



FOURTH REPORT OF THE PUBLIC ACCOUNTS COMMITTEE

Environmental Management Agency (EMA)

Fourth Session, 10th Parliament

Examination of the Financial
Statements for the years ended
September 2008 to September
2011

*Ordered to be printed by the House of
Representatives and Senate*



Public Accounts Committee

The Public Accounts Committee (PAC) established by the Constitution of the Republic of Trinidad and Tobago in accordance with Section 119(4) is mandated to consider and report to the House of Representatives on:

“(a) appropriation accounts of moneys expended out of sums granted by Parliament to meet the public expenditure of Trinidad and Tobago;

(b) such other accounts as may be referred to the Committee by the House of Representatives or as are authorized or required to be considered by the committee under any other enactment; and

(c) the report of the Auditor General on any such accounts.”

Current membership

Mr Colm Imbert	Chairman
Mrs Raziah Ahmed	Member
Mrs Diane Baldeo-Chadeesingh	Member
Mr Vasant Bharath	Member
Ms Donna Cox	Member
Dr Dhanayshar Mahabir	Member
Mr Collin Partap	Member
Ms Ramona Ramdial	Member
Mr Anand Ramlogan	Member
Mr Anil Roberts	Member

Committee Staff

The current staff members serving the Committee are:

Ms Keiba Jacob	Secretary to the Committee
Ms Khisha Peterkin	Assistant Secretary to the Committee
Ms Candice Williams	Graduate Research Assistant
Mr Ian Mural	Parliamentary Intern
Mrs Michelle Galera-Bleasdel	Administrative Support

Publication

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Members of the Public Accounts Committee

TENTH PARLIAMENT,
REPUBLIC OF TRINIDAD AND TOBAGO



Mr. Colm Imbert
Chairman



Mr. Collin Partap
Member



Ms. Ramona Ramdial
Member



Mr. Anil Roberts
Member



Ms. Donna Cox
Member



Mr. Anand Ramlogan S.C.
Member



Mr. Vasant Bharath
Member



Mrs. Diane Baldeo-
Chadeesingh
Member



Mrs. Raziah Ahmed
Member



Dr. Dhanayshar Mahabir
Member

Executive Summary

The PAC wishes to present its Fourth Report of the Tenth Parliament which details its examination of the *Environmental Management Agency (EMA)* on its **Financial Statements for the years ended September 30, 2008 to September 30, 2011.**

The Report concludes with the following main recommendations to the EMA:

- ✓ Collaboration is needed with the Regional Corporation to effect the repairs to the Biche Community Centre
- ✓ Conduct a feasibility study on the establishment of the Police Surveillance Bays by March 31, 2014.
- ✓ Expand the Environmental Police Unit
- ✓ Amend the Noise Pollution Control Rules, the Liquor Licences Act and the CEC Rules to be tabled in Parliament by June 2014.

Chapter 1: Presents details of the establishment of the PAC in the Tenth Republican Parliament, the Election of Chairman and determination of the Committee's Quorum.

It also includes the particulars of Meetings held with the entity under report and lists the Support Staff of the Committee.

Chapter 2: Describes the Company and explains the evidence given to the Committee

Chapter 3: Lists the main issues; each with specific recommendations presented by the Committee, for the consideration of the Parliament.

Appendices: The supporting Minutes of Meetings and Notes of Evidence.

Chapter 1

THE COMMITTEE

Establishment, Election of Chairman and Quorum

The PAC of the Tenth Republican Parliament was established by resolutions of the House of Representatives and the Senate at sittings held on Friday September 17, 2010 and Tuesday October 12, 2010 respectively.

2. The Committee held its first meeting on Tuesday October 26, 2010. At this meeting the Committee elected Mr. Colm Imbert as Chairman, in accordance with Section 119(2) of the Constitution of the Republic of Trinidad and Tobago. At that same meeting, the Committee resolved that its quorum should comprise of six (6) Members, inclusive of the Chairman and any other Opposition Member.

3. At the Committee's second meeting, held on Tuesday February 8, 2011, by agreement, the quorum was reduced to five (5) Members, with no change to the composition.

Changes in Membership

4. By resolution of the House of Representatives made on January 18, 2011, Mr. Terrence Deyalsingh was appointed to replace Mr. Ted Roopnarine as a Member of this Committee. On December 10, 2013, Mrs. Diane Baldeo-Chadeesingh was appointed in lieu of Mr. Terrence Deyalsingh.

5. By a similar resolution of the Senate made on October 16, 2012, Mr. Jamal Mohammed replaced Mr. Danny Maharaj as a Member of the Committee. On September 23, 2013, Mrs. Raziah Ahmed was appointed in lieu of Mr. Jamal Mohammed.

6. By another resolution of the House of Representatives made on October 19, 2012, Mr. Collin Partap replaced Dr. Rupert Griffith as a Member of the Committee.

7. By a similar resolution of the Senate made on September 23, 2013, Dr. Dhanayshar Mahabir was appointed in lieu of Mrs. Corrine Baptiste-McKnight.

Committee Secretariat Support

8. The following persons serve the Committee through the provision of procedural, administrative and research support services:

- | | |
|----------------------------------|--|
| ▪ Ms. Keiba Jacob | - Secretary to the Committee |
| ▪ Ms. Khisha Peterkin | - Assistant Secretary to the Committee |
| ▪ Ms. Candice Williams | - Graduate Research Assistant |
| ▪ Mr. Ian Mural | - Parliamentary Intern |
| ▪ Mrs. Michelle Galera-Bleasdell | - Administrative Support |

Meetings

9. The Committee examined the EMA, *in public*, on Tuesday March 12, 2013. At this Meeting held on Tuesday March 12, 2013, the Committee met with Officials of the EMA to examine its Financial Statements for the years ended September 30, 2008 to September 30, 2011. The witnesses attending on behalf of the EMA were:

- | | |
|-----------------------------|-------------------------------|
| Dr. Joth Singh | - Managing Director/C.E.O. |
| Mr. Shyam Dyal | - EMA Board Director/Trustee |
| Mr. Michael Rooplal | - EMA Board Director/Trustee |
| Mrs. Claudina De Leon-James | - Manager, Corporate Services |

Chapter 2

Company Profile

10. The EMA is a Statutory Body established and incorporated under the Environmental Management Act, Chapter 35:05. The EMA is governed by a Board of Directors consisting of persons appointed in accordance with this Act; the Chairman and nine other members are appointed by the President of the Republic of Trinidad and Tobago and are accountable to the Minister of Environment and Water Resources.

11. At the time of the examination, the Members of the Board of Directors of the EMA were:

- Mr. Shyam Dyal - Deputy Chairman/Managing Director
- Dr. Joth Singh - Chief Executive Officer
- Mr. Terrance Holmes - Director
- Dr. Lena Brereton-Wolffe - Director
- Ms. Ashvini Supersad - Director
- Mr. John Julien - Director
- Mr. Paolo Kernahan - Director
- Mr. Michael Rooplal - Director
- Ms. Tisha Marajh - Corporate Secretary

12. The EMA is mandated to draft and enforce laws and regulations for environmental management, to educate the public about the nation's environmental issues and to control and prevent pollution, as well as conserve natural resources.

13. In accordance with the Environmental Management Act, Chapter 35:05, the general functions of the entity are to:

- (a) Make recommendations for a National Environment Policy;
- (b) Develop and implement policies and programmes for the effective management and wise use of the environment, consistent with the objects of the EM Act;

- (c) Co-ordinate environmental management functions performed by persons in Trinidad and Tobago;
- (d) Make recommendations for the rationalization of all governmental entities performing environmental functions;
- (e) Promote educational and public awareness programs on the environment;
- (f) Develop and establish national environmental standards and criteria;
- (g) Monitor compliance with the standards criteria and programs relating to the environment;
- (h) Take all appropriate action for the prevention and control of pollution and conservation of the environment;
- (i) Establish and co-ordinate institutional linkages locally, regionally and internationally;
- (j) Perform such other functions as are prescribed; and
- (k) Undertake anything incidental or conducive to the performance of any of the foregoing functions.

14. The Board's financial statements for the years ended September 30, 2008 to September 30, 2011 were audited by the Auditor General of the Republic of Trinidad and Tobago.

Trust Fund

15. Section (72) of The Environmental Management Act Chapter 35:05 allows for establishment of an Environmental Trust Fund for the purpose of funding the operations of the EMA.

16. The main sources of funding available to the Trust Fund are as follows:
- o Annual appropriations from the Government of the Republic of Trinidad & Tobago;
 - o Permit application fees;
 - o Fees for services rendered; and
 - o International grant funding and loan funds.

The EMA is authorised to use the Trust Fund to cover its operational expenses and fixed asset purchases, as well as expenditure on projects outlined in its annual work plan.

Examination of the EMA

17. In the course of receiving evidence from EMA Officials, the following issues arose:

I. Application of International Standards

The Committee inquired into the reason for the Auditor General's comment that the EMA had not been applying the international accounting standards, including the IFRS, IAS, IFRICS, in the year 2009.

Officials from the EMA informed the Committee that international accounting standards did not apply to the activities of the agency.

II. The Status of the Nariva Carbon Sequestration Project Fund

The Committee was informed that the EMA was in the process of implementing the Nariva Carbon Sequestration Project. The project has allowed the EMA to engage in reforesting parts of the Nariva area which would bring benefits to the surrounding communities in the area. The EMA has been working closely with community groups and members who have engaged in reforesting exercises and other aspects of sustainable livelihoods.

III. Biche Community Centre

Members noted that the Biche Community Centre needed repairs and queried whether the EMA could offer assistance. EMA Officials informed the Committee that the structure of the project does not allow for large infrastructure issues but offered to work with the Regional Corporation in its repairs.

IV. The Highway Police Surveillance Bays Project

The EMA was responsible for securing the funds and coordinating the activities of the Highway Police Surveillance Bays Project and has been collaborating with the Ministry of National Security and the Ministry of Works and Infrastructure.

Originally, thirteen (13) surveillance bays were identified for solar lighting and solar power however, due to the expansion of the highway, this was reduced to ten (10) because three (3) locations became too narrow to accommodate surveillance bays. The EMA is therefore currently awaiting the identification of the remaining locations to complete the project.

The Committee noted with some concern that the overall cost of this project is TT \$8 million. This was funded via the Green Fund. No feasibility study or cost-benefit analysis was conducted prior to completing the project.

V. Permitting and Compliance Costs

The Committee noted that permitting and compliance costs decreased from \$1.4 million in 2010 to \$784,000 in 2011.

The EMA officials indicated that this decline was attributed to the number and type of projects being analyzed in the respective accounting period and the complexity of these projects.

VI. Staffing

The Committee was informed that the approved organizational structure provided for approximately one hundred and seventy (170) staff positions. Of these, approximately one hundred and ten (110) are filled, leaving sixty (60) vacant positions.

EMA Officials indicated that these positions have remained vacant because two pieces of legislation have not yet been enacted; namely the Air Pollution Rules and the Waste Management Rules. Some of these positions are directly

associated with these pieces of legislation and it is believed that the Air Pollution Rules will be considered shortly. Once the legislation is enacted, measures will be put in place to fill the vacant positions.

VII. Noise Pollution

The Committee was informed that the EMA has not been effective in controlling the problem of noise pollution in Trinidad and Tobago. The reason provided was that legislation did not permit them so to do. The Noise Pollution Control Rules only allowed the EMA to issue a variation and thereafter ensure that the holder/s of a particular event met the conditions of the variation. The law required the EMA to monitor continually for half hour to determine whether conditions of variation were met.

The Summary Offences Act gives authority to police officers to take action if the noise from events becomes a nuisance. As a result, the EMA has been collaborating with environmental police officers to assist in controlling noise pollution.

VIII. Environmental Police

The Committee noted that there are only fifteen (15) police officers within the Environmental Police Unit to patrol Trinidad and seven (7) to patrol Tobago. These police officers are Special Reserved Police (SRPs). There is nothing restricting the EMA from increasing this number however, financial allocation and facilities are the main factors preventing them from expanding the unit.

IX. Advertising and Promotion

The Committee was informed that expenditure on Advertising and Promotion is related to education and outreach programmes. EMA's Officials informed the Committee that while an innovative effort is being made to try to utilize other means of communication with the public, including the use of social media, traditional means, including the use of television and radio stations were still in use. This is very expensive and requires the facilitation of a larger budget.

X. Powers of Sanction

EMA's Officials informed the committee that with regard to industrial establishments operating their businesses in residential areas without a Certificate of Environmental Clearance (CEC), the EMA only had authority to ensure that the business was operating in accordance with the legislation. The legislation requires a process be followed before injunctive relief could be received from the Environmental Commission and was set up in such a way that the offender had options before the situation reached the point of injunctive relief.

The first step in the process was the issuance of a Notice of Violation (NOV). This required that the offender visited/reported to the office of the EMA. If the offender does not comply, an official Administrative Order is issued, giving the offender another opportunity to correct the wrong-doing or challenge it in the Environmental Commission. If the Administrative Order is not challenged, it becomes law, and the EMA can then take enforcement action.

The CEC Rules which were introduced in 2001 do not give the EMA the power to take enforcement action in businesses operated and established before 2001.

18. Following the Committee's examination of the EMA, the Committee wrote to the Agency requesting additional information arising out of the discussions held. The information requested was received by correspondence dated May 02, 2013 from the EMA and is presented at paragraphs **a-f** below:

- a. Provide a list of project applications for the years 2008 to 2011 received and managed by the EMA;*

For the period 2008 to 2011, 1206 Certificate of Environmental Clearance (CEC) applications were received and 618 CEC applications were issued. Also, twenty-eight (28) Water Pollution Permit (WPP) applications were received by the EMA and Twenty-one (21) WPP were issued. Appendix I provides a list of CEC applications and WPP applications received and issued by the EMA during the period 2008 to 2011.

- b. *Has any study or initiative been considered that investigates the notion of self-sufficiency and self-sustainability of the EMA's environmental police unit?*

No studies or initiatives have been considered in this respect. The EMA's Environmental Police Unit (EPU) is not a revenue generating operation. Fines are collected in connection with enforcement action taken. However, these funds are forwarded to the Consolidated Fund as required by the Environmental Management Act Chapter 35:05 (The EM Act).

- c. *Have measures been undertaken for legislative reform to give the EMA more immediate powers of sanction? If yes, provide evidence and details.*

The EMA is in the process of undertaking an internal review of its present Act, the EM Act, the Noise Pollution Control Rules, 2001 (NPCR) and the Certificate of Environmental Clearance Rules, 2001 (CEC Rules) to create offences to deal with the issue of immediate sanctions.

The focus to date has been on the NPCR. A consideration is to remove the responsibility of noise management from the jurisdiction of the EMA and have it reside within the Trinidad and Tobago Police Service (TTPS). However, if it is determined that the EMA is still to be involved in noise management, specific recommendations are being developed. The EMA intends to propose recommendations which will include the power to shut down an event; amendments to the instrumentation used; suspension of the NPCR during Carnival Monday and Tuesday; and the implementation of a ticketing system.

The power to shut down an event

The EPU in conjunction with the EMA should be vested with the agency to immediately shut down an event or activity where there has been a violation of the NPCR. This power would be a major deterrent for possible breaches of the NPCR. The current system allows Violators to breach the NPCR and subsequently pay a penalty after the breach has occurred. However, where there is the possibility that the EPU/EMA may shut down an event/activity, a potential Violator may readily choose to

comply with the NPCR. This power will also result in persons affected by the breach to receive immediate relief.

Amendment to instrumentation used

The Second Schedule to the NPCR pertains to the instrumentation used in measuring sound pressure levels. It is to be recommended that the Schedule be amended so that modern, improved and cost effective sound level meters can be utilized in giving effect to the NPCR. This would allow for the EPU and the TTPS as well as owners of facilities to be equipped with reasonably priced, yet effective sound level meters.

Suspension of the NPCR during Carnival Monday and Tuesday

During Carnival of 2012 representatives of the EMA sought to intensely monitor noise emanating from sources such as music trucks. This exercise proved difficult due to the fact that there were simultaneous competing sources of sound.

In light of this inevitable dilemma as well as the fact that the prominence of noise is great during Carnival, it is to be submitted that the application of the NPCR be suspended during Carnival Monday and Tuesday.

Pursuant to Section 5 of the Public Holidays and Festivals Act, Chapter 19:05 the President of the Republic of Trinidad and Tobago usually makes a declaration as follows:

It is hereby declared that Carnival, 2012 shall commence at 4.00 am. on Monday 20th February, 2012 and shall cease at 12.00 midnight on Tuesday 21st February, 2012.

Were the NPCR to be suspended as previously recommended, it is suggested that this suspension be simultaneous with the period declared as Carnival by the President.

Ticketing system

It is to be suggested that the EPU officers be vested with the power to issue a "ticket" for a breach of the NPCR or where a breach of the NPCR is being committed. Under the Motor Vehicles and Road Traffic (Enforcement and Administration) Act Chapter 48:52 (hereinafter referred to as 'the MVRT Act'), such a system has been established.

A ticket will be issued where an Officer has reason to believe that a breach of the Rules has been or is being committed. Where an Officer issues a ticket, the Violator will in essence be charged with the particular breach of the NPCR. The said ticket will require the Violator to either pay a fixed penalty within a stipulated time or to appear at a particular date and time at the Court specified in the ticket to answer the charge. The recommendation is that the Environmental Commission be vested with the jurisdiction to hear matters arising out of tickets issued for breach of the NPCR. To achieve this aim, substantial amendments to the Act will have to be made vesting the EPU and Environmental Commission with the necessary powers.

- d. What methods have been taken to encourage companies established prior to 2001 to ensure compliance with the CEC Rules (2001), where applicable?*

Companies that have been established and were in operation prior to the enactment of the 2001 CEC Rules generally would not fall within the ambit of the rules, as the law cannot be interpreted retroactively. However, where companies modify, expand, decommission or abandon any activity which is considered a Designated Activity under the Order, there is an obligation for them to apply for a Certificate of Environmental Clearance (CEC).

Enforcement action is also pursued against individuals who do not comply with the CEC Rules, 2001. As of March 2013, one hundred and twelve (112) matters have been initiated and completed.

To ensure compliance with the CEC Rules (2001), meetings and sensitisation sessions on the CEC process have been held with stakeholders in various sectors. These sessions have been convened to highlight the circumstances in which a CEC is required even though a facility may have been established prior to 2001 and discuss potential impacts and benefits of the CEC process as it relates to proposed projects or facilities.

- e. Has any internal time frame been established for furthering the completion of the Waste Rules, as reportedly instructed by the Minister of the Environment and Water Resources?*

In March 2013, based on advice from the EMA to the Ministry of Environment and Water Resources it has been agreed to formulate two (2) separate sets of rules; the Solid Waste Rules and the Hazardous Waste Rules. The Solid Waste Rules will have to be developed from inception. It is estimated that the draft Solid Waste rules could be completed by December 2014.

The Hazardous Waste Rules has mostly been completed by the EMA. Final completion will entail incorporation of the last public comments into the draft. The Hazardous Waste Rules can be completed by October 2013.

f. How is the surplus revenue generated by the EMA treated in the accounts and how is this surplus managed?

The EMA receives an average of 96% of its funding from the Government of the Republic of Trinidad and Tobago to meet recurrent expenditure as well as the EMA earns revenue from permitting activities. These include CEC, Noise Permits and Water Permits. Also funding is received from International Bodies to assist with specific projects such as the United Nations Development Programme (UNDP) and United Nations Environmental Programme (UNEP).

The surplus reflected in the financials was generated where the recurrent funding was not fully utilized in the respective financial year. Of the four years under review surplus was reflected in three years namely 2008,2010 and 2011 and for 2009 there was a deficit of \$2,773,299.

When there is a surplus, the funds are placed on short term investment with Unit Trust Corporation (UTC) and Republic Bank Limited -Pooled Fund. Also, a cash balance of roughly \$12M is kept in the operating account to cover any delays in the receipt of funding by Government to meet recurrent expenditure and for Public Sector Investment Projects (PSIP). Under PSIP, before funding is released there must be evidence of a commitment either by a contract or purchase. In light of this, the EMA is required to advance these payments to start the projects.

Surplus funds are also to be utilised to service retroactive salary increases for staff since the last approved wages agreement expired in September 2010. In addition, legal costs associated with court proceedings for example, Alutrint are yet to be determined and will need to be serviced by these reserves.

Chapter 3

ISSUES AND RECOMMENDATIONS

19. After the examination of EMA's financial statements, the following issues were identified and recommendations proposed:

I. Issue: Biche Community Centre

Recommendation: Explore the available options for collaboration with the Regional Corporation for repairs to the Biche Community Centre to be undertaken.

II. Issue: Feasibility Study of the Police Surveillance Bays

Recommendation: Conduct a feasibility study including a cost-benefit analysis of the outfitting of the Police Surveillance Bays which are to be erected throughout the highways of Trinidad and Tobago. This study must be completed by July 31, 2013 and the results forwarded to this Committee.

III. Issue: Amendment to Subsidiary legislation

Recommendation: Make a proposal to the line Ministry, the Ministry of the Environment and Water Resources, for revising the Noise Pollution Control Rules, the Liquor Licences Act and the CEC Rules.

Amendments to the Noise Pollution Control Rules should include:

- Noise emanating from motor vehicles in addition to noise originating from events.
- Increasing the time required to monitor an event from half an hour to any such time during the event.
- Clarification of the specific entity responsible for enforcing the Noise Pollution Control Rules.

Amendments to the Liquor Licences Act should allow an application for a variation to be granted by the EMA before a licence can be given by the Magistrates Court.

Amendments to CEC Rules should allow the EMA to ensure compliance by businesses established before the year 2001.

IV. Issue: Environmental Police

Recommendation: Expand the environmental police unit by utilizing surplus revenue. This unit should be at least doubled by the end of 2013.

V. Issue: Advertising and Promotion

Recommendation: Utilize social media as a means of communication in order to reduce expenditure on Advertising and Promotion.

VI. Issue: Amendment to Legislation for immediate powers of sanction

Recommendation: Immediately initiate the process to amend legislation to allow the EMA to have immediate powers of sanction.

This Committee respectfully submits this Report for the consideration of the Parliament.

Sgd

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Mr. Colm Imbert
Chairman

Sgd

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Mr. Collin Partap
Member

Sgd

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Ms. Ramona Ramdial
Member

Sgd

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Mrs. Raziah Ahmed
Member

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Mrs. Diane Baldeo-Chadeesingh
Member

Sgd

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Mr. Vasant Bharath
Member

APPENDIX I

Minutes of Meetings

THE PUBLIC ACCOUNTS COMMITTEE
THIRD SESSION, TENTH PARLIAMENT

**MINUTES OF THE TWELFTH MEETING HELD ON TUESDAY, MARCH 12, 2013
AT 12:04 P.M. IN THE ARNOLD THOMASOS ROOM (EAST), LEVEL 6, AND THE J.
HAMILTON MAURICE ROOM, MEZZANINE LEVEL, OFFICE OF THE
PARLIAMENT, TOWER D, INTERNATIONAL WATERFRONT CENTRE, 1A
WRIGHTSON ROAD, PORT OF SPAIN.**

Present were:

Mr. Colm Imbert	-	Chairman
Miss Ramona Ramdial	-	Member
Mr. Anil Roberts	-	Member
Miss Donna Cox	-	Member
Mr. Jamal Mohammed	-	Member
Mr. Terrence Deyalsingh	-	Member
Mrs. Corinne Baptiste-McKnight	-	Member
Mr. Ralph Deonarine	-	Secretary
Miss Candice Skerrette	-	Asst. Secretary
Ms. Candice Williams	-	Graduate Research Assistant

Absent/Excused:

Mr. Vasant Bharath	-	Member (excused)
Mr. Collin Partap	-	Member (excused)
Mr. Anand Ramlogan, SC	-	Member (excused)

Also present were:

**OFFICIALS FROM THE ENVIRONMENTAL MANAGEMENT AUTHORITY OF
TRINIDAD & TOBAGO**

Dr. Joth Singh	-	Managing Director/C.E.O
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Mr. Shyam Dyal - EMA Board Director/Trustee
Mr. Michael Rooplal - EMA Board Director/Trustee
Mrs. Claudina DeLeon-James - Manager, Corporate Services

OFFICIALS FROM THE MINISTRY OF FINANCE

Ms. Andrea Ragbir - Comptroller of Accounts Department
Ms. Sheryl Ann Ramlal - Comptroller of Accounts Department

OFFICIALS FROM THE AUDITOR GENERAL'S DEPARTMENT

Mr. Gary Peters - Audit Director

COMMENCEMENT

- 1.1 The Chairman called the meeting to order at 12:04 p.m. and apologized for the late start. The Committee proceeded immediately on to the next agenda item – confirmation of Minutes of the Eleventh(11th) Meeting;

EXAMINATION OF MINUTES OF THE ELEVENTH MEETING

- 2.1 The Committee examined the Minutes of the Eleventh Meeting held on Tuesday January 29, 2013.
2.2 There being no omissions or corrections, the Minutes were confirmed on a motion moved by Ms. Donna Cox and seconded by Mr. Jamal Mohammed.

MATTERS ARISING OUT OF THE MINUTES

- 3.1 The Committee agreed that due to the late start, that Members proceed immediately to the examination (*in public*) with the officials from the Environmental Management Authority (E.M.A).

SUSPENSION

- 4.1 At 12:05 p.m., the Chairman suspended the *in camera* meeting to resume *in public*.

RESUMPTION

EXAMINATION OF THE ENVIRONMENTAL MANAGEMENT AUTHORITY OF TRINIDAD AND TOBAGO (*in public*)

- 5.1 The Chairman called the meeting *in public* to order at 12:09 p.m.
5.2 Upon calling the meeting to order the Chairman asked the invited officials to introduce themselves. Following this, the Members of the Committee, as well as other officials present made similar introductions.
5.3 The following arose from the discussions held with the E.M.A. officials:

a) *Absence of Board Directors*

Members noted with some concern the absence of several EMA Board Directors and notified the Deputy Chairman that in the future, the attendance of the entire Board was expected;

b) *Status of the Nariva Carbon Sequestration Project*

A specific question was asked as to the status of this project, to which the Committee was informed that the EMA was still in the process of implementing the project. Members noted that the Biche Community Centre needed repairs and sought from the EMA officials an undertaking that the Authority would seek to work hand in hand with the Regional Corporation to assist in the restoration;

c) *Highway Police Surveillance Bays Project*

Members were advised that the EMA was responsible for originally outfitting thirteen (13) surveillance bays with solar lighting and solar power, however due to the highways expansion project, the proposed locations for the Bays changed. The EMA stated that it was currently awaiting the identification of the remaining locations by the Ministry of National Security to complete the project. The Committee was further advised that the contract sum to the EMA was \$8 million, of which approximately \$6 million had been spent.

Members voiced a concern however, upon being informed that neither a feasibility study nor a cost-benefit analysis were conducted prior to engaging this project, moreso since the funding source for the project was the Green Fund, and thus taxpayer funded. *Members thereafter requested the EMA officials to engage in the respective analysis/study, the results of which should be forwarded to the Committee within the next three (3) months.*

d) *Decrease in Permitting and Compliance Costs*

The EMA officials were asked on the significant decrease in permitting and compliance costs from \$1.4 million in 2010 to \$784,000 in 2011. The reason given was that the costs are appended to the type of projects being analyzed in the respective accounting period, and the decrease related to the reduced complexity of projects for which EIA's and CEC's were required. *The Committee requested from the EMA a list of project applications for the years 2008 to 2011 inclusive.*

e) *Staffing*

Members enquired whether all the staffing positions were filled and were informed that of the one hundred and seventy (170) positions in the establishment, about one hundred and ten (110) were filled. The sixty (60) approximate positions were left unfilled pending legislative enactment, namely, the Air Pollution Rules and the Waste Rules. Of these two, the EMA officials were optimistic that the Air Pollution Rules would soon be enacted and some of the positions filled.

f) *The EMA's involvement in noise pollution/noise control*

The EMA officials stated that there has been limited direct involvement by the Authority in noise pollution control, as the legislation provides the EMA with only a limited scope of control. The officials also cited that although some Magistrates issue a requirement that an applicant for a liquor license consult with the EMA to determine whether a variation of the Rules is necessary, this was not mandatory according to the

law. The officials stated that mandating such action via legislative amendment would be a welcome change. Further, the Committee was informed that the control of fireworks falls under the Summary Offenses Act, which is under the ambit of the Commissioner of Police.

g) Environmental Police

There is no ceiling on the Authority with respect to how many environmental police officers the EMA is entitled to have and presently there are fifteen (15) environmental police officers to patrol Trinidad and seven (7) assigned to Tobago. The wage bill for these officers, who are all Special Reserve Police is approximately \$1.8 million. The EMA officials stated that the line Minister expressed an interest in expanding the unit and although representation had been made for an increase in budgetary allocation to allow the Authority to double the size of the unit, such request was not manifested in the present budget. The officials stated that the additional resources would have to provide for not only salaries, but facilities, equipment and vehicles for the additional environmental police officers as well. The Committee recommended that the EMA seriously consider utilizing surplus revenue to fund the expansion of the Authority's environmental police unit.

h) Advertising and Promotion

Members commented on the expenditure associated with advertising and promotion and asked the EMA officials to account for such. The Committee was informed that the advertising and promotion expenditure related to the responsibilities of the Authority, with particular reference to the education and outreach mandate. A question was asked whether the Authority was satisfied that the level of advertising and promotion met the objectives, to which the officials responded that while an innovative effort was being made in trying to utilize other means of communicating with the public, for e.g. the use of social media, there was the need for a larger advertising & promotion budget to facilitate such innovation.

i) Powers of Sanction by the Authority

The Committee enquired on what powers of sanction the Authority had, in the case of business entities operating without a Certificate of Environmental Clearance (CEC) and discharging pollutants into the environment. The officials replied that the EMA had no jurisdiction over any business operating prior to the enactment of the CEC Rules (2001), and that the existing legislation required a process be followed before injunctive relief is requested. The first stage of the process would be to issue a Notice of Violation and when an offender is received by the EMA, an Administrative Order is then issued, which, if is neither corrected nor challenged (in the Environmental Commission) can become law and the Authority can at that point take enforcement action. The Committee determined that the process possessed several flaws resulting in an untenable situation and agreed that legislative support was needed in this regard.

j) Accounting of surplus revenue

The EMA officials were asked how the surplus revenue is accounted for, and were informed that the revenue remained in the operating accounts of the Authority. The Committee requested further information as to what the surplus is spent on.

ADJOURNMENT

- 7.1 The Chairman informed those present that due to Members' schedules, the Meeting had to be concluded. The Chairman however advised that that several matters were still pending investigation. The officials were given notice that the Clerk to the Committee would write the Authority with a list of questions arising from the discussions, following which the Authority would be asked to again appear before the Committee.
- 7.2 The Chairman then adjourned the Meeting. The adjournment was taken at 1:09 p.m.

We certify that these Minutes are true and correct.

CHAIRMAN

SECRETARY

March 21, 2013.

APPENDIX II

Notes of Evidence

VERBATIM NOTES OF THE PUBLIC ACCOUNTS COMMITTEE HELD IN THE CONFERENCE ROOM, LEVEL 2 AND AT THE J. HAMILTON MAURICE ROOM (MEZZANINE FLOOR), TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, 1A WRIGHTSON ROAD, PORT OF SPAIN, ON TUESDAY, MARCH 12, 2013, AT 12.04 P.M.

PRESENT

Mr. Colm Imbert	Chairman
Mr. Jamal Mohammed	Member
Mrs. Corinne Baptiste-Mc Knight	Member
Miss Ramona Ramdial	Member
Mr. Anil Roberts	Member
Mr. Terrence Deyalsingh	Member
Miss Donna Cox	Member
Mr. Ralph Deonarine	Secretary
Miss Candice Skerrette	Asst. Secretary
Miss Candice Williams	Graduate Research Asst.

ABSENT

Mr. Vasant Bharath	Member
Mr. Anand Ramlogan SC	Member
Mr. Colin Partap	Member

Mr. Chairman: Good afternoon. All right. Could the representatives from the EMA please identify themselves?

[Introductions made]

Mr. Chairman: So, before I introduce our Members, how many members of the board are

here?

Mr. Rooplal: Two members of the board.

Mr. Chairman: Is the Chairman here?

Mr. Rooplal: Acting Chairman.

Mr. Chairman: The Acting Chairman is here?

Mr. Rooplal: Mr. Kelvin Ramnath was the former Chairman, so Mr. Shyam Dyal is acting.

Mr. Chairman: And you are a member of the board as well?

Mr. Rooplal: I am a member of the board.

Mr. Chairman: Ok, then. Could you tell us where the rest of the board is?

Dr. Singh: Mr. Chairman, we invited—we got two separate invitations, one was sent to the Managing Director/CEO and I brought along the Manager, Corporate Services. Another invitation was sent to the Deputy Chairman and he invited members of the Board of Trustees because there is a Board of Trustees as well operating within the EMA. So, Mr. Dyal and Mr. Rooplal are members of the Board of Trustees as well as members of the board of EMA. Two other members were invited from the Board of Trustees, but they were unable to come. We had provided those names—Dr. Lena Brereton-Wolffe and Mr. Paolo Kernahan. They were unable to make it today.

Mr. Chairman: Okay. For future reference, we wish to see the entire board. All right? We prefer to see that. Management, very welcome, but we want to see the board. Okay? Let me introduce the Members of the Committee. I guess we could start on this end.

[Introductions by Members of the Committee]

Mr. Chairman: Thank you. “It seems we gonna have ah quiet meeting today.” What I would do is open the floor immediately to questions from Members. Do Members have any specific questions? Ms. Ramdial, “yuh have ah question?”

Miss Ramdial: No.

Mr. Chairman: So you are comfortable with the accounts?

Miss Ramdial: Yes, so far.

Mr. Chairman: Senator, you good?

Mr. Deyalsingh: Yes.

Mr. Chairman: You too? Well, this is very unusual. Mr. Roberts?

Mr. Roberts: Terrible unusual but I am good. Very happy!

Mr. Chairman: You have no issues?

Mr. Roberts: None whatsoever.

Mr. Chairman: Miss Cox?

Miss Cox: None whatsoever.

Mr. Mohammed: I am okay, Mr. Chairman.

Mr. Chairman: Well, we are in a bit of a quandary here now. [*Laughter*] This is the first time we have examined an entity where Members have no questions. Is there anything with respect to the accounts that the EMA would like to elaborate on?

Dr. Singh: Mr. Chairman, if I may? For the four years that we are before the committee to report on, fiscal year 2008, 2009, 2010 and 2011, we have received clean management letters from the auditor and sign-off from the Auditor General's office as well. The last audit, two items were flagged which was an issue with regards to a petty cash and an issue with regards to fixed assets, and we have put measures in place to address those two, what we regard to be minor issues, Mr. Chairman.

The EMA has operated from its inception with a very clean slate with regards to its financial management and we feel that it is reflected in the lack of questions that the committee apparently have for the EMA. So just those two minor issues, Mr. Chairman and Committee, that I wanted to mention.

Mr. Chairman: When I look at the notes, I see comments from the Auditor General that you were not applying the international accounting standards. Could you tell us what has happened with respect to that?

Dr. Singh: Well, I could ask Claudina De Leon-James to comment directly on that, but my understanding, Mr. Chairman and Committee, was that those were in areas where those standards do not apply to the EMA, but Claudina might elaborate.

Mrs. De Leon-James: That will be in relation to which years are you looking at?

12.15 p.m.

Mr. Chairman: My eye was caught with 2009, where the Auditor General has said the authority has not applied the IFRS, IAS, IFRICS, et cetera for the accounting periods beginning on or after July 01, 2009 and it goes on to talk about a number of situations where the authority did not apply the relevant international standards. That is in 2009.

Mrs. De Leon-James: Because they do not apply to the activities of the authority.

Mr. Chairman: So why would the Auditor General make a comment like that?

Mrs. De Leon-James: Remember the accounting standards are set and we will be considered

like small business enterprise and we can present our accounts in alignment to the IAS's or the IFRS's and in relation to the IAS's, it would relate to when they become effective as well.

Mr. Chairman: All right, I was just wondering why there would be a comment that you had not applied the standards. But if you are saying that they are not applicable, well, fine.

Mrs. De Leon-James: As the note would also say, they have no material impact on the financial statements.

Mr. Mohammed: Just one little question with regards to the Nariva Swamp Restoration and Carbon Sequestration and Livelihoods project, it was supposed to go between 2010 and 2017, okay but in the 2011 report it has suddenly disappeared. There is no mention of any funds from it.

Mrs. De Leon-James: Oh yes there are.

Mr. Mohammed: On page three. The NSRCSL Project Fund.

Mrs. De Leon-James: That is the Nariva Carbon Sequestration Project.

Mr. Mohammed: Yes.

Mrs. De Leon-James: You are looking at the statement of comprehensive income?

Mr. Mohammed: I am looking at the statement of financial position on page three.

Mrs. De Leon-James: Okay, right. Because the way how the fund is set up it is not set up as a fund, it is set up as a project. So that would be reflective in our liabilities. So if you look to note nine, which spells out the liabilities, which is page 20, you will see it there.

Mr. Mohammed: Thank you. And what is status of that project?

Dr. Singh: If I may Minister, the project is—we are continuing to implement that project. We have engaged in reforestation parts of the Nariva area; areas which were removed of forest during periods when it was engaged for rice cultivation. We are working very closely with community groups from within the Nariva area. The project actually is intended to bring benefits to the communities and, therefore, we have structured it in such a way that the community members are actually being used to engage in replanting exercises and other aspects of sustainable livelihoods.

Mr. Mohammed: I went to one of your events that were held at the Biche Community Centre. I was invited to—there were some children. It was a summer camp exercise. It was really a good experience, but that community center in Biche needs some repairs. I do not know if you all were looking into that issue or that matter to help that community with the Biche Community Centre.

Dr. Singh: Well the project that is currently structured does not cater for that, for large infrastructure issues. But, certainly, we can work maybe hand in hand with the regional corporation for that area to maybe assist.

Mr. Mohammed: Because the children of that area depend on that location to meet.

Dr. Singh: Thank you.

Mr. Chairman: Yes, Miss Cox.

Miss Cox: I have a question. I see on page 20, notes of the financial statements, I see the highway police surveillance bays project, I would like to know what role the EMA plays in this.

Dr. Singh: The EMA actually is the agency responsible for securing the funds and coordinating the activity. You would imagine that solar lighting has relevance to the environment, falling under renewable energy. So that the EMA has been collaborating with the Ministry of National Security, the Ministry of Works and now Infrastructure in delivering on that project. The funds actually come from the Green Fund. The EMA is entitled to access funds from the Green Fund and so we secured the funding for that particular project and engaged in managing the overall project in the context of installation of the solar lighting and solar power.

We have run into an obstacle, in terms of completing the project because the surveillance bay locations have changed. Because of the broadening of the highway, the original 13 surveillance bays which were identified for solar lighting and solar power was reduced by three because those locations became too narrow to accommodate surveillance bays. So we are actually waiting for the Ministry of National Security to identify the other locations to complete the project.

Miss Cox: I am just a little confused because I was wondering what role the Ministry of Works plays in this, in dealing with the highway.

Dr. Singh: The Ministry of Works is responsible for preparing the infrastructure for installation of the lighting facilities and power so there is some preparation work to be engaged in, and as you would know as well, the Ministry of Works is responsible for highway construction, so being a part of the highway infrastructure, we believe and recognize that they are very important players, in terms of ensuring that the bays are prepared in such a way that would meet highway standards as well as ensuring that the basic infrastructure for the installation of the equipment is there as well.

Miss Cox: So you are satisfied that this highway police surveillance bay project falls under the

remit of the EMA?

Dr. Singh: Very much so in the context of it being a demonstration project for renewable energy. Trinidad and Tobago does not have any significant project to demonstrate the utilization of renewable energy in either Trinidad or in Tobago and we felt it would be an excellent opportunity to demonstrate that it can be utilized here and to have it visible to the extent that we expect it will be visible on the highway, and, of course, partnering to look into a major issue with regards to surveillance in terms of utilization of highways. So, we thought it a very appropriate project.

Mr. Chairman: Can I ask what is the cost of the EMA's involvement in that project?

Dr. Singh: The overall cost of the project Chairman, is in the vicinity of TT \$8 million, with the EMA making an in-kind contribution, if you will, in the vicinity of about \$500,000, really associated with staff cost and management cost.

Mr. Chairman: But the cost of the equipment, the solar panels and so, on, what is the cost?

Dr. Singh: A contract was issued. We went through a tendering process to identify a service provider, as well as a goods provider. The overall cost of the contract, which was utilized, was about TT\$8 million.

Mr. Chairman: So the EMA \$8 million?

Dr. Singh: We have not. To date, we have spent in the vicinity of about \$6 million.

Mr. Chairman: But that is the contract sum \$8 million?

Dr. Singh: That is the contract sum.

Mr. Chairman: And that is the equipment and installation of the equipment?

Dr. Singh: Equipment and installation of equipment.

Mr. Chairman: Okay, has any analysis been done so see what it would have cost if you used regular electricity?

Dr. Singh: We did not do that comparative study Chairman, in terms of understanding the—you know, you would imagine, the capital cost for installing solar lighting would be higher than the traditional cost.

Mr. Chairman: The reason I am asking you all of this is because I was told that experiment very expensive.

Dr. Singh: Um-hmm.

Mr. Chairman: The figure I was told was about \$10 million, so you saying eight.

Dr. Singh: Yes.

Mr. Chairman: And you are saying this is a model project that the EMA is involved in to -it is the first renewable energy/high visibility renewable energy, but what is the point if it costs so much more than regular electricity? Have you done any feasibility or cost benefit analysis on this?

Dr. Singh: We have not looked at a feasibility study, Chairman but we feel that there is great relevance. Trinidad and Tobago being an oil and gas-rich country, we have focussed our energy needs, basically, on oil and gas, fossil fuel-type source of energy and we at the EMA believe that there is a need for diversification. I think we all recognize that oil and gas will not last us forever. And so a demonstration project in the context of energy source, we felt appropriate at this time.

We understand, as well that other sources are being investigated. Certainly wind energy is being investigated. So, the absence, if you will, Chairman, is the context of a comparative or a cost benefit analysis with regards to understanding what is the additional cost for utilizing renewable energy. We have not done that.

Mr. Chairman: No, but where did the money come from?

Dr. Singh: The money came from the Green Fund.

Mr. Chairman: Right. You see it is all very well to have these examples of renewable energy but you said it cost \$8 million. What would have happened if it cost \$80 million? Was there not some context for this experiment?

Dr. Singh: Well the context Minister, is, as again, you have identified a cost benefit analysis, a comparative analysis was not done.

Mr. Chairman: Well, I think that was a mistake.

Dr. Singh: Um-hmm.

Mr. Chairman: I would ask you to do one now.

Dr. Singh: We would absolutely look at that.

Mr. Chairman: If these things cost 10 times more than regular bulbs and regular electricity supplied by T&TEC, you have to really look at the feasibility of solar energy. I think that is the whole problem with the renewable energy. My limited understanding is that it is extremely expensive. Initial capital cost is extremely expensive. So you have to look at how many years it will take to recover initial costs and then compare it to a regular installation from the electricity company.

I would certainly hope, if you are spending taxpayers' money, because the Green Fund

is based on a levy from business owners, they pay a small percentage, point five percent of whatever it is, of their total sales is used to finance the Green Fund. It is a tax on businesses and, therefore, it is taxpayers' money and I would hate to think the EMA has just spent taxpayers' money without doing a cost benefit or a feasibility analysis. If you have not done one yet, I would like you do one now, please.

Dr. Singh: I think we can. Just to add, that information available regionally and internationally and you would be familiar with this, the estimated cost of fuel in Trinidad and Tobago is about US \$0.05 coming from our energy source. This is what it cost us, in terms of energy in Trinidad and Tobago.

In Barbados, it is estimated to be US \$0.21 to US \$0.25. Renewable energy actually, which is applied, I think widely in Barbados, cost in that vicinity as well US \$0.21 to US \$0.25 per kilowatt hour. So, that is what we are looking at, in terms of a broad regional context. But certainly, in terms of the exact analysis with regards to this project, while that is a sort of a broad comparison, I do agree that there is benefit to do that analysis here in Trinidad and Tobago.

Mr. Chairman: I do not want to monopolize the discussion this afternoon. I hope other members will join in. But I really do not see the point of doing a model project unless you have parameters, unless you have a context of framework as an objective. I cannot be that you just want to install a solar energy solution without worrying about how much it will cost and whether it makes sense or not. So, that when you are submitting your 2012 accounts when you come back before us, I hope you will able to tell us that you have done an analysis, if not before that. I do not know if other members have anything to say.

Miss Cox: Well, Mr. Chairman, I am in agreement with that. I would like to see an analysis done.

Dr. Singh: I do not think that is a very complicated exercise and, indeed, Mr. Chairman, we will engage to—

Mr. Chairman: How long would it take for you to do it? How long would it take?

Dr. Singh: I would say it would probably take a couple months just to get the figures together. It is really a sort of—

Mr. Chairman: Can you send it to us within the next three months then?

Dr. Singh: Sure, absolutely.

Mr. Chairman: Okay, fine.

Dr. Singh: Yeah.

Mr. Chairman: All right, I had a question now on your 2011 accounts. In your expenditure column on page 5 there is an item called “permitting and compliance costs”, could you explain what that is, please?

Dr. Singh: Could you list the page again, Chairman?

Mr. Chairman: 2011, accounts page 5, Report of the Auditor General of the year ended September—I do not know if you have this but it is—

Dr. Singh: Yes.

Mr. Chairman:—your you expenditure—

Dr. Singh: Right.

Mr. Chairman:—for the year ended 30th September 2011 and 2010.

Dr. Singh: Yeah.

Mr. Chairman: And there is an item called “permitting and compliance costs”. Could you explain what that is?

Dr. Singh: Sure.

12.30 p.m.

Dr. Singh: What is the page again, Chairman?

Mr. Chairman: Page 5, 2011 accounts, report of the Auditor General for the year ended September—I do not know if you have this, but it is your expenditure for the year ended September 30, 2011 and 2010, and there is an item call permitting and compliance cost. Could you explain what that is?

Dr. Singh: Sure. The EMA in processing applications in front of the Authority will incur a cost in terms of the processing. To give you an example when a project application—a CEC application—requires an environmental impact assessment, the cost of doing that EIA is the cost of the applicant or the developer. The EMA will incur a cost in terms of analyzing the information which comes in front of the EMA.

Usually, in some cases you would find that you require specialized services to analyze the information. For example, if there is an issue with regards to quantitative risk assessment, we would need to hire someone to do that. So that is the cost associated with that, Chairman.

Mr. Chairman: Okay. Could you then explain why there was such decrease from \$1.4 million to \$700,000; \$1.4 million in 2010 to \$784,000 in 2011?

Dr. Singh: Well, it is again, application based, so it would mean that in 2011, the type of

projects that we were analyzing in terms of permits, CECs or water, would have incurred that type of cost. Not every application in front of the EMA will require, for instance, an environmental impact assessment. So that the types of projects—and I do not have a list of the projects here Chairman, to give you an idea as to the type of protects. So it could have been the type of projects coming before the EMA. It could also do with the number of projects coming in front of the EMA.

Mr. Chairman: All right. I have just picked up the 2008 accounts and I noticed that the cost associated with analyzing applications was \$3 million in 2008 and \$2.6 million in 2007; that is a drastic reduction. Is it that people are no longer applying to the EMA?

Dr. Singh: Well, it has to do with the complexity of the projects again. I think our level of applications have increased in number, certainly with the number of protects being undertaken in Trinidad and Tobago requiring EMA permission, seeing an increase with the complexity of the projects sometimes differ, certainly in the past. You know, I can draw reference to large projects, for example, Alutrint which requires major investment in the context of the EMA to do investigations in terms of the suitability of the information being provided to the Authority, so, it would be linked directly to that, Chairman. In the context of the complexity of the projects that were been brought to the EMA for consideration for a permit, and the investment required by the EMA to fully understand the information, and to ensure that the processing of the application was complete.

Mr. Chairman: All right, if I look at it from 2008 up to 2011, \$3 million in 2008; \$3.2 million in 2009; \$1.4 million in 2010 and \$700,000 in 2011. Now, you are saying that this money is to hire experts to look at applications. Is it logical to conclude that the type of applications you are getting now is far simpler, far less complex than what you got in the past? Is that logical?

Dr. Singh: I would say it is.

Mr. Chairman: All right. Could you give us a list then for the years 2008 to 2011? Could we get a list of applications?

Dr. Singh: We can do that.

Mr. Chairman: Type of applications.

Dr. Singh: Sure.

Mr. Chairman: The nature of the project, that sort of thing.

Dr. Singh: Sure.

Mr. Chairman: Okay. I have some other questions, but I do not know if any Members have

now woken up.

Mr. Roberts: Good afternoon. Has there been during that period any increase in the institutional wherewithal, knowledge or staffing of the EMA over that 2008 to 2011 period that may perhaps negate the necessity for external experts?

Dr. Singh: Well, as the organization grows certainly its capability within the organization is increasing as well. I would say in the more sophisticated areas where the EMA will not seek to retain staff, because we just could not in terms of the cost to do that. So I would say, Minister, the capabilities in improving within the EMA, well, I suspect that would not be a major reason for the reduction in cost associated with processing the CECs. I think it would have to do with the complexity and possibly numbers, but we see a sort of a flat line with regards to the number of applications coming into the organization. So, I would say that the reason for the drop in cost is really the complexity of the projects being brought to the EMA for consideration.

Mr. Chairman: Okay. Are all your staffing positions filled?

Dr. Singh: No, the approved structure of the organization is really built on and associated with pieces of legislation, there are two pieces—the approved staff positions at the EMA is in the vicinity of 170. Currently, we have about 110 positions which are filled, so we have about 60 positions which are vacant. The major reason for that is that the two substantive pieces of legislation have not been enacted, that would be the Air Pollution Rules and the Waste Rules.

Now, there are staff positions associated with these pieces of legislation, and I am sure the Committee would recognize that in order to deliver on those pieces of legislation, in terms of regulatory action, you require a significant level of staffing, recognizing that the EMA does not have a legal responsibility at this point in time to regulate air pollution as well as waste. We have not brought those positions on board, but we are anticipating that the Air Pollution Rules will be considered within the short term, and that we would be making measures to bring staff on board to deliver on that requirement. We expect that we would even do that now to start bringing positions and filling some of those positions in the interim, so that we can start making the necessary preparations in terms of engaging under those pieces of legislation. Hence the reason, and it is a long-winded response to your question with regards as to whether all positions are filled, but we have not filled all positions for reasons provided.

Mr. Chairman: Do Members have any questions, because I have several?

Mr. Deyalsingh: I was just wondering to Dr. Singh, the Air Pollution Rules and the Waste Management Rules, are those to be introduced via primary legislation or secondary legislation?

Dr. Singh: It is really through subsidiary legislation as rules under the Environmental Management Act. Indeed, we know that the Air Pollution Rules are being considered at this point in time. So it would be very similar to the CEC Rules, the Water Pollution Rules, falling under and really giving a sort of regulation type of legislation giving teeth to the EM Act. We have heard on many occasions that the EMA has been accused of being a toothless bulldog, and we have been trying to add some of those teeth. So, it is really through regulation, subsidiary legislation rather than primary legislation.

Mr. Mohammed: Members of the board, one of the problems we have in our country is noise pollution. I do not know what the role of the EMA is in assisting the citizens of Trinidad and Tobago, who suffer on a regular basis from noises from events, parties, fetes, use of fireworks and so on. How effective has the EMA been in controlling that problem in our community?

Dr. Singh: I would say ineffective because our legislation, one, does not permit us the sort of broad coverage of the issue with regards to noise. Our legislation has to do with—it is called the Noise Pollution Control Rules, and it really pertains to facilities where you may want to have an event, and it provides a mechanism for applying for what is called a variation. So the EMA would issue a variation and then our responsibility is to ensure that you meet the conditions of that variation, or if you do not have one, to come and take measurements at your event. The law requires us to monitor continually for half an hour, and you would imagine that becomes very ineffective when you come and set up your meters, and you know the solution is just to turn down your music at that point in time. The effect in noise pollution in Trinidad and Tobago really resides outside of the EMA's jurisdiction—

Mr. Mohammed: So you all have nothing to do with that?

Dr. Singh: What we do through the environmental police unit, there is legislation, for example, under the Summary Offences Act where any police officer can go in and take action either by stopping an event, or basically under the context that it becomes a nuisance, any police officer can do that. Indeed, the EMA has been informing the police service as well as the public, that you can call a police station if you have a problem with noise. So, the EMA is very limited. We do it through our environmental police unit, but keep in mind that we only have 15 police officers within our environmental police unit to patrol Trinidad, so our capacity is very low and, therefore, our ability to address this chronic issue of noise in Trinidad and Tobago, I would say is relatively ineffective. What we have been trying to do Minister, is to get the police service to take a more active role in controlling noise, but certainly their position

is that they have larger issues, I think we all recognize that in Trinidad and Tobago, they have larger issues.

Mr. Mohammed: Do you see a greater role for the EMA in assisting in this problem of noise pollution?

Dr. Singh: We do, in fact, the chairman of the noise—we have a Noise Advisory Council which was set up under the legislation, and maybe I can ask Mr. Rooplal to comment.

Mr. Rooplal: Good day, again. As the CEO has indicated, the problem really has been in enforcement by the police because the police have the primary role in relation to noise pollution. The provisions of the Noise Pollution Control Rules really deal with events and application for variations. So, for instance, the Noise Pollution Control Rules do not deal with vehicles, noise emanating from vehicles or any noise that would emanate for a period less than 30 minutes because, of course, under our rules we have to do testing for 30 minutes before we could come up with a reading.

In terms of the legislation being strengthened, that is something the Noise Advisory Council has looked at. Certainly we know for a fact the noise problem is chronic around carnival and Christmas times due to different events and so on, and speaking from my own capacity as an attorney at law, what we are seeing and something we would welcome via legislation if possible, is that when the Magistrates' Courts are granting licences for these events, liquor licences and so on, that there be a provision in the Liquor Licences Act, there must be a grant of an application of a variation by the EMA before the licence is given.

I know from practice, that some of the Magistrates especially in south Trinidad, have taken it upon themselves to ensure that the EMA is consulted to see if a variation is there or not, but at present there is no legal requirement under the Liquor Licences Act for that to be done. So that is one constraint hopefully, that legislation can cure.

Certainly, there is need to revise the Noise Pollution Control Rules if we are to have a greater mandate in terms of dealing with vehicles and so on, or even to better manage the events which we currently have to deal with. We would need to have a revamp of the legislation, because the subsidiary legislation as it is specifies for certain equipment to be used, and we would find that that equipment has become quite archaic in terms of the testing, and because it is specified within the legislation, there is need for a revision of the Noise Pollution Rules as it currently stands.

Mr. Mohammed: And fireworks fall in that category too?

Mr. Rooplal: No. Fireworks would fall under the Summary Offences Act. There are Fireworks Regulations and that falls under the ambit of the Commissioner of Police. I believe there is a role for the inspector of police for the regions to grant approvals for fireworks, and there also needs to be a collaboration with the Fire Service, but that does not fall under the ambit of the EMA.

Mr. Mohammed: Do you not see a greater role for the EMA in the control of these noise pollutants that we have in the country?

Mr. Rooplal: Yes, certainly the public at large seems to think that the EMA is responsible for noise. So to put it quite frankly that is why the EMA will get a lot of the licks in the media for noise pollution. If we are to meet the mandate or the demands of the public, certainly we would need to have—as the CEO has indicated—more teeth.

Dr. Singh: If I may comment as well, Minister, we have a collaboration with the United States Environmental Protection Agency, we recently had an exchange visit and they were very surprised that the EMA is involved in noise issues. I mean they are not involved in noise issues, in the United States it is a police issue. So, their advice was that the EMA should get out of noise and I might see merit in that consideration, because it is really such a widespread, chronic issue that it is really not associated with “the environment”; that is a consideration.

The problem is that it is not being addressed where it should be addressed which is within the police service. I think if that condition persists, then certainly there is a role for the EMA because it is a national concern, and if the Authority can assist, then we are committed to doing that, but I think there is a school of thought that it is not very well placed within an environmental management authority.

12.45 p.m.

Mr. Chairman: Could I just clarify that the trust fund is your mechanism for funding?

Dr. Singh: The trust fund is our mechanism for funding, Chairman. It is set up under the Environmental Management Act. It is a collection of bank accounts. Certainly, it is not one bank account, but all of it constitutes the Environmental Trust Fund.

Mr. Chairman: All right. So your income and expenditure is dealt with through the Fund.

Dr. Singh: Yes.

Mr. Chairman: You mentioned that you had 15 environmental policemen. I just want to ask a pre-question: do these policemen have the powers, immunities, privileges of regular policemen?

Dr. Singh: They are all Special Reserve Police, Chairman.

Mr. Chairman: Oh, so they are SRPs.

Dr. Singh: They are SRPs, “yeah”.

Mr. Chairman: Is that your establishment? Is it that you are only entitled to have 15 or is it that you only have 15 on staff?

Dr. Singh: We only have 15 on staff. Indeed, I know that our line Minister, Minister Singh, indicated an interest in expanding the unit because one of the limitations of the EMA is enforcement at that level.

Mr. Chairman: I am asking: are you authorized to have more than 15 environmental police?

Dr. Singh: Yes, there is nothing restricting us beyond 15.

Mr. Chairman: So there is no limit. So you could have 100 or 200 if you wanted to. What is preventing you from expanding the numbers of environmental policemen associated with the EMA?

Dr. Singh: Well, there might be several reasons. Certainly, one is the financial allocation to the EMA to support the salaries of these police officers because the EMA does paid salaries. I think that would be the principal concern, Chairman. I think facilities, of course, would be another.

Mr. Chairman: I understand, but you made a point that you have only 15 policemen for the whole of Trinidad. That is a very small number. So, therefore, you recognize that the 15 is inadequate in terms of enforcement. Am I on the right track?

Dr. Singh: You are on the right track.

Mr. Chairman: Fine, and I assume you recognized that some time ago. It is not yesterday. It is not last year either.

Dr. Singh: Yes.

Mr. Chairman: Has the Authority made any approach to its Ministry with respect to increasing the complement of environmental police officers, bearing in mind the fact that the 15 is a very small number and insufficient to enforce your legislation.

Dr. Singh: We have made representation to our line Minister and Ministry, Chairman. We did that through a request for increase in our recurrent expenditure to facilitate payment of salaries to the increased number of officers. Indeed, initially, we had asked for a doubling of the size of the unit to 30 officers but, you know, as far as recurrent allocations go, we did not get the allocation that we had requested.

Mr. Chairman: So, you wanted to double the size of your police force?

Dr. Singh: Correct, yes.

Mr. Chairman: And you were not—your request was not granted.

Dr. Singh: Well, it did not manifest itself in an increased recurrent budget.

Mr. Chairman: Any explanation coming from your Ministry as to why they did not grant you request?

Dr. Singh: I think it was because of the allocation of resources across agencies within the Ministry and the need to distribute in a fashion which reflects a consideration of the demands within those other agencies and departments of the Ministry as well. Let me just add, as well, Chairman, that—

Mr. Chairman: Could you put that into English, please?

Dr. Singh: I believe it is in consideration of the request coming from the other agencies.

Mr. Chairman: Which other agencies?

Dr. Singh: There is the Forestry Division. There is the Institute of Marine Affairs. There is the Drainage Division within our Ministry. There is—

Mr. Chairman: You are talking about your budget. I am talking about the specific request to increase the size, the complement of your environmental police force.

Dr. Singh: It is reflected in the budget that we made representation on, so that our recurrent budget, there was a request to increase the size of the budget.

Mr. Chairman: Specifically to increase the size of the police force among other things?

Dr. Singh: That is among other things, that being a substantive—

Mr. Chairman: And your request was not granted?

Dr. Singh: Well, we did not see an increase in our budget, so that—

Mr. Chairman: You have answered my question.

Miss Cox: As you all are talking about budget, I just want to ask, I have observed that your expenditure associated with advertising and promotion seem to be pretty high:

2008	\$752,000
2009	\$1 million
2010	\$760,000
2011	\$675,000

I want to know what this expenditure comprises of and if there is a policy for advertising and promotion.

Dr. Singh: Let me share with you that one of the three main responsibilities of the EMA is as

a regulatory agency. I think that is very well known. The other is as a coordination role—and this is something that we are setting up within the organization now; and the third responsibility is in education and outreach.

The issues with regard to publicizing the work of the EMA either through advertisements or issues related to the development of documentaries, as well as sharing information with the public, can be very expensive. So that is the principal cost assigned under the issue of advertisement and publicity would be associated with our educational outreach efforts at the EMA.

Miss Cox: Okay, 'cause why I asked is because I cannot remember seeing much concerning the EMA except the small advertisements about persons having functions and so on. I just wanted to know what else, what other type of advertising or educational outreach you do that would cost this amount of money.

Dr. Singh: You might also recognize that \$1 million in the context of advertisement is not a very large budget. I think the Minister of Communications might support that; that it is extremely expensive to get things on the airwaves. I can highlight one project that we have been engaged in, MP, which is our noise campaign. We have invested a significant amount of money in terms of educating the public with regards to issues related to noise. Unfortunately, we have not had a concurrent increase in our ability to enforce, so we have a very informed public, but the EMA has not been able to respond to the increased awareness of the public. Those things can be very expensive. Certainly, I can draw reference as well to documentaries that we would have produced by our youth ambassadors, a very active young group, and we have been trying to publicize their work as well. So, you know, all these things certainly contribute to the cost associated with advertisement.

Miss Cox: I understand, but I would like to know: do you think these advertisements and so on are meeting the objectives?

Dr. Singh: We would like to have a much larger budget again to have the impact that is required. We are trying to be innovative in terms of how we reach as well. We are using the now emerging communications tool, Twitter, Facebook, et cetera, maybe much more effectively than we have done in the past, but the traditional means of communication still remains strong in Trinidad and Tobago, certainly what is available on television—and air time on television is extremely expensive—but we recognize that to reach the public in Trinidad and Tobago we have to utilize it. We have tried to utilize GISL as much as that becomes available and the

Minister certainly has been very helpful in terms of making that accessible to us; but, in other cases, we do have to pay for air time and it is not as effective as we would like it to be because of the constraints in the context of budget; but we are trying to utilize other means of communicating to the public.

Sen. Deyalsingh: Dr. Singh, just to piggyback on the Chairman's enquiry as to the 15 SRPs that you have, if I turn to the account for 2011, am I right in assuming that under salaries and benefits of \$24 million, that is where the payment for those 15 SRPs would come up?

Dr. Singh: Yes.

Sen. Deyalsingh: Would you be able to disaggregate that figure and, roughly, tell me what portion of that \$24 million goes towards paying the 15 SRPs?

Dr. Singh: I am sure the Corporate Services Manager might be able to

Sen. Deyalsingh: Would anybody have that information?

Mrs. De Leon-James: It is about \$1.8 million.

Sen. Deyalsingh: So, \$1.8 million for 15 SRPs.

Mrs. De Leon-James: Yes. It is not only the 15 in Trinidad, but we also pay seven in Tobago.

Sen. Deyalsingh: So, basically we are just looking for another \$1.8 million again.

Mrs. De Leon-James: Yes.

Sen. Deyalsingh: To get up to \$30 million.

Mrs. De Leon-James: Uh hm.

Sen. Deyalsingh: In the context of \$24 million, I find it difficult to understand why such a small sum of an additional \$1.8 could not have been granted and before you go, this is not to be critical of your board, this is how things run generally, not only here, but abroad in that we could always find the money for the high-impact, glossy activities, but when it comes down to the nitty-gritty activities that really bring home the meat of the matter, we cannot find relatively paltry sums to do what really needs to be done. This does not apply to your board alone or to your agency, this is a criticism overall. I mean it is just \$1.8 million that you are looking for.

Dr. Singh: I could not argue with you Member, but let me say that the salary cost is just maybe one part—it is the majority part of the cost—but there are also facilities cost which would have to be incurred in terms of accommodating the additional officers as well as equipment cost; vehicles which would have to be acquired for increased policing, et cetera, so there may be another \$1.5 million, which would have to be required to sort of sustain a larger

unit.

Sen. Deyalsingh: And how do you rationalize that with the net surplus for the year of \$5.6 million at the bottom, because you do have a surplus. Could not some of the surplus have been allocated to that?

Dr. Singh: This is what is actually being considered currently by the board, is to utilize the surplus which is left from our projected expenditure to support an expanded environmental police unit, but keep in mind that we would not have a sustained surplus, so that the question is: how do you sustain an environmental police unit?

Sen. Deyalsingh: Well, you did have one in 2010 of \$6.3 million and then \$5.6 million for 2011. Anyhow, I think I have made the point and I think you have more or less agreed that it is a paltry sum that we are looking at. Thank you.

Mr. Chairman: Could I ask the Acting Chairman—the Senator has hit on a point here. You have been running a surplus every year for the last four years?

Mr. Dyal: Yes.

Mr. Chairman: And the surplus is more than adequate to double the size of your environmental police force, so why have you not used the surplus to double the size of your environmental police force?

Mr. Dyal: Well, as Dr. Singh indicated, in the past, one of the key reasons was actually finding facilities to house the police as well. So that is something that we are trying to put in place before we bring on personnel. Right now, the conditions in which the 15 policemen occupy is actually too small, so we are looking at increasing the capacity of accommodation for these personnel before, because it is good to bring them on, but you have to put them somewhere and provide the necessary infrastructure, the vehicles and so forth. We are also looking at using some of this surplus for other staff in terms of vacancies and so forth as well.

Mr. Chairman: I would urge you to consider this very seriously. I was going to ask a follow-up question. There are a number of industrial establishments operating in residential areas creating nuisance in terms of noise, vibration, odour, noxious smells and that sort of thing. Are you empowered under your legislation to deal with someone who is operating an industrial establishment in a residential area without the necessary permissions? Does that fall within the ambit of the EMA?

Mr. Dyal: It does fall under the ambit of the EMA, under the rules, so if the establishment has an approved CEC and it depends on when that establishment—

Mr. Chairman: I am not speaking about somebody who is operating within the confines of the law. I am talking about somebody that sets up, say a garage in a residential area and starts to operate this garage 24/7 and creates noise and disturbance and all sorts of other nuisances to the residents of this residential area, is the EMA empowered to take action against such a person?

Dr. Singh: Minister, we can take action under the Environmental Management Act, so in the context, if it is, for example, a spray painting operation, the EMA can go in and, if there is no CEC, then we take action, enforcement action, but we do not have the authority to close down that operation.

Mr. Chairman: So, what do you have the authority to do?

Dr. Singh: We have the authority to ensure that it is operating according to our rules so that if you are operating a spray paint operation, then the facilities are such that it does not affect maybe properties which are in the vicinity of the operation.

1.00 p.m.

So the EMA can only go in and say, “You don’t have a CEC, you are in violation of the CEC rules.” We will issue a Notice of Violation, they would come in and it is possible to fix it true that process, because it is not the end of the line that if you do not have a CEC, then your place would be shutdown. The legislation is set up in such a way that there is a fix which is possible.

Mr. Chairman: Yes, but if they do not comply with your requirements, you are telling me you cannot shut them down, so what can you do?

Dr. Singh: Well, that is a question we are very often asked: What can we do? Because the expectation is to cease and desist, and the authority or the agency with that power is the Town and Country Planning, who can say, “Well this area is a residential area as you have pointed out, you have set up an industry in a residential area and you should not be there.” But the EMA can only act within its legislation as you would imagine. If you require a CEC and you do not have one, then we say you do not have a CEC, we issue a Notice of Violation, you come in, and there is an opportunity to engage in a consent agreement which would then set the conditions for the operation of that facility.

Mr. Chairman: I understand all of that. What I am saying is, let us take a hypothetical situation where it is recognized that someone is operating—let us use the garage example, straightening and painting and so on—does not have a CEC, requires a CEC under your rules,

you visit the premises, you inform them of the fact that they are in violation and that they require a CEC and they ignore you; what happens then?

Dr. Singh: Well, we will issue a Notice of Violation regardless of whether they respond or not. The NOV requires them to come into the EMA. If they do not come in to the EMA, the EMA will issue an Administrative Order, which gives them an opportunity to correct it again with the EMA or challenge it in the environmental commission. If they do not challenge it in the Environmental Commission, the Administrative Order becomes law and then the EMA can take enforcement action at that point.

Mr. Chairman: Right and that is what I am getting to. Let us say the person just completely ignores you, does not open up their premises to you, chases you away, and you issue your Administrative Order, and it is in effect now, because it is not challenged: what is the effect of your Administrative Order? What does it mean? Is it just a piece of paper or does it have some sort of coercive effect?

Dr. Singh: Well it does. I think, at the end of it, if it reaches to that point and it usually does not reach to that point, but if it reaches to that point, then the Environmental Commission can, under his jurisdiction, as a court of record, maybe instruct the closing or the shutting down of that operation.

Mr. Chairman: So, you can get to the stage where the establishment is shutdown.

Dr. Singh: Yes.

Mr. Chairman: But you have to go through your process.

Dr. Singh: Correct.

Mr. Chairman: Okay. Would you require—coming back to the police—in order to deal with all of these industrial establishments—and there are many of them that are unlawfully operating in residential areas—would you require more police officers?

Dr. Singh: I think it would help, certainly, in the context of maybe utilizing other pieces of legislation which might be relevant. Keep in mind that the Environmental Management Act and the subsidiary legislation is not the only legislation governing some of these operations.

Mr. Chairman: I understand that.

Dr. Singh: So that police officers can have an opportunity to go in and may be enforce other pieces of legislation which might cure the issue.

Mr. Chairman: My question is specific to you, because you are before us, and as a Member of Parliament, I am faced with this problem on a regular basis, where my constituents complain to

me that somebody is carrying on an industrial operation within a residential area, and they went to the EMA and nothing happened. So, I think we will have to call you back, because my Members are getting a bit restless here.

Mr. Roberts: I am a little bit confused. Okay, let us not deal with a hypothetical. A factory in D'Abadie/O'Meara, a paper factory, is in a residential area—toxic gases, effluent coming out terrible. If it is found they have no CEC—let me put it this way—if they cannot meet the requirements of an EIA and so on, let us say that this factory is so toxic it cannot—no matter if they go through the process—adhere to any of your environmental rules and you CEC, can you shut it down at that point?

Dr. Singh: Well, there is an opportunity under the legislation, Minister, which is called injunctive relief. Under that opportunity, in injunctive relief, the EMA has to be able to prove that there is significant environmental damage and risk. So in a circumstance like that, where you are describing that there is tremendous risk, the EMA, through its legislation, can request or apply for injunctive relief from the Environmental Commission and seek to shut down that operation.

Mr. Roberts: But to prove that, you would need to have a baseline study of the environmental impact or the nature of the water, the air and so on and then you will have to do a one-year testing to show to the court of law that this—I mean, really and truly, what I am hearing here is do what you want you know, because we cannot do nothing.

Dr. Singh: I think in an extreme circumstance, you can use your judgment to determine whether there is significant environmental effect, you can use that informed judgment to obtain a injunctive relief arrangement through the court and then if it is challenged, you would then have to sort of gather that information in the event of a challenge.

Mr. Roberts: Not to be too long, but your explanations are good.

Mr. Roberts: Clearly this is an untenable situation, and in order to get those teeth that you require at the EMA, legislative relief needs to be passed your way. How far have you reached? Have you given recommendations to anyone? Is there some amendment coming to the LRC that can assist, because right now, as a Member of Parliament, I can tell you that people are going to rush to me next Tuesday, and I am just going to have to tell them, “Well, we will send some letters but, really and truly, there is nothing we can do”.

Dr. Singh: Well, unfortunately, the EMA operates under very soft legislation. I think we would admit that. We have made representation, certainly, through our line Ministry. The Air

Pollution Rules, for example, are being considered. We have been instructed by Minister Singh to further the completion of the Waste Rules which was shelved previously, and now we are reintroducing them again and I think that has very critical importance to the issue of hazardous waste in Trinidad and Tobago some of what you would have described. So we are moving in that direction.

Let me add as well that even where some of the rules had been introduced, for example the CEC rules which was introduced in 2001, the EMA does not have jurisdiction pre-2001. So, if you have a factory operating and established in 1999, the EMA can do absolutely nothing under that piece of legislation, and that is actually the case in many places and we cannot take enforcement action.

Mr. Chairman: I think we will have to call you back. What we are going to do is write to you with a list of questions and give you a reasonable time to respond to them, and then we will call you back, because at first I thought we had no questions for you, but we have many, and as this thing has evolved, I have many more. I think we want to close off now.

So the Clerk will write you within the next two weeks, we will give you say two or three weeks to respond, and then we will call you back to deal with some of these specific issues, because looking at just budget alone, I am not happy that you are running a surplus every year, and yet those funds are not being used to deal with some of the deficiencies that you are referring to. Could I just ask, as we close, where does the surplus go? When you generate a surplus, what happens to it?

Dr. Singh: Well, it either remains in our operating accounts—

Mr. Chairman: So you keep the money?

Dr. Singh: Yes.

Mr. Chairman: All right. So that is one of the questions we are going to ask you. So, we will call you back at some appropriate time, but you will get a letter from the Clerk in about two weeks outlining issues that have come up, and anything else the Members can think of that we would like you to answer and then we will call you back. Thank you very much.

1.09 p.m.: *Meeting adjourned.*