulance Service Authority
Nurses and Midwives Council of Trinidad and Tobago
Pesticides and Toxic Chemicals Board
Pharmacy Council of Trinidad and Tobago
Opticians Council of Trinidad and Tobago
Princess Elizabeth Home for Handicapped Children

13. HOUSING AND URBAN DEVELOPMENT

Sugar Industry Labour Welfare Committee

Rent Assessment Board

Caroni 1975

Community-based Environmental Protection and Enhancement Company Limited (CEPEP)

Estate Management Business Development Company Limited (EMBD)

Housing Development Corporation (HDC)

Urban Development Corporation of Trinidad and Tobago Limited (UdecoTT)

Trinidad and Tobago Mortgage Finance Company Limited (TTMF)

14. JUSTICE

15. LABOUR AND SMALL AND MICRO ENTERPRISE DEVELOPMENT

Boilers Examiners Board

Minimum Wages Board

Registration, Recognition and Certification Board

Friendly Societies

Cipriani College of Labour and Co-operative Studies

National Entrepreneurship Development Company Limited (NEDCO)

National Productivity Council

Occupational Safety and Health Authority

16. LAND AND MARINE RESOURCES

Land Settlement Agency (LSA)

17. LEGAL AFFAIRS

Law Revision Commission (LRC)

Legal Aid and Advisory Authority (LAAA)

Police Complaints Authority (PCA)

Sentencing Commission

Criminal Injuries Compensation Board

APPENDIX II

MINUTES OF PROCEEDINGS

**MINUTES OF THE NINETEENTH MEETING OF THE JOINT SELECT COMMITTEE OF PARLIAMENT APPOINTED TO INQUIRE INTO AND REPORT ON
GOVERNMENT MINISTRIES (GROUP I), STATUTORY AUTHORITIES AND STATE ENTERPRISES FALLING UNDER THOSE MINISTRIES THE J.
HAMILTON MAURICE ROOM, MEZZANINE FLOOR, OFFICE OF THE PARLIAMENT, TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, 1A
WRIGHTSON ROAD, PORT OF SPAIN ON TUESDAY APRIL 19, 2013 AT 10:06 A.M.**

PRESENT

Mrs. Corinne Baptiste-Mc Knight	Chairman
Mr. Emmanuel George	Member
Mr. Jairam Seemungal, MP	Member
Ms. Stacy Roopnarine, MP	Member
Mr. Faris Al-Rawi	Member
Mrs. Carolyn Seepersad-Bachan, MP	Member
Mrs. Jacqueline Phillip-Stoute	Secretary
Ms. Sheranne Samuel	Assistant Secretary
Ms. Katharina Gokool	Graduate Research Assistant
Mr. Indar Sieunarine	Parliamentary Intern

ALSO PRESENT

Mr. Eugene J. Tsoi-a-Fatt	Chairman (NIAT)
Mr. Premraj Lyman	Registrar (Ag)
Ms. Herschel Joseph	Research Officer

ABSENT

Prof. Harold Ramkissoon	Vice-Chairman
Mr. Ganga Singh	Member
Mrs. Christlyn Moore	Member
Dr. Delmon Baker, MP	Member
Dr. Amery Browne, MP	Member
Mrs. Patricia McIntosh, MP	Member

COMMENCEMENT

1.1 A quorum was not established for the *in camera* segment of the meeting scheduled to begin at 9:00am.

1.2 However, a quorum was attained in time for the public hearing which commenced in the J. Hamilton Maurice Room at 10:06am.

DISCUSSIONS WITH OFFICIALS FROM THE NATIONAL INSURANCE APPEALS TRIBUNAL (NIAT)

2.1 The Chairman welcomed officials of the National Insurance Appeals Tribunal (NIAT) and introductions were exchanged.

2.2 The Chairman expressed her disappointment concerning the late receipt of documents from the entity which placed members of the Committee at a disadvantage.

2.3 Detailed hereunder are the concerns raised by Members of the Committee and the responses proffered by the Officials of the National Insurance Appeals Tribunal (from henceforth “the Tribunal”):

(i) Efficiency of NIAT

- a) The Committee expressed concern about the efficiency of the Tribunal particularly regarding financial resources and the inadequacy of its manpower. [Additional information was requested on this issue. See item 2.6 below]
- b) The Committee raised concern that the Tribunal was not meeting its stated objectives in serving citizens.
- c) The Registrar indicated that staffing was an issue. Roughly eight (8) persons, excluding the security officer are responsible for dealing with all appeals coming to the Tribunal. The Tribunal receives over 100 appeals per year. The number of appeals is also on the rise, as an increasing number of persons are utilising the services of the Tribunal. It is the first line of adjudication and appeal process and the service is free of charge.
- d) There should be two (2) hearings per month and twenty-four (24) hearings per year and the hearings are divided between three regions, Port of Spain, San Fernando and Tobago. However, this is not the reality.
- e) The tardy submission of files from the National Insurance Board (NIB) has impacted the Tribunal’s efficiency. Files should be received from the NIB within three (3) weeks, however, this is not the norm and in some cases it takes over a year to receive files.
- f) The Committee suggested that as a means of measuring the impact of the short comings in its operations, the value of claims before the Tribunal should be quantified.
- g) The Officials indicated that the philosophical basis of the organisation has shifted since the Tribunal was placed under the Ministry of Finance and the Economy (MoFE) which is considered an inappropriate pairing. The Tribunal was previously under the Ministry of Labour which was deemed more suitable. It was submitted that access to the International Labour Organisation (ILO) is important and this is through the Ministry of Labour.
- h) The Chairman of the Tribunal cited the lack of training on the part of the Registrar and his staff to prepare case histories as one of the causes of prolonged adjournments. [Additional information on training was requested. See item 2.6 (6) below]
- i) The Committee was advised that the Tribunal have submitted recommendations to the Minister and Permanent Secretary of the MoFE regarding its operational issues.

- j) The Chairman of the Tribunal cited a lack of oversight of the Registrar's Department on the part of the MoFE. These issues have been raised with the Permanent Secretary and the Minister.

(ii) Human Resources

- a) The Committee enquired whether the Tribunal made any recommendations for additional staff based on the increase in the volume of work. It was suggested that the Tribunal quantify the increase in the volume of work. [Additional information was requested on this issue. See item 2.6 (8) below]. The inadequate human resources at the Tribunal were seen as typical of the Public Service.
- b) The staff structure established in 1982 at the commencement of the Tribunal's operations still exists today.
- c) Currently two (2) members of staff are on loan from the MoFE.
- d) To have more than two (2) hearings per month, the Tribunal requires more staff.
- e) In response, the Committee suggested not just an increase in the number of staff but also an upgrading of positions to meet the current and future demands of the Tribunal. Specific reference was made to improving the capacity of middle management. [Additional information was requested on this issue. See item 2.6 (21) below].

(iii) Legislation/Non-statutory Committees

- a) The Committee learnt that the Legislative Review Committee of the Tribunal was no longer operational.
- b) In light of the non-existent Legislative Review Committee, the Committee enquired whether any mechanism was in place for determining/recommending updates to legislation.
- c) The Public Information Committee has also ceased to function. Assistance had been provided in the form of a grant to pursue a communication plan, however, the grant was not used and as such it was taken away.
- d) However, the Administrative Committee is still functional. It was established to provide assistance to the Registrar and his staff in the form of a think-tank.

(iv) Assisting the NIB in filling gaps in the system

- a) The Chairman of the Tribunal stated that the National Insurance System is ailing and that the system is largely responsible for the backlog of appeals. There are no measures to ensure that the NIB complies with time limits for the submission of files to the Tribunal. In some instances the file cannot be found. Where appeals concern a question of law the

matter is held back by the NIB and should be referred to the Court. .

- b) In some instances, the NIB determines that a claim has lapsed and does not forward the claim to the Tribunal. The Tribunal has advised the NIB that discontinuing matters should be for its determination (the Tribunal must have evidence of the date of the claim).
- c) Tribunal officials were of the opinion that both operations at the Tribunal and the NIB need to be improved to ensure the proper functioning of the system.
- d) Reference was made to a 2004 Trinidad Guardian article in which the Tribunal urged employers to pay their contributions citing it as one of the reasons for delayed claims.
- e) The Committee noted that the operations of the NIB contributed to the number of claims coming to Tribunal and enquired whether officials ever made recommendations to the NIB regarding a public awareness campaign (based on observations made from appeals coming to the Tribunal).
- f) In response, the Committee was informed that, the Tribunal together with officials of the Ministry of Finance and the Economy has met with the NIB in an effort to address the delay in the submission of files. Following this meeting there were attempts to deal with the backlog of appeals coming from the NIB, however, files were still not submitted within the three-week time frame. [Additional information was requested on this issue. See item 2.6 (15) below].

(v) Appeals

- a) Based on the written submissions from the Tribunal, the Committee noted the increase in the number of withdrawals and sought to determine what the most prominent issue that remains unsettled was. The Committee also raised concerns about the statistics which were provided by the Tribunal. It was observed that some statistics reflect the calendar year whereas others reflect the financial year. This hampered a more in depth analysis of the data that was submitted. [Additional information was requested on this issue. See item 2.6 (10) below].
- b) Officials noted several reasons for the increase in the number of withdrawals. [Additional information requested on this issue. See item 2.6 (11) below]. Among them were:
 - The appeal is out of time (An appellant has a specific time period in which to make an appeal: 6 months and in special instances 1 year);
 - The Appellant withdraws the appeal;
 - The NIB refuses some decisions of the Tribunal and meet with the appellant to review decisions which are then settled out of court;
 - The matter is withdrawn by the appellant following advice from a consultant.
- c) The Committee noted with concern that less than 50% of appeals are settled and there is a significant backlog of matters before the Tribunal. The need for a revamping of the system was articulated.

- d) The number one reason cited for the backlog of appeals was the non-submission or untimely submission of files by the NIB. The appeals cannot proceed without the files. [Additional information was requested on this issue. See 2.6 (14) below].
- e) Medical appeals were also discussed. The medical tribunal is difficult to convene as the CMO is often too busy to sit at a hearing.
- f) Officials indicated the subject of most appeals was retirement benefits.

(vi) Role and function of NIAT

- a) The first function of Tribunal is to act as the first line of adjudication in dealing with an appeal. The service is free. Essentially the Tribunal provides for persons who are aggrieved by decisions of the NIB on any issue concerning their benefit. The procedures are informal and rarely require the aggrieved party to have a lawyer present. The forms for appeals can be acquired at various NIB offices.
- b) The Tribunal meets with appellants prior to a hearing to go through case papers and the merits of the appeal and any other issues. The Registrar stated that this service should be expanded to areas such as Rio Claro, Point Fortin, Arima and Sangre Grande. Recommendations regarding this issue were made to the MoFE. [Additional information was requested on this issue. See item 2.6 (13) below].
- c) The Committee suggested that an Appeals Desk be set up at the various NIB offices to guide persons in the appeals process and aid in filling out forms and other related activities. This perhaps may result in a reduction of the number of appeals coming before the Tribunal.

(v) Members of the Tribunal

- a) Tribunal members are appointed by the Cabinet on the representation of the interest group (Government, Business, Labour).
- b) In practice, Tribunal members do not only function in the region to which they are responsible. If there is a challenge to attain a quorum for a hearing in a region and advanced notice is given, a member from another region (who is a representative of the interest group that is unavailable) could attend as a substitute.
- c) Currently there are only two members in the North Tribunal. The Government's representative for the Northern region retired in September 2012 and the position is yet to be filled. The Committee contended that this should not prevent hearings from taking place as the corresponding representative from another region can be asked to attend.
- d) The question of alternative tribunal members was discussed. It was revealed that there exists no Deputy Chairman or Deputy Registrar, thus if either the Chairman or the Registrar are unavailable the Tribunal is unable to function.
- e) Officials indicated that the difficulty with alternate members is that if a matter begins before a Tribunal and it is adjourned, an alternate member cannot sit in that matter.

- f) The Committee suggested that the Tribunal ensure in its system that the matter comes back before the same members of the Tribunal.
- g) Officials have recommended that the CMO should designate someone to sit in his place when he is unavailable.

(vii) Hearings/Backlog

- a) The Committee questioned why the Tribunal was not meeting for their scheduled 24 meetings per year. [Additional information was requested on this issue. See item 2.6 (16) below].
- b) The Registrar cited reasons for the Tribunal not achieving its goal of 24 hearings in a year:
 - The Board's tenure ends every two (2) years and there are delays in the appointment of new board members;
 - Lack of quorum;
 - Unavailability of Chief Medical Officer (CMO).

From September to December (2012) there were three (3) hearings. In 2013 there were two (2) hearings thus far.

- c) For the period 2010 – present there have been no hearings in Tobago. The Committee expressed its concern regarding this issue. The Chairman of Tribunal indicated that he has brought the matter to the attention of the Registrar.
- d) The Committee also inquired whether there was a plan to clear the backlog of appeals. The Chairman of Tribunal indicated that a proper assessment of the backlogs needed to be done and the question of what constitutes a backlog should be determined.
- e) It was suggested that the Tribunal recommend the appointment of additional members to the Tribunal to allow for more hearings.
- f) At present the regulations pertaining to the Tribunal do not permit non-physical meetings (for instance video conferencing).

(viii) Consulting Group

- a) The Committee was informed that the Minister of Finance and the Economy was preparing Terms of Reference for a consulting group to undertake a comprehensive examination of the Tribunal aimed at addressing the inherent weaknesses.
- b) It was further revealed that the Tribunal have not made any contribution to this exercise. The Committee questioned whether the Tribunal had any intention to actively contribute to the consultancy group and when.
- c) In response, the Registrar indicated that the Tribunal will be making submissions to the consultancy. [Additional information was requested on this issue. See item 2.6 (22) below].

d) The Chairman of the Tribunal indicated that he was unaware of the consultancy group.

(ix) Ministry of Finance and the Economy

a) The Committee suggested that a representative of the MoFE be present at the next examination of the Tribunal.

b) The Committee advised officials of the Tribunal to ensure the MoFE updates its website regarding the Legislative Review Committee and the Public Information Committee which are no longer functional.

2.4 The Chairman conveyed the Committee's disappointment with the session's proceedings and expressed concern regarding the state of affairs at the Tribunal. The Tribunal was urged to work together with all its stakeholders.

2.5 The Chairman thanked the officials of the Tribunal for attending.

REQUESTED INFORMATION

2.6 Information regarding the following was requested by the Committee:

1. A statistical summary of the number of cases currently under review and the time frame for the disposition of those matters;
2. The rationale for the rate of attrition in matters falling off because they are withdrawn;
3. The budgetary allocation provided for the operations of NIAT [for the period 2010-2012];
4. The expenditure in respect of NIAT [for the period 2010-2012];
5. The manpower resources required to efficiently run NIAT. Provide a manpower shortage analysis;
6. Specific recommendations for the development of the Tribunal's Human Resources with particular reference to training;
7. Whether the tribunal could be better assisted by entities such as the Industrial Court;
8. Statistical representation of how the volume of work of the Tribunal has increased over time since its inception.
9. Suggestions for amendments to the National Insurance Act.

10. Realign statistics regarding the total number of appeals, the number of appeals settled via hearing and the number of appeals withdrawn to reflect the same time period be it the calendar or financial year;
11. Information [supported by statistics] on the reasons for withdrawals of appeals.
12. The main reason for the number of unresolved matters;
13. Recommendations for the expansion of the appeals process. [For example expansion to other areas outside of Port of Spain and San Fernando];
14. Statistical information regarding the deficiencies in obtaining responses from the National Insurance Board (NIB) in a timely manner;
15. Recommendations for reducing the timeframe for the submission of files from the NIB and what is required for the NIB to meet its three-week deadline;
16. The reasons for NIAT not convening their scheduled twenty-four meetings per year. How many of these meetings were cancelled due to lack of quorum and how many were due to the inadequacy of submission from the NIB. [For the period 2009-2012];
17. Accurate figures for the number of outstanding matters in terms of appeals as well as an explanation on the nature of the backlog in the context of NIAT and recommendations for the clearing of this backlog;
18. What is needed in terms of resources to increase the frequency of sittings of the Tribunal;
19. With regard to the Legislative Review Committee, the Public Information Committee and the Administration Committee:
 - a. When was the last time these committees met;
 - b. What work was completed by these committees; and
 - c. What recommendations arose out of these committees.
20. Indicate whether there are plans to reform these committees or establish new ones in order to assist in the progress of the organization;
21. Provide recommendations for modernizing the staff structure/organizational structure to facilitate the work of NIAT;
22. The recommendations NIAT plans to forward to the consultancy set up by the Ministry of Finance and the Economy; and

23. Any other recommendations that may assist in enhancing the operations of the National Insurance Appeals Tribunal (NIAT).

The Chairman indicated the deadline for the submission of the requested information is **Friday 03 May, 2013**.

ADJOURNMENT

3.1 The Chairman thanked Members and the meeting was adjourned.

3.2 The adjournment was taken at 11:59 a.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

May 03, 2013

APPENDIX III

NOTES OF EVIDENCE

VERBATIM NOTES OF THE NINETEENTH MEETING OF THE JOINT SELECT COMMITTEE OF PARLIAMENT APPOINTED TO INQUIRE INTO AND REPORT ON GOVERNMENT MINISTRIES (GROUP I), STATUTORY AUTHORITIES AND STATE ENTERPRISES FALLING UNDER THOSE MINISTRIES THE J. HAMILTON MAURICE ROOM, MEZZANINE FLOOR, OFFICE OF THE PARLIAMENT, TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, 1A WRIGHTSON ROAD, PORT OF SPAIN ON TUESDAY APRIL 19, 2013 AT 10:06 A.M.

PRESENT

Mrs. Corinne Baptiste-Mc Knight	Chairman
Mr. Emmanuel George	Member
Mrs. Carolyn Seepersad-Bachan	Member
Miss Stacy Roopnarine	Member
Mr. Jairam Seemungal	Member
Mr. Faris Al-Rawi	Member
Mrs. Jacqueline Phillip-Stoute	Secretary
Ms. Sheranne Samuel	Asst. Secretary
Mrs. Katharina Gokool	Grad. Research Asst.
Mr. Indar Sieunarine	Parliamentary Intern

ABSENT

Prof. Harold Ramkissoon	Vice-Chairman
Dr. Delmon Baker	Member
Dr. Amery Browne	Member
Christlyn Moore	Member
Mr. Ganga Singh	Member
Mrs. Patricia McIntosh	Member

Madam Chairman: Good morning ladies and gentlemen. It is my pleasure to welcome the National Insurance Appeals Tribunal to our hearing this morning. And without further ado, I would ask you, Mr. Chairman, to introduce your panel. Please put on your microphone. Just press “speak”.

Mr. Tsoi-a-Fatt: We have with us the Registrar of the National Insurance Appeals Tribunal, Mr. Premraj Lyman; and the Research Officer, Miss Herschel Joseph and myself, of course, I am the chairman of the Tribunal.

**OFFICIALS OF THE NATIONAL INSURANCE
APPEALS TRIBUNAL (NIAT)**

Mr. Eugene J. Tsoi-a-Fatt	Chairman (NIAT)
Mr. Premraj Lyman	Registrar (Ag)
Ms. Jerschel Joseph	Research Officer

Madam Chairman: Very well, thank you. Can I ask my committee to introduce ourselves to you?

Mrs. Seepersad-Bachan: Carolyn Seepersad-Bachan, Member of Parliament for San Fernando West and Minister of Public Administration.

Mr. George: Emmanuel George, Senator and Minister of Works and Infrastructure.

Mr. Al-Rawi: Good morning, Faris Al-Rawi, Opposition Senator.

Madam Chairman: And I am Corinne Baptiste-Mc Knight and I am your Chairman for today. So, without further ado, I would like to thank you for the information which you have sent for us. I will admit that the last bit of information we only received, when yesterday, by email, which really and truly was a little disappointing because all of the members, except myself, have very difficult schedules, which really would not allow them to do the in depth type of study that, I am sure, they would have liked, receiving information with just few hours, but let us hope is not to your detriment.

Let me ask the member of the committee who has just come in to introduce himself to you before I turn the floor over to you.

Mr. Seemungal: Jairam Seemungal Member of Parliament for La Horquetta/Talparo and member of this committee.

Miss Roopnarine: Stacy Roopnarine, member of this committee.

Madam Chairman: Thank you very much. Mr. Chairman, are there any preliminary remarks you would like to make, probably, in view of our not having been able to peruse your last bit of information before we go into the questioning?

Mr. Tsoi-a-Fatt: Madam Chair, the last bit of information does not add much to my earlier letter of March 12, 2013, which I am not sure you have in your possession. Would you like me to read it?

Madam Chairman: No, no, no. We have all the previous information. We are good at keeping documents. Is there anything that you would like to add to that?

Mr. Tsoi-a-Fatt: There is nothing. I think this summarizes all that I wanted to bring before the committee.

Madam Chairman: Very well, so we can start the questioning. Who would like to lead off? Senator Al-Rawi. This is not good news.

Mr. Al-Rawi: Good morning it is, perhaps, good news because we have not really had the pleasure of digesting your material at all. In fact, I got your documentation maybe 10 minutes ago.

I wish to thank you, however, and welcome to you this committee and if I could say that the purpose of being here, in my humble estimation, is so that if you squeak that we can provide some oil and that that is a joint exercise by all members present. So, really, I honestly look forward, not only to squeaking but to understanding how the committee, as a joint enterprise can make recommendations to assist you in your mandate.

I had a quick perusal through the documentation and, of course, I am familiar with the Act and the structure and also the manner in which tribunals ought to operate. You have provided us with a form of statistical information with disclosure, including the number of appeals received, the manner of disposition, et cetera. You have also provided us with a package of information that speaks to things including how appeals are dealt with, the bifurcation between issues of fact and issues of law, the number of staff that the registrar's department is provided with, but what I do not have a sense of and, perhaps, it is because I only just received the documentation, what I do not have a sense of is your degree of efficiency. Your efficiency, in my estimation, is hinged upon your manpower resources and your financial resources as impacted by the vicissitudes of an appeal process in its place.

A very helpful guide for me each year is the publication by the Hon. Chief Justice in the annual review of the court system where we have statistical information output where we are able to track the

statistical output of case resolution. What I do not have a sense of is the number of appeals that have issues of law, even though that is not within your domain, versus issues of fact. So you are hearing appeals, you have issues of fact being brought to you and then there is a disposition ratio that ought to be there and then there are issues arising from a pool which you deal with, part of, that go to the High Court. Is there any kind of tie-in information that you can provide us with, perhaps, by explanation today and if not, certainly in writing, which tells us as to how much actually is split to the High Court?

What I would also like to inquire about includes what your budgetary allocation looks like. I have noticed that you have 10 members of staff in the Appeals Tribunal, one registrar, one administrative officer, one research officer, one clerk III, one stenographer, another stenographer, clerk typist, a messenger, cleaner and a security baton guard. That is often the minimal staff used by one lawyer with a fairly large practice. So I am wondering how that fits in to running an entire appeals tribunal. Are you adequately staffed?

Your mandate originating in 1969 and 1971, has there been a review of that? Where can your efficiency be bettered? Is it in manpower, if so, how much manpower? Is it in resource allocation from your budgetary allocation, if so how much do you receive? How much do you expend? Are there unspent balances? What is the status of dissatisfaction with decisions that come out of the tribunal? What are the reasons for the high incidence of withdrawal of appeals to you, because there is a fairly large significance of withdrawal of appeals from you?

So, if I could invite you, please, to think about what I have just said and to give us a general response, I think that that can, perhaps, fit into the chairman's invitation to tell us a little more about yourself, where it is you are hurting, what it is you can do and after you have given that response, if you do not mind I would give you a checklist of materials that I would like you to provide us with by way of a subsequent information production, in writing, perhaps. So if I could turn the microphone over to you and ask you to tell me about some of these issues.

Mr. Tsoi-a-Fatt: Well Senator, in the first instance, I have to say that all of that information, to begin with, the secretariat, under the leadership of the registrar, is quite apart from the tribunals themselves. There are three tribunals and the tribunals function to adjudicate. All the administration comes within the framework of the secretariat and there is no statutory or contractual authority vested in the chairman over that body. That body designs the procedures, collects the statistics, analyzes and would be, or should be able to provide the answers to those questions.

Mr. Al-Rawi: Sorry, Mr. Chairman, if I may. Thank you, that was certainly set out in your letter. I understood that you said you are knocking on the wrong door in some aspects, but are you aware of that information? Is that information sent to you and if so, can you report on it?

Mr. Tsoi-a-Fatt: I would not be in a position to do that.

Mr. Al-Rawi: So, as chairman, if I could just understand, that information is not fed to you?

Mr. Tsoi-a-Fatt: I would have something to do with the collation of the annual administrative report. I would dare express my views as to what I feel should be done, what I feel is wrong and so on, but you know—

Mr. Al-Rawi: If I could ask, and this is just to get a feeling of it, understanding that, of course, the digestion of material has been somewhat delayed because of the late receipt documentation, in your letter you said:

“The Chairman has no authority statutory or otherwise over the management of the Secretariat.

Your request will in the circumstances be more competently addressed and complied with:

Mr. Premraj, Lyman,

Registrar

and Mr. Maurice Suite, Permanent Secretary in the Ministry of Finance.”

We then received from the Ministry of Finance, a document which is fairly detailed and we also received a detailed report of the role and function of the National Insurance Appeals Tribunal and one saying the creation of the National Insurance Appeals Tribunal, which I would imagine, even though it is not stated where these documents originate from, would probably have come from the Registrar. Is it that the questions that I have just asked, the registrar is able to provide answers to?

Mr. Tsoi-a-Fatt: Well, the Registrar is the one who has designed the procedures and the system. When I first came as chairman, I met those procedures.

Mr. Al-Rawi: Mr. Chairman, how long have you been chairman?

Mr. Tsoi-a-Fatt: I have been there 15 years.

Mr. Al-Rawi: Thank you. And then may I ask the registrar, please to, perhaps, lend some clarity to the orientation questions that I have given.

Mr. Lyman: Okay am, the question you asked like the staffing the-

Mr. Al-Rawi: Sorry, I am not hearing you at all.

Mr. Lyman: Am, the question you asked is like the staffing, the funding whatsoever like that?

Mr. Al-Rawi: Sir, I am asking you, if I were to put it in very simple terms, tell us whether you are functioning efficiently. Do you have a manpower problem? Do you have a finance problem? Are you able to provide statistical information as to matters which do not hit you because they go to the High Court? Are you able to provide statistical information with respect to your disposition rates? Are you able to track that in terms of time? That kind of orientation.

10.20 a.m.

Mr. Lyman: Well, first of all, the staffing is very, very poor. Imagine, we are dealing with the whole country and we have the Registrar and this “small, little” staff.

Mr. Al-Rawi: Nine people, including a security officer.

Mr. Lyman: Right. If you leave out the security, he is a contract officer, this is the staff that we had to deal with this big volume of appeals that are coming in throughout Trinidad and Tobago, and it was just overwhelming.

Mr. Al-Rawi: If I could just do a little bit of trading. If you were to give me a number, because it is not quantified in the tables, how many appeals per year do you get, roughly?

Mr. Lyman: Over 100.

Mr. Al-Rawi: Over 100 and you essentially have three typists, a security guard, the Registrar and two other people.

Mr. Lyman: One Steno III and one typist.

Mr. Al-Rawi: What does a Steno III do?

Mr. Lyman: The Steno III, well, on hearings, the Steno III does other work apart from the tribunal work. We have a small secretariat. The secretary does my case paper. Every appeal comes, I have to do it as a case, where it started, what is the merit, as a case, she types that for me. On the day of a hearing, she attends and she tapes it, and then she types it for me.

Mr. Al-Rawi: Is she a trained stenographer? Is this person able to do computer assisted typing, CAT

typing?

Mr. Lyman: Yeah, computer, yeah.

Mr. Al-Rawi: Yes? So I mean, for instance we have a verbatim reporting as you can see here. Does your stenographer do that?

Mr. Lyman: No.

Mr. Al-Rawi: No. Okay, great. So we have 100 cases, over a one-person court room.

Mr. Lyman: And it is increasing, because more people are utilizing the services of the tribunal, because it is the first line of adjudication and appeal process, and it is free. So it is progressively increasing over the years.

Mr. Al-Rawi: Sorry. So, the tribunal has staff apart from the Registrar's staff that you can coopt. Is that what you are saying?

Mr. Lyman: No. No.

Mr. Al-Rawi: No, right. So we have these people here—and tell me, of the 100 appeals that come in per year, how many are resolved, not by withdrawal? How many go to a natural hearing?

Mr. Lyman: On an actual hearing day we could have up to 12 hearings. Presently, we have—

Mr. Al-Rawi: How often do you have hearings?

Mr. Lyman: Twice per month, one in San Fernando and one in Port of Spain.

Mr. Al-Rawi: And you have 12 roughly per day.

Mr. Lyman: Yeah.

Mr. Al-Rawi: Are all 12—

Mr. Lyman: Not per day, just 24 per month.

Mr. Al-Rawi: Twenty-four per month. Are they heard in entity? What is the time allocation per appeal? Do you get it done that way?

Mr. Lyman: No.

Mr. Al-Rawi: So, is there a process of adjourning then?

Mr. Lyman: First of all let me tell you. When an appellant lodges an appeal, it is lodged throughout Trinidad and Tobago where we have these appeal boxes; they are in all NIB offices and in Tobago. We have one in Tobago. I clear the boxes but it is contracted out now so, I do not have that problem. The appeals come to us, we write the NIB and they are to respond within—

Mr. Al-Rawi: Three weeks.

Mr. Lyman:—three weeks. Now, that is not the norm of the NIB, sometimes it takes longer most of the times, sometimes over a year. So that in itself stalls the appeal process although the law states they must reply within three weeks. So the NIS has everything pertaining to an appellant where they made a claim, why it was stopped, why it was paid this amount or whatsoever. When that comes to me, the entire file, then I can put it up for an appeal. I would do a case paper and it goes to the tribunal for a hearing.

Mr. Al-Rawi: Can I ask you a question? And I am sure that this is just ball-parking response I am asking for, a guesstimate response if you do not know. If I were to say of the 100 appeals coming in per year, if I were to ask you, what the quantum value of that is in terms of monetary value, because an appeal relates to finance or some issue that can be quantified, what would you say that monetary figure you are looking at—the 100 cases represent?

Mr. Lyman: Well, it is not—if you are looking at loss of income, different forms of retirement is the

main one people—we have sick leave, we have maternity, we have several claims—

Mr. Al-Rawi: So, the value of your claims is \$100 million, \$50 million, \$10,000?

Mr. Lyman: Well, somebody is applying for retirement benefit, or somebody does not meet the mark of 750. What you are asking is the amount of money that is owed to appellants per year?

Mr. Al-Rawi: Part of the value. Just to tell you where my mind is, and I would not be much longer because I know lots of Members want to go, but I want to get a feeling of where you are. Part of what I am looking at in terms of efficiency is obviously there are very soft and important issues that the tribunal is dealing with, and they are somewhat amorphous or nebulous, and that is the fact somebody is about to retire, they need this income, it is critical to deal with.

If I were to look at quantifying what an estimated value is. In court we are able in a personal injuries matter to quantify what an arm cost, what an eye cost, what a job loss cost, to put it crudely. I am sorry to put it that way, but that is the way the law deals with things. But when I compare that now, because my question is going to—part of what I am going to ask you for is: how much does it cost to run what you are doing, and how much is your estimate of your loss in terms of efficiency?

So, is it costing you \$10 million a year to run your enterprise, but people are deeply frustrated because it is taking three years for it to happen or four years and, therefore, there is a backlog, an interest factor there, but what does the quantum of the claims look like? Has that ever been dealt with that way? I do not want to put you on the spot, perhaps it is that it has not been looked at that way. Has it?

Mr. Lyman: Well, first of all, the National Insurance Tribunal was with the Ministry of Labour, then it came over to the Ministry of Finance, and I think it was there that things started going down, because the staffing needs of the tribunal was way below what is required, you know and a lot of things—

Mr. Al-Rawi: Have there been any recommendations as to how the situation can be ameliorated, reports generated?

Mr. Tsoi-a-Fatt: May I at this point?

Mr. Al-Rawi: Please.

Mr. Tsoi-a-Fatt: I will just like to assist Mr. Lyman—

Mr. Al-Rawi: Thank you, Chairman.

Mr. Tsoi-a-Fatt:—by making a general—I want to make—this is the whole philosophy involved here, all right. What has happened here is that we have—what I identify as the fundamental weakness, this is the whole system in that social security is based on issues. Social issues are mainly health and labour. Social security system—I have a note here—was designed by the International Labour Organization based on Conventions of the ILO, historically in most jurisdiction, social security comes under the Ministry of Labour. In the United Kingdom it is under the DHSS, Health and Social Security, quite appropriate.

What has happened here is that the whole philosophical basis of this thing has gone out of focus, because it has now been placed under—what I in my view consider to be an inappropriate administration, that is the Ministry of Finance. Right now training is required for this office of the tribunal, which they do not even know how to identify, and which their administration is not able to assist them with. Their access to the ILO is important and that is through the Ministry of Labour, which I had been saying for the past 15 years and nobody takes on, and this is the fundamental issue. If that is not dealt with, all of these questions here and answers are not going to—well, they will come to naught,

because the greatest problem—you hit on the problem, these adjournments going into four years and so on, they come about because of the lack of training of the Registrar and his staff to prepare case histories, that would permit the members of the tribunal to dispose of cases without having to bring them back over and over. The evidence is not put there. The notes are not put there. Medical matters are not dealt with properly and so on, you see. Unless this entity is placed in an environment where they can understand what the needs are, it is going to be like this forever.

Mr. Al-Rawi: Madam Chairman, so that my colleagues may contribute—and thank you so much for beginning to open up the exercise of us understanding where we are—could I just give—it is really for the reportage, a list of things that I would like for submission, if possible? So, I am sure the secretariat would provide it to you. They would be:

1. Your recommendations as to an improvement of the system;
2. A statistical summary of the case, of the number of cases put into the system, the time frame for the disposition of those matters;
3. The rationale for the rate of attrition in matters falling off because they are withdrawn, if any, because there may or may not be any;
4. The budgetary allocation provided for the exercise and workings of this entity;
5. The expenditure in respect of the entity;
6. The manpower resources required to efficiently run this entity, therefore, providing a manpower shortage analysis;
7. In your recommendations I am hoping to have if I could be specific, your recommendations in respect of the type of training and administration that can be used; and
8. Whether you think that this body for instance would be better assisted by entities including the Industrial Court which has a phenomenal operational system which this entity can be an adjunct of, it has provided training, it has provided registry assistance. There are specialists provisions in existence right now that you may be in touch with that can perhaps be easy wins or low hanging fruit.

So that kind of information would give us a better understanding to make recommendations which may assist you, and with those questions, I will allow my colleagues to join into the discussion, and thank them for their tolerance and for yours as well in getting the ball rolling. Thank you.

Madam Chairman: Thank you very much indeed. Sen. George and then Mr. Seemungal—

[Ms. Roopnarine enters the meeting]

Madam Chairman:—and Ms. Roopnarine.

Ms. Roopnarine: My apologies—*[Inaudible]*

Mr. George: *[Inaudible]*

Madam Chairman: Will you defer?

Mr. George: *[Inaudible]*

Madam Chairman: Okay. Well, let us keep the order. Sen. George?

Mr. George: Yes. Madam Chairman, in particular the Registrar. I want to ask a very straight question. You indicated in your responses to Sen. Al-Rawi that the numbers of staff that you have now are not adequate to deal with the volume of work that you have, that is essentially what you are saying. My question to you is a straight one. Have you made recommendations to your superiors to get additional

staff based on the statistic that you can provide to show how the volume of work of this agency has increased, twice times, triple times, quadruple times, I do not know over the period since the inception of this tribunal in 1971?

Mr. Lyman: Well—

Mr. George: Let me go on because this is typical of what happens in the Public Service. In my experience and I could go to my most recent one before I left the Public Service as PS in 2008. Where there was a group set up in the Ministry of Labour to address conciliation, and the numbers in that group were the same as 1948 when that conciliation team was first set up to 2006, when we had to go back to Cabinet, and say listen, the volume of work has increased by so much, because the labour issues that were coming to the fore, and which the Minister of Labour was being approached to address, had increased by maybe 10 times, but we had the same staff. Likewise in the Electrical Inspectorate Division, they were also set up in 1948 and in 2010 when I became Minister of Public Utilities, it was the “same, exact” numbers of people who had to do a phenomenally expanded environment, where we have had considerable industrial development in particular, commercial development, housing development, yet they had the same numbers.

10.35 a.m.

So, I am saying, my response to that then was to go to Cabinet and say things have changed. This was what they had to address then; these are the volumes we have to address now, please give us more staff. So I am saying that that might be an approach that you might want to take to address that particular situation.

The other question I wanted to ask had to do with the issue of the amendments to the law under which you operate. That Act was proclaimed in 1971, I think, if I am right. I am no lawyer, but I am fairly certain that Act would need to be amended because things would have changed since that time. I want to ask: you have a tribunal and a Legislative Review Committee under your remit, is that Committee active, one?

Mr. Lyman: No, Mr. George, the Legislative Committee is no longer active. What we have is the—

Mr. Tsoi-a-Fatt: Senator, may I?

Mr. George: Yes.

Mr. Tsoi-a-Fatt: To begin with, let us start by saying that the tribunals were established in 1982, September 1982. Secondly, there is one committee—these are not statutory committees. There is one committee; it is an informal committee which now assists, provides a little back-up for the Registrar in the form of a think tank. There was, in fact, some years ago, a legislative committee but that committee it was found that the tribunal, having to deal with issues contained in the National Insurance Act, unless they were to be issues, legislative review issues, concerning the function of the tribunal itself, the members of the tribunal should not be seen to be involving themselves in policy matters over which they have to sit and determine. So the legislative committee, years ago, ceased to function.

There was another committee called the communications or public information committee. That also ceased to function because it was getting no place. At one point in time we were assisted by the Ministry with a grant, I think, to pursue the communications plan. The Registrar’s office did not use the grant and we lost it. Since then the Committee has ceased to function. [*Consultation with Mr. Lyman*]

I did mention the informal, as it were, admin. Committee, which was established to provide

back-up for the Registrar and his staff in the form of a think tank as it were. These are not statutory committees.

Mr. George: My question then—because I was following a trend of questioning—is: how do you as Chairman and you as Registrar, in operating this particular piece of legislation, determine that amendments are required to the legislation and how do these proposals come forward then? If your Legislative Review Committee is now defunct, do you, Mr. Chairman or do you, Mr. Registrar, become the ones who are responsible for taking forward or proposing any amendments to the Act? You are operating an Act and it is an Act that certainly the changes that would have taken place over the years in the environment in which you operate would suggest that you need to make amendments. All acts need amendments over time because times change and circumstances change. How do you address the need for amendments to your Act?

Mr. Lyman: Mr. George, I report to the Permanent Secretary, Ministry of Finance. We hold meetings there. I bring forward my problems to them. Concerning staffing matters, I was loaned, just a year ago, a Research Officer, Miss Joseph, and an Administration Officer II; just on loan from the Ministry of Finance to help clear up some of these backlogs. As it is now, we have over 800 backlog of cases.

Mr. George: All right, but the other is a more regular problem and this has to do with people's pensions—payment of people's pensions and so on. I have found, from information coming to me, that there are retirees—and I speak here largely about public servants—who retire and have considerable difficulty in getting their NIB pension because, very often, one piece of information dating back to 1980 is unavailable and the onus always appears to be put on the individual to get that piece of information and never on the NIB to have made sure over time that this piece, which is dated, would be put in place so that you have an entire set of information running from the time that person started to work right up until the person is ready to retire. So the gap that exists and which the NIB ought to be aware of is worked on by the NIB and not necessarily left to the person to find, when they have retired. Because when people retire, they want their money now. It is like a salary that the NIB is now paying to them to replace the salary that they got every month, sometimes for 20, 30, 40 years and which they need desperately.

So my question is: why is the responsibility put on the individual and why does the NIB not take up that responsibility to make sure that the gap, which has been existing for years, is filled, because you have the later information and you may have information prior to that? If you see this gap, how come the NIB does not work to fill the gap?

Mr. Lyman: Okay. Mr. George, first of all, this question is better entertained by the NIB. What we deal with are the appeals emanating from these problems, these delays in getting their pensions and so on. So, the calculation of their contributions and so on, that is a matter with the individual and the NIB because we are only concerned about the appeal process. Then, well, we have to go back to the NIB to get information why.. A common thing is people work here and there and their contributions are not recorded in their statements. If you have 750 or more, you get a pension; less than that, they pay you one grant and that is it. One payment.

Mr. George: I asked the question simply in the context that it will reduce the appeals to your tribunal. But, my questioning is over, thanks.

Madam Chairman: Mr. Seemungal.

Mr. Seemungal: I will allow Miss Roopnarine to proceed.

Miss Roopnarine: Thank you very much, colleague Minister, for giving way. My question is very brief and it is stemming from a concern that Sen. Al-Rawi raised earlier on. Looking at the statistics of the number of appeals, including those withdrawn—those that would have been settled as a result of hearing—2010, you are saying: 18 settled, 8 withdrawals; 2011, 16 settled, 36 withdrawals; 2012, 51 hearings, 51 withdrawals.

Your number of withdrawals continues to increase, so what is the reason for the withdrawals? Your number of settlements via hearings is also increasing, which I suppose to be a good sign. If you could let us know, as well—so question 1 is the reason for the number of withdrawals increasing; and question 2 is: what is the most prominent issue that remains unsettled? So you had indicated earlier on that you have over one hundred and something cases per year. So what is the main issue that remains unsettled?

Further on, on page 27 I think of the document you provided, there are statistics here which give the period October to September; so October 2010 to September 2011. The statistics that you gave for the years 2010, 2011 and 2012, are those also for the period October to September, or are those for the period, the year, the actual January to December.

Mr. Lyman: We give it from October to September, the financial year. The statistics are on the financial year and—

Miss Roopnarine: So out of 192—

Ms. Joseph: Sorry to interject. The information with regard to the names, they are given with the calendar year, running January to December; but the last bit of information will be with our financial year, which will be October to September.

Miss Roopnarine: What I was trying to get at is, if you are providing statistics that are saying 2010, we have 18 cases settled via hearing, 8 cases withdrawn, the total for the period January to December, so that we can see. What you gave us is 192 cases from the period of October 2010 to September 2011, so those two periods are not coinciding. So perhaps in the information that Sen. Al-Rawi would have asked for, if you could realign those statistics so that we can see the same time period for the total number of appeals and the same time period for the number of appeals settled via hearing and the same time period for the number of appeals withdrawn, so that we can have a better understanding of the total picture because you cannot see it looking, in one case at a financial year, and in another case a calendar year. “Yeah”? Good! So if you can give us those statistics via—perhaps the Secretariat could ask for it.

And back to the first question, which was the reason for the increase in withdrawals as well as what remains the number one issue in terms of those issues that remain unresolved to date.

Mr. Lyman: Okay, I will give some of the reasons why we have more withdrawals, as you say, increasing. Number one, it could be out of time. An appellant has a specific time to make an appeal. It is six months or sometimes, in extenuating cases, it is good for a year. If they give a valid reason to us, we extend it to a year. We could see justification, the Chairman makes a decision on that. It could be incorrect calculations or whatsoever and the appellant withdraws the appeal. No. 3: the appellant just change their mind; they do not want to pursue the appeal again; and Number 4: when we inform the NIB there is an appeal, the NIB refuse some of the decisions. They meet with the appellant and they review decisions. After they lodge, they settle out of court. Those are some of the reasons why there are withdrawals.

Now, another reason why—a lot of appellants visit consultants and consultants would advise

them: well, look, you really do not have a case here, and that is another reason why.

Miss Roopnarine: Perhaps that information.

Mr. Lyman: A substantial amount of appellants go to visit consultants.

Miss Roopnarine: Perhaps when you are providing the information that was requested, if you could also include those figures as to the reason for withdrawals and categorize it so that we can see—there are 51 withdrawals—the reason for those withdrawals. If you could just give me a response to the initial question of what remains the number one issue in terms of unresolved matters; and if, perhaps, you can give us a breakdown—if you do not have the information now, perhaps you could give it to us in providing the breakdown of information.

Mr. Lyman: I do not have the figures, but I can tell you the number one issue for this backlog of appeals is the non-submission of timely benefit unit files from the NIB. Without that, I just have an appeal form. I cannot go anywhere with it.

Miss Roopnarine: Okay, so maybe you can look at this.

Mr. Lyman: Another thing that concerns—another reason, Miss Roopnarine, is that we have what you term “medical appeals”. That is where your doctor gives you a percentage of illness and the NIB sends you to their doctor and normally they reuse it. Now we have a conflict of interest there. It goes to a medical tribunal, where the CMO must sit on that one.

10.50 a.m.

Now, from our experience, the CMO office is very, very, busy. A lot of time we have to abort hearings on the day of a hearing, because he cannot show up. He is called at short notices, so we have a lot of medical things there.

Miss Roopnarine: Okay. So, you gave us a breakdown of the status of appeals, and in there—if we look at October 2010—September 2011 and October 2011—September 2012, the statistics for retirement benefits seems to be the highest one; so you have 64 and 66. Is it safe to say then that the No. 1 issue is retirement benefit? I am trying to follow your statistics.

Mr. Lyman: Yes, yes, by far the No. 1 issue that people appeal for is their retirement benefit; retirement is the key appeal.

Miss Roopnarine: So, in providing the breakdown of your statistics, in aligning the calendar year with the financial year, if you could give us this same breakdown that you have here, but align it in terms of one year. It is either you use calendar year or you use the actual financial year.

Mr. Seemungal: Madam Chairman, through you, one of the benefits of this session that we are having here today is for the general community, the general public and especially students. Yesterday, the Parliament held a session in my constituency in San Raphael, and the students were very enthusiastic about learning what is the role of Parliament and what role can they play to change their community and to change their lives.

One of the recommendations that were made to them is to keep viewing the Parliament Channel they will find a lot of information coming out there. So, for the benefit of my constituents and students of the Brazil High School, can you give us—we know that you have given us the submission—the role and function of your tribunal and who are the people who can access this and what are some of the reasons for accessing your tribunal?

Mr. Lyman: Well, the first function of the tribunal is to be the first line of adjudication in dealing with an appeal. It is free.

Mr. Seemungal: What type of appeal?

Mr. Lyman: Well we have several. We have retirement; we have survivors—

Mr. Seemungal: It is for the benefit of those people who are looking out there as well, so if you could outline it for the layman on the street who is looking at this television right now, and wants to find out: what are we doing here? Because I am more confused than everybody else and I am in the Parliament. So can you then lay it out for them to understand: what is happening and why are you here, and what is the role and function for that regular man on the street to come to you for a grievance that they would have.

Mr. Lyman: Okay. Like I said before, the primary role is to deal with appeal. It is the first line of adjudication in a conflict with the NIB and the appellant. The role of the tribunal is, generally, to adjudicate in matters, prepare the case papers for the tribunal, and after that I write a decision that is vetted by my Chairman, and after that we distribute the decisions to the board and to the appellant. That is primarily what the tribunal does in a nutshell.

Mr. Tsoi-a-Fatt: Mr. Seemungal, I do not know if this will help, but I want to put it in a way where we could get a little more general. The tribunal provides for persons who are aggrieved by decisions of the National Insurance Board, on any issue, concerning their benefit that they bring before the board. So, they would make a claim for whatever benefit it may be and for whatever reason the person is not satisfied—they are aggrieved by the decision of the NIB—they are now entitled on questions of fact only to approach the tribunal. The tribunal provides a service which is very much unlike a court. It is very simple. The procedures are very, very, informal and, therefore, hardly ever would a person need to have an attorney to come before a tribunal.

The tribunal's function is really investigative, so you do not get yourself tangled up and have to back out of contentions that you have put. The tribunal is entitled to assist you, so that your contentions could be properly brought before it and without cost to an appellant to make a decision in respect of that matter in which he was aggrieved. Principally, that is what happens there.

Mr. Seemungal: And the procedure for these appeals is a very simple one. It is just a form acquired at the NIS office?

Mr. Tsoi-a-Fatt: The form of appeal is acquired at anyone of the NIS offices. The appellant will put the ground of his appeal. If he does this and he does not do it properly, the tribunal is entitled to assist him to find out clearly what his problem really would have been, because he may not have put it down correctly.

Mr. Seemungal: Do you have an appeal desk at these officers whereby a person can sit with an officer at the various offices? What I am gathering here is by the time it reaches you a lot of information is missing from the process. So, if someone sits with an officer and he guides the individual of the process—because, as you are saying, this is something where you do not require an attorney-at-law; you do not require a doctor or a teacher to come with you, but a layman can come. I John Public can come to the NIS office with a letter or a form and fill it out and send it to you. Now, my problem is that sometimes I may not be able to read and write properly. I may have problems in some of the documentation, but I still want to lodge an appeal, but do you see it that by having this “help desk” for appeals in particular can better your cause?

Mr. Tsoi-a-Fatt: Well, I could see the logic in that, and I think that this is a matter that the Registrar has looked into. I do not know to what extent his procedures accommodate that, at present, but I do know

it would be very helpful. It perhaps may stop an appeal before it starts.

Mr. Seemungal: That is the point.

Mr. Lyman: Well, Mr. Seemungal, we have where we meet with appellants prior to a hearing only in San Fernando and Port of Spain. I would say that service should be expanded to maybe Rio Claro, Point Fortin, Arima and Sangre Grande to meet appellants who go there and ensure that you have a complete case paper, their merits of appeal and so on, and sometimes people generally want to come and see you concerning any issues. So in that area we need to expand.

Mr. Seemungal: What is keeping back the expansion of the process?

Mr. Lyman: What?

Mr. Seemungal: What is holding back that expansion?

Mr. Lyman: Again, I say that I report to my head office. My recommendations are made and is either they accept it or not.

Mr. Seemungal: Can you provide us then with that recommendation in writing so that we can then put it in our report as part of our recommendation going forward.

I just want to look back at the statistics here. I am seeing on page 27 of your report that you send in, you generally received about 192—well you received in 2010, 192 and in 2011, 166 cases, new cases, that is, but your settlement for those in the first instance is 42, and your settlement in the second instance is 91, which is below 50 per cent, if you add the two together. It is way less than that of the settlement. Then you will continue to have a backlog, because you backlog right now, your rollover was 954 in 2010 and your rollover in 2011 is 1,057.

So, if we are unable to even come close to the number of appeals by way of settlement or dismissals or whatever else you have, then you would then be running an inefficient operation and John Public would not be very happy and they will continue to be disgruntled with the national insurance process. I am not saying it is your fault. I am saying that the system needs to be revamped. If you can give us—I am getting the impression that you all are unwilling or even may be afraid to tell us what the problem is. This is what we are here for. We are begging you to tell us what the problem is so that we can help you. That is why we are here, and I am sure you will gather from the general public as well, support for any system that can be more efficient.

Mr. Tsoi-a-Fatt: Mr. Seemungal, one of the first things I brought before this Committee was, unless we put a system where it should be appropriately be, we will continue to have these problems. The other thing is that the national insurance system itself is ailing, seriously ailing. They have lost their focus as well, and unless they could find it, we will continue also to have these problems.

The national insurance system really is responsible to large extent for a number of these appeals that are not being dealt with. There are no time limits for the National Insurance Board to comply with any rules. If the Registrar requests from them a file in respect of an appeal, it is not uncommon that that could take years to reach. Sometimes the file itself, they are unable to find it. So, that we have a huge backlog of appeals for which we have no papers.

The other thing is that where an appeal concerns a question of law or so it is felt by the NIB, that matter is held back. The NIB takes a decision, so the parties cannot be heard. Instead of making the submission at the hearing: “Well, look here, tribunal, this is a question of law, we would like you to decline jurisdiction”, they do not do that. They decide and they take away the right of the person to make his appeal.

Now, when a person's claim is out of time—he makes a claim out of time, not an appeal—the NIB determines that that claim was out of time and decides that they are not going to send that appeal to the tribunal. Now, that is a matter to be adjudicated on. The tribunal must have evidence of the date of the claim. The dates are relevant to taking his claim out in time, and unless we have those before us, the NIB should not be in a position to decide, “Look, your claim was late therefore this appeal is not an appeal”. So we have a lot of instances where appeals are not coming at all to the tribunal.

There are two issues here: the tribunal, I think, the Registrar says he has a staff of nine people. Let us say you have a staff of 800 in the NIB, the ills of 800 have to be dealt with by nine people, and that is no easy task. So, I think that we cannot look at one without looking at the other, and both have to be dealt with together if we are to make any progress in getting this tribunal back to some semblance of what it used to be some years ago. I think this is what is happening now.

Mr. Seemungal: Can you please provide us with some statistics as to those deficiencies in terms of you not obtaining that response from the National Insurance Board in a timely manner without putting persons' names and all these kinds of things; just broad deficiencies in the statistical form so that we can take a look at it in compiling our final report as well as.

11.05 a.m.

Mrs. Seepersad-Bachan: Thank you, Madam Chair, and let me say a special welcome to the members of the National Insurance Appeals Tribunal. I just want to start by saying that all of you, like all of us, we are here to serve the public interest, and when we are there to serve the public interest, I know there are times when we will all say we have challenges that we face, there are constraints that we have to bear, however, at the end of the day we have to learn to be proactive. We have to find new ways of doing things. We have to change the way we do our business in order to ensure that the public interest is served.

I want to take-off from the last statement that you just made, Mr. Chairman and Mr. Registrar, because I want to go back to this issue and I want to confirm for the records, that what you are saying here, because I have seen it in the document and I just want to repeat it because it is important for us to note that the time required by the NIB to respond to you with the benefit file, from what I understand, is three weeks, however, from the trend it takes sometimes six to 12 months for these files to come to you. Am I correct?

Mr. Lyman: Yea.

Mrs. Seepersad-Bachan: Okay. Six to 12 months, which, in my view, is unacceptable. As the National Insurance Appeals Tribunal, at any point in time have you attempted to seek a meeting with the chairman and members of the board of the NIB, with a view towards deriving some system or deriving some recommendations that will assist in removing this timeline, from six to 12 months back to three months in accordance with the law, because as you would recognize we are not in a keeping with what is in the legislative framework?

Mr. Lyman: Mrs. Bachan, yes, we did held meetings with them.

Mrs. Seepersad-Bachan: And what did they tell you were the reasons for this long-time frame and what are the recommendations coming out of such a meeting.

Mr. Lyman: We went with a listing to them of all the appeals that are pending and they did respond with some but it just fall back to the normal trend—*[Interruption]*

Mrs. Seepersad-Bachan: No, but, I mean, there is a general trend; so you went to them and you said to

the NIB, “You take six to 12 months to provide me with a file which I need to have in three weeks of this appeal being lodged, what are the reasons for it and what can we do to improve this situation?”, did that discussion ever take place with the NIB?

Mr. Lyman: Yes, I met with the NIB together with officials from the Ministry of Finance and we looked at it, and—*[Interruption]*

Mrs. Seepersad-Bachan: And nobody was able to come up with a solution to this?

Mr. Lyman: Well, I would not say they did not, they tried to off-set this big amount of appeals that we have lodged with them, but as to the time frame, as to within three months, is not being met.

Mrs. Seepersad-Bachan: Okay, what I want to ask and I want to suggest, because it is most likely that you are going to be sending in some further written submissions—*[Interruption]*

Mr. Lyman: Yea.

Mrs. Seepersad-Bachan:—to this committee, if you could summarize your own recommendations as to how we can reduce this time frame for the submission of these files, what is required of the NIB to meet their three-week deadline. Okay? I think you should have some discussions with the NIB; I am of that view, because, you know, dialogue is the only way we can use, that is one rich mechanism that can be used in order to improve, for there to be any sort of improvement. I just want to go back to the statistics because everybody has been talking about the statistics this morning, and, you know, we said in 2009 and according to your annual report, you had 16 hearings—“eh”?

Mr. Lyman: “Yea.”

Mrs. Seepersad-Bachan: In 2010, if I am correct—sorry—yes, 2010, you had four; 2011, 5; 2012, 13, this is in your annual reports. Okay, therefore you were not meeting for the 24 hearings that you are scheduled to meet, which is twice a month in the year.

Mr. Lyman: “Yea.”

Mrs. Seepersad-Bachan: I want to ask the question because I would like for you to submit to the committee: what are the reasons for you not meeting for those 24 months, for the 24 meetings? And if it is because you did not have a quorum, because you did complain in your submission, you did indicate, several times, that you had difficulties getting a quorum for these hearings; so how many of the meetings that did not take place was—you know, these meetings, how many of them were as a result of no quorum, and how many of them were in fact due to the inadequacy of the submission, you did not have the file present and therefore you could not proceed with a hearing?

So I would like to see if we could get those statistics in terms from 2009 coming up to 2012. Going on to statistics again, you had a number of hearings, which was indicated again here this morning, you had six in October 2010 to September 2011, and October 2011 to September 12 you had 11, and as indicated by my colleagues here this morning, the number of appeals received was 192, again for 2010 to 2011, and 168 for 2011 to 2012. You determined 16 only in 2010 to 2011 and 42 in 2011 to 2012, you now have a backlog. The outstanding amount for 2010 to 2011 is 892, for 2011 to 2012 your backlog is 966. If you continue to meet with your hearings at 24 per year I fail to understand how you are ever going to clear this backlog, and, therefore, it seems to me that if we look at this—have you at any point in time, as Registrar and Chairman, devise a plan to deal with this backlog? Because if I add it up here, in accordance with this, I would get over close to 2,000, we are talking about close to 2,000 hearings as a backlog based on October 2010 to September 2011 and October 2011 to October 2012. Do you, have you thought of a plan? Have you devised a plan and proposed this plan to anyone, Mr. Chairman?

Mr. Tsoi-a-Fatt: Madam, the question of the backlog of appeals, first of all, I suggested to the hon. Minister that it would have been necessary to establish the proper backlog, because what is called a backlog, to my mind, was not really a backlog.

Mrs. Seepersad-Bachan: “Yea”, but it is reported in your reports.

Mr. Tsoi-a-Fatt: I am not sure that those figures are at all correct.

Mrs. Seepersad-Bachan: So you are saying that these figures here, presented in your annual reports for backlogs, are not correct?

Mr. Tsoi-a-Fatt: I am not quite sure that they are correct because, I think, you see, how do you define backlog? The first thing is to define what a backlog is, and if the National Insurance Board has 50 files related to appeals, these appeals that we are having and we do not have those files, I can hardly call those part of our backlog.

Mrs. Seepersad-Bachan: No, it is not a matter of whether it is your backlog; I think what you are getting at is whether you are responsible for this backlog. What I am saying is that there is in the system this number of outstanding appeals, 892 arising out of the fiscal year 2010 to 2011 and 966 for October 2011 to September 2012, therefore, whether it is because there are files that did not come to you, whether you are in any way responsible for that, or it is the NIB or it is the applicant, we have to deal with how we are going to clear this backlog, and, therefore, I am asking, have you been—at any point in time, did you raise this, together in a discussion with the NIB and the Ministry of Finance? Have you devised a plan?

And this is what I mean by being proactive, because at the end of the day we are serving the public interest and we are here to find solutions to problems, it is not whether it is my fault or not, and I am asking if there was any, and if could do so, Madam Chair, if you are saying that you are not sure if these figures are correct, they are reported in the administrative reports for those years, I suggest, Sir, that you submit to this report, in writing, what you feel are the exact figures, your basis for it, and, secondly, I am still asking, because it is clear that with 24 hearings for the year you are not going to clear this backlog.

Therefore, if I may suggest, for example, are there any recommendations to appoint members to the tribunal so that you can have more hearings? These are the kind of recommendations we are looking for, and this is the purpose of this committee, so I do not know if you want to respond to this matter now in terms of recommendations of clearing the backlog in any way, or would you like to submit it in writing?

Mr. Tsoi-a-Fatt: Madam, these are issues of policy which from time to time I have raised with the Ministry of Finance, and there is no further that I can go.

Mrs. Seepersad-Bachan: Okay, so the policy issues that you are raising, because I hear you and you seem to be very adamant that this—and you are probably right, that it should be returned to the Ministry of Labour, but it does not mean that while you are waiting for this or because you feel it must be returned to the Ministry of Labour, there are small problems that we can find solutions to, because at the end of the day we are addressing our citizens of Trinidad and Tobago who are retirees and who are in dire need of this type of benefit, and this is the purpose of your tribunal. I want to point you in your report or somewhere here, I specifically recall, I cannot recall which page it was on where it was said that the intention, the objective of this tribunal was to, one, provide ease of access to citizens, to provide speedy response and my concern here, I am not sure that any of those objectives are being met,

because of the system that we have.

So, Sir, if you could provide us with some recommendations between yourself and the Registrar as to—
[Interruption]

Mr. Tsoi-a-Fatt: That would be, Ma'am, with all due respect, for the policymakers to deal with. I have already indicated to the Minister and the Permanent Secretary some of these very issues, and they are the ones who have to ensure that with the support provided to administer this system that they address these issues.

Mrs. Seepersad-Bachan: But did you make recommendations as to what is the level of support?

Mr. Tsoi-a-Fatt: Well I am not sure that I am qualified to make those recommendations.

Mrs. Seepersad-Bachan: But you are the head of the tribunal?

Mr. Tsoi-a-Fatt: I am overseeing the adjudication process.

Mrs. Seepersad-Bachan: Okay, well the Registrar. Sir, have you made any recommendations to the Ministry of Finance, which you would care to share with us in terms of how you can improve, so that we can deal with these issues?

Mr. Lyman: Of course I make recommendations, they are aware of—[Interruption]

Mrs. Seepersad-Bachan: Well you want to share those recommendations with us?

Mr. Lyman: They are aware of the problem here that we have in the NIAT; number one is that 24 appeals per month would never ever clear this.

Mrs. Seepersad-Bachan: So, specifically, did you recommend that we needed to increase the number of hearings?

Mr. Lyman: Well that came up, yes, the number of hearings, but is the amount of case papers you can deal with in a hearing. At a time we started 15 hearing, 15 cases, and it was a problem to get all the case papers decisions right, you know, all those sort of things.

So, yes, that could be a good idea to have more than two hearings per month, but then you would need the staffing. You would need alternative tribunal members if one is ill. Labour or anybody can come we can have alternative members, tribunal “doh” have a Deputy Chairman neither a Deputy Registrar, so if for some reason I am ill or I go on vacation, the tribunal shuts down.

Mrs. Seepersad-Bachan: And if the Chairman is unavailable?

Mr. Lyman: That is it too.

Mrs. Seepersad-Bachan: Because another issue I see here and I want to raise just now with the Chief Medical Officer—so has it been recommended that there could be an alternate to the Chairman for these tribunals?

Mr. Lyman: We keep on asking for that.

Mrs. Seepersad-Bachan: So you have recommended such?

Mr. Lyman: “Yea.”

Mr. Tsoi-a-Fatt: May I, please? May I?

Mrs. Seepersad-Bachan: “Yea.”

Mr. Tsoi-a-Fatt: Ma'am, the difficulty with alternate members of a tribunal, it is not like a board, and I think Mr. Al Rawi would understand what I am saying here. If a matter begins before a tribunal and it is adjourned and for some reason the members cannot attend, an alternate cannot sit on that matter.

Mrs. Seepersad-Bachan: I hear you and I agree with you, so we can take that into consideration.

11.20 a.m.

Mr. Tsoi-a-Fatt: That is a difficulty that we have looked at, and we found that one of the great difficulties, as we come back to the Chief Medical Officer, he is one person and he is ex officio. What we have suggested, and it is a recommendation that has been put there years ago, that he could designate someone to sit in his place. You see, these recommendations have been made over the years.

Mrs. Seepersad-Bachan: So you have recommended—

Mr. Tsoi-a-Fatt: And they have fallen on deaf ears.

Mrs. Seepersad-Bachan: So you have recommended? We would like to take into consideration our own recommendation—

Mr. Tsoi-a-Fatt: That is correct, we have recommended.

Mrs. Seepersad-Bachan:—that, as the CMO, it is not necessarily the CMO, it can be a representative.

Mr. Tsoi-a-Fatt: Someone who he designates to sit in his place.

Mrs. Seepersad-Bachan: I want to go back to your original point. I am not saying an alternation. I am saying, should we expand the tribunal itself to include more members, so that you can have more hearings. Is it that your entire tribunal—I understand that if there is a matter that was adjourned, you will ensure in your system that it comes back up before the Chairman who was sitting at that particular tribunal. But if you want to have more regular hearings, it is very unlikely everybody is going to be available for every sitting. That is why I was asking, in order to increase the frequency of sitting, what would be needed in terms of the resources, whether more members to the tribunal, et cetera. So I would like you to think about it and give us a recommendation which we can include or which this committee can consider.

There is another issue I note, when the members of the tribunal—some time ago I think it was in the *Trinidad Guardian* of 2004. The members of the then Tribunal, probably the same members, but the Tribunal of 2004 were urging employers to pay their contributions, as it was one of the reasons that there were a lot of claims delayed. This was taken from the *Trinidad Guardian* in 2004; therefore it leads me to believe that the National Insurance Board itself plays a role in the resulting number of claims coming to you as the National Insurance Tribunal. Example, insurance companies are complying with the legislation and paying their contributions.

I am asking whether or not, as the Tribunal, have you ever submitted recommendations to the National Insurance Board aimed at assisting to reduce the number of appeals being held, for example, recommendations such as how they can improve the awareness campaigns, so that employees are aware of what they can apply for to the NIB. You would be seeing a number of cases coming before you, you would hear a lot of information, you would hear the complaints. Have you ever summarized any that you have heard and looked at what could work in a public awareness programme, a public awareness campaign, and forwarded that to the NIB which could be used in their public awareness campaign?

Mr. Lyman: We wrote the NIB several times on these matters. The tribunal is not in a position to control the amount of complaints come to us.

Mrs. Seepersad-Bachan: I am not saying that. My question is: Have you ever had any dialogue with the NIB in terms of what you have found that could assist them in their public awareness campaign, so that we can reduce the number of appeals coming to you? For example, you have a lot that come in for retirement and what we call invalidity benefits. Have you observed any similarities in what has been coming before you in those appeals? Could it have been misinformation to the applicants, could it be a

faulty procedure taking place at the NIB, so that we could prevent that from happening in the future?

Mr. Lyman: I think one of the key things is that we never dealt with what was issue "dat coming from dem", the amount of appeals. But I think the key issue that generates the volume of appeals coming is that the average Trinidadian do not know the time limit, the conditions, what not. Almost everybody "doh know" is a time limit for a medical appeal. So the John Public outside there is unaware of the stipulations of the NIB.

Mrs. Seepersad-Bachan: Based on those findings, that you note that in most cases it is because John Public, the citizens do not know the time limits involved, et cetera, have you recommended that to the NIB, that they should go on a public awareness campaign where that is concerned?

Mr. Lyman: We did discuss that with them and they said yes, that they have done that. We ourselves tried to do it at the Ministry but—

Mrs. Seepersad-Bachan: I am not sure if you understand what I am asking. I know that when my colleague, Minister George, asked you the question about the Legislative Review Committee, in terms of recommendations to be made for modernization of the legislation—have you made any such recommendations on the reform of the legislation or regulatory framework?

Mr. Lyman: I am aware of the Ministry of Finance did ask for amendments to some of the legislation—

Mrs. Seepersad-Bachan: No; did you ever make a recommendation?

Mr. Lyman: Yes, it would start from us.

Mrs. Seepersad-Bachan: And it is before the Ministry right now?

Mr. Lyman: "Yeah."

Mrs. Seepersad-Bachan: Okay. What I am asking is—because I note that when you go on the Ministry of Finance' website, what is interesting—because you said there was no longer a Legislative Review Committee—

Mr. Lyman: Yes.

Mrs. Seepersad-Bachan: There were three non-statutory committees that were established during your time. I think one was a public information committee—I have it here. It was off of your website, I think it was. It is also in the handout: the Legislative Review Commission, the Administrative Committee and the Public Information/Communication Committee. If these are being abolished—because you said to me that the Legislative Review Committee no longer existed, you responded to Minister George on that—then we need to ensure that the Ministry of Finance takes it off, because it is no longer accurate information. That is up on their website. Is the Public Information Committee still in existence?

Mr. Lyman: No.

Mrs. Seepersad-Bachan: I think you need to advise the Minister of Finance so that it could be taken off of their website. Do you still have the Administrative Committee in place?

Mr. Lyman: Yes we do.

Mrs. Seepersad-Bachan: I would like to suggest that you advise the Ministry of Finance that you no longer have a Legislative Review Committee and that you know longer have a Public Information Committee, so they could remove the terms and reference of these committees from their website.

Mr. Faris Al-Rawi: Can you look at page 4?

Mrs. Seepersad-Bachan: This is what I thought, because I saw that here. On page 4, Mr. Al-Rawi is saying, you have actually submitted—I thought they were in existence, because the way it was reported is that they are all active committees, and they are making recommendations. So if they are also not in

existence, could you report to the committee when last they met, what was the work completed by these committees and if there were any recommendations arising out of these committees? If they are no longer in existence, are there any recommendations to probably reform these committees and establish new committees that could assist you in terms of moving forward with this organization?

I want to say however, that I do have a serious concern with this—let me say it, because I think it is important here. There is a *Guardian* article which said that the Minister of Finance indicated that discussions took place between the Ministry and the Tribunal, and the Minister had indicated that the PS would prepare a terms of reference for a consulting group to take up a comprehensive look at the National Insurance Appeals Tribunal, because he would like to address the areas of weakness.

I am sure many in the public would be very enlightened by this, that there is such a consultancy on the cards to ensure that we revise and revamp the structure and systems and processes of the National Insurance Appeal Board. Do you have any update on this exercise? Are you making any contributions to this exercise? Do you have any inputs into this exercise?

Mr. Lyman: No.

Mrs. Seepersad-Bachan: No? All right. One of the concerns I had basically when I noted this, is that when I look at your structure I had an opportunity, becoming the last person to ask questions, to peruse—

Madam Chairman: You are not the last so far.

Mrs. Seepersad-Bachan: Okay—the document that you sent. I just want to repeat, the staff that you have, as indicated in your submission, one is you have a registrar, you have an administrative officer II. I did not see the stenographer III on your structure here, which you spoke of earlier. You have one research officer. Is that Miss Joseph we are speaking about?

Mr. Lyman: The AOT and Miss Joseph are on loan from the Ministry of Finance, only a year ago.

Mrs. Seepersad-Bachan: On loan?

Mr. Faris Al-Rawi: Seconded.

Mr. Lyman: They said on loan.

Mrs. Seepersad-Bachan: So if they were not seconded, what you have is a clerk. You have a clerk III, you have a clerk stenographer IV, a clerk stenographer II, a clerk typist, a messenger, a security guard, cleaner, et cetera. .

Mr. Lyman: "Yeah."

Mrs. Seepersad-Bachan: Can I ask how long ago was this structure established for you? When last did you have changes to this structure?

Mr. Lyman: Since the Tribunal started—

Mrs. Seepersad-Bachan: Which is 1982, if I am correct?

Mr. Lyman: "Yeah—is only last year I got an administrative officer and Miss Joseph on loan."

Mrs. Seepersad-Bachan: But you see, the question here is that you are talking about the quality. One of the issues arising here is the quality of your submissions to the Tribunal as the Registrar, the proper preparation. The Chairman spoke about the quality of the case papers, in legal terms, coming before the Tribunal. Sometimes there may be some inadequacies and deficiencies in those case papers. I want to ask a question. At any point in time, Mr. Registrar, did you ever make recommendations to upgrade this structure? Not the number of people, but in terms of upgrading the position. I hardly think that you would be able to depend on clerk stenographers to assist you with the preparation of these case

papers, apart from typing the clerical responsibilities that go with the submission of these case papers.

Mr. Lyman: For your information I only started in 2009 there. And when I went in there I met a backlog of 750 appeals. "When I go in there, I have to go on a three months training, and I started having meeting with my Ministry and officials and so on, bring forward all these concerns I had. I think is only recently that things have started moving, and more attention is being paid to it." But as to what they have done in terms of staffing—

Mrs. Seepersad-Bachan: Why I am asking you this question is it is clear that at no point in time, just the same way the legislation has never in any way been modernized, the regulatory framework has never went through any changes and amendments for improvement, I am also saying that your structure from 1982 has remained static in terms of not just numbers, but the types of positions required to meet a 21st Century society. Therefore there is the use of technology. At no point in here am I seeing where you have actually brought on board or made recommendations to improve probably the middle management capacity of your Tribunal. *[Cell phone rings]*

I am therefore asking if you could submit to us any recommendations that can be made, so that can include in terms of how you would like to look at the staffing of your Tribunal in order to facilitate the work load you have. *[Cell phone rings]*

You just mentioned to me 750 appeals. I said close to 2,000 based on the figures I saw in your document. But even with 750 appeals, I am sure with the current input, the current submission rate of appeals, you are not going to clear that with 24 hearings a year. Therefore, it stills beg the question as to what you are going to put in place to clear this backlog.

The question I also want to ask you is: in that case—*[Cell phone rings]* do you at any point in time intend to make any inputs or make any submissions to the Ministry of Finance that could inform the issues that the consultancy would be required to address. *[Interruption]* It was announced in the newspapers. I am just responding to Mr. Al-Rawi. According to the newspaper reports, the Minister of Finance did announce, and a TOR is currently prepared. It may have already been prepared, because the article I saw was some time—let me just get the article. It was done earlier last year, so by now I would imagine the TOR—it was done last year, so the TOR would be in place, and the consultancy may be about to, if not engaged already. I do not know; it is something that we would also have to enquire about.

I want to make sure that the National Insurance Appeals Tribunal at least ensure that the issues they are seeing before them will in some way be addressed by this consultancy. This consultancy is going to address the weaknesses and deficiencies in the current operations of the Tribunal.

Mr. Al-Rawi: Should there not have been someone from the Ministry of Finance as well?

Mrs. Seepersad-Bachan: I thought so, but I want to pick up that afterwards with the Chairman. Just before I close, I just wanted to know if you are going to be making any recommendations, and if so could we get a copy of those recommendations that you will be making to the Ministry of Finance which will inform some of issues to be addressed by this consultancy.

11.35 a.m.

Mr. Lyman: The answer to that is yes because we, the Ministry, are presently I would say actively looking at this Act, the tribunal and the backlog.

Mrs. Seepersad-Bachan: So when do you intend to submit your recommendations?

Mr. Tsoi-a-Fatt: May I ma'am?

Mrs. Seepersad-Bachan: When do you intend to submit your recommendations to the Minister of Finance and the Economy?

Mr. Tsoi-a-Fatt: I just wanted to point out, ma'am, that I was not even aware of this consultancy, this, the existence of this consultancy.

Mrs. Seepersad-Bachan: But it was publicly reported—

Mr. Seemungal: In the papers.

Mrs. Seepersad-Bachan:—in the papers.

Mr. Tsoi-a-Fatt: Yes, but I mean I would imagine that there would be a different sort of communication in respect of that. I would not have to find out that in the papers.

Mr. Seemungal: Even if you know, you could still enquire.

Mr. Al-Rawi: But just to say as well that I would assume that you would not just be reporting in a vacuum, you would have to wait on a correct enquiry. But I think that the member's point is that, being, having notice of something publicly can perhaps quicken your agitations, if I can put it that way, to that effect.

Mr. Tsoi-a-Fatt: Right.

Mrs. Seepersad-Bachan: Yes?

Mr. Tsoi-a-Fatt: Mr. Lyman?

Madam Chairman: Are you through?

Mrs. Seepersad-Bachan: I am just waiting for them to tell me that they are going to submit the recommendations.

Mr. Tsoi-a-Fatt: Are you submitting?

Mr. Lyman: Yes. We will.

Mrs. Seepersad-Bachan: When? And would you give us a copy of it?

Mr. Lyman: Okay.

Mrs. Seepersad-Bachan: Madam Chairman, thank you very much, but I just want to say that I think that the next time, if we are meeting with this tribunal, a member from the Ministry of Finance and the Economy should be present. And in addition to that, I really want to recommend to the members present here from the tribunal, I think there is a need for you to analyze a little more of the appeals that are coming before you, with a view to ascertaining what are some of the common issues being addressed by your tribunal so that you can make a recommendation to the NIB.

And I would really appreciate, Madam Chair, if the members present could give us an indication of that so that they could inform our report as well as to some of the common issues, the more frequent issues coming before you, so that we can, through you or through us—our committee's report—can recommend to the NIB some of the procedural issues that need to be addressed or some of the public campaign awareness issues that need to be addressed. I thank you, Madam Chair.

Madam Chairman: Thank you very much indeed. There are a few questions that I would like to put. How often has the board held 24 meetings in a year?

Mr. Lyman: It is not meetings, it is tribunal—

Madam Chairman: The tribunal.

Mr. Lyman:—hearings.

Madam Chairman: Sorry. How often has the tribunal held 24 hearings in a year?

Mr. Lyman: How often that happened?

Madam Chairman: Yeah.

Mr. Lyman: I could say it would not happen because of several factors, no. one, the board's tenure it ends on two years, and we do not have immediate appointment of new board members. We could have—where we do not have a quorum—that could be another reason. We could have where we schedule a medical appeal in last minute, the CMO cannot attend. Those are some of the reasons why we cannot have the 24.

Madam Chairman: How many meetings, how many hearings have been held so far in the period 2012—2013?

Mr. Lyman: I should have a figure there. I could tell you in 2013 we had two, starting in April because I was on vacation and we could not—when I came back in February I have to give 21 working days' notice to appellants and the tribunal. So I started back in March, we held two, and I would give you the figure from September to—just now.

Madam Chairman: And September to December?

Ms. Joseph: We had nine hearings in 2012.

Madam Chairman: No. You had nine hearings between September and December 2012?

Ms. Joseph: Oh, no. We had three hearings from September. We had one in September, one in October, one in November at the bottom of 2012, and we just had two hearings at the start of the year thus far.

Madam Chairman: So you are running five hearings. How often do you have hearings in Tobago, and how many have you had in Tobago over this period 2010—2012?

Mr. Lyman: Sorry, we did not have any in Tobago.

Madam Chairman: Are there no matters in Tobago that require hearing?

Mr. Lyman: Yes, Madam Chairman.

Madam Chairman: Well what is the reason for having no meetings in Tobago? Is your mic on?

Mr. Lyman: Yeah.

Madam Chairman: Oh, okay. Well, I need an answer of some sort.

Mr. Lyman: Well, I guess my schedule here is real busy so—

Madam Chairman: No, but is it as chairman would you say, Sir, that it is fit and proper that for the period 2010 to the present that your tribunal has had no meeting in Tobago when there are outstanding matters in Tobago?

Mr. Tsoi-a-Fatt: Madam Chairman, absolutely not. It is a matter that I have brought to the attention of the Registrar on several occasions. I have asked that he take himself and some of his team to Tobago to look into the situation there, to see what the status of the appeals are, to list a hearing in Tobago. This is as far as I have the authority to go. I have brought it to his attention on several occasions and there is nothing else that I can do about it. There are members in Tobago who are not doing work.

Madam Chairman: And they can only function in Tobago?

Mr. Tsoi-a-Fatt: They can only—well if there is a problem for a quorum in Trinidad and we are informed of this in time, we can borrow a Tobago member—*[Interruption]*

Madam Chairman: Okay.

Mr. Tsoi-a-Fatt:—who is a representative of the interest group that is missing, to come to Trinidad to fill in. That is another way we can get a quorum going if there is a failure of a quorum. If the south business person is not attending and he informs us, we could take the north business person to

Tobago—to south.

Madam Chairman: North or Tobago?

Mr. Tsoi-a-Fatt: Or to which ever.

Madam Chairman: Uh hmm.

Mr. Tsoi-a-Fatt: You see. One of the situations too now is that we have only two members in the north. The Government representative in the north has retired and that position has not yet been filled, so hence the reason why we have a failure of quorum in the north. If one person does not show up, and that matter has not yet rectified.

Madam Chairman: Yeah, but you tell me that if a Government person is not available, you can borrow a Government person from south or Tobago?

Mr. Tsoi-a-Fatt: Yes, we can do that, but provided we get adequate notice that that person is going to be—when you say, okay, you mean— What I am saying is that membership of the north is short by one.

Mr. Al-Rawi: How long?

Mr. Tsoi-a-Fatt: When did the—

Mr. Lyman: Since September last year.

Mr. Tsoi-a-Fatt: Since September last year.

Madam Chairman: So is it that the Government member cannot be sourced from south or Tobago in the event of the non-availability of the north person.

Mr. Tsoi-a-Fatt: If the—well you will have—that is a—I do not why, why has it not been done Mr—

Madam Chairman: It cannot be that the notice is too short because—

Mr. Tsoi-a-Fatt: No, no, no. That is correct.

Madam Chairman:—if there is nobody there—

Mr. Tsoi-a-Fatt: That is correct.

Mr. Al-Rawi: Who appoints that person?

Mr. Tsoi-a-Fatt: It is appointed by the Cabinet on the representation of the interest group, in this case, the Government.

Mr. Seemungal: Well, it is three Government nominations—

Mr. Tsoi-a-Fatt: Yeah.

Mr. Seemungal:—you all need to progress—take one Government nomination you cannot do anything? But three Government—sorry.

Mr. Tsoi-a-Fatt: One is represented—one is the north division, one is the south and one is Tobago.

Mr. Seemungal: Right.

Mr. Tsoi-a-Fatt: Yeah.

Mr. Seemungal: And the Government representative missing from the north—

Mr. Lyman: Yeah.

Mr. Seemungal:—so the tribunal could operate in the south, he could operate in Tobago. Is that so?

Madam Chairman: It could also operate in the north.

Mr. Seemungal: So it is not a deficiency of the tribunal that a Member of the Government is missing. It is inefficiency on the tribunal's part?

Mr. Al-Rawi: Mr. Chairman, you are aware that regulations, perhaps this is both to the registrar and to you—*[Interruption]*

Mr. Tsoi-a-Fatt: Me?

Mr. Al-Rawi:—that regulations, for instance in court, permit us to do video conferences, the Company's Act also permits telephone conferences and video conferences. So physical location is not something which is regulated by statute for the holding of tribunals or for meetings, and we also—[*Interruption*]

Mr. Tsoi-a-Fatt: It is.

Mr. Al-Rawi:—I know, but it can be dealt by way of regulations, and the recommendations for regulations by way of agitation from source is the key. So it would be the Registrar's Department, perhaps through you or individually, that makes that agitation. So, it seems to me that even though your hands may be tied in some aspects, the encouragement offered at the beginning of this meeting is really what—because we have all asked pretty much the same questions to try and get a bearing and understanding. What we are really looking forward to is your bitter complaint so that you can get your system working. So that is what the list of questions that we have all asked you come to and what your responses are going to be.

Is there any way, Mr. Registrar, that your regulations can permit now, the holding of meetings other than physically, by electronic means, et cetera?

Mr. Lyman: No.

Mr. Al-Rawi: In court we also use something a judicial settlement conference where the parties agree to have somebody, basically, arbitrate or deal with or come up with a position off the record, so that the judicial process does not have to go in. It also used in the Industrial Court as well. Is there any facility in the tribunal?

Mr. Lyman: No. We do not have a facility like that, and number two, it would be difficult to have a hearing like that because in terms where you may not be able to ask an appellant some questions or his representative, you know, like a cross-examination, how you call it. It would be difficult to hold it like that.

Mr. Al-Rawi: But what we want you to do is to tell us we have the problem, it could be dealt with in the following ways by the setup of a video link conference and other things as the High Court does, the Remand Yard does and the Industrial Court can do as well in certain circumstances. So there are ways, as Mrs. Seepersad-Bachan put it, that we can bring the tribunal into the current age. But what we really hope to get from you, gentlemen and lady, is the checklist of what is wrong. Could you also tell us what your budget is? What is your budget?

Mr. Lyman: We do not have a budget, we—

Mr. Al-Rawi: How much money is allocated to you?

Mr. Lyman:—are funded, paid by the Ministry of Finance and the Economy. Our estimates are done by the Ministry of Finance and the Economy. That is my Ministry.

Mr. Al-Rawi: Well, you must have a budget for the running of your tribunals, for the payments of your staff, for your stationary, for your equipment. That must exist.

Mr. Lyman: Yeah.

Mr. Al-Rawi: What is it?

Mr. Seemungal: You have a vote.

Mr. Lyman: I am sorry I did not walk with that.

Mr. Al-Rawi: No, it is okay, we understand. You can provide that in writing, but a ballpark figure. What is it? Has money been a problem, is the question?

Mr. Lyman: No. Money is not the problem. It is the management of the tribunal being the problem.

Mr. Seemungal: The management.

Madam Chairman: Now this is interesting. Who is in charge of the management of tribunal?

Mr. Tsoi-a-Fatt: The Registrar, Ma'am.

Mr. Al-Rawi: Okay. Perhaps, Madam Chair, if I may suggest because we may be a bit in a circular position.

Madam Chairman: We are.

Mr. Al-Rawi: If we could have some information flow come back, I think that the members of the tribunal and the chairman understand what we are looking for, but we do need to have their feedback so that we can get a better position.

Madam Chairman: I absolutely agree with this. So that if you all would agree to send the information we have requested, in a timely fashion this time, I would imagine that, today is the 19th, if we could have this by the end of the month we would then be in a position to tell you whether we would need to see you again. What is the date? Friday 3, May. You see, the secretariat is on your side, they have given you three more days than I was willing to consider.

But I must say, and I gather this would be in wrapping up, that this has been a most disappointing session for me. You know, I have been sitting here and I have been feeling that all is not well in your organization. Your chairman does not seem to be totally aware of what is going on, apart from the fact that from the letter that he wrote us, he all but told us that he does not consider it his business which I think is a little disturbing since the division, such as it is, is supposed to be his secretariat.

11.50 a.m.

So, I would have been happier for him to have a little greater ownership of the whole enterprise. Because, pardon me if I am wrong, but I do get the impression that it is not a happy family, and unhappy families in terms of a work environment can easily lead to chaos. There is a predisposition to put the onus on the National Insurance Board, and I want to let you know that I am going to propose to my committee that we bring the National Insurance Board here to explain its role in this, because I am under no illusion that there is not some responsibility there.

But there seems to be a lack of conversation between two elements that need to walk in lockstep. You all have to be running a three-legged race in order to get to the finish line, because if you are not talking to each other—you know, you are supposed to get something in three months' time, in six weeks' time; it does not come; a year's time, and you just come here and sit and say well, the problem is that we do not get the responses from them in a timely manner.

Gentlemen and lady, this does not sit well with my committee. We are most unhappy. I hope that you can raise the gloom a bit by sending us this timely information on the basis of which we would be able to see how we can help you, because trust me, we are sure you are in need of plenty help, and this is all that we want to do, help you. Because, unless and until we can help you and we can get this straight, it is John public outside there having problems.

Somebody with an injury claim, with a maternity claim, pre-2010 that has not yet been resolved. What? The injury might—the injured person might be a paraplegic before the NIB gets the information to you. No, no, no; this is not how we sub serve the public and we will not encourage you to fall down on your duty. So, please, let us have the information that we require by the 3rd of May and, on behalf of the committee, we promise to do what we can to help you with only insofar as you can help us. If you

have any last words, I am happy to hear them.

Mr. Lyman: Well, Madam Chairman, like I said, staffing is a big problem with my division. I would, in addition to this, what you gave me here—we are in the middle of cases going on, I would try to meet the deadline and whatever you need from the Tribunal I am willing to give it to you all.

I think a meeting with both parties like the NIB and the Tribunal could sit like one day and we can really discuss this thing further, how to get these appeals done more quickly.

Madam Chairman: I was hoping to get at least a commitment from you that you all would engineer such a meeting at an early date, because without it, your programme is not going to proceed.

Mr. Lyman: Well, I will pass it on to my Ministry, Ministry of Finance, and I will let you know what is going on there.

Mr. Tsoi-a-Fatt: Madam Chair, I would just want to make an observation and I think it is very important. I think that there is a lack of oversight by the Ministry, of the Registrar's Department. I think the Ministry does not take sufficient—what should I say—you know, interest in what goes on in this division, and to that extent, when things go wrong the Registrar himself is unable to do anything about it. I mean, he does not have the support of the Ministry. I think the Ministry should have a little more oversight.

Madam Chairman: But in your capacity of Chairman, have you ever raised this with the Permanent Secretary?

Mr. Tsoi-a-Fatt: I have had two meetings in the last month with the Permanent Secretary and I have raised all of these issues. I have had one with the Permanent Secretary and one with the Permanent Secretary and the Minister. I have pointed out all things that I thought could help us to go forward, and I think that we have now, even on the issue—with more oversight, certainly they would understand that there is a need for specialized training in that area, but you have to identify these things, and if there is no oversight they cannot identify these things. I do not think that right now the members of that Division are in a position to even realize or recognize the type of training they need to have.

Mr. Al-Rawi: Or for the use of other facilities, I mean, dealing with medical certification in court is a standard rule. The Registrar of the High Court deals with it; there are Assistant Registrars, there are so many ancillary things that can be done to immediately fix this thing, but somebody has to be willing to agitate it.

Mr. Tsoi-a-Fatt: That is correct.

Mrs. Seepersad-Bachan: Chairman, I have a burning question.

Madam Chairman: The last one.

Mrs. Seepersad-Bachan: From your submission, I read that this institution is an independent body. Your moneys are allocated by Parliament. I just want to know if I am correct where that is concerned.

Mr. Tsoi-a-Fatt: [*Inaudible*]

Mrs. Seepersad-Bachan: That is what it states here.

Madam Chairman: No, this is what is written in their documentation to us.

Mr. Al-Rawi: You see, the budget question falls there.

Mrs. Seepersad-Bachan: It is there. They have a vote, moneys are allocated by Parliament.

Mr. Lyman: We have an estimate that we do and it is like for the remuneration, the goods and services. That is it.

Mr. Al-Rawi: Research, development, special programmes; I mean, if you look at the comparable that

comes out of the Judiciary, for instance, which is an independent entity falling under a Ministry of—you see the Ministry of the Attorney General, but the point is that we know what their budget is, we know what their snag list looks like, et cetera, so it seems to me that it is all muddled because we do not seem to have any clear line of sight. That is why I asked in the beginning for your manpower structure, your shortage, your budgeting and your requirements. It was for the reason that I asked those things, which I am sure you would provide to us with your commitment to do that having been given to the Chairman.

Madam Chairman: Did you get your burning question in?

Mrs. Seepersad-Bachan: It is that.

Madam Chairman: Very well.

Mrs. Seepersad-Bachan: I mean, this is an independent body and you are allocated your funds so you have full control.

Madam Chairman: So, gentlemen, lady, I will truncate our mutual agony, and thank you for coming today.

Mr. Tsoi-a-Fatt: Thank you, Madam Chairman.

Madam Chairman: The meeting is adjourned.

11.59 a.m.: *Meeting adjourned.*

APPENDIX IV

DETAILS OF HEARINGS SCHEDULED FOR THE PERIOD OCTOBER 2009- SEPTEMBER 2012

APPEALS

Schedule of Hearings: The following gives the details of the schedule of Hearing for the three (3) years from October 2009- September 2012.

October 2009- September 2010

There were five (5) Tribunal Hearings scheduled for the financial year October 2009 to September 2010.

Date	Venue	Details
October 2009- July 2010	-	No Hearings Held New Registrar assumed duty on 2 nd November 2009. Official Training for the Registrar lasted from March 2010-June 2010.
July 23 rd 2010	Social Welfare Office San Fernando	Hearing Held
August 16 th 2010	Maritime Plaza Barataria	Hearing Held
August 27 th 2010	Social Welfare Office San Fernando	Hearing Held
September 13 th 2010	Maritime Plaza Barataria	Hearing Held
September 27 th 2010	Social Welfare Office San Fernando	Hearing Held

October 2010- September 2011

There were sixteen (16) Tribunal Hearings scheduled for the financial year October 2010 to September 2011. Only ten (10) of the 16 Hearings we held.

Date	Venue	Details
October 11 th 2010	Maritime Plaza Barataria	Hearing Held
October 29 th 2010	Social Welfare Office San Fernando	Hearing Held
November 15 th 2010	Ministry of Works Office Tobago	Hearing Held
November 29 th 2010	Social Welfare Office San Fernando	Hearing Held
December 13 th 2010	Maritime Plaza Barataria	Hearing Held
January 2010- March 2010	-	No Hearings Held The Office of The Registrar was relocated from Maritime Plaza in Barataria to Capital Plaza in Port of Spain. As such six (6) scheduled Hearing dates were lost.
April 11 th 2011	Capital Plaza Port of Spain	Hearing Held
April 29 th 2011	Social Welfare Office San Fernando	Hearing Held
May 16 th 2011	Capital Plaza Port of Spain	Hearing Held

June 3 rd 2011	Social Welfare Office San Fernando	Hearing Held
June 27 th 2011	Capital Plaza Port of Spain	Hearing Held
July 8 th 2011	Social Welfare Office San Fernando	No Hearing Held The NIB alleged that the Notice of Hearing was received late (i.e. less than 21 days before Hearing).
July 25 th 2011	Capital Plaza Port of Spain	No Hearing Held Due to the unavailability of the Chief Medical Officer
August 12 th 2011	Social Welfare Office San Fernando	No Hearing Held Due to the expiration of the Term of the sitting Tribunal; 30/07/2011.
August 29 th 2011	Capital Plaza Port of Spain	No Hearing Held Due to the expiration of the Term of the sitting Tribunal; 30/07/2011.
September 9 th 2011	Social Welfare Office San Fernando	No Hearing Held Due to the expiration of the Term of the sitting Tribunal; 30/07/2011.
September 26 th 2011	Capital Plaza Port of Spain	No Hearing Held Due to the expiration of the Term of the sitting Tribunal; 30/07/2011.

October 2011- September 2012

There were eighteen (18) Tribunal Hearings scheduled for the financial year October 2011 to September 2012. Only twelve (12) of the 18 Hearings we held.

Date	Venue	Details
November 11 th 2011	Social Welfare Office San Fernando	No Hearing Held NIAT informed of new Tribunal on 07/10/2011. 21 day advance notice required to have Hearings permits Hearing on this day.
November 28 th 2011	Capital Plaza Port of Spain	No Hearing Held The Registrar proceeded on vacation leave from 28/11/2011-08/01/2012
December 12 th 2011	Capital Plaza Port of Spain	No Hearing Held The Registrar proceeded on vacation leave from 28/11/2011-08/01/2012
January 2012/ February 2012	-	No Hearings Held Hearings postponed in an effort to locate new venues for Hearings at the request of the Chairman.
February 24 th 2012	Ministry of Labour and Small and Micro Enterprise Development Hosein Building San Fernando	Hearing Held
March 19 th 2012	City Hall Port of Spain	Hearing Held
March 29 th 2012	Ministry of Labour and Small and Micro Enterprise Development	Hearing Held

	Hosein Building San Fernando	
April 16 th 2012	City Hall Port of Spain	Hearing Held
April 27 th 2012	Ministry of Labour and Small and Micro Enterprise Development Hosein Building San Fernando	Hearing Held
May 14 th 2012	City Hall Port of Spain	Hearing Held
May 29 th 2012	Ministry of Labour and Small and Micro Enterprise Development Hosein Building San Fernando	Hearing Held
June 11 th 2012	City Hall Port of Spain	Hearing Held
June 22 nd 2012	Ministry of Labour and Small and Micro Enterprise Development Hosein Building San Fernando	Hearing Held
July 9 th 2012	City Hall Port of Spain	Hearing Held
July 27 th 2012	Ministry of Labour and Small and Micro Enterprise Development Hosein Building San Fernando	Hearing Held
August 13 th 2012	City Hall Port of Spain	No Hearing Held Due to the unavailability of the Chairman.
August 24 th 2012	Ministry of Labour and Small and Micro Enterprise Development	No Hearing Held Due to the unavailability of the

	Hosein Building San Fernando	Chairman.
September 10 th 2012	City Hall Port of Spain	No Hearing Held Due to the unavailability of the Chairman.
September 28 th 2012	Ministry of Labour and Small and Micro Enterprise Development Hosein Building San Fernando	Hearing Held

APPENDIX V

LETTER FROM RAMCHARITAR AND ASSOCIATES

Ramcharitar and Associates

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25th April, 2013

Honorable Senator Mrs. Corine Baptiste Mc. Knight
Chairman
Joint Select Committee (Group 1)
Parliament
Waterfront Towers
Wrightson Road
Port of Spain

Dear Madam,
Greetings:

Re: Recommendations – National Insurance Appeals Tribunal

I had the opportunity to view on Parliament Channel the Session of the Joint Select Committee (J.S.C.) on the workings of the National Insurance Appeals Tribunal of the Ministry of Finance held on Friday 19th April, 2013.

I feel obliged to make some suggestions which may improve the workings of that body. I do so as a former Registrar of the Tribunal from 1983 to 2002 and in my private capacity as a National Insurance Consultant from 2003 to presently, practicing before the very Tribunal representing appellants.

I am aware that the number of appeals presently is over 1000. What did not come out at the Hearing is that these appeals date back to 2003 coming right up to present (when I exited the Tribunal in 2002 the Number of appeals then stood at 41 and I am appalled at the state of affairs now). Appellants are suffering in silence while some have since died. (Please see list of appellants whom I represent).

My humble suggestions are as follows:

1. **Staff Structure** – Upgrade the Technical Staff i.e. the Registrar, who is the Chief Executive Officer (CEO) of the Tribunal. The Registrar is De Facto the Tribunal, neither the Chairman nor the members make any input into the administration and operation of the Tribunal.

Their role is limited to sit at Hearings and make decisions on appeals listed and sign decisions, thereafter. The Registrar is at the Level of an Administrative Officer II, (Range

46). The Registrar has to interface with the Executive Director, Executive Managers of the Legal Services, Insurance Administration and Manager of the Appeals Unit at the National Insurance Board. These are all high paid and high powered Executives.

As far back as 1986 representation was made to upgrade the post of Registrar to that of Administrative Officer IV (Range 54). This attempt was unsuccessful. Subsequently a request was made for the creation of a post of Deputy Registrar (Range 35). The Organization and Management Division of the Ministry of Finance responded with the provision of a Clerk III, (Range 24).

It is now incumbent on the Administration to upgrade that post to the level of Administrative Officer V (Range 61) which would attract a calibre of officer who has gained sufficient experience and training coming up the ranks in the Public Service to handle the Tribunal with a Deputy Registrar, Administrative Officer IV (Range 54) and an Assistant Registrar Range (46) with supporting clerical Staff.

2. ***Amendment to the Legislation*** – This is to increase manpower within the Membership of the Tribunal as follows
 - a. Create a post of Deputy Chairman
 - b. Appoint 3 Independent Members by his Excellency the President, one from each Division – Tobago, North and South
 - c. Amend the Legislation to allow the Chief Medical Officer to nominate a substitute to tender advice to the Tribunal (N.B. The Chief Medical Officer is ex-officio on thirty-five (35) Boards and Commissions within the Public Service in addition to his substantive Portfolio).

With this improved structure, there can be four (4) Hearings per month instead of two (2) (half of which does not take place due to a lack of quorum) two chaired by the Chairman and two chaired by the Deputy Chairman. The members in each Division will now number four (4), i.e. Labour, Business, Government and Independent with the quorum remaining the same, Chairman or Deputy Chairman and any two (2) members. It is easy to muster a quorum of two (2) from four than two from three as currently obtains.

3. ***Introduce an Appeals Management Conference*** – The National Insurance Board must establish an Appeals Review Committee which will meet with the Registrar and the appellant or Representative to review all appeals with a view to resolving issues before the appeal is listed for a Hearing. Unresolved issues will be adjudicated upon at a Tribunal Hearing (Similar to the Court's Case Management Conference alluded to by Senator Faris Al Rawi)

So what will happen is like this, when an appeal is sent to the National Insurance Board, the response will be within 21 days allotted by law, i.e. the Board decides to either review its decision and pay the claim or join issue with the appellant and contest the appeal, when the Benefit Unit file of the appellant is sent to the Tribunal.

At this point the Registrar will review the file with the Appellant or Representative and allow the appellant to produce facts / further information to substantiate the claim. Once this is achieved, the Registrar will set up an Appeals Management Conference and attempt to resolve the issues totally or narrow down the issues after which the appeal is listed for Hearing. The entire process could be achieved within three months and if necessary then go for a full Hearing of the Tribunal.

Once all the issues are identified it becomes easier for the Tribunal, the Board and the appellant / Representative to focus on these unresolved issues and a decision could be arrived at in a Single hearing. This will eliminate the several adjournments which now occur.

4. **Extend Member's Term of Appointment** - There is no specified time allotted to a member's term in office in law. The previous norm was a three year term for the Chairman and all members. Within recent times the Chairman retains a three (3) year term, while members have been reduced to two (2) years.

The difficulty arises when members are appointed. It takes a good six (6) months to be trained and to settle down, that leaves an eighteen (18) month period to really function and then you're gone.

I suggest a five (5) year term for all (Chairman and Members). This would allow members after settling down to give professional service for at least four and a half (4½) years and they are eligible for re-appointment.

The function of a member of the Tribunal is an onerous one, whereby the member is required to put the laws and regulations in proper perspective, balancing it at all times with the facts and evidence provided at the Hearing. A member must have an intimate knowledge of the rules and regulations governing benefits from the National Insurance Board.

5. **Backlog of Appeals** – Appoint a Consultant to work fulltime with the Registrar to tackle the backlog. The backlog could be reduced in two (2) years with four (4) Hearings per month, i.e. forty-eight (48) Hearings per year with each Hearing to have 12 appeals listed and heard. This will take care of the backlog and current appeals for the two (2) year period, i.e. 1152 listed for Hearing over two (2) years.

But most importantly the Consultant will be providing hands on training to the staff so that there could be no excuse for a backlog thereafter.

6. **Proper Ministerial Oversight** – It is my view that no proper oversight, if any at all, is exercised by the line Ministry. During my tenure as Registrar, I introduced reporting to

the Permanent Secretary on a monthly, quarterly and annual basis on all activities of the Tribunal. This enables the oversight mechanism to pick up delinquency or inefficiency in the operations of the Tribunal.

At this point things should be brought back to normal with appeals being heard and determined within three (3) to four (4) months.

- 7. Post Tribunal Determination of Appeals** – Both the National Insurance Board and Appellant have recourse to Judicial Review in the event that a Tribunal decision is not in favour. However, for the National Insurance Board it is easy, unlimited resources, with the appellant this is highly impossible. Over the years, the National Insurance Board has from time to time challenged the Tribunal's Decisions and has been successful in all but one, having the Judge set aside the Tribunal's Decision. Many appellants are aggrieved at Tribunal's Decisions but do not have the financial resources to proceed further.

The remedy for this is to appoint a Commissioner of National Insurance at the Level of a High Court Judge as the final arbiter for the National Insurance matters so that all matters relating to Registration of Employers and Employees, interpretation of the National Insurance Laws etc. now must go to the High Court for adjudication, will now be dealt with by this Commissioner, together with any challenges to Tribunal Rulings. This would be cost effective and swift.

These are my humble recommendations for elimination of the present state of affairs.

Respectfully submitted



Ramnath Ramcharitar
National Insurance Consultant

RELEVANT LEGISLATION
CHAPTER 32:01

1. Section 60 (1)(a) after the word "Chairman" add the words "and a Deputy Chairman,"
2. After (1)(d) add (e) three persons who in the opinion of the President are independent of Government, Business and Labour
3. Change (e) to (f) and add after "the Chief Medical Officer" the words "who shall delegate a nominee in his stead, if unable to attend a Hearing"
4. (6) Each Appeals Tribunal shall consist of the Chairman or Deputy Chairman, and

No.	NAME	N.I.S. #	DATE
1	Sheila Patrong	060 163 109	21/01/2003
2	Selma Flood	080 518 150	29/10/2003
3	Premnath Saghran	040 227 338	6/26/1905
4	Bisram Ramesar	050 222 246	1/10/2004
5	Hugo Ewing	070 054 937	21/11/20 / 01/09/2005
6	John Ramroach	000 504 742	26/06/2005
7	Ali Mohammed	030 159 821	30/06/2005
8	Ramjit Lal/Celena Eleanore	010 081 476	13/08/2005
9	Kenneth Ramsawak	081 369 558	18/08/2005
10	Balraj Ramessar	100 232 514	24/08/2005
11	Roselind Siewsarann	090 111 084	29/09/2005
12	Patricia Andrea Ho Hing	090 759 068	10/10/2005
13	Rambhajan Siew	080 232 621	11/12/2005
14	Hassina Mohammed	090 556 574	13/11/2005
15	Lydia Callista	081 278 838	22/11/2005
16	Sheila Patrong	060 163 109	22/11/2005
17	Radica Kangal	011 311 808	13/12/2005
18	Lalloo Rampersad	050 108 230	25/01/2006
19	Azim Hosein	090 645 669	2/6/2006
20	Christendath Bheekoo	070 382 551	2/10/2006
21	Naithram Rooplal	040 534 958	2/10/2006
22	Premnarine Dookree	010 110 182	14/02/2006
23	Frankie Roopchand	010 288 895	3/9/2006
24	Marie Darling Ramkair	070 618 814	26/03/2006
25	Vishnu Sahadeo	030 433 729	26/03/2006
26	Norman Antonio Shortte	091 248 717	4/4/2006
27	Ramdass Sahadeo	040 464 852	4/4/2006
28	Kumar Ramsaran	001 352 121	4/9/2006
29	Sahadeo Sumairsingh	070 250 264	18/04/2006
30	Barbara Mary Maraj	010 508 542	27/06/2006 / 04/09/2006
31	Sookbassia Sirjoo	090 445 136	4/9/2006
32	Ramnarine Seepersad	000 449 660	4/9/2006
33	Veronica West	050 207 948	4/9/2006
34	Boodram Beeban	090 526 209	4/12/2006
35	Goukaran Ramsaran	050 451 784	19/04/2006
36	Dhanasarie Bachan	090 123 406	25/04/2006
37	Gopichand Sookdeo	100 643 425	5/1/2006
38	Siew Ramadhar	071 004 739	18/05/2006
39	Rose Marie D' Andrade	010 173 656	05/12/2009 / 17/06/2006
40	Lloyd Ramdial	070 526 065	26/06/2006
41	Agnes Hood	040 475 544	26/06/2006

No.	NAME	N.I.S. #	DATE
42	Dhadabal Soomair	030 187 981	7/4/2006
43	Harold Arnold	020 314 135	17/07/2006
44	Ganesh Sahadeo	080 198 598	30/07/2006
45	Walter Benette	010 690 014	31/07/2006
46	Sonnyboy Deonarine	060 110 668	8/6/2006
47	Premnath Enal	070 601 113	8/12/2006
48	Romeo S. Dassrath	090 114 504	16/08/2006
49	Jessie Ann Prince	060 837 088	16/08/2006
50	Mahadai K Sankar	100 805 115	21/08/2006
51	Ricky Bhagwat	051 004 501	21/08/2006
52	Rodney Hajaree	070 514 733	21/08/2006
53	Ramrattan Ramdhan	010 232 741	9/3/2006
54	Cecil De Bique	020 242 630	14/09/2006
55	Bridgemohan Ramcharitar	040 110 139	18/09/2006
56	Rainier Mahabir	000 330 647	06/12/2006 / 18/09/2006
57	Koomarlal Rambarran	100 544 672	20/09/2006
58	Krishnalal Balgobin	000 141 615	10/8/2006
59	Basdeo M. Roopchand	090 215 890	10/8/2006
60	William Harricharan (Can)	000 010 634	13/10/2006
61	Dookie Narsing (Can)	030 128 012	27/10/2006
62	Norris Taitt	000 265 446	30/10/2006
63	Edward Balkissoon	020 039 991	30.10.2006
64	Deolal Rampersad	070 232 827	30/10/2006
65	Eying Ramong	080 412 026	30/10/2006
66	Kamal Sharma Ramsundar	070 246 194	11/4/2006
67	Christine Ramsumiar	011 062 432	11/7/2006
68	Ken Babwah	020 529 549	19/01/2005 / 11/10/2006
69	Taradath Bhiki	060 588 940	14/11/2006
70	Michael La Fortune	011 225 366	22/11/2006
71	Krishna Ramesar	070 586 009	27/11/2006
72	Omala Ramtahal	020 360 005	27/11/2006
73	Zoabder Salamat	050 009 518	12/5/2006
74	Earnest Williams	020 016 657	12/9/2006
75	Sookdeo Ramdhar	000 738 344	12/9/2006
76	Reynold Heeralal	090 536 069	12/9/2006
77	Ram Harridial	070 682 652	12/12/2006
78	Baby Sookdeo	070 618 081	12/12/2006
79	Koomar Roodal	020 544 521	15/01/2007
80	Harrybance Ramcharitar	070 009 095	15/01/2007
81	Ivan Barrow	080 094 423	25/01/2007
82	Baksh Balram	010 342 148	25/01/2007

No.	NAME	N.I.S. #	DATE
83	Carlton Morgan	080 090 541	30/01/2007
84	Daniel Jugoon	040 740 752	2/2/2007
85	Kenny Daniel	060 412 915	28/02/2007
86	Roy Balkaran	080 113 576	28/02/2007
87	Harrypersad Samuel	040 288 809	28/02/2007
88	Gulcharan Balgobin	060 487 338	28/02/2007
89	Nankishore Bhagwandeem	080 780 654	28/02/2007
90	Heera Singh	080 108 610	3/12/2007
91	Khamraj Maharaj	080 198 318	3/12/2007
92	Michael Deosaran	050 115 911	13/03/2007
93	Monica Phyllis Jackson	100 614 786	13/03/2007
94	Rasoolan / Shahabudin Ali	080 796 626	13/03/2007
95	Jaimungal Mahabir	010 316 031	19/03/2007
96	Anselm Mewalal	090 560 067	13/02/2007 / 26/03/2007
97	Heera Ramnath	010 118 698	26/03/2007
98	Samaroo Singh	070 329 693	13/04/2007
99	Chatram Harrylal	000 056 995	16/04/2007
100	Dhanpatia Ramlochan	030 660 687	16/04/2007
101	Randy Sampath	081 128 798	16/04/2007
102	Ava Quashie	100 411 060	23/04/2007
103	Rasoolan / Sultan Ali	040 376 724	5/1/2007
104	Sharaz Mohammed	020 581 958	5/1/2007
105	Dayal Kolahall	060 359 933	5/2/2007
106	Kelvin Supersad	100 016 145	5/2/2007
107	Chanerdai Supersad	040 577 754	21/05/2007
108	Chintaman Seepersad	040 433 817	21/05/2007
109	Ramberran Ramjattan	060 923 200	28/05/2007
110	Richard Rampersad	080 414 665	22/06/2007
111	Harry Gopaul	010 173 575	26/06/2007
112	Dial John Tirbanie	010 904 057	20/07/2007
113	Sohan Ragoonanan	000 613 770	8/3/2007
114	Coomari Ramsahai	040 022 132	8/3/2007
115	Arjoon Samai	040 113 286	14/08/2007
116	Deonath Bridgemohan	030 255 324	9/1/2007
117	Boysie Babwah	060 110 196	9/1/2007
118	Shirley Gilbert	000 025 798	9/1/2007
119	Deonarine Narine	030 215 861	9/5/2007
120	Rufus Edwards	010 209 626	9/5/2007
121	Stanely Daniel	010 219 672	9/6/2007
122	Rosita Jurai	070 701 614	9/10/2007
123	Surash Sookoo	000 215 821	9/10/2007

No.	NAME	N.I.S. #	DATE
124	Krish Poonwasie Jurai	010 180 768	9/10/2007
125	Mahadeo Bissoondial	020 582 881	24/07/2009
126	Safacoor Baksh	080 114 998	19/09/2007
127	Steve Bujhawah	000 255 602	27/09/2007
128	Joseph Boodram	090 433 944	10/5/2007
129	Ruthven Davies	070 095 781	10/7/2007
130	Linda Hosien Abdul	020 587 999	10/10/2007
131	Amran Kudrath	020 296 900	16/10/2007
132	Ramlal Mahabir	050 584 231	16/10/2007
133	Isreal Samaroo	080 221 646	23/10/2007
134	Annirude Ramanan	060 644 662	31/10/2007
135	Dulcie Premchan	091 388 152	31/10/2007
136	Doodooman Arjoon	070 321 765	11/6/2007
137	Shadick Mohammed	100 382 281	11/7/2007
138	Dolly Ramdeo	000 850 349	11/7/2007
139	Hereman Marajh	000 430 935	11/12/2007
140	Dindial Magram	000 270 032	16/11/2007
141	Glen Slater	100 151 824	27/11/2007
142	Margaret Rampersad	100 431 193	29/11/2007
143	Rampersad Gopaul	030 314 320	19/12/2007
144	Annisia Polai Chaitoo	071 235 625	19/12/2007
145	Norma Marchan	090 686 826	1/12/2008
146	Kennedy Telesford	060 591 011	1/12/2008
147	Joyce Ramdeen	090 722 474	15/01/2008
148	John Cooper	060 008 774	15/01/2008
149	Ramdass Sahdeo	040 464 852	25/01/2008
150	Mohanlal Dass	020 544 920	30/01/2008
151	Harnarine Pragg	010 444 617	2/5/2008
152	Roslin Mohammed	040 745 606	2/6/2008
153	Heeraman Ramjass	080 101 159	26/02/2008
154	Izam Ali	030 427 478	28/02/2008
155	Basdai Maharajh	010 969 258	28/02/2008
156	Partap Rajkumar	050 449 666	28/02/2008
157	Wayne Wills	101 033 906	29/02/2008
158	Jagdeo Paltoo	000 187 623	3/1/2008
159	Rooplal Baboolal	020 215 919	3/1/2008
160	Kanhaiya Boodsingh	100 110 141	3/4/2008
161	Jai Singh	060 433 947	3/4/2008
162	Jairam Sahadeo	090 683 142	3/11/2008
163	Zabeeda Ramsoondar	011 106 804	3/11/2008
164	Lionelle Deonath	090 292 526	3/11/2008

No.	NAME	N.I.S. #	DATE
165	Budier Ramdath	100 901 343	3/12/2008
166	Cynthia Farfan	050 989 784	18/03/2008
167	Mookash Ramsoondar	090 900 798	26/03/2008
168	Mohammed Khan	011 243 925	4/11/2008
169	Jewan Bhikaroo	090 084 400	22/04/2008
170	Phagoo Moonessar	080 109 080	28/04/2008
171	Radica Samdaye Dennis	040 321 485	5/5/2008
172	Ben Baksh	020 212 308	5/12/2008
173	Sookdeo Ramlakan	080 112 871	6/2/2008
174	Vishnu Mahadeo	010 397 007	6/2/2008
175	Barath Ramdeo	000 360 406	6/2/2008
176	Bansrag Algoo	010 148 589	6/2/2008
177	Selwyn Boyd	090 203 418	21/05/2007 / 20/06/2008
178	Ramrajie Sooknana	070 578 286	14/07/2008
179	Monnie Jagalee	090 109 357	15/07/2008
180	Gita Jaglal Bankay	040 906 855	30/07/2008
181	Kalickdarie Pulchan	030 285 037	8/5/2008
182	Mervly A Morrison	090 454 321	8/5/2008
183	Barbara Gibson	050 031 629	8/8/2008
184	Arthur Neptune	080 534 849	8/8/2008
185	Mary John	070 623 584	8/9/2008
186	Eric Prosper	031 084 914	8/9/2008
187	Harry Krishna Persad	000 141 755	8/9/2008
188	Videsh Mahatoo	041 237 698	26/08/2008
189	Cyril Beharry	000 211 478	9/4/2008
190	Deo Balchan Sooknanan	020 494 400	10/09/2007 / 09/04/2008
191	Vishnu Boodoo	040 232 501	9/5/2008
192	Jennifer Cole	020 158 044	9/6/2008
193	Beepath Harbajan	060 115 007	9/6/2008
194	Jenneifer A Ali	030 176 5241	9/6/2008
195	Mina Solomon	100 051 072	9/6/2008
196	Ranier Mahabir	000 330 647	19/09/2008
197	Gregory John	090 145 728	23/09/2008
198	Paulette Thompson-Marshall	080 010 513	10/5/2008
199	Linda Hosien-Abdul	020 587 999	10/10/2008
200	Samaroo Singh	070 329 693	10/11/2008
201	Roopia Parmessar	011 026 444	13/10/2008
202	Dennis Baboolal	060 163 575	17/10/2008
203	Victor Roseman	020 360 196	17/10/2008
204	Cita Boodoo	000 838 713	11/3/2008
205	Kumarjie Mack	000 077 798	11/7/2008

No.	NAME	N.I.S. #	DATE
206	Anjani Maharaj	090 429 890/080 682 569	11/7/2008
207	Deonarine Ramroop	000 269 972	26/07/2008
208	Farida Mohammed Chackan	080 489 010	11/7/2008
209	Ramraju Sookanan	070 578 286	11/7/2008
210	Chunilal Jaglal	100 961 389	14/11/2008
211	Randolph Foster	060 167 333	21/11/2008
212	Joan James	060 565 908	21/11/2008
213	Moonilal Rampersad	090 158 358	24/11/2008
214	Gangadai Racha	060 978 641	28/11/2008
215	Michael La Fortune	011 225 366	28/11/2008
216	Lydia Ammeeran Paul	050 197 802	12/9/2008
217	Carol Helen Smith	070 033 468	22/12/2008
218	Ram David Ramsingh	020 032 628	19/01/2009
219	Israel Makhan	010 274 835	26/01/2009
220	Johnathan Panchoo	070 094 460	30/01/2009
221	Dulcie Premchan	091 388 152	2/6/2009
222	Michael Williams	080 480 749	2/7/2009
223	Yvonne Halfhide	020 004 357	2/9/2009
224	Indar Gopaul	040 632 593	2/9/2009
225	Balram Samlal	020 918 766	2/9/2009
226	Naithram Rooplal	040 534 958	2/10/2009
227	Ena Ramlogan	020 304 474	17/02/2009
228	Zorida Khan Nanlal	100 457 664	3/3/2009
229	Tulsie Harry	030 426 439	3/3/2009
230	Carmen Narine	030 604 671	3/3/2009
231	Virsula Charles Gomez	041 477 672	3/4/2009
232	Ramesh Ramsoondar	100 540 316	3/4/2009
233	Ramdass Sahadeo	040 464 852	23/03/06/2009 05/2007
234	Chandrabassie Jaggernauth	101 411 129	3/7/2009
235	Kathleen Hinkson	100 086 828	3/8/2009
236	Soogrim Kelly	010 321 086	23/03/2009
237	Naresh Boodram	030 445 567	23/03/2009
238	Ramdeo Samaroo	080 362 312	23/03/2009
239	Ameer Mohammed	030 194 449	4/5/2009
240	Ghandi Ramjattan	020 423 341	23/04/2009
241	Myroon Bedasi	090 544 320	27/04/2009
242	Ann Christine Gonsales	090 058 396	27/04/2009
243	Christiana Rampersad	040 182 859	27/04/2009
244	Blanch Maurice	000 322 652	5/10/2009
245	Hollis Keith Kent	060 310 853	5/10/2009
246	June Singh	091 434 286	5/10/2009

No.	NAME	N.I.S. #	DATE
247	Roop Sundar	060 495 802	18/05/2009
248	Manwatee Davi Parray	10 996 387	18/05/2009
249	Kelvin Ojoe	050 236 344	25/05/2009
250	Surujdeen Dookran	040 475 536	25/05/2009
251	Mohammed Khan	011 243 925	25/05/2009
252	Lenora Sookraj	070 167 677	25/05/2009
253	Robin Rampersad	000 198 463	25/05/2009
254	Ajit Ramdass	090 470 637	24/4/2009
255	Francis King	020 187 435	6/3/2009
256	Meena Gopichand	080 309 893	6/3/2009
257	Azan Ali	081 086 084	6/11/2009
258	Adhill Mohammed	060 566 599	6/11/2009
259	Madoocar Lochan	040 114 614	6/11/2009
260	Bamal Kisto	070 330 926	7/12/2009
261	Taran Persad Dalip	040 218 185	13/07/2009
262	Premnath Robert	090 445 705	13/07/2009
263	Hayman Kenneth	000 492 000	13/07/2009
264	Rosetta Harrilal	040 834 447	20/07/2009
265	Primnath Lal	081 140 046	27/07/2009
266	Christine Lochan	070 979 639	29/07/2009
267	Nazir Mohammed	030 464 616	29/07/2009
268	Hasmat Ali Ghany	040 212 330	8/6/2009
269	Chatram Harrylal	000 056 995	8/6/2009
270	Charran Singh	090 551 904	9/9/2009
271	Ramnarine Goberdhan	030 084 511	9/9/2009
272	Hazarie Doorgan	100 139 573	26/06/2009 / 09/09/2009
273	Anthony Purdeen	010 345 201	14/09/2009
274	Parbatie Sookram	050 234 724	14/09/2009
275	Prakash Benjamin	090 660 711	10/12/2008 / 17/09/2009
276	Vera Ramdin	050 191 774	22/09/2009
277	Cindy Badall – Jattan	011 063 625	14/10/2009
278	Sankar Kaloo	090 184 081	30/10/2009
279	Krishna Narine	070 288 873	30/10/2009
280	Edmund Gunness	001 303 864	30/10/2009
281	James Webster	030 235 633	30/10/2009
282	Lalmohan Kalpee	000 114 545	30/10/2009
283	Lloyde Wood	051 046 727	11/3/2009
284	Francis Rajkumar	100 285 049	11/8/2009
285	Premlal Seepersad	091 004 400	12/6/2009
286	Arjoon Ramdeo	080 204 326	12/6/2009
287	Joseph Budram	090 433 944	28/12/2009

No.	NAME	N.I.S. #	DATE
288	Jagdit Ramjit	070 249 320	1/3/2010
289	Samlal Jhilmit	051 378 584	1/6/2010
290	TAKODIN	050 314 752	1/6/2010
291	Ralph Taisoo	100 235 726	1/6/2010
292	Deonarine Singh	030 198 487	1/7/2010
293	Deonarine Harrinanan	020 749 352	13/01/2010
294	Natasha Bernard	041 208 019	2/11/2010
295	Kevin Sabazon	011 404 090	22/02/2010
296	Lawrence Adams	010 399 042	22/02/2010
297	Angela Radix	021 264 808	22/02/2010
298	Joyce Makaloo	050 450 095	22/02/2010
299	Hayden Annisette	090 563 945	3/5/2010
300	Leena Sukhbir	051 261 261	3/5/2010
301	Ramrajie Jagroop	020 924 84	23/03/2010
302	Routie Bachan	000 236 756	23/03/2010
303	Lucille Dhanessar	050 367 546	24/03/2010
304	Marva Marilyn Lee John	00 099 589	4/8/2010
305	Joseph Rattan	090 290 795	4/8/2010
306	Prakash Sadoo	000 585 750	19/04/2010
307	Alister Williams	010 000 662	19/04/2010
308	Wesley Thomas	040 324 554	19/04/2010
309	Robert Clarke	010 199 191	19/04/2010
310	Krishna Seepaul	080 353 658	19/04/2010
311	Gobin Maharaj	080 043 934	26/04/2010
312	Sookwah Sahadeo	030 497 131	26/04/2010
313	Roger Weekes	050 003 900	5/2/2010
314	Ramrajie Jagroop	020 924 898	13/05/2010
315	Linzey Guppy	010 173 702	15/05/2010
316	Abdul J. Rahaman	070 207 393	6/1/2010
317	Lochan Mungroo	090 241 433	6/1/2010
318	Rooplal Mahabir	020 577 616	6/10/2010
319	Ena Dallsingh	080 991 859	6/10/2010
320	Brigdenarine Harrichand	090 063 888	14/06/2010
321	Michael Ramdhan	080 216 016	15/06/2010
322	Lyn Boodoo	040 578 181	17/06/2010
323	Farida Garcia	09 348 633	23/06/2010
324	Gemma Beggs	100 085 937	28/6/2010
325	Khemraj Katwaroo	080 430 598	28/06/2010
326	Maniram Endal	100 466 604	7/6/2010
327	Premnath Sagram	040 227 338	19/07/2010
328	Ann Marie Thomas	100 386 805	22/07/2010

No.	NAME	N.I.S. #	DATE
329	Dindial Baboolal	050 227 450/070 893 343	8/2/2010
330	Ralph James	100 293 548	8/3/2010
331	Krishma Dookree	050 110 162	8/12/2010
332	Hemraj Gookool	080 682 767	16/08/2010
333	Edmund Gunness	001 303 864	16/08/2010
334	Harilal Kissoon	050 499 574	16/08/2010
335	Erna Cecelia Willis	070 345 109	18/08/2010
336	Kattleen Hinkson	100 086 828	27/08/2010
337	Deokie Roopchand	020 421 136	17/09/2010
338	Kenneth Stephan Brooks	050 024 932	28/09/2010
339	Rishi Latchmansingh	081 269 308	28/09/2010
340	Michael Oliver Price	070 343 521	10/5/2010
341	Nimrod Joseph	010 336 849	25/10/2010
342	Edmund Rampersad	010 143 382	25/10/2010
343	Ann Hernandez	000 098 450	12/4/2010
344	Dayier Rampersad	020 717 833	12/4/2010
345	Michael Phillip	010 298 8744	12/5/2010
346	Rosemarie D'Andrade	010 173 656	12/7/2010
347	Stanely Francis Amoroso-Centeno	070 388 088	12/7/2010
348	Vilma Alleyne	070 122 886	12/7/2010
349	Stanley Haynes	011 102 272	16/12/2010
350	Ann Elizabeth Grey	040 172 363	10/1/2011
351	Betty Woodcock	060 358 961	2/5/2011
352	Merle Narinesingh	000 218 685	2/8/2011
353	Nazir Alexander	040 539 372	2/8/2011
354	Ramjit Bhagwandeem	060 193 830	2/8/2011
355	Lisa Payango	091 413 289	21/02/2011
356	Kumari Deonarine	020 803 918	3/10/2011
357	Wayne Roche	090 967 353	18/03/2011
358	Taradath Maharaj	090 544 563	28/03/2011
359	Ramoutar Dhanpat	100 775 801	28/03/2011
360	Esther Jagan	050 558 481	19/04/2011
361	Dennis Springer	050 080 778	19/04/2011
362	Antonio Alves	030 014 902	20/04/2011
363	Krishendath Ramdeen	060 305 795	20/04/2011
364	Bridgemohan Ramdeen	000 011 703	16/05/2011
365	Rajkumar Rambarran	040 5358 407	27/05/2011
366	Mary St. Rose	100 798 526	27/05/2011
367	Dareen Johnson-Ifill	040 197 250	15/06/2011
368	Robert Clarke	010 199 191	27/06/2011
369	Bisram Dipchamsingh	050 446 063	27/06/2011

No.	NAME	N.I.S. #	DATE
370	Shaheed Mohammed	020 195 071	14/07/2011
371	Hardeo Mahipath	030 423 308	14/07/2011
372	Ayesha Bishop	030 976 382	18/07/2011
373	Henderson Benjamin	070 154 915	18/7/2011
374	Joyce Makaloo	050 450 095	18/07/2011
375	Elia Chatterpaul	030 760 193	21/07/2011
376	Mary Ann Atherley—Parris	060 130 790	28/07/2011
377	Mary Rosana Mohammed	091 295 774	29/07/2011
378	Mary Frank	001 297 058	2/8/2011
379	Dawan Singh	080 207 740	19/08/2011
380	Pradeep Nagassar	080 295 984	19/08/2011
381	Sunil Bhola	100 293 203	19/08/2011
382	Mohan Gobin	101 515 234	9/3/2011
383	Seepaul Toolsie	070 246 682	9/11/2011
384	Timothy DeLeon	020 649 854	9/11/2011
385	Indra Bachan	000 495 190	9/11/2011
386	Eaileen Gloria Holloway	020 454 867	20/09/2011
387	Anthony Jeffery Sampson	020 183 995	20/09/2011
388	Roselin Lutchman	080 276 114	28/09/2011
389	Bevin De Gale	010 216 800	14/10/2011
390	Ramrattan Senath	090 247 369	14/10/2011
391	Khamraj Maharaj	080 198 318	14/10/2011
392	Kimkeran Rampersad	090 108 644	14/10/2011
393	Kelvin Ojoe	050 2360344	11/4/2011
394	Akbar Muhammed Shabbazz	090 016 111	11/4/2011
395	Indar Manwah	081 269 324	28/11/2011
396	Sandy Armogan	040 221 186	16/01/2012
397	Dhurpati Harrilal	090 490 158	20/01/2012
398	Mungal Singh	010 446 547	20/01/2012
399	Stephan Oswald Phillip	080 190 007	20/01/2012
400	Kesha Dawn Tricia Richards	091 525 710	30/01/2012
401	Felipe Adams	020 174 120	22/02/2012
402	Gangat Sookdeo	070 749 927	22/02/2012
403	Shameen Rajkumar – Boodoo	021 129 056	1/3/2012
404	Gloria Chotay—Ramnarine	040 191 724	6/3/2012
405	Hardeo Angan	030 008 416	2/3/2012
406	Krishnanan Sookram	070 271 679	21/03/2012
407	Candida C. Da Silva	000 049 689	21/03/2012
408	Radha Gangoo	031 066 436	21/03/2012
409	Nazim Khan	070 485 709	2/4/2012
410	Ramesh Maraj	100 601 102	17/04/2012
411	Anthony Forde	030 034 913	23/04/2012

[illegible]

APPENDIX VI

MINUTES OF MEETING HELD ON JUNE 07, 2013

MINUTES OF THE TWENTY-FIRST MEETING OF THE JOINT SELECT COMMITTEE OF PARLIAMENT APPOINTED TO INQUIRE INTO AND REPORT ON GOVERNMENT MINISTRIES (GROUP 1), STATUTORY AUTHORITIES AND STATE ENTERPRISES FALLING UNDER THOSE MINISTRIES HELD IN THE ARNOLD THOMASOS ROOM WEST, LEVEL 6, OFFICE OF THE PARLIAMENT, TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, 1A WRIGHTSON ROAD, PORT OF SPAIN ON FRIDAY JUNE 07, 2013

PRESENT

Mrs. Corinne Baptiste Mc Knight	Chairman
Prof. Harold Ramkissoon	Vice-Chairman
Mr. Emmanuel George	Member
Mrs. Carolyn Seepersad-Bachan, MP	Member
Mr. Faris Al-Rawi	Member
Mr. Julien Ogilvie	Secretary
Ms. Sheranne Samuel	Assistant Secretary
Ms. Katharina Gokool	Graduate Research Assistant
Mr. Indar Sieunarine	Parliamentary Intern

ABSENT

Ms. Stacy Roopnarine, MP	Member (Excused)
Mr. Jairam Seemungal, MP	Member (Excused)
Dr. Amery Browne, MP	Member (Excused)
Mrs. Patricia McIntosh, MP	Member (Excused)
Dr. Delmon Baker, MP	Member (Excused)
Mrs. Christlyn Moore	Member (Excused)
Mr. Ganga Singh	Member

ALSO PRESENT

Mr. Ramnath Ramcharitar	National Insurance Consultant
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COMMENCEMENT

- 1.1 The meeting was called to order at 10:17 am and the Chairman welcomed Members.

CONFIRMATION OF MINUTES OF THE TWENTIETH MEETING HELD ON MAY 17, 2013

2.1 The Chairman invited Members to consider the Minutes of the 20th Meeting held on May 17, 2013 and inquired whether there were any amendments.

2.2 The following amendment was made:

- **Item 6.3, pg. 2:** substitute the words “noted was” for the words “was noted”.

2.3 The Chairman then requested that the Minutes be confirmed.

2.4 The motion for the confirmation of the Minutes was moved by Mrs. Seepersad-Bachan and seconded by Prof. Ramkissoon.

MATTERS ARISING FROM THE MINUTES OF THE TWENTIETH MEETING

3.1 **As per item 6.2:** Members were informed that Mr. Ramnath Ramcharitar was scheduled to meet with the Committee *in-camera* at 10:30 am.

3.2 **Item 7.1:** The Chairman confirmed that the finalized HDC Inquiry Proposal was forwarded to Members electronically on June 05, 2013 and based on that document, notice of the proposed inquiry into the HDC was forwarded to the Permanent Secretary, Ministry of Housing, Land and Marine Affairs. Mr. Al-Rawi indicated that the final version of the Inquiry Proposal represented a good collaborative effort and expressed gratitude for the input of Members.

3.3 **Item 8.2 (i):** The Chairman also advised that a follow-up letter was sent to the Permanent Secretary, Ministry of Health on May 29, 2013, seeking an update on the implementation of the recommendations proposed by the Committee in its First Report on the Ministry of Health and its management of vector-bourne diseases.

3.4 **Item 9.6:** Members were informed that the letter regarding the Committee’s request for additional information from the Ministry of Education was dispatched on June 03, 2013.

OTHER BUSINESS

Work Programme

4.3 The Committee agreed that it will seek to examine the following entities (in the stated order) subsequent to its inquiry into the Housing Development Corporation (HDC):

- i. Trinidad and Tobago Mortgage Finance Company Limited (TTMF)
- ii. Environmental Management Authority (EMA)
- iii. Law Review Commission
- iv. Prices Council
- v. National Insurance Property Development Company Limited (NIPDEC)
- vi. Anti-Corruption Investigation Bureau

4.4 The Chairman then directed the Secretary to invite Mr. Ramcharitar into the meeting room.

[Mr Ramcharitar enters the meeting room to begin in-camera session]

DISCUSSIONS WITH MR. RAMNATH RAMCHARITAR, NATIONAL INSURANCE CONSULTANT

5.1 The Chairman welcomed Mr. Ramnath Ramcharitar and thanked him for his interest in the work of the Committee.

5.2 Introductions were exchanged.

5.3 The Chairman directed Members' attention to the written submission received from Mr. Ramcharitar dated April 25th, 2013 and invited Mr. Ramcharitar to commence his presentation.

5.3 Detailed hereunder are aspects of the Committee's discussion with Mr. Ramcharitar:

(iii) Backlog of Appeals

- a) Mr. Ramcharitar indicated that he served as the Registrar of the Tribunal for almost 20 years. He left in 2002 and there were only 41 appeals pending. Today there are over 1000 outstanding appeals. This is difficult to overcome as current arrangements only permit 10-12 cases to be dealt with per hearing.
- b) The Tribunal has confined itself to convening 2 hearings per month, one in Northern Trinidad and the other in Southern Trinidad. Approximately 10 or 12 cases are scheduled per hearing, however, less than half are actually heard. The balance is carried forward to the subsequent hearing.
- c) Some appeals have been pending for 10 years. Mr. Ramcharitar indicated that this was not the intent of the national insurance system. He alluded to the fact that people are paying contributions and premiums and therefore ought to receive their benefits when they become due.
- d) National Insurance (Appeals) Regulation 15 mandates the NIB to respond within three (3) weeks of receiving notice of an appeal from the Tribunal. The relatively short timeframe demonstrates the urgency that must be afforded to these matters.
- e) Before an appeal is submitted to the Tribunal by NIB, contributors would normally endure a waiting period, as the NIB would require time to process their claim and to make a decision on whether to allow. It is only after this review process that an appeal can be lodged with the NIAT.

- f) The issue is that this review process at the NIB may take months or even years. A further delay can be encountered when the matter goes to the Tribunal. The entire situation was described as unfair.
- g) The lack of oversight by the line Ministry was cited as a major contributor to the unsatisfactory state of affairs at the Tribunal.
- h) Mr. Ramcharitar recommended that the Ministry of Finance and the Economy (MoFE) appoint a consultant to deal with the issue of backlogs. He estimated that it would take approximately two (2) years to eliminate the backlog, particularly, since approximately 100 -180 appeals are received per year.
- i) Development of a proper case management system will also aid in reducing the backlog.

(iv) The Registrar

- a) The Registrar has a significant role in the Tribunal. This officer is responsible for the overall administration of the Tribunal, including, receiving and processing appeals, soliciting responses from the NIB, setting up hearings and preparing case briefs/papers.
- b) Mr. Ramcharitar and the Committee suggested that Mr. Lyman, the incumbent Registrar, was unfit to hold the position and must be removed if the present situation is to improve.
- c) It was noted that should the revised organisational structure that was suggested by Mr. Ramcharitar be adopted, the person holding the Office of Registrar must be qualified as an AO V. The incumbent is an AO II.

(v) Staff Structure

- a) Mr. Ramcharitar emphasized the need to upgrade the technical staff at the Tribunal.
- b) Currently, the staff assigned to the Tribunal include: the Registrar (Range 46), a Clerk III, a Research Officer (Range 46), an Administrative Officer II and as of December 2012 an Administrative Officer IV. However, despite the number of relatively high ranking officers, an unsatisfactory amount of work has been accomplished.

- c) Mr. Ramcharitar recommended the appointment of a Deputy Registrar, an Assistant Registrar and a Deputy Chairman and that the Deputy Chairman be given the same powers as the Chairman to establish a quorum at a hearing. He suggested that with this arrangement four (4) hearings can be held per month, since the Chairman and Deputy Chairman can preside over two hearings each.

(vi) Composition of the Tribunal

- a) Presently the Tribunal comprises a Labour Representative, Business Representative and Government Representative.
- b) It was revealed that some members purposefully attend one (1) in every three (3) hearings, since if they were to miss three (3) consecutive hearings without the leave of the President, their post would become vacant. This situation is cause for concern.
- c) Mr. Ramcharitar recommended the appointment of an Independent Representative by His Excellency, the President. As such, the Tribunal will comprise four (4) members, along with the Chairman or the Deputy Chairman. He submitted that this will make it easier to attain a quorum (two members and the Chairman or Deputy Chairman).
- d) The Legislation will have to be amended to create the post of Deputy Chairman and provide for the appointment of the three (3) Independent Members.
- e) The Legislation will also have to be amended to allow the Chief Medical Officer (CMO) to appoint a nominee to sit at hearings in his stead. As it stands, the two medical hearings scheduled for 2013 thus far have been cancelled due to the unavailability of the CMO. It should be noted that medical appeals are infrequent. The last hearing of this kind was held in June/July 2012.

(iv) Case Management – Appeals Management Committee/Conference

- a) Mr. Ramcharitar suggested the establishment of case management or an Appeals Management Committee/Conference.
- b) Mr. Ramcharitar indicated that during his tenure at the Tribunal, there was an informal system whereby he would hold discussions with the Manager of Operations at the NIB. Based on those discussions some matters were settled before coming to the Tribunal.

- c) This practice should be formalized and done on a monthly basis. Issues will be narrowed down and it will assist in the efficiency of the Tribunal. More importantly, it will reduce the number of appeals coming to the Tribunal.

(v) Extension of members' term

- a) At present, the Chairman serves for a term of three (3) years whereas the members are limited to two (2) years.
- b) It was stated that it takes approximately 4 – 6 months for a new member to properly grasp their role, participate in hearings and dispense justice.
- c) As such, Mr. Ramcharitar has recommended that all members inclusive of the Chairman be permitted five-year terms as this will allow for continuity.

(vi) Judicial Review and the Appointment of a National Insurance Commissioner

- a) Both the appellant and the NIB can pursue Judicial Review proceedings in the High Court to seek recourse further to a decision of the Tribunal. However, the Board holds an advantage over an appellant by way of resources to pursue litigation. The minimum fee an Attorney-at-Law may charge is \$25, 000. Most appellants are unable to afford this; as such the Board would tend to have the upper hand.
- b) To address this, Mr. Ramcharitar suggested the appointment of a National Insurance Commissioner, as obtains in England, to deal with reviews. This will expedite the process and avoid the large costs incurred in pursuance of judicial review in the High Court.

(vii) Time limit for the settlement of Appeals

- a) There is no statutory time for the consideration and or resolution of an appeal. However, the time limit placed on the NIB under Regulation 15, suggest that these matters should be dealt with expeditiously.
- b) The Committee suggested that a time limit be introduced by which a case should be settled, if breached the case will be settled in favour of the appellant.
- c) Mr. Ramcharitar concurred with the suggestion and indicated that this approach is adopted under the Income Tax Act and also in respect of claims made against the Public Assistance Programme.

5.3 The Chairman thanked Mr. Ramcharitar for his interest and assistance.

[Mr Ramcharitar exits the meeting room]

5.4 The Secretary was directed to write a Letter of Appreciation to Mr. Ramnath Ramcharitar.

CONSIDERATION OF THE WAY FORWARD FOR DRAFTING THE EIGHTH REPORT OF THE COMMITTEE ON THE NATIONAL INSURANCE APPEALS TRIBUNAL

6.1 Following the hearing with Mr. Ramcharitar, the Committee discussed the way forward as it related to the submission of its report on the NIAT to Parliament.

6.2 It was agreed that aspects of the proposals submitted by Mr. Ramcharitar be incorporated into its Report, with relevant adjustments made as necessary.

6.3 Mr. George enquired whether the Committee can make recommendations directly to the Permanent Secretary of the MoFE or the Minister.

6.4 In response, the Chairman indicated that the Committee's Report and the recommendations therein, will be submitted to the Ministry. The Chairman suggested that the recommendations of the Committee be framed to achieve maximum impact.

6.5 The Chairman reminded the Committee that a Minister under whose purview an entity falls has two months to respond to observations and recommendations contained in the Committee's report on the entity.

6.6 The Committee agreed that an urgent approach must be adopted in dealing with the issues confronting the NIAT and in this regard concurred that priority action should be afforded to the following:

- i. Amendments to the appeals Regulations to impose a statutory limit on the Tribunal for dealing with an appeal and the provision that should the time limit be breached, the Tribunal must rule in favour of the appellant or incur a suitable sanction in default;
- ii. the Minister should submit a Note to Cabinet regarding the various reform requirements, including the modification of personnel arrangements/Organisational Structure;
- iii. Development of an appropriate case management system;
- iv. Setting specific targets to reduce the backlog which exists;
- v. Necessary amendments to the parent Act to enable the appointment of deputies,

which may require enactment by a special majority (three-quarter or three-fifths).

6.7 Mr. Al-Rawi noted that his request for a dollar value quantification of the appeals before the Tribunal (made during the hearing held on April 19, 2013) was not received and reinforced the importance of determining this figure for the purpose of making well informed recommendations.

6.8 In addition, Mr. Al-Rawi agreed to assist in drafting the observation and recommendation regarding the introduction of a Case Management System for the Committee's Report on NIAT.

6.9 The Committee requested that the Secretariat circulate a draft Report on NIAT to Members within two weeks.

6.10 Members were asked to submit their concerns, suggestions and recommendations by Friday 28, June 2013.

6.11 The Committee agreed to endeavour to have the report presented to Parliament in the first week of July before the current Session is prorogued.

REQUESTED INFORMATION

7.1 Further to the discussion and letter from NIAT dated April 24, 2013, the Committee agreed to request the following information from the National Insurance Appeals Tribunal:

1. The estimated dollar value of the pending appeals i.e. the value of the claims before the Tribunal times the period of time over which the claimants will be entitled to receive such benefits should their appeals be successful; and
2. The average value of the claims that are the subject of these appeals.

ADJOURNMENT

8.1 The meeting was adjourned to a date to be fixed.

8.2 The Meeting was adjourned at 11:32 a.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

June 18, 2013

APPENDIX VII

**SUBMISSION BY MR. HUBERT B.
DOLSINGH**

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March 01 2013

NIB - 2013-03-01/CM

Mr. Adrian Bharath
Chairman
THE NATIONAL INSURANCE BOARD
OF TRINIDAD & TOBAGO
2A Cipriani Boulevard
PORT OF SPAIN

Dear Mr. Bharath

RE: Recommendation to resolve outstanding APPEALS
through the National Insurance (Appeals) Regulations

It is estimated that your Board has failed to meet its legal obligation under Regulation 15 in about 90% of the outstanding Appeals amounting to more than 700. Quite a number of them have yet to be determined after pending for more than three years.

At the current rate of Hearings of these matters, it would take another ten (10) years to have them resolved. That is to say, the current matters would also be pending for years.

In the circumstances, I hereby wish to recommend that your meet with the relevant authorities to have this matter addressed expeditiously, for the interest of the many Appellants who have been cheated from the due legal process of their matters. Some of whom have died.

There should be a cut-off date, either June 30, 2012 or December 31, 2012. Identify all outstanding matters retroactively and have them dealt with by a panel consisting of personnel from the Tribunal, NIB and Ministry of Finance under the Chairmanship of the Chairman of the Tribunal.

The process can take several positions, one is, group the Appeals under type of benefits, those that are statute barred and others with merits. The panel must have the authority to make a final decision.

I am willing to assist the panel if required, for the primary purpose of relieving the pains and sufferings of the Appellants and to establish the Tribunal operational once more.

Please be so guided.

Sincerely


Hubert B. Dolsingh, H.B.M (Gold)
Independent National Insurance Consultant