

TOBAGO HOTEL AND TOURISM ASSOCIATION

Mr. Christopher James	President
Mrs. Carol-Ann Birchwood-James	Vice-President
Ms. Shirley Cooke	Secretary
Ms. Kaye Trotman	Representative

Mr. Chairman: The 20th meeting of the Joint Select Committee on Land and Physical Infrastructure is hereby reconvened. My name is Stephen Creese and I am Chairman of this Committee.

[Introductions made]

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I would like at this stage to remind members and witnesses to please turn off their cell phones or place same on silent or vibrate. I would like now to welcome the representatives of the Trinidad and Tobago Hotel and Tourism Association and invite them to introduce themselves.

[Introductions made]

Mr. Chairman: Just for the sake of the record I wish to remind all concerned of the objectives of this enquiry, and it is:

- to understand the current state of the ferry service in Trinidad and Tobago;
- to examine the policies and procedures used to acquire ferries and to ensure that value for money is obtained;
- to determine whether due diligence governed the conduct of all

aspects of the maintenance and management of the provision of the sea bridge service; and

- to determine the changes and challenges with respect to the maintenance of ferries.

And all of this against the backdrop of the procurement and maintenance of ferries.

Do you, Sir, wish to make an opening statement? Please do so now.

Mrs. Birchwood-James: Good morning, Mr. Chairman and members of the Committee. The Tobago Hotel and Tourism Association welcomes the re-invitation by the Joint Select Committee to present solutions to the ferry service as we seek to develop and redirect the economy and business of Tobago and Trinidad. Mr. Chairman, as we were checking in, in Tobago this morning we were informed that the ferry did not leave Tobago as scheduled, 6.30. In fact, passengers came to the Caribbean Airlines counter to see if they would be able to come to Trinidad. So, Mr. Chairman, little confidence has been restored on the sea bridge. In fact, the fast ferry is no longer fast. Visitors question the integrity of the service and have not returned in their numbers.

We are recommending that a new passenger ferry is needed now. Since the last joint select committee meeting, the conditions on the *Cabo Star* have improved minimally. Toilets are now working but they are inadequate; 45 steps—we have counted them, no elevator; catering service is really to parlous status. From all accounts the infrastructure on this boat is unsuitable for the cargo requirements of the sea bridge and its users.

We refer to a document the association has prepared and I think it should be in your possession, and presented to the Joint Select Committee on the solutions to the sea bridge in the immediate, medium and long term. So we end this opening statement and we await your questions, Mr. Chairman.

Mr. Chairman: Thank you. Members?

Mr. Paray: Through you, Mr. Chairman. Good morning again and thank you for making the journey back to Trinidad. I read the documents that you supplied and just for clarity's sake, if you could paint a picture in terms of, you know, the short-term solution. You suggested the formation of a special purpose vehicle to deal with this matter expeditiously. Can you go ahead and just explain to this Committee the thinking behind it as to bring some clarity to how it is going to be created in your mind and how it will be executed and bring a solution to have a real impact on the current situation for us? Thank you.

Mrs. Birchwood-James: Ms. Kaye Trotman is going to answer that question.

Ms. Trotman: Thank you very much, Mrs. James. Our thought behind it was that we cannot look at the solution for the sea bridge just in terms of a replacement vessel, but we need to also look at the sorts of institutional changes that may need to accompany that in the light of dealing with the sea bridge issue and its impact on the economy of Tobago. So because we are now not just looking at replacement of a vessel but how should those vessels impact the development of the economy, one of the things that we recognize is that you would have to look at some of the institutional or administrative structures that guide that and use that towards medium-term solutions.

We were suggesting that since we have to look at allowing the operations of the port, as a suggestion, to be handed to Tobago since Tobago is the one that is being impacted. You would need the support structures that go with that. So given the special arrangement that may be in the Port Authority Act 15, where the President can at least start the process of having us look at, through special directive—look at some of the institutional changes—that was our understanding of reading that part of the Act—that can support that.

We know that longer-term changes to make Tobago be the source of dealing with the port would take a little while more than just the short term, so that this vehicle would allow us to start looking at that and putting the steps in place so that in the short term we can start the discussion as it relates to how the operation of the port, from the end, that is Tobago, would impact on the economy.

Mr. Paray: Let me just follow up. From the last meeting where we spoke in Tobago, this Committee had asked if your organization would have participated in the conversation around the tender that went out for a new fast ferry, and to my recollection at that time there was no conversation or no input from your organization. That is correct?

Mrs. Birchwood-James: Yes.

Mr. Paray: Since then until now, has there been any effort on the part of the Port Authority, on the part of the Ministry, on the part of the Tobago House of Assembly, to reach out to get some input before tenders start coming in and evaluations and so on? Has any of that started to happen as yet since that meeting?

Mrs. Birchwood-James: Mr. James is going to answer.

Mr. James: No, we have had no meeting, we have not had a meeting requested, and we urgently want to be part of that as I know other organizations and associations in Tobago need to be.

Mr. Paray: So, basically, what you are saying is that in consideration of all the issues that have come out over the last couple weeks, and more so statements that would have been made about the presentation of the facts about the situation in Tobago—I am very disturbed that no effort on the part of any agency of the State has reached out, and I am wondering if there may be an effort not to. And I am concerned with that because I would have thought that by now somebody would have reached out because this matter was in the public domain. You made an issue

that no conversations had happened and I am very concerned, and I am really hoping that after this hearing today somebody reaches out. Thank you, Sir.

Mrs. Birchwood-James: I wish just to say this, that not only have we asked for an input in the procurement process, for the passenger as well as the cargo ferries, but we also asked for a place on the board of the port as well as Caribbean Airlines, and we have got no response at this stage to that. Not that we are making a complaint as yet, but we have not got—we are making a statement of fact. We have not got a response as yet. But this is one of our recommendations that we have made.

Mr. Paray: Do you believe that the situation or the impact for Tobagonians has been exaggerated by your organization primarily for your own business interest?

Mrs. Birchwood-James: Ms. Cooke is going to take that question.

Ms. Cooke: Good morning. You see, your question speaks to the core of the issue that we are dealing with here today. It speaks to the fact that Tobago's issues and its contribution to the development of Trinidad and Tobago are not taken on board as a critical and important element in the decision making of Trinidad and Tobago. It is reflected in the fact that so little Tobago's input is on these boards. And therefore, the fact that no one has reached out to us speaks to the fact that they do not have the grasp of enormity of the problems that we are experiencing in Tobago.

Ms. Trotman: If I am to add a little to what my colleague said, it speaks to the bigger picture as to how the nation should look at how Trinidad and Tobago, as individual islands, should relate to each other as we seek to develop the economy of this unitary state. We must recognize the input and the value that each member, that is the islands, can bring to the table so that we should not be seen as a ward of Trinidad but a perspective that looks at Tobago as a potential economic region.

How then do we pursue the development of Tobago as an economic region

in a unitary state of Trinidad and Tobago, and therefore, what should be the institutional structure that we need to have in place and the administrative structures in order to have that happen? And that is why the solution that you mentioned, member Paray, about that special purpose vehicle, was looked at. Because we are not looking at the solution for the sea bridge just in isolation of the procurement procedure; we are looking at it with a longer-term view of how should a developing economy like Tobago that we are asking to diversify, and diversify into tourism and agriculture, how should the inter-island transport system play a strategic position in that.

Mr. Paray: Last question, Ma'am. And I want to focus this on—based on evidence that I would have read over the last couple weeks in terms of the type of vessels, the requirement for the Tobago-Trinidad route, I have been reading that the current vessels, or there were issues around the vessels that were on the route, of being too large, too costly in some cases, and I want to know if in terms of the development of Tobago—and Trinidad—whether we ought to buy, or rent, or lease, or build vessels or buildings, or parks, that have no room for growth. Because in any business plan—and we are all business people—we must put capacity in anything that we do.

So I am concerned when I read some evidence from experts that a vessel was too big, that a deck was too large; we are running empty spaces. And to me, I am asking: Why do we confine ourselves to not having tools or equipment that can grow with the requirement? So this is why I am concerned that you are not part of the conversation for this new tender that went out, and perhaps, from my information, you may not have to wait too long, because I understand the *Ocean Flower 2* is docked in Chaguaramas as we speak. So you may be having a solution very, very soon to deal with it.

But the question is: Do you see that the previous vessel or vessels, the conversations about them being too large, too big in terms of capacity, in terms of size, in terms of cost, when you measure the impact of what is happening now, is that a reasonable assessment in terms of the decision-making process?

Mr. James: No, Sir. No, it is not, and this has been a beef for a very long time in the industry. Tobago and Trinidad has a tremendous opportunity within tourism. Over 30 million people came to this region last year, in 2016. Trinidad and Tobago got slightly over 2 per cent of those tourists. The return on investment in tourism is well known in this region. Many countries are surviving on that return. And if we were to take tourism seriously—which in my opinion in the 25 years I have been here, we never have—we would show that return in investment.

And I have kept saying, and I know people behind me keep getting fed up of me saying this, but we have a double benefit in Trinidad and Tobago, because most of what we buy for the tourism industry is manufactured in Trinidad. And I have used the figure in the report, just to underline it, that 70 cents in every tourism dollar stays in this country. In the Bahamas it is 15 cents.

That has to be worth—I met somebody from Eximbank the other day and we just did a calculation on bottled beer. When we had 88,000 tourists in Tobago, if they, on average, drank four bottles of beer, it was three and half million bottles of beer will be consumed in Tobago. Somebody has to put a cost value to that and say that this creates this many jobs in Trinidad; it is this amount of money made, and that adds to your return on investment.

I have used the argument with Caribbean Airlines. I see that we constantly get told that Caribbean Airlines' air bridge loses \$30 million. The very fact that Trinidadians come and holiday into Tobago has to be of benefit to Trinidad and Tobago, rather than them going to Barbados or Grenada, which they have had a

massive increase. Before we started this process I had contacted—we are part of the Caribbean Hotel and Tourism Association, so I get the figures from all of the islands as President, and when I spoke to these islands they have seen a massive increase in Trinidadians going to these other islands. Now, that is foreign exchange going out of your country—money going out of your country, jobs for manufacturing going out of your country.

If we were to focus and really work out the data on how much tourism makes with all its tendrils of business and everything, employment, I think we would be shocked. I think in Trinidad and Tobago there is a very strong case.

And going back to your question on the ferries, specifically, there are many things we could have been doing with that ferry. There are many things. We should be going to other destinations; we should be picking up people from other islands; we should be moving cargo; we should have an export industry. Most export industries are generated from customer demand when those people go back to their countries.

There is tremendous opportunity in tourism that we are not taking advantage of, and the return on investment, especially at this time of shortage of foreign exchange, is very important to this country. I want to put forward there is a very strong case for tourism in Trinidad and Tobago. So we do need to be an integral part of every decision made that affects tourism, and I do not think we realize how far tourism stretches in this society. Thank you.

Mrs. Birchwood-James: I just want to emphasize a point here, continuing with what Mr. James said where we thought about going to other islands: Grenada, St. Vincent, St. Lucia and so on, out of Tobago, earn foreign exchange, increase our tourism capacity. And in our paper we talked about creating three ports: a passenger port, a commercial port for Tobago and a marina. We have seen we are

the safest harbour. We have seen what has happened in the last week or two. We are the safest harbour in the Caribbean.

We used to have a lot of yachties and yachts. Yachties spend six months—that is how they created the Crews Inn Hotel—six months on an island while your boat is being refurbished and whatever it is, and this is a great time, since we have shown that we are the safest harbour—this is a great time for us to build our marina in Tobago and to increase our yachting capacity, because we need the foreign exchange, we need the people to come here, whether they are on yachts, whether they are on the plane, whether they are on the ferries, boats and so on. And that is the rationale why we ask for the three ports. Obviously, we cannot be like how we are, depending on everything to come from Trinidad. We need a commercial port.

Ms. Trotman: If I am to add to what my colleagues have said, I think when the previous cargo boat was selected, it was because the whole idea of expansion and development—growth and development—was built into the type of vessel that we should have. We should have a vessel with the capacity to handle more cargo items as the economy expanded, and therefore the size of the vessel that was chosen.

The fact that you are having, as it is being said, extra capacity on the vehicle only simply means that we have not fully caught up with what ought to come out of Tobago for full use of it. But it means that we are working towards it. You need to have the capacity to do that, given the fact that when you get a vessel you do not get it for a short period of time. It is usually leased for a significant period of time. So you do not want to be constrained by your capacity to move things between the islands.

So the fact that it may not be fully utilized now should not necessarily be taken as a

slap against Tobago. We have to build towards using that capacity and that was the trend of the thought when that was done, and that was the direction Tobago was going in. What it calls for now is tighter collaboration between the private and public sector to make that happen faster.

Mr. Khan: Good day. Well, for the first time I will be saying “Ladies and Gentleman”. [*Laughter*]

Mr. James: Yes.

Mr. Khan: We were in Tobago two weeks ago and we did, in fact, clearly get your views as to the specific ferries, what constraints there are, what limitations there are and, in your own words, how disastrous it turned out to Tobago’s tourism sector. Today I do not want to focus too much on that because everybody knows the chronology of events that led to this issue. What, in my view, it has done, it has exposed us to a situation where we have to face reality in its starkest form and I guess that is what we want to do. So I want to focus my questioning on the future, which I like this document and which is what it is intended to do.

So I have specific questions. First and foremost, I agree that this country needs to build stronger institutions to do what it has to do, because this crisis reflects that. So how we run the inter-island ferry service, not only if a new boat comes now and everybody stays quiet because “ting goin nice”; how we run the institutional arrangements for these new vessels or the new vessels that we will procure, some of your recommendations here personally find favour with me. But just on two points of clarification. You have here: “Reconfigure the Port Authority Board to have majority representation from Tobago.” Obviously, you remember the port’s business is only 20 per cent the inter-island ferry. There is a major container and containerized vessel system which is the main port of Trinidad which occupies 80 per cent of their resources, their time and effort.

But the Prime Minister has gone on record to say he is in agreement for greater Tobago representation on the Port Authority's board and I am almost sure if he says so, that will happen. I think there was a commitment that the Tobago lobby should, especially the private sector, have a greater role in the procurement process of these new ferries. I think the Government is also committed to that.

The issue of Tobago's representation, it has to be dealt with as a Tobago issue. So most times we make legislation in Trinidad or we make policy in Trinidad, we stay away from identifying the specific organizations that will be represented. We say "in Tobago's interest" and let the Tobagonian fraternity come together and tell the central government who, in this situation, best seeks their interest.

So that is my opening remarks. But specifically, how do you see this special purpose vehicle working? Give me a little more concrete terms as to how that will work.

Ms. Trotman: Okay. In terms of how this should work, I think what we have presented is that we now need to sit and work that out against the background of what it is we want to achieve. What we have found is that as soon as an administration changes—a political administration changes—the thoughts of what projects and plans the previous administration had usually go out the door. What you want is a vehicle that has the full representation of all concerned, both minority and the ruling administration that we can say: This we have agreed. This is in the best interest of the national development. And therefore then create the structures.

It would require the legal minds to help us out because we are no legal minds. We are giving you from our lay perspective and our understanding of that particular part of the Act, what we think could be something that can be pursued and now we would require the experts to guide us through the legal framework of

what is possible where that is concerned. But what we want represented on that are the various parties that can agree and speak to the fact that if we are going down a particular line of development for Tobago as an economy, these are the things that should be taken into consideration as we look at the inter-island transport system as a critical pillar of that development.

Mr. James: And just to add to that, it is also recommendations from private sector organizations, not just from political organizations or the Government. It is private sector representations that truly represent the associations they are part of.

Mr. Khan: We need to drill a little bit deeper whether you want a special purpose company which will need a statutory authority to be formed because the inter-island ferry service is a subsidiary of the Port Authority, whether completely from the Port Authority and put into this special purpose vehicle, and changing the governance structure. All these are suggestions that we will have to deal with.

Ms. Trotman: And this is meant to start the discussion as to what now should be the best end result. So it is our seed planted and we can now take that and flesh it out.

Mr. Khan: Okay. Thanks a lot.

Ms. Cooke: I just want to add—and you make a very important point, because, you see—and you could correct me. This body, you do not have subpoena powers; neither do you have enforcement powers. We are here to identify issues and probably to find solutions. So you hit the nail on the head when you say this is exactly what needs to be done, because at the end of the day what we are struggling against with these committees, these interviews, is the fact that Trinidad needs to relinquish some of the powers with respect to services for which Tobago depends critically, and this is where relinquishing that element of the inter-island ferry service out of the Port Authority is an immediate solution to this problem.

Mr. Khan: Well, while we do not have subpoena powers on this Committee, I can guarantee you that the Government is listening. [*Laughter*]

Mrs. Birchwood-James: I just want to say this to the Chairman and the committee members. The position that we have put forward here, even in our paper, is from a wide cross-section of Tobago, not just our hoteliers or our association alone. People saw us in front of the Joint Select Committee and made recommendations, and so on to us. Thank you.

Mr. Mark: Thank you, Mr. Chairman, and good morning to the members of the Tobago Hotel and Tourism Association. Since our last meeting in Tobago could you advise this JSC, or committee, how many more businesses have closed down? Whether it is in the restaurant sector; whether it is in the hotel sector, how many workers have been put on the breadline or have things remained steady and stable since our last meeting?

Mr. James: The best way to answer this is, things have remained steady in the hope that we have a meeting soon with the Bankers Association and I believe that we have seen further cutbacks in hours of work. We have seen no further closures. It is really going to start biting in the next couple of weeks to some of these people because we do not have that money that we would have made in July and August. So I do believe there is a hold-off to some extent. We need to make sure that we are talking with the bankers as soon as possible to make sure there are no more closures.

Mr. Mark: Could you indicate to this Committee whether the Government, through the Minister of Finance, the Minister of Tourism, the Minister of Works and Transport as examples, and the Prime Minister, have reached out, have held any discussions with your association with a view to addressing some of the financial stresses that your association is experiencing through the slowdown in

tourism activity and the demands that are being made by the banks for payments that remain outstanding? Has the Government, through these various ministerial persons, reached out to your association?

Mr. James: We have had no direct reaching out. We did meet. We went to the Prime Minister's meeting whilst he was in Tobago and we have seen in the press that consideration is being given to the tax amnesty that we have requested, and also we requested that we would wish to meet with the banks and if anything could be done with the banks, and I am assuming that is why the Bankers Association is coming to see us.

Mr. Mark: Are you aware of an agreement which was arrived at on the 5th of March, 2013 between the Trinidad and Tobago Tourism Business Development Limited and a number of financial institutions, including Republic Bank, RBC, Scotiabank and the First Citizens Bank with a view to providing, I would imagine, various stakeholders with easier access to loans for developmental purposes of your businesses in Tobago, and whether this memorandum of understanding or this memorandum of an agreement is still in force, as far as you are aware?

Mr. James: The discussion for that document—I just have to go back briefly to make it clear what happened. Because of the land licence issue which I mentioned last time—and it is in the report—was introduced in 2007, and was not available till October 2010, property prices dropped 30 per cent in Tobago. Therefore the equity that people had in their properties has devalued. We then had a problem that we had no foreign direct investment because it was taking 18 months to get a licence. It is supposed to take 20 days, according to the Act; it has been taking 18 months on average. Therefore, we thought the best solution to rebuild the confidence of the industry—and there are several reports written about this at the time—what we find, in talking to—when we went to investment conferences there

was no interest in investing in Tobago.

There were 12 projects that were stopped by the land licence that would have provided close to 1,000 rooms. Many people were damaged and lost money. Therefore, we thought the best thing to do, because it is done in other countries, is to have this Government Loan Guarantee which is what you are talking about. The problem with the implementation of that Government Loan Guarantee, first of all, the banks took a very long time to discuss it and be part of it, and then they restricted the term of repayment to seven years, and the interest rate—I cannot remember what the interest rate was but it was too high. Therefore, people that had a 10- or 12-year loan, 15-year loan, were being asked to reduce that loan term to seven years, which would not make this work. This seem to be not only the opinion of the hotel association but other associations because the chamber was very heavily involved with us in this document. We were never confident that this was being received seriously.

The fund was actually supposed to have \$250 million in it and the only money that was drawn down was \$60 million and it was lodged in Eximbank. As I mentioned earlier, I met with Eximbank the other day because we are discussing this again. There were other queries made but it was never the intent—it never felt that there was an intention to implement this and carry this forward, and it was what was needed to get us up to standard.

Ms. Trotman: If I can add to what my colleague just said. Whereas it is a possible solution as an instrument, its implementation and the nature of it, how it was executed, meant that it could never work. This was supposed to be of a developmental focus. How then can a commercial entity truly execute something that is developmental in nature? That is not the essence of a commercial bank. So it needed to have, since it is developmental in its approach, it should have been in

an appropriate financing vehicle. That is development and can therefore look at the terms and conditions that would suit the industry: lower interest; the longer repayment terms, so that it could be possible for us to make those terms. So it is a good idea. We want to revisit it, but we feel that the financing vehicle needs to be different and that is why we mentioned in our proposal the whole concept of looking at the Marshall plan in terms of creating a framework for development, if we are going back to Tobago as an economic region in Trinidad and Tobago.

How do we approach getting that done? There are lessons to be learnt. If Trinidad and Tobago needs to be successful in these trying times where our oil reserves and the earnings we can get from that is challenged now on the world scene. We need to take a different and a more deliberate approach to how we have these programmes executed, not normally in the same old traditional way. We have to use different hybrids, different innovations. We may need to even create something that just works for us. It may not have been used before, but given what our profile and our peculiarities are, we may need to create something that just works for us, and start a different precedent.

Mr. Mark: May I ask, through the Chairman, is the Memorandum of Agreement dead?

Mr. James: No, it is still active. It is not dead. I cannot really call it active. It is not dead, but I am hoping that the conversation with the Bankers Association may give it life.

Mrs. Birchwood-James: Chairman and Mr. Mark, we have enquired as to the status of this fund but we have not received any answers at this time. We have currently asked for that. But to elaborate on what Mr. James and Ms. Trotman said concerning the fund, we thought about—and this is one of the presentations that we had made when this fund was established, that we would have something like

the DOMA Fund that was established after the 1990 coup when it was established for DOMA in Port of Spain where the businesses rose from the ashes. And we felt that—and this was a fund that was done through the Central Bank. And this is the presentation that we had made at that time, to do a fund like that; 3, 4, 5 per cent interest, with all the other reliefs and so on because, as Ms. Trotman said, this is development. We have lost all these guests. We need to rise and we need help and this is the kind of help.

The commercial rate at that time, 12 per cent; some went as far as 14 per cent. Now, imagine, you already owe the bank. They are already sending you those fancy letters and now you are going back to them to ask—yes, it is a state guarantee, but now you are coming with a state guarantee of 14 per cent and the like. It just could not work.

Mr. Mark: So could you indicate what measures your association intends to pursue to achieve and/or realize those objectives that you outlined—developmental, as my friend was indicating—getting maybe the Central Bank to have some back-room responsibility; reducing the rate of interest from 14 per cent to 5 per cent or thereabouts? What active measures are being pursued by the association to impress upon the powers that be that this is the route that we have to take to revive the industry to Tobago and the economy by extension?

Mr. James: We have to keep lobbying as we have been doing. We also have to, as I stated earlier, I think we need to have help because we are volunteers. We need help in collecting data to prove the return on investment of tourism. If we can actually prove the worth of tourism, I think we will get a better buy-in from people. We are looking forward to the meeting with the Bankers Association to see where that can lead us. But many, many countries have development banks, and if we can show the return on the investment, which I am confident we can, then all of

those questions will hopefully give confidence to the Finance Minister to support a tourism industry that we know can be supported and grow, and answer a lot of the problems that Tobago has.

We will continue to lobby. We have a wide cross-section of membership. We are a very large organization. And it is not understood the benefits and the wide-ranging nature of tourism, and until we can get—and I understand that because it is an oil and gas country and I used to work for British Gas. It is an oil and gas country that has not had to consider tourism like the other islands in the region. But it is interesting, this week I got calls yesterday because there were some statements that were made.

We know the problems that have happened in the region with the hurricane. We have offered our help to the different tour operators and travel agents. We have been working on this since last Wednesday, I think it is. We worked whole day yesterday explaining to the tour operators, travel agents, which the majority of us do our business with, and that may help us for this winter.

But, unfortunately, what is going to happen, when these countries rebuild, their standard and quality is going to be so much higher again than we are, and we learnt this with Grenada. When Grenada was hit with Ivan, we had a very good year, the year it was hit. We helped them out. We saved airlift. One of the things we have to do, you see, a lot of the airlift is shared and Grenada would have lost airlift if we had not stepped in and helped them. But when they rebuild and the quality is that much better, they then take the majority of the business and the higher prices.

So we have to look at this holistically and look at how we can create a development bank, understand the value that tourism really has and, as I said before, the added value that we have in Trinidad and Tobago because of the manufacturing input. And this is the argument and the lobby that we have to do,

and we hope we can be more successful this time than we have been in the past.

Mr. Mark: Mr. Chairman, I have two final questions.

Mrs. Birchwood-James: Mr. Mark—Ms. Cooke and Ms. Trotman just want to emphasize something.

Ms. Cooke: I need to address what Chris just said because I heard the Prime Minister in his statement indicated that, you know—his statement went, and his tone was like Tobago was not as forceful in its quest to seek the benefits that exist now in bringing persons, or bringing airlift to Tobago because of the hurricanes that are happening up the region.

But just as Chris said, it is clear that we have already reached out to operators and representative travel agents to ensure that we get some of that business and we reached out in such a way to look at the region as a whole so that the region is not looked at as an at-risk region in this hurricane season. So we can look at it holistically.

So the point I am making is that when the Prime Minister indicated that we talk a lot about the ferry fiasco to know that private sector in Tobago—even though he may not have heard it in the media—have actually reached out to tour operators and travel agents to see what assistance we can get in bringing some of those airlift to Tobago, because Tobago is one of those low-risk hurricane areas—we are in the lowest hurricane belt—and we have tapped into that by reaching out to these foreign agents to assist us.

12.10 p.m.

Ms. Trotman: And to add to what Ms. Cooke said, while we have done that, we recognize that the State needs to do its part in terms of destination marketing that joins that together because, yes, our hotels are available but how are they going to get here if they have to make two, three stops, and stop in Trinidad where the issue

of getting to Tobago is a problem, then we end up in the same situations. It is a collaborative effort that we as private sector need to do our part and we are doing that in terms of engaging the tour operators, but there also needs to be the other part of the destination marketing that enhances that. But I wanted also to go to what member Mark talked about what are we as the association actively doing as it relates to the fund.

I think over the years we have lobbied, we have gone to the bank, we have written to people. I think the fact that we are here today, we are taking this as our grandstand to say we need that tourism fund to be revisited and to open the discussions so now that the State—it cannot be left for us to negotiate with the bankers because, as I said, the commercial bank is not an appropriate vehicle. They are in the business of making money on interest. So then low interest loans are not their thing unless they are very humanitarian. We now need to reengage the discussion, and therefore, we are looking forward now whether it is the Minister of Finance, the Minister of Tourism, to now be meeting with private sector in going forward on that particular fund.

Mr. James: Can I add just one very quick question to that because it is very important. First of all, when we call in these agents, just to underline this point, the biggest complaint we get is that it is very difficult to sell a brand that is not known. It is very easy to sell a brand that is known, and when we found the tour operators whether they be in New York, Germany, Stockholm or London, they are all saying to us Tobago is a hard sell; nobody knows the destination. We can do our part in marketing our hotels and guest houses and restaurants but it is expected generally that the Government, whether it is central government or THA, do the destination marketing of Tobago. We have to have that to make this an easier sell. And just one very final quick point.

Back in the year 2000 we had 53,000 international tourism arrivals, when that dropped down to 46,000 we thought we had a crisis. Let me remind you last year we had 19, 1-9 thousand—19,000 international arrivals. Out of that crisis in 2000 that we had, the then Prime Minister formed a standing committee on tourism and we created a three-year rolling plan. This three-year rolling plan which started in 2002, took us to the 88,000 arrivals in 2005. This had involvement in everybody, the banks; everybody was involved and bought into this document. What I am reading from the banks is if they have something similar to this, they will hold off. If the Government can help us—and this was Government rep. This was TDC. This was Dr. Colin Noel and CARIRI who were the providers of this, and Patrick Manning was the chairman of the standing committee. It was held in Tobago on a monthly basis.

This gave the banks confidence that something was going to happen in tourism and held off all the problems that we had. So this is what we need to do again. We need to do a three-year rolling plan to build tourism back up to where it was and we have all the evidence to prove that. And in the previous JSC meeting that we did, back in April, a lot of solutions we came with in the April meeting, where THA and ourselves were asked to appear, are in this document. Nothing is new to what we were saying then. This may be good to refer to because it was Moody's on tourism. So I just wanted to share those two documents because it is critical that we get the buy-in from the general public, we need an education programme, we get the buy-in from banks and then we understand the value of tourism. This was a very detailed plan that got us up to 88,000 tourists in 2005. Thank you.

Mr. Chairman: Member De Freitas, you will bring us back to the question of ferries. *[Laughter]*

Mr. De Freitas: Yes. Thank you, Mr. Chairman. Good morning, De Freitas, member. Coming back to the question of the ferries I have been listening, and let me just thank you for some of the recommendations that you have put forward in relation to this issue, and I am just thinking in terms of the ideal situation being Tobago owning its own boat and operating its own bridge in conjunction with Trinidad owning its own boat and operating its own bridge, so much so that if one goes down there is always the other to fall back on, and therefore, it is not an Achilles heel situation that would occur. That is from the public sector standpoint. The question that I am asking is that there is obviously a demand heavily weighted on the Tobago side for use of that bridge, has nobody ever thought from a private sector standpoint operating that bridge? I ask this because I am aware that there is a company that leaves out of Chaguaramas that services Trinidad to Grenada. So obviously it is possible, if they can do that. So is there nobody in all of Trinidad and Tobago, on the planet, by way of venture capitalism that can set up a private sector bridge? And I will tell you why? Because as much as we have the port in Trinidad and the port in Tobago which is Government owned, and eventually a port in Toco which is Government owned, a private sector individual can then utilize those resources and pay the port to utilize those resources, to operate the private sector. Of course, a feasibility study would need to be done. In your dealings from the business standpoint have you ever heard that offer being put forward?

Mr. James: I have heard different offers. I think before we get to that and, as Mr. Khan said, we need to drill down more in some of these areas. The port infrastructure needs to be improved to actually do a lot of these things. There is no reason why we cannot have direct shipping to Tobago if we improve the port infrastructure, but that has to be all part of a growth plan. If we sit down and

create another rolling plan, a growth plan, then you will interest private investors into doing all sorts of things, not just the ferry, and you will have other viable options for the ferry as we have discussed. There are areas where you can do—and I know there was a southern cruise ship initiative that was talked about. All of those things can be considered once we have the proper infrastructure and a plan to actually achieve it. So I think it is possible and I think we can—in the future if we have the plan you will attract the investors.

Ms. Trotman: And if I am to add to what Chris says, I am not sure what is the legal scope that the current system allows for the private operation of such, and those may be some of the things we need to look at so that that infrastructure and the environment for a private operator to do such could exist. I am not sure it allows for, at this point in time. So hence that special purpose vehicle would embrace and look all of those possibilities because then that now becomes part of the whole process of the economic development, creating the room for another class of entrepreneurship to arise.

Dr. Francis: I wanted to ask that same thing. I was wondering the same thing.

Mr. Mark: Thank you, Mr. Chairman. You mentioned earlier on the whole issue of licensing to foreign investors because of the appropriate legislation that has been in existence. Could you share with us what the association is doing, or has been doing, to bring about a greater level of efficiency in the delivery of these licenses? Because you were saying in the legislation it is supposed to be 20 days, but it takes two years and that is, in fact, having a debilitating impact on that foreign element as it relates to investment opportunities within the Tobago economy. So I wanted to ask you what steps or measures have the association taken to deal with the powers that be and all the major stakeholders to ensure that the Act is effected in the way that the drafters of the legislation intended so that that issue could be

addressed?

Mr. James: Within the document we have asked for a review, but what we have done over the years that is being implemented along with the Chamber of Commerce in Tobago. In our opinion it was never needed. There was never a need for a land license regime. It actually did a lot of damage to us, internationally. Secondly, we then went along a line of creating what they call DDAs—designated development areas. There were several reports. There was actually a report called the Neil Wilson Report which has a whole host of incentives that we wanted to introduce. The reason the designated development areas did not work is because the total lack of confidence, again, that we are serious about tourism. Until we show that we are serious about tourism, we are not going to get the investment. The land licence hurts so many people, hurt 12 projects; that rebuilding that confidence is going to take a while.

It hurts us because as we are in the business—we got people in our association that have been in the business for 50 years and they give us advice. Where every day we get a thing called the Caribbean Journal and everyday there is a new hotel, a new investment on a different island. Tobago is not receiving that investment purely because we do not have a proper plan of structuring a tourism development for an island. That is what we have to do. We have to sit down and all the things Mr. De Freitas said, we can sit down and look at how all of these things—because money is in the region. I told you 13 million people came to this region last year—13 million people.

Trinidad and Tobago got about two and a half or something per cent of those people. This is tremendous money we are turning around at a time when the economy needs money, foreign exchange, and if we can put a plan together, sit down—this plan only took—the three-year rolling plan took six weeks. We sat

down and put an initial plan together within six weeks. We can build on that plan. There are many ways you can restrict investment in areas you do not want. We did not believe you needed a licensed plan. The licence is a deterrent.

Other islands have it and it has worked very well because most of them do it in 15 days, 20 days. I do not want to get into trouble, it is 18 months is the average—18 months is the average. But if you got money to invest you are not going to wait 18 months to invest it. You will walk away and that is what we have had time and time again. We have had many investments—the site that Sandals is proposed to go on. We have had many investments. At one time there were two hotels that wanted to go on that site, people walked away. The Tobago Plantations site was never completed because foreign sales stopped. Those foreign sales, or those village sales, were actually filling the front of the aircraft because those people would come time and time again. They were actually sustaining airlift but because of our room stock we could not sustain. So it all has to do with a plan.

Ms. Trotman: Member Mark, if I am to go to what you were saying, what we are actively doing. The ease of doing business in Trinidad, and more so in Tobago, is horrible. So you would write documents, you would write letters and we do not know where those letters or documents would end up. So it is not that you are not engaging in talking or making your voice heard. That is why sometimes the only reprieve we may have may be going in the press because it seems when you go through the channel it gets blocked somewhere, so it can go so far and no further. So I would give that to what we are doing. With regard to the land licence, the ease of doing business and getting your voice heard through the system, there seems to be a lot of noise.

Mr. Mark: The issue of procurement and the ferry service, could you indicate to this Committee whether an undertaking was given to involve the hotel association

and other stakeholders in Tobago, that because of the importance of the sea bridge and because of the recent debacle that we have experienced, that henceforth there will be an engagement, an involvement of stakeholders including your association in the tendering process for the acquisition of new vessels. Today is the last day for persons who are interested in bidding for a new vessel, via tender, in the newspapers through the Port Authority. Could you tell this Committee whether at your various meetings with the Minister of Works and Transport, the hon. Rohan Sinanan, and the hon. Prime Minister, that any undertakings or commitments were given to the stakeholders of Tobago to be involved in the tendering process, meaning, that if you are going to put out for a vessel, the kind of specifications that you would need in that sea bridge for that kind of vessel to ensure that we have the adequacy needed. Could you indicate whether there were any undertakings, any assurances, any commitment given?

Mrs. Birchwood-James: Sen. Mark, we will have to say no. Nowhere indicators were given to us that we would be part of the process. Mind you, we have lobbied for it and we never had any objections, but we have never had any indicators. The indicators are to be directors on the port board as well as Caribbean Airlines, to increase the directors and add more presence, Tobago presence, but the procurement as well as the tendering, nobody has approached our association to be part of that. Mind you, this is one of our recommendations to be part of the procurement process.

Ms. Trotman: We know that the Chamber has before been engaged in such and have provided specifications as to what the Tobago need is for, both cargo and ferry vessels. So we know they have done that. We are hoping that they would have taken that into consideration as they went out so that they would not have needed to come back. But as Mrs. James said, no one has approached this

particular association.

Mr. Chairman: I would now invite you all to make any closing remarks if you care to.

Mrs. Birchwood-James: Thank you, Chairman. On behalf of my team members, the people of Tobago and all who do business with the ferry, we thank you for this opportunity. After four days of testimony, we are given no indication of how and when this crisis—because we are still in it—will end. What have we heard from the days of testimony? Bay Ferries maintenance contract was cancelled and millions of dollars was saved, and we ask and our members ask: to whose benefit? Next, it was replaced by Magellan with no maintenance component. There lies the problems with the ferry, this morning the ferry cannot move. *Galicia* departed with no replacement, conflicting testimony from all parties involved; evidence of many episodes of bad corporate governance. Public servants, past and present Ministers in questioning want to be politically correct and clean; no real answers. We are yet to hear words to the effect that they have Tobago and Tobagonians' best interest at heart.

At this point, we thank the Prime Minister for his apology on Monday at the JSC siting. As we look to the future, we refer to the last Joint Select Committee Report on the THA. The dependency of Tobago on Trinidad, which has put us in this, what many would call in Tobago, a hostage situation, must end now. The solutions presented, if adopted, will fundamentally change Tobago's interaction with the outside world. It will eradicate the isolation as we open for business and meaningfully participate in the growth of the economy of Trinidad and Tobago. We again sincerely thank you, Mr. Chairman, members of the Committee, for the opportunity to hear our views, the views of the people of Tobago.

We thank you very much, Mr. Chairman.

Mr. Chairman: Is there any other member who wishes to say something?

Mr. James: Thank you, but we are okay.

Mrs. Birchwood-James: Thank you, Mr. Chairman.

Mr. Chairman: Okay. We would suspend until one o'clock at which point in the time, Mr. Reginald Dumas, former head of the public service, will be appearing before the Committee. Again, thank you all for your contribution this morning and in the past, and we hope that at the end of our deliberations we will be able to point to the way forward. Thank you. This hearing is now suspended.

12.30 p.m.: *Meeting suspended.*

1.05 p.m.: *Meeting resumed.*

OTHER STAKEHOLDER

Mr. Reginald Dumas

Mr. Chairman: The 20th Meeting of the Joint Select Committee on Land and Physical Infrastructure is hereby resumed. The purpose of this enquiry is, of course:

- to understand the current state of the ferry service in Trinidad and Tobago;
- to examine the policies and procedures used to acquire ferries and to ensure that value for money is obtained;
- to determine whether due diligence governed the conduct of all aspects of the maintenance and management of the provision of the sea bridge service; and
- to determine the changes and challenges with respect to the maintenance of ferries.

All of this, of course, against the background of the procurement and maintenance services of ferries. Welcome and good afternoon to you, Sir, Mr. Reginald Dumas.

Mr. Dumas: Thank you very much.

[Members of the Committee introduce themselves]

Mr. Chairman: Members are reminded to have their phones switched off or on vibrate or silent, and to deactivate their microphones when they are finished speaking. Welcome again, Mr. Dumas.

Mr. Dumas: Thank you very much.

Mr. Chairman: Do you care to make an opening statement?

Mr. Dumas: Yes, thank you very much, Mr. Chairman, and good afternoon to you and to the members, and to the staff. I should like to thank you, Mr. Chairman and, through you, all the members of the Committee for having been so good as to invite me to offer some thoughts on the sea bridge and some related issues.

I have already submitted a document to the Committee and I shall therefore not waste any time by reading it out now. However, for the benefit of others present, or viewing these proceedings, I shall mention the nine main points in the document.

1. procurement procedures;
2. callousness on the part of those charged with procuring a passenger ferry;
3. licensing of the *Cabo Star*;
4. the public shortcomings of the Port Authority;
5. the legal responsibility of the Minister of Works and Transport;
6. the Tobago hospitality industry;
7. foreign investment in Tobago;
8. the refusal of the Tobago House of Assembly to appear before this Committee;
9. the views of ordinary residents of Tobago on the sea bridge difficulties.

I now await your questions and comments. Thank you.

Mr. Chairman: Members?

Mr. Mark: Yes, good afternoon, Mr. Reginald Dumas. As a distinguished citizen of the Republic of T&T, the first question I would like to ask on the issue of procurement is, do you believe that from your own assessment and evaluation of the procurement process involving the acquisition of both the *Cabo Star* and the *Ocean Flower*, would you want to share with us whether, from your perspective, sufficient due diligence would have been exercised by those with whom responsibility laid?

Mr. Dumas: Thank you, member. In my view, on the basis of what I have heard and read, the answer would be no, I do not think that sufficient due diligence was exercised.

Mr. Mark: Would you want to share with this Committee as to why you would make that statement? Could you elaborate for us?

Mr. Dumas: In my experience—and I speak as someone who has been in the foreign service and who has also been head of the public service, which includes the foreign service—if a firm offers to come into Trinidad and Tobago to do whatever, it may be a housing company, it may be a manufacturing company or some kind or other, one of the first things you do is an assessment of this company. Now, obviously Trinidad and Tobago with limited resources does not have the ability to go to country X and country Y to do assessments of company X or Y, but there are business firms, business service firms/companies that do such assessments, one of which is a well-known company called Dun & Bradstreet, and I have had, in my public service career, the opportunity and reason to use Dun & Bradstreet to check on company A or company Y that has offered to come into Trinidad and Tobago for whatever reason.

We contracted a firm called Bridgemans out of Vancouver, fine, but the Dun & Bradstreet report on Bridgemans indicates that there were severe shortcomings. I have a copy of the report here myself and I have to say that if such a report had been put before me I would not have chosen Bridgemans to provide these services, but I do not know whether Dun & Bradstreet, or any such company was approached. If Dun & Bradstreet had been approached and this report arrived before the management and the board of the port, then I find it impossible to understand how Bridgemans could have been chosen, but it is possible that no check was done. I do not know. I cannot say. Only the port management and the Port Authority board can say. I cannot say. All I can say is that such a check should have been done, and if that check shows, and if it was done it would have shown that Bridgemans was in the sort of financial and other situation that it appears to be, then that company should not have been chosen.

Mr. Mark: You said in your opening remarks that the Minister of Works and Transport had a legal responsibility; for what? Could you elaborate for us, when you talk about a legal responsibility?

Mr. Dumas: The Port Authority Act says at section 15(1):

“The President may from time to time give the Authority”—that is the Port Authority—“directions of a special or general character on the policy to be followed in the exercise of the powers conferred and the duties imposed on the Authority by or under this Act in relation to matters that appear to the President to affect the public interests.”

And 15(2) says:

“The Authority shall, as soon as practicable, give effect to all directions issued pursuant to subsection (1).”—which I have just read.

Now subsection (1) says the President, but it would be unwise for any President of

Trinidad and Tobago—given the present Constitution of Trinidad and Tobago where we have a non-executive President, it would be most unwise for any President to assume that he or she can go to the port and give instructions on what to do and what not to do because that power is circumscribed by what appears in section 80(1) of the Constitution which states in part:

“In the exercise of his functions under this Constitution or any other law”—which would include the Port Authority Act—“the President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except in cases where other provision is made by this Constitution or such other law...”

For instance, where the President can appoint members of the Public Service Commission or the Integrity Commission in his own discretion. So that the “President” here, under section 15(1) of the Port Authority Act, in effect means “the Cabinet or a Minister acting under the general authority of the Cabinet”. That is what I mean by the legal authority of the Minister of Works and Transport.

Mr. Mark: You are also on public record and you can clarify for us if that is so, because, you know, the newspapers can mislead the population at times, or we can be misled. Could you, based on what you have just said, indicate whether you, because of your assessment and evaluation of this procurement process, called publicly for both the resignation of the Minister of Works and Transport as well as the entire board of the Port Authority, which is the commissioners; and why, if that statement is true on the public record you, would have done so?

Mr. Dumas: I have indeed called for the resignation of the Minister of Works and Transport and of the board, which is really the authority under the, to use the correct word in the Act, let us say “the Board”. I have indeed called for their resignations because I did not need investigations carried out by Mr. Mouttet, or

the Integrity Commission, or this Committee, to indicate to me that there was a severe deficit where due diligence was concerned. In fact, it seemed to me an undue lack of diligence and where callousness was concerned with regard to the welfare of the people of Trinidad and Tobago, with particular reference to the people of Tobago who depend heavily on the sea bridge.

The Minister announced at one stage that he had cancelled the contract for the *Ocean Flower* which I understand, and I agree with Mr. Paray, I too have heard that it is now docked in Chaguaramas. I do not know what it is doing here, but that is a matter for others to answer. He had cancelled the contract, but this contract was cancelled in the full knowledge of the fact that there was no replacement vessel, and that the one other passenger ferry that was operating was in fact limping.

The point has been made also by the Minister of Works and Transport that the ferry is now being underutilized and there is spare capacity. Of course, there is spare capacity. People are afraid to travel by the ferry, and you heard this morning that the ferry did not leave Tobago. I have a ticket to travel which I have had since May. I was booked to travel from Tobago to Trinidad in late May and return in early June. I still have the ticket. I am afraid to go to the port because I have had the experience of going to the port, waiting for hours, from half past four in the morning, and then being told at 2.30 in the afternoon that I could not travel, and these are not good experiences for people to have to go through.

So, not only is it that this is outside the vacation period where perhaps not as many people travel anyway because we are now in September, but also people have been afraid to travel, and given what I have seen, and what it indicates, I am persuaded fully, is a lack of due diligence on the part of the port; and the callousness displayed by those who are responsible for the acquisition of the ferry, I had no

hesitation in calling for the resignation of the Minister, who under the Act is responsible as Minister for giving directions, and of the board. And if I may say so, I take the opportunity of calling again, now, for their resignations.

Mr. Mark: Mr. Chairman, if I may ask one more question? Mr. Dumas, like you, I as a member of this Committee was apprised a short while ago of the arrival of the *Ocean Flower 2*. Mr. Chairman, I have in my possession a letter which I want to read and ask Mr. Dumas to possibly give his comment on. This letter is dated the 8th of September, 2017. It comes from a company called Ken Shipping and Marine Services Limited, address Freeport Central, Trinidad, West Indies. It is addressed to the officer in charge of the Immigration Boarding Station, Port of Spain. It reads:

Dear Sir/Madam

Notice of Arrival: *MV Ocean Flower 2*

We, Ken Shipping and Marine Services Limited, agents for the subject vessel, wish to advise that *MV Ocean Flower 2* is expected to arrive in Trinidad and Tobago on the 12th of September, 2017 at 0930 hours/1000 hours.

So it is between 9.30 and 10.00 this morning.

The vessel is arriving in Chaguaramas for dry docking. The boarding representative for the agency is Mr. Sheldon Poonsammy that will be boarding and entering the vessel into Chaguaramas.

Your kind service is therefore requested to board and clear in this vessel into Trinidad and Tobago for repairs. We will also be requesting a rummage once the dry dock has advised on the day of the docking. The last port of call is Curaçao, the number of crew including the captain is 13 and the captain's name is Allan Koitnae.

Again, my best regards

Yours faithfully

Lester Kenny

He is apparently the owner of this company.

I want to ask you, what would be your interpretation of this letter, particularly in light of the fact that the public was told that that vessel and the arrangement, because of their late arrival, was cancelled, and what would be your interpretation of the arrival in the context of an irrevocable letter of credit which I understand amounts to some US \$8 million? Could you share with us from your experience, and what you have just shared with us, and what I have just read to consolidate what you have tendered, what would be your interpretation and submission on this development for the taxpayers and people of the Republic of Trinidad and Tobago?

Mr. Dumas: Well Senator, I can only speculate. If the contract was cancelled and this was announced in early August, the contract for the *Ocean Flower* was cancelled and the *Ocean Flower* turns up in September in Trinidad and Tobago, it could be perfectly innocent, it may have come for dry docking. It has had a long route after all, it came out of Japan or Korea rather, it then went to Japan, it then went to Alaska—because I was following it, as you can, on the website. There are a number of these websites that you can follow the movement of boats. It went to Alaska, to a couple of places in Alaska actually, then it went to Mexico where it spent a little time, then it got to Panama, then it got to Curaçao. The poor boat is tired. It needs to be dry docked. You can take that view, that there are parts that need to be replaced or repaired, or whatever, but one could take another view and you mentioned an irrevocable letter of credit. The other view is that—and this is for others to answer because I can only speculate.

The other view would be that the irrevocable letter of credit has legal force

despite what was announced about the cancellation, and that the legal implications, coupled with the fact that you have only one limping ferry at the moment, might have caused a change of heart on the part of those responsible, and that we will be seeing the *Ocean Flower* operating between Trinidad and Tobago in the not too distant future. But as I say, all I can do is speculate. I do not know. We will have to have a statement from the relevant people, that is to say from Mr. Kenny who apparently is the agent, as to if there is more to this appearance of the boat than dry docking, and the Minister responsible may also wish to issue a statement, but I think all we can do now is speculate.

Mr. Paray: Thank you, Mr. Chairman. Thank you, Mr. Dumas. I know that you are not a material witness with specific reference to either maintenance or procurement in the whole process of these vessels, but what I do appreciate is your history in the public service, your experience over the years, and perhaps that prospective to me is what is important to this Committee because if we do not know where we came from we have a problem going forward. I have one or two questions which I know you are very cautious in your responses so far, but I want to ask a question and hopefully within two or three minutes you will get the gist of where I want to go. The first question I want to ask: in your view, is Trinidad and Tobago a society where corruption and allegations of corruption is endemic in this society? What is your take on that?

Mr. Dumas: Yes, and has been for decades.

Mr. Paray: Second question, Mr. Dumas. Following that, we have had institutions over the years built by successive Governments where there have been allegations of corruption, from the airport, to the Brian Lara stadium, to this very same building that we are sitting in, is that cause for the public not to utilize these facilities because of these allegations?

Mr. Dumas: I am not sure I follow. Was there a call from the—

Mr. Paray: No, there was no call. The Prime Minister made a few statements when he gave evidence before this Committee on Monday night and what was most apparent to me in his contribution with specific reference to the vessel that was servicing the route between Trinidad and Tobago over the last year and half or so. Although the data shows over 95 per cent operational uptime performance, the folks in Tobago would have spoken about the ease of the business for the last year and a half with that particular vessel, one got the view that the Prime Minister’s position was, look, this vessel, there is serious allegations of, as he put it, “a den of corruption and iniquity”, and I got the view that his position was that we ought not, “doh” matter how good this vessel is performing, we will not entertain any business with this vessel any more. I got that impression from his words, his verbatim.

So the question that I was trying to get at, if over the years, in the history of this country, institutions and buildings have been built and there have been allegations of corruption in all kind of things, was the Prime Minister’s position a sound one? Because we are using facilities that are littered with allegations of corruption. So his position was that “doh” matter what was in place with the *Galicia*, because of those allegations and documentation that he said he had, he was of the view that they will form no part of the business going forward. So that is what I wanted to get a comment from.

Mr. Dumas: I was looking at the session that you all had on Monday and my understanding of, or recollection of what the Prime Minister said, was that the port was—I do not know if he used the word “den”, but I think that is what he meant, “of corruption and iniquity”, the port, as distinct from a boat. Now, again this is not new. We have been hearing this for decades—bring back Ferdie Ferreira, he

will tell you—that the port has been known as a place where, if you want to make money fast, “yuh go and wok dey”. Overtime is given for work that is never done. I am talking about the allegations now. I am not making a charge because I have not done any investigation of the port, and indeed I think the Government has recently set up a committee to look at the port, headed by a gentleman, a former soldier, a retired member of the defence force, and some years ago there was, I think, a Public Accounts Committee report on the port operations. There have been many investigations of the port and we still continue in 2017, despite all of these investigations and all the recommendations, to say how corrupt the port is.

Now something has to be wrong with us as a people. Something has to be seriously wrong with us, that we spend so much time and energy—and I confess that I perhaps am one of those too—criticizing this, making recommendations on that, et cetera, et cetera, and the same thing continues. There was a poll just recently in the newspapers, I think it was the *Express*, and people were asked about corruption and a substantial majority indicated that they were sick and tired of corruption, and corruption was a major concern for them, et cetera, et cetera. So it is a major concern, but we continue to be corrupt. Something is not right. Maybe we all need to go to a good psychiatrist—I do not know—because there is a contradiction all the time.

If something is built or bought that involves corruption, or is said to have involved corruption, you cannot just say I am not going to use it because it involved corruption because virtually everything that we say in this place we can find a reason to say “involved corruption”, in which case we would not be using anything.

Mr. Paray: And that is the point that I was trying to probably get a clarity on to make sure that I am not misguided in terms of my position which you shared

clearly. I want to talk briefly on the Dun & Bradstreet Report because during testimony given by one of the commissioners I had raised that question on whether the data that was presented in the Dun & Bradstreet Report—which I am absolutely familiar with as a businessman—whether that data was sufficient enough to give the rating to Bridgemans on the tender evaluations, and what I was told was that according to the Tenders Committee Rules all they required from that Dun & Bradstreet Report was a position that the business has no liens and judgments against them, and my proposition was as a tender evaluations committee would not the fact that everything else in that document was blank should that not have given the people who are evaluating a heads-up that something may be off here. So the question that I want to ask is: should these committees have the, I do not know if you want to use the word “power” but the ability to use more discretion in terms of how do we accept data when it is provided in a lump sum? Although we only require a little piece, but the balance ought to guide us in a particular way.

And before you respond, I have a document here that is dated June 16th, 2017, from the Port Authority to the acting Permanent Secretary, Ms. Dhanmattee Ramdath, where they have inserted the Cabinet Notes and all the necessary paperwork for her to take through the Ministry to Cabinet and so on, but what is instructive is that Ms. Charmaine Lewis, who is the Port Authority Chairman, in her last paragraph—*[Interruption]*

Mr. Mark: CEO.

Mr. Paray: Sorry, the CEO of the Port Authority. That is correction—she gives a paragraph, and if I could just read it for the record:

In addition to the above-mentioned submission, the management of the Port Authority is also including the Dun & Bradstreet Report on Bridgemans

Services Group Limited for the review of the Ministry of Works and Transport.

So clearly to me Ms. Lewis, in understanding her role she says, “Well, look, the Port Authority board has sent us this, I have to forward it to you, but I want you to pay attention to the Dun & Bradstreet Report before you take these things to Cabinet”. And then the Prime Minister says in his evidence that because of the critical nature and the urgent nature, everybody busy, busy, sign off. Even Dhanmattee, Ms. Ramdath, she challenged the Minister in her writings that, “Listen, I am not too sure about this”, and then she was persuaded to sign these things off, but you have Ms. Lewis saying, “Aye, read this report”. So my question is that you have asked that the Minister and the port should offer their resignations, but what about the people below them? You know you have your Permanent Secretaries, people in the Attorney General’s Office, independent counsels, nobody saw this as a red flag before they advised the hon. Prime Minister to sign off on this thing. So in terms of your experience, is this the behaviour that has permeated the public service over the years, sir?

Mr. Dumas: To an extent, yes, I am sorry to say. But let me start with your question about the Dun & Bradstreet Report and the statement that all they were interested in is seeing whether there was any lien on the company. If that was said, I have to say that from my own public service experience that is an absurd statement to make.

Let me give you an example from my own experience as a public servant. When I was Permanent Secretary to the Prime Minister—this was ANR Robinson—it came to my notice that a particular Cabinet Minister was very interested in having a particular project which involved a foreign company, and he was constantly calling the Prime Minister’s Office—and he would call me too—about this project

that he wanted to bring this company in because, you know, this company was an excellent company, an American company, to do this project. So I decided I would do a Dun & Bradstreet report or check, and I got in touch with our embassy in Washington which at the time, certainly probably still does, had a subscription to Dun & Bradstreet.

1.45 p.m.

And I said, could you check this company out for me please. The report came back a couple of weeks later; there was no lien on the company. But here was a company that had a total capital of \$5,000, US dollars admittedly, but \$5,000. This involved a housing project and the company had never built a house.

Now, using the argument that you—or the criterion that you put before me there, that since there was no lien on the company, one could say to the company, go ahead. That would have struck me then as absurd and it strikes me now as absurd. And so what I did simply was go to the Prime Minister with the documents and say, “Your Minister is, I think, straying off the beaten track and he might pull your Government with it. You have to deal with the Minister, not I, because is your Minister, you put him in the Cabinet. I am to advise you and I advise you, as Prime Minister, stop this thing at once because clearly something else is involved and you and I know what else is involved”, and that was that.

Where public servants are concerned, they frequently receive instructions from Ministers, usually oral instructions, when the Minister knows—and he knows that the Permanent Secretary knows—the instruction is not a valid one. There are Ministers in this room or people who have been and I am sure that neither of them have done anything of the kind, but there have been Ministers who will tell the Permanent Secretary to do something, and what the Permanent Secretary should do, at that point, knowing that what has been said to him or her is not good, is not

in the best interest of Trinidad and Tobago, is to say, “Minister, would you please put that in writing?” [*Interruption*] At least one Minister agrees with me. And that generally stops the thing in its tracks. It has happened to me too.

Again, I speak from personal experience where a Cabinet Minister has said to his Permanent Secretary, get in touch with Dumas and tell him to do such and such, and the Permanent Secretary calls me and said “the Minister say”. I said but you know that that is not correct. “Why you calling me?” What kind of Permanent Secretary are you? To call me as head of the public service to say your Minister say I should do something that you know is wrong? You tell the Minister for me, Dumas say “he ent doing it” and he will do what he knows to be the correct thing and if he has a problem with that reply, he could take it up with the Prime Minister. End of story.

Dr. Francis: Mr. Dumas, Good afternoon.

Mr. Dumas: Good afternoon, Minister. Member, sorry, not Minister.

Dr. Francis: Many hats. Just a point of clarification, I listened with intent to the Prime Minister on Monday and I am quite sure that he stated that the non-renewal of the *Galicia* had nothing to do with his personal qualms about corruption but had to do with his feeling that the State was being strong-armed into an untenable arrangement. That was the reason he provided, so just to clarify in reference to the question of the Vice-Chair.

Mr. Dumas, the Prime Minister proffered an apology to Tobagonians for this entire scenario. As a Tobagonian yourself, do you accept that apology?

Mr. Dumas: Well, look at that. [*Laughter*] I am sure—I am perfectly sure, I know the Prime Minister. I have known him for years and I am perfectly sure that his apology was genuine and as a Tobagonian, I accept the apology. I am sure there are lots of Tobagonians also who accept the apology. I may, however, add

that the Prime Minister also said on Monday that, you know, there were people sending photographs of empty supermarket shelves and this kind of thing and that did not go down particularly well with a lot of Tobagonians.

Dr. Francis: I can accept that.

Mr. Dumas: Okay.

Dr. Francis: Mr. Dumas, he underpinned his apology with the explanation that sometimes, at least in reference to the cargo issue, not so much the passenger issue, that at times, the State is forced to make the right decision and that there might be some negative fallout from it. Do you accept that underpinning?

Mr. Dumas: Yes, yes, I mean a Government cannot please everybody. That is simply not possible. There are things that have to be done. Not even a Permanent Secretary can please everybody, let alone [*Laughter*] a Government. There are things that have to be done. It happens all the time. It happens in families, it happens in offices and so on. Decisions have to be taken that are going to offend certain people, are going to upset certain people, but if the decision can be seen and shown to be in the best interest of the overall body, in this case, Trinidad and Tobago. Because I have spent enough time representing Trinidad and Tobago to have it burnt into my DNA that the most important thing here is the welfare of Trinidad and Tobago at all times. If it can be shown that the decision taken—however badly it may affect some people—is in the best interest of the country, then and—if one can sit down and say, listen, I know that this affects you badly but I had to do this because so and so, then people will grumble, yes, but they will eventually accept.

Dr. Francis: Now, the fundamental question. It is my contention that this exercise must not be a talk shop. Since I have been a child, I have been looking at procedures like these where people like yourself come and talk and you have a lot

of interesting and important things to say, and that as you said already this afternoon, nothing happens. It is not for me to discount the hurt suffered by Tobagonians; that would be callous and also stupid. But it is my contention from the evidence that I have heard for the last two weeks that the issues with the ferry are a subset of the larger problem which is a malfunctioning port. Would you agree?

Mr. Dumas: It is not only the port.

Dr. Francis: Well, I do not want to go into the societal-wide issue because then we—

Mr. Dumas: Yeah, but we have to. We do not have to go into any detail now but the broader issue is the society, and in this particular case, the relationship between Trinidad and Tobago. We have to sort this out. It is not only a constitutional relationship, it is also to a large extent, as a matter of fact, a psychological relationship.

Dr. Francis: It is. A cultural relationship.

Mr. Dumas: How each side views the other. A Tobagonian or many Tobagonians will say, “they eh like we in Trinidad”. But a lot of Trinidadians say, “they eh like we in Tobago”.

Dr. Francis: After a hundred plus years, yes. [*Laughter*]

Mr. Dumas: So it is to a large extent a question of perception. Also a question of how people see things and how words are used and how they are interpreted. For instance, the word “ward” which was used this morning. People were thought in Trinidad, in schools in Trinidad, that Tobago is or was a ward of Trinidad. Now, the word “ward” suggests a ward of court. In other words, that Tobago is a dependent child whereas, in fact, it was the British, in their administrative arrangements when they joined the two islands together from January 01, 1899,

that made Tobago a ward, meaning an administrative district in the colony of Trinidad and Tobago. That is what ward means. And all this nonsense you hear about how Tobago dependent on Trinidad and “is ah ward” and so on is foolishness, but the point is that that is what is taught in schools in Trinidad as distinct from Tobago.

Dr. Francis: True. Here is my contention. I like the idea and then the execution of fixing things. That is why I got involved in politics, the intention of trying to fix things. It is impossible to try to fix everything at the same time.

Mr. Dumas: “Yuh cyah fix everything at the same time.” Not possible.

Dr. Francis: But we need to fix the port. And, short of potentially firing a board or firing a management which are procedural things that can be done. I want the CliffsNotes. And I have been asking a number of people this question and I have not yet gotten an answer that satisfies me, because I understand what culture is and how endemic it can be, and if corruption is cultural, then I could suggest removing a board and removing a management changes nothing.

Mr. Dumas: In essence, yes, I agree. I mean, you have to look at the structures.

Dr. Francis: We have a port that loses \$400 million a year and cannot provide effectively the services we require now and that has to be fixed in the shortest possible time. I am asking you as a public servant of great renown and experience, aside from the perhaps knee-jerk reaction and maybe rightfully so, of removing those who might be found to be culpable for this, how do we begin addressing this problem? At the end of the day, something fundamental must come out of this entire experience besides talk.

Mr. Dumas: You have to start by talking and you have to start by talking in a certain way. If you talk in a confrontational way, everything is going to backfire. You have to sit down and say: What are the issues? You can find someone who is

respected in the country, who is not involved in any of a—is not a person of the port, not a person—

Dr. Francis: Careful you volunteer yourself, Sir.

Mr. Dumas: No, no, no, no. I have my writing to do and I have my third volume of my recollections to do and if you do not mind, “ah” getting older [*Laughter*] and I have to finish them quickly. Otherwise, “yuh” never know. Someone to sit down. You are doing an investigation but you know quietly. You are not going in there with a view to—or giving the impression that you are going in there with a view to finding fault. You are going in there to get information. You are going in there to ask questions. What is wrong? Is anything wrong? If anything is wrong, what is wrong? How did it become wrong? What is to be done to fix it? A lot of these things will take a long, long time of course. You cannot just do things overnight, especially when you have an entrenched system in a particular area, and it will take time.

In these small societies like Trinidad and Tobago, we tend to spend too much time in confrontation, too much time pointing fingers, too much time blaming others for shortcomings, saying, as we do all the time in Trinidad, “I eh know what they doing nah”, as if we who are making these charges have no responsibilities at all. As if we do not live here; it is they who live here and it is their fault. So you have to have a couple of people, not any large team. Three, four people, no more, because too large is a waste of time and too small might put too much pressure on any one individual. Three, four people to talk.

Out of this Committee’s deliberations will come a report—I trust, Mr. Chairman—will come a report with recommendations presumably. These things have to be, not only put down in writing and submitted to the Parliament or made public or whatever, they have to be monitored as well because, again, we are not very good

at monitoring. We say we have done a report and we have made recommendations, and then the report just stays on a shelf. Look at the number of reports we have done on the port over the years and what has happened?

So it is like Caricom almost. Plenty reports. Ramphal did something, an excellent book, *Time for Action*. You know that? When he talked about having a monitoring mechanism to see that the decisions of the Caricom Heads were, in fact, implemented and carried out, et cetera, et cetera. Heads, including one who really surprised me and I am not going to mention his name. He said, “buh he cah tell us that”. “He”, Ramphal. But we are Heads of Government. If we wish to carry out the recommendations that we ourselves made, that is up to us and if we do not want to carry them out, “we ent carrying them out”. And then you say Caricom is in bad shape; of course, it is in bad shape.

Because in these small societies, that is what you get all the time—the top-down attitudes. The person on top is the power. I am a Minister; I am a Chief Secretary; I am a chairman of a board; I am an ambassador; I am a this and a that, and you are always looking down on the people below and kicking them down to make them stay down too. So it can be done but it will have to be done in a different way. You cannot merely have a report with recommendations. You have to have a report that people read; that a team that will go into the various areas in the port and elsewhere, talk to people, get their views, use their recommendations and involve them in the report.

Again, from my own experience, many years ago, when I was doing something on the public service, I had a small team going around to the various Ministries to speak to them. I appointed one person—two people, and the Chief Personnel Officer, also one, and I made sure that the Public Services Association was represented. I called the President at the time and I said, would you nominate

somebody for this team, and this team went around. Went to several Ministries, did reports, et cetera, which unfortunately, never saw the light of day because a certain event happened in 1990 that we all know about and everything fell apart.

Dr. Francis: Thank you, Sir.

Mr. Mark: First of all, two small points, Mr. Chair, through you, to Mr. Dumas. I just want to correct the records. I mentioned US \$8 million as the letter of credit, my information was wrong. It is US \$3 million, letter of credit issued by the First Citizens Bank, so I just wanted to correct the record here. I also wanted to ask you, given the importance of the sea bridge and the ferry service and the matter that is facing Tobago, you did mention the matter of the Tobago House of Assembly and its failure not to appear before the Joint Select Committee or not to accept the invitation issued by the Joint Select Committee on the grounds that central government is responsible, and not the THA, for air and sea transportation. You care to share with us your views on that particular matter?

Mr. Dumas: Well, in my submission to the Committee—thank you, member. In my submission to the Committee, I said I was astounded by the decision of the Tobago House of Assembly to decline to appear. I remain astounded because the ground that the Tobago House of Assembly gave was that the management of the airports and seaports of Trinidad and Tobago falls under the purview of the central government and its agents, the board of directors. Well, we have a Tobago House of Assembly Act and the Fifth Schedule of the Act is headed:

“Areas of Responsibility of the Assembly”

Responsibility, and there are a number of areas. Number 16 of which is:

“Infrastructure, including air and sea transportation, wharves and airports and public utilities;”

Now, it is true that that Fifth Schedule must be looked at together with section

25(1) of the Act which says:

“Without prejudice to section 75(1) of the Constitution, the Assembly shall, in relation to Tobago, be responsible for the formulation and implementation of policy in respect of the matters set out in the Fifth Schedule.”

—which would include air and sea transportation. And I suppose it could be argued that the Assembly does not have the total responsibility over this because it says “without prejudice to section 75(1)”, and section 75(1) of the Constitution says:

“There shall be a Cabinet for Trinidad and Tobago which...shall have the general direction and control of the government of Trinidad and Tobago and shall be collectively responsible therefor to Parliament.”

So that it would be legally correct, I think, to say that the areas of responsibility set out in the Fifth Schedule that the THA has in the THA Act are not unfettered, that they fall within the framework of section 75(1) which talks about the Cabinet having general direction and control of the Government.

Nonetheless, successive Chief Secretaries, from 1996 when the THA Act came into being—that is, first, Hochoy Charles, then Orville London—have made a virtue of talking about the powers of the Assembly under the Fifth Schedule. The same Fifth Schedule that has infrastructure, including air and sea transportation. So it is a little strange that in 2017, suddenly a new Chief Secretary says this is really a central government matter. If it is only a central government matter, what is it doing in the THA Act as an area of responsibility of the Tobago House of Assembly? It is not only that.

The Port Authority Act, that is section 8 speaks—8(1) speaks of the function of the Authority. Section 8(2) sets out some definitions because really the functions of the Authority are:

“to develop the harbours of Trinidad and Tobago...”

And:

“to operate port services in accordance with this Act;”

Serving those two functions. And:

“...operate the Government Shipping Service between Trinidad and Tobago...

...collect the dues and charges...

...generally to be responsible for the carrying out of this Act.”

And then they talk about the development of the harbours. And then in subsection (3) of that section 8, we read:

“Notwithstanding the provisions of subsection (2)(a), the Tobago House of Assembly is charged with the responsibility of constructing, maintaining and repairing storage and warehousing facilities at ports in Tobago.”

Now, if you are going to construct, maintain and repair, you have a management responsibility and this is specifically stated. Your powers here, of the Tobago House of Assembly, that power is specifically stated at section 8(3) of the Port Authority Act. How, therefore, could the legal advisor to the Chief Secretary of the Tobago House of Assembly write a letter saying that all of this falls under the purview of central government? I do not know but it strikes me as being worse than that.

If these matters here under the Fifth Schedule fall under the purview of the central government, then the THA has no responsibility for anything because you cannot single out one thing and says that is under the purview of the central government whereas the other things are for us. Everything must logically fall under the purview of the central government. Therefore, it seems to me that the Chief Secretary has made an excellent argument for the abolition of the Tobago House of

Assembly as at present constituted. Maybe that is his intention, I do not know, but that logically is what he is saying.

I find it odd also that he should have said that because on the 17th of May this year, the Chief Secretary gave a televised address to the residents of Tobago on a number of issues including the sea bridge:

You are aware—he said—that Tobago had been plagued by an unpredictable sea transport situation...

This is May this year, eh.

...which has unfortunately affected residents on the island. This was marked mainly by the transitioning from the previous ferry arrangement and the resulting interim arrangement as we...

Who are “we”?

—as we pursue a satisfactory and permanent solution.

But he cannot be speaking on behalf of the central government. Who are “we”?

The Assembly apologizes on behalf of the authorities for the inconvenience and hardships that we have all suffered.

But he cannot be speaking on behalf of the central government. Could he? And he ends that part by saying:

As your Chief Secretary, your concern has always been my concern. My focus is on finding an acceptable solution that is both predictable and reliable.

That is the Chief Secretary of the Tobago House of Assembly speaking in May. However, therefore, in September, is it a matter for the central government only? I do not understand. And in any case, Mr. Chairman, even if this was not in the law, even if there were nothing in the THA Act of 1996 or in the Port Authority Act, it strikes me that a Chief Secretary of the Tobago House of Assembly should have

appeared before this Committee to give the views of the people of Tobago.

You saw in my submission, which all of you have, that I consulted a number of people in Tobago. I called people in Charlotteville, I called people in Castara, I called people in Mason Hall, talked to people in Glamorgan, Scarborough and environs, et cetera: “Tell me if the sea bridge issue is affecting you and if so, how?” And I got a number of responses which I have summarized and put in the submission that you all have. How is it I could do that? Maybe I want to be Chief Secretary. Who knows. [*Laughter*] Maybe I should stop my memoirs and look elsewhere. Thank you.

Mr. Chairman: Mr. Dumas, in your gleanings throughout the years in public service, have you come across the transport board?

Mr. Dumas: No, I had no dealings with the transport board.

Mr. Chairman: So you are not familiar with—

Mr. Dumas: No, no. I mean, I know of it but that is about it.

Mr. Chairman: Okay, but you are unfamiliar with it? Its particular frame of reference?

Mr. Dumas: No, no.

Mr. Chairman: The other issue I wanted some clarification on relates to the whole question of due diligence and Dun & Bradstreet Report. Because what I find disturbing about that is that the various levels, the public servants concerned seem unwilling to say unequivocally, “Listen, I am disassociating myself with furtherance of this exercise because I consider the information that is inherent in that report to make doing business with this particular company totally reprehensible”, and I find at the various levels, nobody stood up and said, “Mr. Minister or Mr. Chairman, we ought not to go further with this”. Unless I am convinced otherwise, I feel that is dereliction of duty that they should have made a

clear and equivocal statement that we ought not to proceed with this firm given this information. I do not know if you share that view.

Mr. Dumas: I do. From all I have been hearing, Mr. Chairman, members, from all I have been hearing in the last few years, the public service, as I knew it, does not exist to the same extent in terms of backbone. My mentors in the public service were people like—names that perhaps you are not familiar with, but people like Doddridge Alleyne, people like Eugenio Moore, people like Frank Barsotti, people like Frank Rampersad and so on.

I remember Frank once, he was Permanent Secretary in Finance and he had been made by Chambers, who was then the Prime Minister, Chairman of Caroni, and there was a meeting one day and Chambers, as Prime Minister, said, “Well I instruct you as Chairman to do” such and such and Frank said, “Hold it, hold it right there, Prime Minister. I am sorry. You can appoint me Chairman of the Caroni, the board, and you can remove me but you cannot tell me what to do. If you do not like what I do, you have the full authority to remove me but you cannot say that I should do this or I should not do that”. That generation of public servants, so I understand because I keep my distance now, working on my recollections you see, so I keep my distance from these things. That generation of public servants is, to a large extent, no longer with us. It is part of the decline of our institutions in this country.

And I keep saying and I have written it several times that a country without proper institutions is no kind of country. But we are seeing it around us, I do not have to call any names. You have in the United States now a President who has certain views on life which do not necessarily coincide with what is good and proper all the time. But what you have in the United States, at the same time, are strong institutions that are pushing back and are saying you cannot do that; this is what

should be done, not that. He is, of course, getting very annoyed but the point is that the institutions are standing up.

I am afraid that in Trinidad and Tobago and it is a source of great distress to me because I will not be around for too much longer. What is happening is that the institutions are collapsing and the public service would appear to be one of them, but it is not only the public service. One of the first articles I wrote—and I write an occasional article in the newspaper—was in 1995, when the then Prime Minister Patrick Manning assailed the public service or the Service Commissions saying that they were a relic of colonialism, that they needed to be abolished and so on, et cetera, and kick them out; they were standing in the way of progress and so on and so on. And I wrote an article saying that Mr. Manning’s analysis was bereft of historical accuracy, that the person who had pushed hardest for a Public Service Commission was Eric Williams because he wished to have a institution there as a buffer between the public servant and the politician because otherwise the politician would simply say to the public servant “ah want yuh to do this, do that and yuh better do this or else”, and since it is a small society, people are afraid of victimization. So I agree with you. Things “ent” what they used to be.

I am now, at this moment, on a Cabinet-appointed committee looking at a particular aspect of the public service. This is something that has come up in our discussions. Even though I am trying hard to finish my recollections, I have yet offered to meet with people and to talk to people about my experiences, and what I think they should do and what they should not do, et cetera, in the public service, because in the final analysis, I “eh ha nowhere” to run. I am not one of those with nationalities abroad and houses and townhouses in Miami and Fort Lauderdale and so on, I have to stay here. It is the only country I have.

And I have, therefore, it seems to me, to do my damndest to help the country. Not

that people are going to agree with me on everything or any more than I agree with them but I do not want anyone to question my commitment to Trinidad and Tobago. So yes, there has been dereliction of duty. Yes, the institutions are collapsing. Yes, it is up to us, not to them, whoever they may be, it is up to us as a society to do what we can, to stop the rot and to try to reverse it, which is why you are quite right, member. I would desperately hope that something comes out of this Committee, out of the deliberations of this Committee, that will be positive, not merely for the port as such but for port and related issues if you like, that will be positive for Trinidad and Tobago and that would redound to the benefit of Trinidad and Tobago.

Mr. Chairman: I cannot avoid being a student of Government and public administration and contrary to those newspapers who have been giving me a PhD, I get Cs in Government and public administration, and I was seeing this in terms of three levels. One, at the personal level, the public servant and you referred to it in terms of—you said the calibre and the bravery, as it were, of public servants today in terms of standing up to whoever would be supervising them, whether it is a Permanent Secretary or a Minister supervising them, and that clearly is one level on which this thing has collapsed.

The other level I find which relates more to the question of governance in that I did not get a sense in all the documentation that came before us that there were policy guidelines and manuals that, given the age of some of these institutions, should have been floating around and should have been cited by witnesses, whether they believe whichever side may have been corrupt and guilty of malfeasance and so on. But there was an absence of citation of those kinds of documents and these are institutions that are around for decades and I find it passing strange that that kind of documentation or reference to that kind of documentation has not emerged, and

I wanted your comment about that. Whether your years in the public service, you have found that these authorities, these state companies, which were formed by central government, have developed that kind of level of administration.

Mr. Dumas: There is, of course, a *State Enterprises Performance Monitoring Manual*. That is for the state enterprises. The state enterprise was set up because it was felt that the public service was too slow and that you would have these things that would be separate and they could operate quickly on a kind of private sector basis. This has not turned out to be quite what was thought to be the case at the beginning. The Petrotrin thing is only an excerpt, the most recent example of what not to do, but it is not the only one and we have a number of other enterprises. We had these special purpose companies that were set up as well under Patrick Manning which have not worked very well either. We have these layers of bureaucracy. We appoint a lot of people, quite often on a party basis. So many square pegs in round holes that often I feel we should apologize both to the pegs and to the holes. Paying a lot of money to the people because they get much higher salaries than the public service generally. To do what? I do not know.

The whole governmental system has to be revamped. And I even made the recommendation a long time ago that we bring in somebody from Singapore because Singapore knows how to do it. Lee Kuan Yew sort of set up a system here. Mind you, he was a bit of a dictator, I accept. A democrat, he was not, but he got things done. The public service in Singapore, and the public sector in Singapore generally, operates very efficiently indeed. We have a lot of bodies that we do not even need to have. We have a lot of overlapping bodies. Boards, enterprises and bodies all over the place. I mean, I once got a—not in this administration, but in the last one—a list of all these things and I was horrified by what I saw and the taxpayer is paying for all of this and we do not know what the

benefits are or if there are any benefits at all.

The issue of manuals is something that—I do not want to go into the details of what has been happening at this Cabinet-appointed Committee that I just mentioned, but that is one of the things that has come up, would have come up: the question of a manual or some kind of manual to show people what to do, because it turns out, there are a lot of people now in the public service, especially the younger ones, who do not have an idea what to do. Again, I come back to the issue of the institution, what happens to the institution. If the people in the institution do not have a clue about the institution or have a skewed idea of the institution, how can they properly function within the institution? How can they improve the institution? So yes, all of this has to be done but not by me.

Mr. Chairman: The third aspect that I was concerned about given what has been coming forward is the disparity between operating systems or standard operating procedures and what actually takes place, and the extent to which there is supportive legislation or there is a superfluous legislation or a surplus of legislation, what I find increasingly happening is that our “Attorney Generals” are becoming the stars of the show and they are filling *Hansard* with laws and clause, and people are largely unfamiliar with it and they are not really being operationalized and at the end of the day—given our history of corrupt activity—to me, the most significant legislation that would precede all others would be whistle-blower legislation.

And I am seeking your comment as to the extent to which we have the cart in front of the horse when it comes to the issue of whistle-blower legislation in an environment we have all conceded to have had a history of decades—I think was the phrase used earlier—of corruption.

Mr. Dumas: Yeah. The PNM came into office in 1956 on a platform, among

other things—there were a number of other things—but one of the elements of the platform was morality in public affairs and, well, PNM promised to eradicate—that was the word used—graft and corruption. That was 1956. Sixty years later, we are complaining about graft and corruption. It is not only the fault of the PNM, I am simply using the PNM as an historical signpost. The fault is ours. We cannot point a finger at this party or that party or the other party, all of us are to blame. All of us. How we go about dealing with it, I do not know. Yes, you can have legislation. Yes, you can have a number of busy Attorneys General about the place. But legislation in itself is not going to stop corruption—might look good on the books. You have to start “early o’clock” with children, if not in preschool, certainly in primary school. By the time they get to secondary school, their minds are already formed, so forget that; you have to start down here to teach values, education, among other things.

We spend a lot of our time in this country concentrating on preparing children to pass exams and we have so many scholarships, and then when the results come out, you have these children talking about how much stress there was and so much, they had to get up at four o’clock and so on, et cetera, et cetera. I remain unimpressed because I won a scholarship and in my day, there were four for the entire country. Now, there are 400-and-something and the country is not a hundred times bigger in population.

And I know from my travels that education goes beyond doing well in your algebra test or your English test or your social studies test or whatever it is. So we need to look at education and the type of education we give. If you look at what is happening in the world, you will find that the countries that are now head in the world, in the top, in terms of the quality of education given are the Asian countries: South Korea, Japan, Singapore, Shanghai in China, with one European country in

the top five or six, Finland. United States is way down and I do not want to tell you where Trinidad and Tobago is.

We are doing things the wrong way and we are falling behind and we cannot talk in terms, as we do all the time, about diversification and “we going to change the economy”. If you do not know, if you do not know in the first place how to think critically, how can you think about diversification? “What yuh diversifying?” You do not know what to do. So yes, you have Attorneys General; yes, you have legislation. The legislation, in any case, is not monitored but the legislation, even if it is monitored, has to be supported by a system, a strong system of education and in this country, revamped education, Mr. Minister, Sir, revamped education. Not the kind of education we have today in Trinidad and Tobago. A completely different type of education to meet the challenges that are coming—that are already here in the 21st Century, let alone beyond that.

Mr. Khan: Thank you very much, Mr. Dumas. As enlightening as your discussion is, I think we are drifting a little off course—

Mr. Dumas: Sorry.

Mr. Khan:—at this point in time because we are—I have listened to your articulation of the shortcomings of the public service manifesting itself through time, the issue of education and what have you. But with regard to the focus on this enquiry, it has to do largely with procurement and secondly with fixing the situation as a way forward. Procurement involves, based on our terms of reference, from the *Galicia* to the *Transporter* to the *Provider* to the *Cabo Star* to the *Ocean Flower* and matters pertaining thereto.

I just want to make the point that in showing mismanagement, incompetence and negligence, I mean, you see it from the outcome of what has happened, but—and at best, that is what happened. At worst, there was probably impropriety or

malfeasance but I just want to be careful and make the distinction. That in malfeasance and impropriety, you need documentary evidence and you need evidence that could stand scrutiny. Mismanagement, incompetence and—

Mr. Dumas: I did not accuse anyone of malfeasance.

Mr. Khan: No, no, no, that is not what I am saying. So mismanagement, incompetence and negligence is subject to interpretation based on the outcome of what input you have put into the issue.

Mr. Dumas: Right.

Mr. Khan: So with that in context, you know, we have had a lot of people appearing before this enquiry, obviously not with first-hand evidence or information. Sometimes implying, implicitly or explicitly, or by reference that something proper did not happen and that may well be so, but again, the evidence as proposed before us, we will study it and make our recommendation.

With regard to the way forward, the Tobago Hotel and Tourism Association did make a case for more Tobago involvement. They claim in the Port Authority but my specific reference, the Port Authority has other—like a container business and what have you for Trinidad and by extension Tobago. But the inter-island ferry service, it is my view that—and as a former Minister of Works myself—that the Tobago House of Assembly, the people of Tobago and the interest of Tobago should be better represented.

2.45 p.m.

I know you probably have not seen their submission but they are proposing something called a special purpose vehicle, which will involve, by and large, a significant if not entirely Tobago component in managing that service of procuring the vessels and matters pertaining thereto. As a Tobagonian, now retired and somebody who is intrinsically familiar with the system, what is your thinking on

that?

Mr. Dumas: Well I would certainly not go along with a Tobago organization, unless I was assured that it could be handled properly. Because if you just say have a Tobago organization because it is Tobago and forget, in any case, that this service serves Trinidad as well; and forget that you have to have skills of management, in marine affairs, in ship repairs, et cetera, et cetera; then you are going to make things worse than before. So, I am not a Tobago chauvinist. I have spent too many years representing Trinidad and Tobago for me to say that everything must be Tobago as distinct from Trinidad. If, as I said, the thing can be handled, run, monitored properly, effectively, efficiently in Tobago, by Tobagonians only, fine. But is that the case? I do not know.

Mr. Khan: Thank you. Mr. Chairman, thanks.

Mr. Mark: Mr. Dumas, I just want to ask, you made reference to the Dun & Bradstreet Report. I just want to ask you if the Dun & Bradstreet Report showed up a day after the tender decision would have been made, do you think that that decision should have been revisited in light of that report not being in the possession of the decision makers at the material time? Do you think that the tender ought to have been referred back to the tenders committee for its consideration?

Mr. Dumas: I have two answers. One, why would a decision have be made before the Dun & Bradstreet Report arrive if the Dun & Bradstreet Report had been requested? Two, if the pressures were such that the decision had to be made even before the Dun & Bradstreet Report arrived and it got there the day after the decision, then yes, I would certainly have looked at this again and I would have said: “Listen, I think we better go back to the tenders committee. This seems to be not in our interest and the tenders committee might want to look at this matter

again.”

Mr. Chairman: One other question, in terms of getting some clarity. From the perspective of management of the public service, I know you have spent a lot of years in that capacity, what do you see as the critical faults in the administration of the port and port-related services that come up at you in all of this?

Mr. Dumas: Well, I would be a brave man, I think, to answer that, because I really know nothing about the administration of the port. It does seem to me, from what I have been reading and hearing, that a finger of blame is being pointed at the management of the port.

I heard the Prime Minister, on Monday, talk about Mr. Leon Grant and I am aware of the fact, as we all are, that Mr. Grant has been suspended. For what reason, I do not know because I have not seen his letter of suspension, which I imagine sets out the reason for his suspension because you cannot just suspend someone just like that. And I take it that Mr. Grant would be appearing again before you to respond to these remarks that have been made.

It would be, I think, unwise of me to go further than that at this point because Mr. Grant has to be given—and the management of the port generally, but Mr. Grant in particular because his name has been called—the opportunity, within the framework of natural justice, to respond to what has been said about him. And we will have to hear what his response is. I would need to hear what his response is before I can come to any conclusion, however preliminary, on the type of administration and management that the port has or may need.

Mr. Chairman: One of the things that struck me in all of this relate to the past board and the current board of the Port Authority. And some of it was displayed, in terms of the past board, in terms of the lack of harmony and coordination within that board, and those present gave testimony to that.

And the concern came up, by their own admission, because they introduced the phrase norming and storming and it was clear that there was a lack of direction provided from the Ministry, in terms of ensuring that this motley team were welded together, ASAP. So that, when it came to the second board, the current board, my concern was that given all the talk of strategic planning and business plans, and so on, and the transformation of the public service, vis à vis, that kind of approach to management and public administration.

At this stage of the game, the new board admitted to not having a strat plan or a business plan and I had a concern with that, given what I think to be the ongoing guidelines that ministries and state agencies should have that, and that should be the basis of their request for annual funding and we are approaching the budget speech. So, I am wondering to the extent to which we are talking about the collapse of institutions, I am wondering whether it is the whole system, the governmental system and not just institutions, per se, are in a state of some kind of pre-collapse.

Mr. Dumas: You sound like Lloyd Best. I do not even know, I do not know if you do, Chairman, whether the people on the current board satisfy the qualifications and experience mentioned in the Act, the Port Authority Act. For section 3(2) of the Port Authority Act says that:

“The Authority shall consist of no fewer than five nor more than nine persons...”

And:

“Of these persons, five shall be appointed from amongst persons who have special qualifications in, and have had experience of, matters relating to engineering, accountancy, law, economics or business management.”

Now, this is not the place to ask people what their qualifications are, but I would

like to start there. I think, perhaps, we should start there. Has the board been properly constituted on the basis of the Act, in terms of the qualifications and experience that at least five members of the board, and I think it is at the moment seven, should have? I do not know, nor am I going to try to find out.

On the question of a strategic plan, that could come out of the history of the qualifications. Because if you have sufficient people with, or not sufficient people with the relevant and requisite qualifications it might be difficult if not impossible for the board or the management to come up with a strategic plan, because that demands a certain knowledge of plans: how you get at the plan, what you do, how you go about doing it, et cetera, et cetera. I do not know. Again, that is something that you may want to check into.

But, in any case I would have thought that it would not be for the board to start off with a strategic plan. It would be for the management to submit a plan to the board. And I do not know whether the management, I do not know what the qualifications of the management are, I have no idea, and I have no idea whether the management has ever submitted a plan, strategic or otherwise, although we have a number of reports on the port. Whether the management has ever submitted a plan to a board, I do not know. But, I certainly agree with you on the principle that if you do not know your past, then you do not know your present, and if you do not know your present, “you ain know whey yuh going”. So, yes there should be a plan.

The plan, as the other member there mentioned earlier as to what could come out of this, should not be something that is clearly confined only to the port, because the port has influence outside of the port itself on the population as a whole. And so all of that has to be taken into account, the inter-island ferry, the operations of the ferry, the operations of it, the development of the marine sector. I do not know

what this is. At the moment I have no idea what is happening. I do not know. The development of the Panama Canal, what impact might that have on the Port of Port of Spain or the Port of San Fernando or any other port, I do not know. I do not know if anything, any plan has ever been done. I do not know what has happened or has been happening. It could be that all these things exist. If they do, I certainly have not heard of them. But then, that would not be surprising because that is not my area of focus and continued interest. But yes, I think that this Committee might want to look at all of that.

Mr. Chairman: I had asked them when they were here before us.

Mr. Dumas: Oh, you asked them already?

Mr. Chairman: Yeah.

Mr. Dumas: And what did they say?

Mr. Chairman: They said no.

Mr. Dumas: They said no?

Mr. Chairman: Yeah. So when I asked for your comments it was in terms of your views on that fact.

Mr. Dumas: No, no, no. That is frightening because this is 2017.

Mr. Chairman: And I raised it in the wider context, wider systemic context, because it is just a reflection on them that they do not have it; that two successive boards did not have it, because the second board, the current board would have come into office and should have asked for the old plan to review. So, you know, that tells you something.

And going further, it tells you something if the budgetary process has been engaged. I mean, I am sure wherever the budget is, it is about to be delivered.

Mr. Dumas: Well, you wonder what kind of budget that would be if you have no plan.

Mr. Chairman: And that is it. It means then that the Ministry of Finance has some licks to take because they are the ones who should require this of institutions coming forward for requests from the State's purse. So if you are coming for requests from the State's purse and you do not have a plan, should we—and I do not know about in your time, but in my time as a public servant, if we did not submit that you would be sent to the back of the class.

Mr. Dumas: You certainly had to justify your request. I mean you cannot get—you are dealing with taxpayers' money for God's sake. You cannot just put up something in a vacuum and say I want this, I want that. What do you want it for? Furthermore, and this is something and I hope that you could consider this for your report, it goes across the board. It is very worrying to me. What I have discovered recently is that what I would call the silo mentality in the public sector—let us concentrate on the public service—is well developed. In other words, Ministries are putting up Notes to Cabinet, individual Ministries, on whatever, matters pertaining to their particular portfolios, but which are connected to the portfolios of other Ministries. But they are not consulting those other Ministries before putting up the Notes. So what we are having increasingly in the country, in the public service is a series of solitudes, of bureaucratic solitudes, where the Ministry of X wants this, and the Ministry if Y wants that and the Ministry of Z wants the other and this continues with no linkage, or insufficient linkage among the ministries. This is bad governance, expensive governance, because you are repeating things. You are duplicating things and you are costing the taxpayer far more money.

Mr. Chairman: Which brings me back to the specifics of this particular investigation, because one of the things emerging has been the question of the transfer of technology or the transfer of expertise, which is where the Magellan Company came in. They were hustling to replace Bay Ferries on the issue, not to

replace Bay Ferries, but Bay Ferries was going, but replace Bay Ferries on the issue of the transfer of knowledge and expertise because there was the *Super Fast Galicia* ought to ride off into the sunset or sail off I should say, and for the time that they were here, insufficient attention, practically no attention had been paid to that issue.

And Mr. McMillan testified before us that when he was brought in to try to effect that, at first he was told about a year or so he had to try to get something going and then it was reduced to an even shorter period, which was virtually impossible and he picked up at that point, at any rate, there was clear hostility on the part of the departing crews to share anything with the locals whose job, it fell to him, to try to get them on board to get them familiar so that, you know, the transfer of knowledge and expertise could take place even belatedly.

And I think that is connected to your point about silos. Because if there is this Board of Permanent Secretaries you would remember, and now of Deputy Permanent Secretaries, that should have been pick up there and the process facilitated either with local training or whatever they could come up with but that should have been on their priority list. Here it is we are underdeveloped as a seafaring people. We are not rising above fishing pirogues.

Mr. Dumas: I agree, but may I ask: How long was that company here, Bay Ferries? How many years?

Mr. Mark: We understand 11 years.

Mr. Dumas: Eleven years. What was done in the course of that 11 years, regarding the transfer of technology?

Mr. Chairman: Expedite that process.

Mr. Dumas: No, no, McMillan you say came in towards the end.

Mr. Chairman: Yes and they are say nothing was done. They had to start from

scratch.

Mr. Dumas: Nothing was done. Whose fault is that? You see, to whom did the ferry belong? To us? Was it our ferry? Was it our boat? If it was our boat that we paid for and we are paying Bay Ferries to operate the boat or whatever, we are paying them. They are agents. Then it is our responsibility to ensure that the technology is transferred, not Bay Ferries' responsibility. It is our boat. Therefore, it is we who were remiss. It is we who should have put in place a plan for the transfer of the technology, to set up a proper boat repair or marine sector or within the marine sector. Indeed, we should have been sitting now talking about a marine sector; what kind of a marine sector do we want to see. We should involve a number of things, of which boat repair, ship repair and ship management, et cetera, would be parts.

But if, after 10 years of the 11, we only just “discover oh God, we eh do nutten. We go send McMillan to see wha he could do”. Whose fault is that?

Mr. Chairman: Point taken.

Mr. De Freitas: Mr. Chair, just through you at this point. You want to ask a question? Go ahead.

Dr. Francis: Just a clarification, Mr. Dumas, to allay your fears and, perhaps, those of the public.

Mr. Dumas: To what, sorry?

Dr. Francis: To allay your concern that somehow budgeting is done in a vacuum, without any planning of any of that. I am sure you are very familiar with the procedure that governs us where the planning ministry in particular, vets all of the proposals from ministries and you are called to task, in terms of your spending on one hand and then those projections for the next year on the other hand. This procedure still obtains and it is perhaps more stringent now.

Mr. Dumas: Okay.

Dr. Francis: So do not leave with the impression that it is somehow ad hoc and arbitrary and does not obtain.

Mr. Dumas: No, no. We were talking specifically about the port and we were saying that there seems to be an operation by “vaps” on the port. Now, if a budget is being put forward for port operations, on what basis is that budget being submitted, if we are operating by “vaps”? I do not know. I am saying—

Dr. Francis: No. My contention is that the notion that it is just vaps is erroneous, that these procedures still obtain.

Mr. Dumas: In the port?

Dr. Francis: Everywhere. Everywhere, it still obtains.

Mr. Dumas: Oh, so the port is not so bad after all.

Dr. Francis: No, it is not that bad.

Mr. Dumas: Okay. So it is not an area of iniquity.

Dr. Francis: Well, that is a separate issue, Sir.

Mr. Dumas: No, you can contradict your Prime Minister if you like, no problem.

Mr. Chairman: All right. Mr. Dumas, do you care to make a closing statement?

Mr. Dumas: No, except to thank you, Mr. Chairman and members for inviting me here and to express the hope that the exchange has been helpful to you because, you know, I do not know; it is up to you to decide whether what I said and what I wrote is of any assistance; and to underline the hope expressed by member Francis that something positive will come out of this Committee’s work with regard to the sea bridge on which Tobago depends so much and on which the people of Trinidad and Tobago, more broadly also depend. And with reference also to the hospitality sector and the linkage between the sea bridge and the hospitality sector in Tobago, which is very important because that is essentially is the economy of Tobago.

I think we want to get away in Tobago from CEPEP and URP and fellas with weed whackers waking you up at 6.00 in the morning or 5.30 in the morning. If they wake you at 5.30, “they gone” at 6.00. So, you know, we want to get away from that kind of thing. So, once again, thank you very much.

Mr. Chairman: Thank you very much for your time and your patient wait. This hearing is suspended for 15 minutes.

3.11 p.m.: *Meeting suspended.*

3.22 p.m.: *Meeting resumed.*

TRANSPORT BOARD

MINISTRY OF WORKS AND TRANSPORT

Mr. Parasram Ramlogan	Chairman/Chief Technical Officer Ministry of Works and Transport
Mr. Wayne Richards	Transport Commissioner, Ministry of Works and Transport
Ms. Sharon Blake-Clarke	Ag. ACP, Mobile
Dr. Jacqueline Huggins	Manager, Student Life & Development Department (SLDD)
Mr. Jameel Jacob Mohammed	Technical Officer, Ministry of Local Government
Mr. Roy Andrew Lloyd	Consultant, Refinery Operations Improvement
Mr. Robert Guiseppi	Senior Labour Specialist
Mr. Stein Carrington	Architect, GSAL Designs
Mr. Dave Baijoo	Lead Engineer Consultant, Vitruvian Engineering Co. Ltd.
Ms. Lorraine Waldropt-Ferguson	Agricultural Economist

Ms. Dhanwantree Jagroo

Secretary,

Trinidad

Transport Board

Mr. Chairman: Good afternoon. Welcome to the Transport Board. My name is Stephen Creese. I am the Chairman of the Joint Select Committee on Land and Physical Infrastructure.

[Introductions made]

Mr. Chairman: As I said, Stephen Creese, Chairman of this Committee. The purpose of the exercise for which we are engaged in is to clarify the procurement and maintenance procedures involved in the management of ferries and the particular objectives are:

- to understand the current state of the ferry service in Trinidad and Tobago;
- to examine the policies and procedures used to acquire ferries and to ensure that value for money is obtained;
- to determine whether due diligence governed the conduct of all aspects of the maintenance and management of the provision of the sea bridge service; and
- to determine the changes and challenges with respect to the maintenance of ferries.

I wish to advise you at this stage to ensure that your cellphones are either turned off or placed on vibrate or silent, and that any submissions you may make is covered by parliamentary privilege.

Before I invite the members to pose questions to you, I would want to afford you the opportunity to make an opening statement.

Mr. Ramlogan: Thank you, Mr. Chairman. The Trinidad Transport Board is a body established under the Motor Vehicles and Road Traffic Act. The board

comprises the Chief Technical Officer of Works as Chairman; the Commissioner of Police or a First Division Officer nominated by him; the Licensing Authority; the Chairman of the Road Safety Association of Trinidad and Tobago; a member of the Trinidad and Tobago Automobile Association; and seven other members representing various interests of local government, commerce, industry, agriculture and labour nominated by the President.

The main functions of the board are:

1. to recommend to the Transport Commissioner the registration of special vehicles.

That is, vehicles exceeding the dimensions and weight specified by the law, which cannot be otherwise approved by the Licensing Authority.

2. to—“hear and determine any appeal submitted by any aggrieved person against any order or decision of the Licensing Authority or of an Automotive Licensing Officer, and the Board's decision thereon shall be final and conclusive.”
3. to—“act in an advisory capacity and...advise the President on all matters appertaining to road traffic and in particular as to the following...:
 - (a) licence duties in respect of motor and other vehicles;
 - (b) Customs and Excise duties in respect of transport vehicles and fuel...;
 - (c) the needs of areas as a whole in relation to traffic (including the provision of adequate, suitable and efficient services and the elimination of unnecessary or unremunerative services) and the co-ordination of all forms of passenger and goods transport, including transport by rail and sea;

- (d) the regulation and control of traffic;
- (e) the construction and maintenance of roads and the cost thereof;
and
- (f) any other matter affecting traffic or transport that the President may refer to the Board.”

I, the Chairman of the Trinidad Transport Board undertake, on behalf of the Board, to bring clarity to any related matter if requested to do so by the Committee.

Mr. Chairman: Have you thus far participated in anyway with regard to the ferries?

Mr. Ramlogan: The answer to that is no.

Mr. Chairman: Do you care to share with us why? Because I think I heard you say by rail and by sea.

Mr. Ramlogan: The acquisition of ferries by the Inter-Island Transport Service is a function carried out by the Port Authority of Trinidad and Tobago. The committee comprise, to best of my knowledge, of members of the Ministry of Works and Transport. I cannot say, the Permanent Secretary makes that decision, so I am unable to say why myself or the board was not consulted.

Mr. Chairman: Makes what decision?

Dr. Francis: The decision on who represents the Ministry on the evaluation committee or the tenders committee.

Mr. Chairman: I have not gotten to, at this stage yet, as to acquisition. Because our mandate relates to acquisition, disposal and maintenance. So those are the three aspects of ferry operations that we have a particular interest in. But in reading, yourself referred a while ago to rail and sea. Well, Trinidad now has no rail system but we still have the sea systems of transport.

Mr. Ramlogan: Yes, Mr. Chairman, when I was detailing the main functions of

the board under (c), to act in an advisory capacity and advise the President on all matters pertaining to traffic, and it is under that heading there was a reference to all forms of passenger and goods transport, including transport by rail and sea.

Now, this board, first meeting, it is a fairly new board. This board first sat in July of this year, the previous board having expired in March, March 12 to be exact. I have brought up to the board the requirement to advise the President on these matters. It so happens that during the last six months or so, the very public item under what we are to advise the board was the ferry service, matters relating to the ferry service.

To best of my knowledge, the Ministry of Works and Transport was addressing the matter and there was not a—I have looked at the sequence of events and there was not a pressing need to advise the President on this matter. There may be a pressing need at this point in time because things have developed progressively.

Mr. Chairman: I would allow other members to raise their questions.

Mr. Paray: Through you, Mr. Chairman. Thank you very much, Mr. Ramlogan. Quick question. In terms of the legislation and the nature of your board, right, you as chairman, what do you understand by that specific section (c), which brings “sea” into the whole mix of your responsibility of advising the President? What does your board understand about that particular line? And in your mind, how far does your arm reach into that arena?

Mr. Ramlogan: The board was set up under the Motor Vehicles and Road Traffic Act and the board substantially deals with matters relating to road transport. The reference, I can say for sure, because I have looked at the records before I came here and I can say for sure that the board does not have a tradition of getting involved in sea transport.

Mr. Paray: Taking note of the lack of—the tradition, how important is the fact

that this is a presidential committee with a specific reference to sea and those members who are duty-bound to operate within the terms of the legislation, would you say that this is a matter that there should be some involvement of your committee? Not only in terms of advising the President but from my reading of this you can play a very important role in the whole, I would say the decision-making process on where air, rail, sea transport goes in Trinidad and Tobago.

Now, more so, coming after evidence that has come out before this Committee over the last two weeks, showing the amount of inconsistencies, issues, lack of processes, and so on, perhaps, if your committee was more involved, in terms of working according to where your remit was, perhaps you all could have been making a very huge impact and difference, in terms of, you know, getting to where we are today. I am not sure if you wish to comment on that.

Mr. Ramlogan: That is probably so. The law requires, however, that we advise the President on these matters. I do not know and I do not believe we can solicit our services to the Port Authority or the senior management of the Ministry of Works and Transport. But yes, I would say we can offer some sort of advice, yes.

Mr. De Freitas: Mr. Chair, question, through you. Based on how the board is constituted now, amongst you is there anyone with maritime services qualification/experience?

Mr. Ramlogan: The answer to that is no, but I must also say that I have worked at the Port Authority of Trinidad and Tobago, as a civil engineer and the marine manager.

Mr. De Freitas: Okay. And given that you are the one with some experience, do you really think it is safe to say that the board, given that its remit seems to operate under the Motor Vehicles and Road Traffic Act, that you guys can or could have

assisted or impacted this? That is one question.

The second question is, based on what has happened in the last couple of months regarding the sea bridge, you are saying that the board would keep the President apprised of what is happening, have you all done that, in relation to the issue? Has the board, given that those sections says that you are also responsible for the sea?

Mr. Ramlogan: We have not done it to date but I fully intend to bring it up with the board for us to make a presentation to the President.

Dr. Francis: Good afternoon, Sir. Good afternoon everyone. In terms of our narrow mandate, which has to do with assessing the procurement and the maintenance issues that would have landed us in the situation we find ourselves in now, is there any kind of a primary source, material/information, you can provide us?

Mr. Ramlogan: No. What I can say though is that the Ministry of Works and Transport is addressing the whole business of sea transport from Trinidad to Tobago. I would say the medium to long-term, and specifically there are two projects being planned at this point in time. One to construct a ferry terminal in Toco and the other to construct a first-class road from Sangre Grande to Toco. Those projects are directly meant to address the issue of the ferry service within Trinidad and Tobago.

Dr. Francis: Thank you, Sir.

Mr. Mark: I was out for a little while. Let me introduce myself. My name is Wade Mark and I am a member of this Joint Select Committee. And let me welcome the team from the Transport Board.

Mr. Ramlogan, would you be able to share with us any information prior to your installation as the Chairman of the Transport Board, whether from the documentation available to you? Would you say that the previous Transport Board

had addressed, at any time at all, during previous incarnations, the whole issue of sea transport? Or is it the first, let us say, intervention by the Transport Board based on your submission, that is taking place? Or is there a history of the board being involved in advising the President on sea transport?

Mr. Ramlogan: When the Chairman, well I was looking at the sitting a couple of weeks ago and I heard the Chairman made reference to the Trinidad Transport Board so I carried out a fairly substantial research on that exact matter and I can say the Trinidad Transport Board, and by the way it is the Trinidad Transport Board in law, I can say for sure that the Trinidad Transport Board has never been involved. Well, I cannot say never. In the recent past, it has not been involved in the sea bridge or any maritime issues.

Mr. Khan: Chairman, just for clarity. In the legislation you are quoting, “President” means the Cabinet and the Cabinet, by extension means the Minister. So you do not really brief the President on matters like these. Actually, you are accountable to the Minister. That is one.

It is obvious that the Transport Board’s remit that has been interpreted for decades is road and transportation. Why that phrase was included in the legislation? Whether it is a lacuna in the law or what have you, it is not my duty to judge. But effectively, I would want to lean, from my perspective, personally, that the Transport Board has no nexus in the matter of the sea bridge.

Mr. Chairman: I would, at the end of the day, leave that interpretational question to those with legal expertise. But I am clear that you yourself sat there and quoted what struck me when I did my research and to all who comprised some form of authority on the question of sea transport. And that line you read about rail and sea floated up to me. “Sea” could only mean one thing. It has to mean sea. Good? And the legislators put it there. They did not have to. This was not lifted from any

other legislation someplace else. So they placed “sea” there and they placed “rail”, because at the time Trinidad had a rail system. So, I cannot but interpret it in the obvious form that “sea” means sea. Sea means anything that is not land or air and there are really there components, eh, in the jurisdiction of transport authorities anywhere, air, land and sea. If you want to say something, member.

Mr. Mark: I would like to ask Mr. Ramlogan, my colleague, Sen. Khan just made reference to the President, meaning Cabinet and the Minister. Could you advise this Joint Select Committee who the Transport Board advises? Is it the Cabinet and the Minister of Works and Transport, or is it the President, His Excellency of the Republic of T&T? Who exactly you advise? I am trying to get that clear, in terms of the meaning of President in the context of the Act. Is it the Cabinet, or is it the President of the Republic?

Mr. Ramlogan: My interpretation and the Board’s interpretation and in fact we are now finalizing a report to send to the President is that the advice must go to the President of the Republic of Trinidad and Tobago.

Mr. Mark: So, from your interpretation and guidance “President” means His Excellency the President of the Republic and not the Cabinet? Is that what you are telling us?

Mr. Ramlogan: That is my interpretation, yes.

Mr. Mark: Have you been able to get any legal advice on that, as to the interpretation? Because that is my interpretation, but I am not a lawyer. So what I am saying is that just for an avoidance of doubt and any confusion, you as Chairman of the Transport Board, have you been able to try to seek out a legal opinion on this matter? Because in the Constitution and in many pieces of legislation “President” would be used in two context. The President in one context will mean the Cabinet, and by extension the Minister who is responsible for the

particular portfolio delegated to him by the Cabinet, through the head of the Cabinet. And in another context, the “President” means His Excellency, the President of the Republic.

We need at this Committee to have clarification because I believe it is the President of the Republic. My colleague is of the view that it is the Cabinet and via the Cabinet the Minister. This is what we need to clear up and that is why I am asking you if you have done or you have received any interpretation to clear your mind on this and the board. Because we would not like you to mislead us and we would not like to mislead you.

Mr. Ramlogan: Member, this has never come up. In fact, it is the first time it has come to my attention there could be two interpretations of this and I will surely seek legal advice on it.

Mr. Mark: And the final thing, who issued your Instruments of Appointment?

Mr. Ramlogan: The board in general, the President of the Republic of Trinidad and Tobago issues the Instruments of Appointment even for myself an ex officio member of the board. By law, the Chief Technical Officer works, he does issue it in the name of the Chief Technical officer.

Mr. Chairman: Sir, I would advise you then that you should really seek that professional advice on the question of whether “President” means Cabinet or directly His Excellency. Because the member is correct when he tells you that that phrase is used to mean both things, so one needs to be sure in your case to what it refers.

And again, I restate that there is that line there which clearly states, I know you understand that the citation overall is under the Motor Vehicles and Road Traffic Ordinance. That is where, you know, your origins are. But that line about rail and sea, unless it was an error on the part of the drafters, good, which no one picked up

at the time, it speaks to air as well. Good?

So, I have a difficulty in assuming that this Transport Board is limited to land only when there is a reference to air and sea. So, I would advise that you get advice on this, because if it is the intention of the Act that you have a role to play in air and sea, then for decades the Transport Board has not been carrying out its remit. And given that this Committee has jurisdiction over the Ministry of Works and Transport over infrastructure issues, it is something that would come up again with this Committee.

So, we would, at this stage, if members would agree to have you all excused, good, but we reserve the right to recall you and we request that you seek clarification, from whatever legal avenues are available to the board, on this matter.

I would now afford you the opportunity to make some closing remarks.

Mr. Ramlogan: Thank you, Mr. Chairman. The fact remains that the Trinidad Transport Board has never dealt with this issue and really, this matter about sea transport only came vividly to my attention two weeks ago when you spoke about it right here.

Yes, I accept that it can be interpreted in that manner, that the board has a role to play. I will certainly get the legal advice and move on from there.

Mr. Chairman: I thank you for your time and for your candid comments. You all are excused.

3.45 p.m.: *Meeting suspended.*

3.58 p.m.: *Meeting resumed.*

MINISTRY OF WORKS AND TRANSPORT

Mr. Ronald Alfred

Director, Maritime Services

Mr. Marvin Gonzales

Director, Legal Services Unit

Mr. Chairman: The 20th Meeting of the Joint Select Committee on Land and

Physical Infrastructure is hereby resumed. This is in relation to our enquiry into the Trinidad and Tobago Inter-Island Ferry Service with specific focus on the procurement and maintenance of the ferries.

My name is Stephen Creese, I am the Chairperson of this Committee. The particular objectives of this Committee, this enquiry is as follows:

- To understand the current state of the of the ferry service in Trinidad and Tobago;
- To examine the policies and procedures used to acquire ferries and to ensure that value for money is obtained;
- To determine whether due diligence governed the conduct of all aspects of the maintenance and management of the provision of the sea bridge service;
- To determine the changes and challenges with respect to the maintenance of ferries.

I would now like to introduce the other members of the Committee on my left.

[Introductions made]

Mr. Chairman: Welcome gentlemen, would you introduce yourselves.

[Introductions made]

Mr. Paray: Thank you very much and good evening again, Mr. Alfred. I would like to ask from a licensing and regulatory standpoint. What is the status of the *Cabo Star* as of today, in terms of licensing and the necessary regulations required for operation in T&T waters?

Mr. Alfred: The *Cabo Star* is a Panamanian-registered vessel and as such its certification is provided by the Panamanian maritime authority. The remit of my division in this regard is to investigate the validity of their certification; this involves, checking important shipping documents, technical details and structural

elements of the vessel. With respect to the *Cabo Star*, as of today the vessel has the required certification to carry 100 passengers and its insurance far exceeds what is required—what are the local requirements in the Shipping Act.

Mr. Paray: In terms of the health and safety requirements for the vessel. In Tobago, when we were there, there were some sentiments expressed that there was a deficiency in the safety requirements on the vessel, in terms of life rafts and so on. Can you give this Committee an update as to whether the vessel has all the necessary safety requirements for operating in our waters here?

Mr. Alfred: The answer to that is, yes Sir.

Mr. Paray: Okay.

Mr. Mark: May I ask—well, welcome Mr. Alfred, welcome. I am not a person who knows a lot about shipping and vessels but my reading of this particular vessel, about it, says to me that from its inception in 1986 or thereabouts, to its arrival in T&T or just before its arrival in T&T, or whilst it was here on its maiden voyage. It graduated from a ro-ro cargo exclusively designed vessel and was upgraded to a cargo/passenger. Hence the reason, as you indicated, the Panamanian people or authority, with your permission or agreement provided a temporary provision. So the temporary provision arose out of the fact, I would surmise, that this particular vessel was never designed to carry passengers except 12. That is what I have been looking at and based on the literature that has come before this Committee; that is where I am leading.

So could you clear up for us, first of all, this 28-year old vessel, for 28 years before arriving here, would you tell this Committee or share with this Committee, whether that vessel was designed specifically to carry cargo and a crew of only 12? First of all, is it a fact, is it not a fact that it is a ro-ro vessel for cargo only, but when it arrived here we gave it a new kind of berth? ro-ro/passenger. I am just

trying to get clarification based on the evidence I have before me.

Mr. Alfred: I personally visited the vessel and with respect to the idea that the vessel was only designed to carry 12 persons, I find that a bit odd, because there were about 10 or 12 cabins that could carry, I would say up to about 40 or 50 persons. Additionally, the vessel from my observation, the vessel has—I get the impression that it was a—that at some time in its history it carried passengers. From the mere reason that there is a swimming pool on board, there are saunas on board.

The vessel did arrive here as a cargo vessel, and the owners of the vessel made an application through—to Panama to do a conversion. So that at this time, and I should say—let me say the rules, there are rules that govern ferries, and the rules do allow for short international voyages, to make exemptions that a full passenger vessel would have and it is not something that is not normal in the industry. So the vessel because of the length of the voyage was granted certain exemptions. But from a maritime services point of view our remit really is to ensure that the vessel is safe.

You would recall early in the—I think when the vessel started, it did not carry passengers, I think on the first two voyages, and that was because we wanted to ensure that all the requirements were in place before we put citizens on board.

Mr. Mark: Now, you did indicate that from your examination of the vessel there is sufficient cabin space available for at least between 40 and 60 passengers. We have been advised by the truckers association that the 100 passengers have to be languishing on the deck, on the floor of the vessel, the cabins do not function, there is only one toilet for so many people, and people have to urinate overboard. So the question that has to be asked is, how can we permit these primitive conditions for our citizens who are travelling between Trinidad and Tobago and not have the

normal modern facilities that are available to others who would travel between Trinidad and Tobago? So I am asking you, could you clear for us, given the evidence we have before us from the truckers association that the vessel is littered with rodents, vermin, mites, mice, cockroaches, rats, as examples; and they are totally uncomfortable with their safety and health on that particular *Cabo Star*?

That is the evidence we got from the truckers association. Now, I do not know if they have brought these matters to your attention as Director of Maritime Services, because what you are advancing to this Committee is in stark contrast and contradiction to the evidence that this Committee received from the truckers and their members. So could you clear the air for this Committee and maybe direct, you know, the truckers—give them some assurance that what they told us, you know, was totally false and misleading and you have evidence to show otherwise. Could you help us?

Mr. Alfred: Member Mark, with respect to the claim of peeing overboard, considering the—

Mr. Mark: I said urinating.

Mr. Alfred:—correction, urinating overboard. I am—having looked at the structure of the vessel, I find that highly impossible, while they are on the move. But having said that, this division is satisfied that the requisite certificates from the Ministry of Health, were in order and there were no visible signs of any form of infestation at the time we did the inspection. And I have here a copy of the report from the Ministry of Health with respect to possible infestations on the vessel.

The vessel as I said has, I would say, I think over 15 toilets and I think they have unisex toilets, they have only-female toilets, the vessel has facilities for showers and my understanding—and maybe it is since they spoke on television—but my understanding is that if you go on the vessel now and you do not have

towels and so on, it is available for rent. You can get a towel so you can have a shower; I have seen the shower facilities available to passengers on board. So, I am not certain what happened maybe between the last, when you met them in Tobago, but from my—up to yesterday I paid a visit to the vessel, because I was coming here and I wanted to see first-hand for myself.

So it is possible, maybe from then till now there might have been an improvement in the services provided to the truckers.

Mr. Mark: So would you say that based on what the truckers would have advanced to this Committee that, from what you are telling us, that information certainly would not square up with what you have witnessed?

Mr. Alfred: Based on our inspection of the vessel. No, Senator.

Mr. Mark: Could you tell us if all the cabins are working and functioning? And whether human beings can inhabit them whilst the boat is in motion? Could you say because you said that there are cabins available to accommodate between 40 and 60 passengers; could you tell us if these cabins are working and if people—no, are they working?

Mr. Alfred: From the ones I saw on board, yes they are working. They appear to be cleaned and they are en suites, so there are showers and toilets in each of the six berth cabins on board the vessel.

Mr. Mark: What about insurance? I did not hear you talk about it, insurance. Could you tell this Committee the passengers who are on that vessel if they were to become, if they got injured or their lives were endangered, because of safety matters, who would be responsible for coverage of those passengers? Would it be the owners of the *Cabo Star* or the Government of the Republic of T&T?

Mr. Alfred: Well, the vessel has two types of insurance, it has insurance to cover hull and machinery damage, and it has what is called P&I insurance which deals

with protection and indemnity for passengers or if persons get injured. What I can say to you is that, in accordance with the Shipping Act there is a maximum liability for marine incidents. It is based on the tonnage of the vessel and the vessel is just under 20,000 tonnes and according to our law it is about US \$300 a tonne. So the vessel should be insured for about \$6million so if you get injured, they can cap it. But I can tell you, the vessel has nearly 100 times that in terms of value, so persons who get injured are well, or citizens, are well covered.

Mr. Mark: Well covered. How temporary is temporary in the context of this licence agreement that you would have granted to the *Cabo Star* to carry these 130 passengers or in this instance you mentioned 100? My information from the evidence is that your licence or whatever agreement for that accommodation would have been up to the 17th of August. Have you extended that, or is that information misleading, or could you tell me, for instance and this Committee what is the cover for this arrangement for the *Cabo Star*—that is, to carry 130 passengers max, including crew members?

Mr. Alfred: As you indicated earlier member Mark, when the vessel arrived it was a cargo vessel, and the Panamanian authorities gave the owners of the vessel, 90 days to do the conversion from cargo to cargo passengers. In that agreement they had 30 days to ensure particular equipment was on board the vessel and the date in August, that is the date you are referring to. All right?

They were supposed to put in additional life rafts, which they did, on the date in which it expired, So they now have until the 7th of October to complete their conversion in terms of all the surveys that the surveyor is doing. So the ship has enough life-saving support for 160 persons right now. All right, and the max they can carry as you said is 100 plus 30 crew, so they are doing a—a gap analysis was done and what they are doing now is just putting in the additional safety

equipment required, so they can change the status of the vessel. That in no way interferes with the safety of the passengers at this time, because all the safety measures for that are already on board the vessel.

Mr. Mark: Mr. Chairman, is it a normal practice, or a normal experience in the maritime industry to have a vessel which was designed for cargo being transitioned or being reorganized to carry passengers? Is that a normal experience in the maritime industry, or is it something that is unique given our circumstances?

Mr. Alfred: Definitely it is not unique, vessels are bought for one particular purpose and need to change because of the work that they are doing. In maritime, what is important is your certification; you need the appropriate certification and the safety equipment to carry out your particular task. So for example, it is not unusual, it would not be unusual for a fast ferry, a passenger ferry to leave one country and transit to another—in a transit, but a transit as a cargo vessel, in terms of the safety requirements on board, because they are not carrying passengers. When you get to the other country then you put all the requirements in. It is not unusual to change your status for a particular voyage or markets that you are in.

Mr. Mark: Finally, what your division or service, maritime services, would have done to make this change? Is it the issue was a licence, is it a licence that you would have issued? And if it was a licence, is it now a permanent licence to carry 130 passengers or is it a temporary licence until you determine, given all that you require, it will be converted into a permanent licence? Explain to us.

Mr. Alfred: What we, what the vessel requires is something called a drogher's certificate. In order to get the drogher's certificate, it is really an examination of your certification. So the certificate the *Cabo Star* currently has is contingent on the requirements of the stipulations in which Panama gave the extension. So the extension now is ended—the last, it is on October 7th so our drogher's certificate is

only until that time. And then, of course, if they do not make the requirements then they will have to revert to a cargo vessel, but as far as I am aware, they would be on course and should be able to do that before the actual deadline.

Mr. Mark: To become—

Mr. Alfred: To become a full cargo passenger vessel.

Mr. Mark: Thank you.

Dr. Francis: Good afternoon gentlemen, just one question. Mr. Alfred, you are the Director of Maritime Services, Ministry of Works and Transport, meaning that you are further along the chain of all of these events. You are not the first interventionist. During the procurement process of these two now infamous vessels, were you satisfied that due diligence was done by those who came before you or did you have misgivings during the process? I mean by that, the board, the port, those who would have been earlier in the chain of events.

Mr. Alfred: I did have a prepared opening statement which I had intended to give the functions of the Maritime Services, because a lot of people I think, there are some misgivings as to that. We are regulators, so in terms of being involved in procurement, that is not our remit by law. I mean, having said that, we are a government entity and as far as I know, we only have one Government. So certainly we have staff that could possibly advise, I mean, my view on the matter is that as a regulator we need to keep ourselves—give ourselves a little independence, a little distance. You know, you can imagine me going on board a ship and there is an accident on the ship. Who is going to investigate it?

Dr. Francis: It is a conflict of interest.

Mr. Alfred: So I see—we see ourselves more of advisors that we can advise, we can give advice I guess to the head Ministry, but not being directly involved in the process or the evaluation or the technical evaluation. I think that is really a conflict

there.

Dr. Francis: Thank you.

Mr. Mark: May I just ask one question? Mr. Alfred, you would know by now if you go out there—go outside, the *Ocean Flower* is in the harbour. You know that?

Mr. Alfred: I believe it is in our waters. Yes, in Trinidad and Tobago.

Mr. Mark: I understand it is in the port, the harbour right here in Port of Spain.

Mr. Alfred: Okay, I cannot speak to that.

Mr. Mark: I just want to ask you something, as the Director of Maritime Services, are you in a position to share with us, what would be the implications for the people of the Republic of T&T, given the charter party agreement, having been cancelled by the Government of the Republic of T&T, because of the failure of this vessel to meet its deadline for arrival, and of course all the defects that were discovered by the Port Authority engineers? Could you share with us from your experience, when a vessel—when a decision has been taken to cancel a vessel—can that vessel ride into our territorial waters without getting some kind of permission? And secondly with its arrival in Port of Spain—first, I understand at Chaguaramas, now in the harbour of Port of Spain if my information is correct—what would be the implications for the Republic for such an occurrence, can a vessel just arrive here? Do they have to get some kind of green light to come in?

I understand if you have an airplane you cannot just violate air space, you have to get permission to land, so I am asking the question, this particular vessel that has reappeared in our waters, having regard to the cancellation of its charter party agreement, what are the implications?

4.25 p.m.

Mr. Alfred: I think, as I was stating when you stepped out, our remit really is—we are regulators—safety of navigation, safety of a vessel. So with any vessel

coming to Trinidad and Tobago, 96 to 48 hours before, they would put in their statutory documents into Maritime Services. We would examine them to make sure they are in date. Shipping is an international business, and so any vessel, the *Ocean Flower 2*, unless we feel that she would sink if she comes in—she would block the channel—I mean, they are free to make an application.

My understanding is the vessel is here to do some sort of repairs. So, I am not sure it is a forced measure or measure, but certainly they are here to do repairs so it is going to be good for the legitimate business, it is going to be good for the economy and good for shipbuilding. I know we are trying to focus on shipbuilding and ship repairs, so I think they are just making—and those issues really, in my view, from where we sit, those are not really contractual issues. For me, we are really putting out an olive leaf to help a fellow sailor who is in need of some repair.

Mr. Chairman: How long have you been at the Ministry?

Mr. Alfred: Just under two years. Previously, I was a Lieutenant Commander in the coast guard for 22 years.

Mr. Chairman: Okay. I was wondering whether you are familiar with the transport board.

Mr. Alfred: No, I am not, Chairman.

Mr. Chairman: Would you care to make a closing statement?

Mr. Alfred: Thank you very much, Chair. In closing, it is the Maritime Services Division's ongoing mission to ensure that all vessels trading in Trinidad and Tobago waters, especially those on the inter-island services and the party vessels, party boats, are safe and secure for the travelling public.

Mr. Chairman: Thank you very much for your time and your candid responses. You are excused.

Mr. Alfred: Thank you.

4.27 p.m.: *Meeting suspended.*

4.32 p.m.: *Meeting resumed.*

**BOARD OF THE PORT AUTHORITY
OF TRINIDAD AND TOBAGO**

Mr. Adrian Beharry	Deputy Chairman
Ms. Charmaine Lewis	GM/CEO (Ag)
Mr. Leon Grant	CEO TTIT (Ag)
Mr. Ainsworth Mohammed	Commissioner
Mr. Tommy Elias	Commissioner
Mr. Dexter Jaggernaut	Commissioner
Ms. Suzette Baptiste	Commissioner
Mr. Brandon Primus	Commissioner

Mr. Chairman: The Twentieth Meeting of the Joint Select Committee on Land and Physical Infrastructure is hereby resumed. This is further to our enquiry into the Trinidad and Tobago Inter-Island Ferry Service with specific focus under procurement and maintenance of the ferries.

I wish to remind my fellow members and our guests that the objectives of this enquiry are:

- To understand the current state of the of the Ferry Service in Trinidad and Tobago;
- To examine the policies and procedures used to acquire ferries and to ensure that value for money is obtained;
- To determine whether due diligence governed the conduct of all aspects of the maintenance and management of the provision of the sea bridge service; and
- To determine the changes and challenges with respect to the

maintenance of ferries.

My name is Stephen Creese, I am the Chairman of this Committee and on my left is:

[Members of the Committee introduce themselves]

Mr. Chairman: I would like to remind members and our witnesses that you should place your cell phones—switch them off or place them on vibrate or silent, and when you are addressing the Committee, please activate your microphones and when you are through, please deactivate them. Do you care to make an opening statement? Perhaps it may be advisable for you to introduce yourself and your delegation.

Mr. Beharry: Thank you, Mr. Chairman. I would ask the individual members of the table to introduce themselves. Because the composition of the board is also a matter of issue, I would ask them to state their professions as well.

[Members of the Board introduce themselves]

Mr. Chairman: You may use this opportunity to make any opening statement.

Mr. Beharry: Thank you, Mr. Chairman. This is the third sitting session of the JSC, we are happy to be here and we intend fully to cooperate with the workings of your Committee in accordance with objectives set by the enquiry for this purpose. I would like to use—I have no opening statement—the opportunity afforded to me just to clarify certain things that may be of interest to the Committee.

Certain statements were made yesterday, I believe it was, at the last sitting, which require some correction of the records. I would like, therefore, to take the opportunity to do so now with respect to statements made by Mr. Annisette and statements made by Mr. Mark Bassant respectively.

With respect to Mr. Annisette, I would like to say the following. A meeting of the Board of the Port Authority of Trinidad and Tobago (PATT) was held on the 18th

of April, 2017 at which a resolution was passed, subject to negotiation for the charter hire of the *MV Trinity Transporter* and the *MV Atlantic Provider* on a month-to-month basis for a period of up to three months.

The resolution was passed after an evaluation of unsolicited proposals submitted to the executive management of the Port Authority, conducted under an emergency procedure in an order to obtain and provide an interim solution and to avoid a total collapse of the ro-ro cargo sea bridge service. The emergency was caused by the abrupt departure of the *MV Super Fast Galicia* after having served a 14-day short notice of termination of contract.

Consequent upon the decision of the board, I was directed by the Chairman, Ms. Alison Lewis, to convene negotiating meetings which were held on Thursday 20 April, 2017 at the Ministry of Works and Transport with the respective shipowners in order to agree on the financial terms and conditions for the engagement of their respective services.

Present at the meeting were: Ms. Charmaine Lewis, Acting General Manager, CEO of the Port Authority; Mr. Leon Grant, CEO, TTIT; Commissioner Dexter Jaggernauth; and myself. I led the negotiations under the direction of the Chairman. These details are contained in my statement to the Mouttet Committee of Enquiry. Therefore, it is false to convey the impression that I somehow single-handedly negotiated with the shipowners. As in all cases, a negotiating team, comprising members of the board and the executive management, was present.

All of the unsolicited proposals were submitted by the respective shipowners directly to the executive management of the Port Authority; therefore, it is false to state that I had any documentation for the ro-ro barge on my computer as was intimated.

Secondly, I wish to state that I was out of country from the 22nd of June and

returned on the 2nd of July, 2017. I am a Senior Lecturer in maritime economics at the Maritime Campus of the University of Trinidad and Tobago. The purpose of my visit to Japan was to attend the Annual Conference of the International Association of Maritime Economists of which I am a member and which was held in Kyoto, Japan.

I have also appended documentation which confirms that the arrangements made for my personal travel, hotel, ground transport and conference registration were made by myself in January of 2017 and completed long before I was even appointed to the board of the Port Authority on the 11th of April, 2017.

Mr. Bassant did call me at 3.00 a.m. in Japan. I spoke to Mr. Bassant and I informed him that I was in Japan in my personal capacity to attend a professional conference; therefore, it is patently false to state that my visit to Japan was in any way connected to the charter of the *MV Ocean Flower 2*. And in view of the above, I respectfully wish to request the Joint Select Committee to correct the records in these matters. Thank you.

Mr. Mark: May I say, first of all, welcome to the team and may I also say that the records would reveal—and maybe it was an oversight on your part, Mr. Adrian Beharry, not to have mentioned, maybe in your enthusiasm, the following members that you have just outlined being part of the team when you first addressed this matter, because the evidence would show that you indicated that it was you who negotiated a contract for the *Atlantic Provider* which initially was costing the taxpayers \$14,500 and you reduced it to US \$14,000. You also said you were the one who directly—you were the one who negotiated, not directly—but you were the one who negotiated with the *Trinity Transporter* and they were initially charging US \$12,000 and you brought it down to \$8,000. So the point I am making is that the evidence that we have before us, you did identify yourself as

the person—I, I, I. So maybe that is what is on the record, of course, and maybe that is how it would have been interpreted.

So maybe at the time when you spoke, as you said, you probably wanted to say that you had a team with you and your team negotiated and your team were made up of these members and the negotiating team negotiated downward, and not “I” and not “I” and not “I”. So I think that is an area that you need to understand what you would have said on that day and that is what is reflected in the verbatim. So I just wanted you to be aware of what you would have said on that day.

Secondly, I want to also ask whether it is the practice of the Board of Commissioners—and, by the way, Mr. Chairman, did we not invite the Chairman of the port, Ms. Alison Lewis?

Member: The Chairman of the Board.

Mr. Mark: The Chairman of the Board? Where is Ms. Alison Lewis?

Mr. Mohammed: The Chairman is out of—

Mr. Chairman: You were replying, go ahead.

Mr. Beharry: The Chairman is out of the country and will return, as I understand it, on the 25th of this month. She apologizes for her absence.

Mr. Mark: So this team would be able to answer questions on her behalf?

Mr. Beharry: We certainly hope so, member.

Mr. Mark: Okay and if you cannot, we will have to wait until she returns to the jurisdiction and invite here.

Mr. Beharry: Let us take it one step at a time.

Mr. Mark: No, I am putting to you, in the event that you are unable to answer questions, this Committee will have to re-invite her.

Mr. Beharry: As I have said earlier, we intend to fully cooperate with the deliberations of the Committee, and any questions we cannot answer at the

moment we will certainly address at the most convenient and earliest time. Thank you.

Mr. Mark: Mr. Chairman, through you, to Mr. Beharry, could you advise this Committee whether it is the normal practice for a team headed by a board of the port, the board of commissioners, to be assigned by the Chairman of the Port Authority to negotiate contracts or charter party agreements with owners of vessels vying for contracts with the port? Is that a normal practice at the port?

Mr. Beharry: Member, to date we have had negotiations, one of which was conducted, as I said, with the owners of the *Trinity Transporter*, the ro-ro barge and the *MV Atlantic Provider*. Those negotiations were conducted and the team comprised members selected by the Chairman of the Port Authority.

Subsequently, we held negotiations with Bridgemans, again the team, and the composition of that team was selected by the Chairman. All negotiations were conducted under the direction of the Chairman. We have had no other negotiations apart from those situations.

Mr. Mark: Under the law of the Port Authority Act, does the Chairman of the port have the power to appoint a commissioner to lead negotiations on charter party agreement? Is that lawful?

Mr. Beharry: I would have to check the Port Authority Act in order to respond to you properly on that particular issue.

Mr. Mark: I wanted to bring to your attention a resolution dated the 15th of June, 2017 and it is signed by the Chairman, Ms. Alison Lewis. I do not know if you are familiar with this particular resolution of June 15, 2017 concerning—it is entitled “Interim Passenger and Cargo Solution for the Inter-Island Sea Bridge for the period of one year involving the *Cabo Star* and the *Ocean Flower 2*”. This is on the 15th of June and—let me just read the resolution. The Authority recommends

to the hon. Minister of Works and Transport:

1. Cargo solution: the engagement of vessel *MV Cabo Star* for a period of one year at a daily charter hire rate of US \$22,500. Payment of mobilization in the amount of US \$500,000.

Fast ferry solution: the engagement of fast ferry *MV Ocean Flower 2* for a period of one year at a daily charter hire rate of US \$26,500 and payment of mobilization in the amount US \$600,000—this is the Chairman—subject to the following stipulation.—Mr. Chairman:

1. A trial run of the vessel—I guess she is referring to both *MV Ocean Flower 2* and *MV Cabo Star* must—not “should” not “if” but “must”; it is a demand here—be successfully completed before the Ministry of Works and Transport executes the relevant party charter agreements; and
2. That the hon. Minister of Works and Transport be requested to approve the process by which the unsolicited proposals were obtained from prospective service providers due to the exigencies of the inter-island sea bridge service to the Republic of T&T.

Now, we know about the Lloyd’s survey which was an inspection of the vessel. This is not about a survey, this is about a trial run which the Chairman is saying must be done before this charter party agreements would have been executed. This matter, I want to have some clarification on. Mr. Beharry, seeing that you are deputizing for the Chairman, would you want to share with this Committee: why this decision of the Port Authority Board of Commissioners was not carried out? The trial run that was demanded by the Chairman to be conducted before we enter

into any party or charter party agreements: why did we not carry out this instruction by the Port Authority?

Mr. Beharry: Member, could you be a little more specific? Which of the two vessels are you referring to?

Mr. Mark: I have two vessels in the resolution. The two vessels are: the *MV Cabo Star*, there was no party charter agreement on the 15th of June, the evidence before us is that the charter party agreement was signed by one Mr. Brian Grange on the 17th of June; and the other one, the *Ocean Flower 2* was also signed by Mr. Brian Grange and the Deputy Permanent Secretary, Acting Permanent Secretary, on the 17th of June. I am talking about a resolution on the 15th of June and the Chairman is saying that a trial run of the vessel. I do not know if it is the *MV Ocean Flower 2* or the *MV Cabo Star* or both—so I assume it is both—must be successfully completed before the Ministry of Works and Transport executes the relevant charter party agreement. Could you clear for us, as the Deputy Chairman, whether that was done by the Ministry of Works and Transport, to the best of your knowledge and recollection?

Mr. Beharry: Okay, just in terms of clarification of the chronology, if you are referring to the *Cabo Star* that proposal was submitted on the 2nd of June 2017. The *Cabo Star* was evaluated by the executive management tenders committee on the 13th of June, 2017. The resolution on the board meeting, the special board meeting, and the resolution passed was done on the 15th of June, 2017. In the documentation you will see it is signed on the 16th of June. Arrangements were made and put in place for the vessel to be inspected. There was a pre-charter hire condition survey carried out on that vessel, as you are already aware, and the pre-charter hire condition survey showed that the vessel was in satisfactory condition. Subsequently, the vessel was inspected by two officials of the Port Authority, Mr.

Leon Grant and Mr. Brendon Powder, who is the Chief Engineer, and that inspection occurred at a convenient location which happened to be taking in, in Panama over the period 13th to the 15th 2017—July, yes, correct. The vessel is now in active service between Trinidad and Tobago, and from all accounts she is performing quite well.

Mr. Mark: That is the *Cabo Star*.

Mr. Beharry: That is the *Cabo Star*.

Mr. Mark: Is it a normal practice in the maritime industry for party charter agreements to be signed before a trial run is executed to determine the seaworthiness of the vessel? Is that a normal practice in the maritime industry?

Mr. Beharry: Are you referring specifically now to the *Ocean Flower 2*?

Mr. Mark: No, I am dealing with the *Cabo Star*.

Mr. Beharry: You are still dealing with the *Cabo Star*.

Mr. Mark: When was the trial run conducted for the *Cabo Star* to determine its seaworthiness? Was it before the charter party agreement was signed on the 17th of June or was it after it was signed? Could you explain to us? We want to get clarification.

Mr. Beharry: No problem. My understanding is that based on the dates provided to you the inspection took place in Panama at the most convenient location and time.

Mr. Mark: When was that date?

Mr. Beharry: Hold on.

Mr. Mark: No, I am asking you a question, not to hold on. I would like you to—

Mr. Beharry: I would like to explain, please.

Mr. Mark: Yeah, but tell us the date so we could have it recorded.

Mr. Beharry: Okay. The inspection of the vessel by the Lloyd's Register of

Shipping was the first step in the process of selection of that vessel in order to determine its suitability and satisfactory condition to perform the services required. That was done prior to our contract execution on that particular vessel. The date for the inspection of the vessel occurred at the most suitable location once that vessel was taken out of active service and made available for inspection. It could not, in other words, be done while the vessel was in active service.

Mr. Mark: Mr. Beharry, apparently you are not understanding my question. Could you tell this Committee on what date, the date, the date—you said there were two inspections; one conducted by Lloyd's surveyors. Could you tell this Committee the date of that? That is what I am trying to get—the date.

Mr. Beharry: I would get the information for you right now.

Mr. Mark: And then the second one is the seaworthiness of the vessel, the *Cabo Star*. When was that conducted? So two inspections were done, Lloyd's surveys and the sea trial, by—you said Mr. Grant was part of that exercise and Mr. Powder. Could we get the dates?

Mr. Beharry: We would give you the dates shortly. I just want to make one clarification. When Lloyd's conducts a pre-charter condition survey, it also has to do with confirmation of the sea worthiness of the vessel as you put it. So I need for you to understand that immediately that process begins, it is designed to check all of the relevant certification on board the vessel, the hull and the machinery in order to determine the condition of that vessel and whether it is in a satisfactory state to fulfil its requirements.

Mr. Mark: Mr. Beharry?

Mr. Beharry: Yes, please.

Mr. Mark: As it relates to the *MV Ocean Flower*, could you tell or explain to this Committee when was the trial run conducted on this particular vessel?

Mr. Beharry: Member, my information is that the officials of the Port Authority, Mr. Leon Grant and Mr. Brendon Powder have visited Panama over the 4th to the 6th of July during which they conducted the inspection of the vessel—August sorry, my correction—the 4th to the 6th of August during which they conducted the inspection and sea trial of the vessel.

Mr. Chairman: Could we have that submitted in writing further to this hearing today? Okay? That information.

Mr. Beharry: Chairman, do you have copies of the report submitted by Mr. Grant and Mr. Powder in this matter?

Mr. Chairman: Yes.

Mr. Beharry: Fine.

Mr. Mark: Now, Mr. Beharry, I think Lloyd's surveyor or surveys or surveyors is a reputable firm and you have just provided evidence that it is not only inspection, they also conduct trials to ensure that the vessel is seaworthy, and they would have done that before the charter party agreement was signed, but you just indicated that in August another sea trial was conducted by Mr. Powder and Mr. Leon Grant and that report that we have before us, as evidence, showed monumental defects to the point that that boat collapsed in Panama and it could not come to Port of Spain.

In fact, the recommendation of Mr. Powder and Mr. Grant was to the effect, they will not recommend to the port and to the people of T&T this vessel to deal with the sea bridge—so badly designed—and all the mechanical challenges faced by that vessel, they would not recommend.

So I want to ask you: how can Lloyd's surveyor, before the charter party agreements was signed, carry out not only an inspection but a trial run of this vessel and yet still some weeks after we send two professionals from the port to conduct a sea trial and they recommended that vessel ought not even to come to

Port of Spain? So are we questioning the credibility of Lloyd's surveyors or is it Lloyd's surveyors only conducted an inspection to make sure all t's were crossed, the i's were dotted but they did not carry the boat on its sea trial. What happened there? Because something happened for us to not even recommend that vessel to come to Port of Spain. So could you explain to us what probably may have happened with the Lloyd's survey?

Mr. Beharry: Member, I have a copy of the Lloyd's survey for the *Ocean Flower 2*. In fact, it is dated the 9th of June, 2017. Okay? As I told you before, the *Ocean Flower 2* was evaluated on the 13th of June. It was proposed, I believe, on the 13th of June. No, sorry. It was evaluated on the 9th of June.

Just a summary of the findings, and I would explain a little bit about the difference between an inspection and a sea trial and who are the relevant people authorized to do so, because there is some confusion in the use of the term which is understandable.

The summary of survey findings of the condition survey conducted by Lloyd's Register, the following parts of the hull were examined:

External side hull plates above waterline look free of damage and no reportable impair was seen;

Coating and painting on side hull above water level was intact;

Spaces for passenger, passenger seats and safety belts fitted in passenger-seat arrangement found good and no damage was seen;

All IMO marks and indications marking in the spaces were provided and posted.

Tank holes: each four void space in bottom of both side port and starboard provided and fixed ballast weights in number two void spaces were provided and found intact.

Noted: All void spaces were made of aluminium steel.

Mr. Mark: Mr. Beharry, I do not want to stop you, but is this report you are quoting from? [*Book in hand*]

Mr. Beharry: It is in your submission. That is quite correct.

Mr. Mark: Well, you do not have to—we have that report.

Mr. Beharry: Okay, just a little bit, member, on the difference between an inspection and a trial run, a sea trial as it were. But the Lloyd's survey on the *Cabo Star* was done for the clarification—this is the information you requested. It was done on the 6th of June, 2017 prior to the execution of contract.

Mr. Mark: And when was the sea trial done?

Mr. Beharry: Okay, this is what I want to explain to you now. There is a distinction to be made between the inspection of a vessel and a sea trial. For example, when we design and constructed the four water taxis, there was an issue as to these are new vessels, do we do the sea trials in Trinidad or do we do it in Australia. The problem with doing the sea trial in Trinidad is if something goes wrong with the vessel after having brought it halfway around the globe from Australia by heavy-lift carrier and you discover that here is something to be remedied, you then have to turn around and take these vessels back to Australia. We resolved that problem by doing two things: one, we conducted the sea trials, and there are a number of different sea trials in the process as you move from milestone to milestone in the preparation of that vessel.

So that was conducted in Australia and it was conducted in the presence of the class surveyor. It was conducted in the presence of the shipowner, meaning the Government of Trinidad and Tobago, owner's representative, and it was conducted by in the presence of the relevant representatives of the shipyard and, indeed, the flag state, because the vessels were eventually flagged in Trinidad.

Now, what we did is that we did the final acceptance trial in Trinidad on arrival and that is how we resolved that problem. Now, the same process is used for the sale and purchase transactions on the second-hand market. In other words, if you went to purchase a vessel, you will be interested in the performance of that vessel in accordance with your own requirement of the potential purchaser and this is provided for in the Norwegian's sales form.

Now, what happened in this case is that the inspection is conducted by Lloyd's Register of Survey by an authorized ship surveyor—in this case, Mr. George. Or, if there is another regional jurisdiction they will have an office, a branch office in that country that they can draw on that resource. This is a common practice used by classification societies, not only Lloyd's. DNVGL also provides services, Bureau Veritas also provides services, American Bureau of Standards, they also provide such services; there are a number of internationally reputable classification societies.

What we do as the potential charterer is that we send our own employees who are technical specialists in different areas to conduct an inspection on our behalf, but these persons are by no means qualified ship surveyors. So we have to be careful when we make that distinction in terms of understanding their role and what, in fact, they are authorized to do on that vessel.

Mr. De Freitas: Good evening, again. So I am listening and I think the public as well want to get some clarification as to this entire process. So there is a vessel and it is in one part of the world and an inspection would have been done just to give you an idea of the general condition of that vessel. Correct? So let me ask this first question. Was that vessel in operation prior to the inspection? So, in other words, when that vessel would have come to you or you would have been made aware of that vessel, was it in operation elsewhere? Was it being used?

Mr. Beharry: Member, if you are referring to the *Ocean Flower 2*, our information is that it was in active service between South Korea and China.

Mr. De Freitas: Did you get, I do not know, from that company that had the vessel in terms of its active service, sort of a report of how that vessel was doing for that active service? In other words, how many times would it have broken down, what kind of maintenance of the vessel would have been done. So I am liking this to sort of buying a used car, but you are getting a report from the used car to find out what condition, before inspection, that that vessel is in. So did you all get any kind of indication from the previous user how the vessel operated?

Mr. Beharry: Very good. You would not normally depend on the seller of the vessel, in this case, the owners in South Korea to give you such information. Consequently, you are going to hire the professional services as a suitably qualified and experienced classification society such as Lloyd's Register of Shipping to provide you with that information.

Now, there is an important factor that we need to note here. The Government of Trinidad and Tobago, the Ministry of Works and Transport and the Port Authority of Trinidad and Tobago did not engage in the procurement of a vessel. We simply went out to time charter a vessel that was suitable for our purposes and could be delivered within a suitable time in order to avoid a total collapse of the sea bridge service.

Consequently, keeping that in mind, we have to ask the question: what does that mean to be time chartering a vessel? Because as someone said to you previously, I think it was Captain Mc Millan tried to explain, there are bareboat charters, there are time charters. So there are different forms of charters that you can engage in. In the case of a bareboat charter, the owner delivers the vessel to you and you are now responsible for maintenance of that vessel, you are responsible for crewing of

that vessel, you are responsible for scheduling and voids costs related to that vessel; so, that is a bareboat charter.

In our case, we did a time charter. What does that mean? It means that the owner of that vessel continues to be responsible for the ownership, operation and maintenance of the vessel. What we are interested in as the charterer is performance. Can you make the journey between Trinidad to Tobago in three hours? Can you operate at a particular service speed whether it is 26 knots or 36 knots? In the case of a cargo vessel which the cargo itself is not time sensitive compared to passengers. You want a lower speed so you ask for perhaps 15, 16, 17 knots.

Our concern as the time charterer and, in fact, in the agreement you will see embodied clauses in that contract that protect you as the charterer in the event of the failure of the shipowner and/or its ship manager to perform in accordance with the requirements of that vessel. So all you do as the charterer, once the vessel has arrived and is deemed fit for service, you then set your own schedule and you are now responsible for the payment of all voids costs, fuel costs, cost of lubes—all of those ancillary costs now become your responsibility, and you are paying to that owner the daily charter hire rate for the purpose of using his property. So the property is not yours, it is his.

Mr. De Freitas: All right. So I am trying to get to a point here. So you would have looked at the vessel, you would have deemed the vessel suitable. Correct? And this vessel now as to get from North Korea to Trinidad—

Mr. Beharry: South.

Mr. De Freitas:—South Korea, sorry, to Trinidad and Tobago. It is not a simple crossing especially for that kind of vessel that is not rated for that crossing. Who is responsible for getting that vessel here in a condition that is usable for Trinidad

and Tobago?

Mr. Beharry: Excellent question, and this is the crux of the problem. Because it is not our responsibility, we pay a mobilization fee as has been referenced earlier and we pay the daily time charter upon arrival in an entry into service. It is not our responsibility as the charterer to ensure the safe passage or condition of that vessel when it leaves its port of origin to arrive at its final port of destination.

Consequently, if you take a double-hull cat which is what these vessels are, and they are intentionally designed for short sea-shipping routes and you make such a major crossing as leaving South Korea, with the best will in the world, the Lloyd's surveyor could not possibly predict what the condition of that vessel would be in when it eventually arrived in Panama.

Mr. De Freitas: All right, great. So the next question begs this. One, we, being Trinidad and Tobago, would have known the risk of that vessel making that crossing; and two, the company who we are getting it from would have also known that risk. Yes?

Mr. Beharry: This is why we deliberately set up the inspections to be conducted in Panama prior to arrival in Trinidad and Tobago because we wanted to ensure that the vessel was fit for purpose and suitable for performance.

Mr. De Freitas: So the major risk would have really been on the company to get the vessel here in a condition here that we could use it?

Mr. Beharry: The fact that we have not paid any mobilization fee or a single dollar towards that vessel confirms exactly what you have just said.

Dr. Francis: Good afternoon, again, Sir. We have had a mountain of testimony since last you were here and it has shone a light on, in particular, activities at the port. I do not want to editorialize, but it has not been looking good. I could literally go from A to Z in terms of issues and concerns that have been raised.

Three, for me, in particular, because of my perception of how this thing should operate, stand out. We were informed, for example, that there is a culture of roll-over contracts at the port, contracts just being renewed without any tendering processes. We were, in some very poignant testimony, informed of workers hired by a company that has a contract on the port being, suffering forms of abuse, workers being open to sexual harassment and so forth.

The Prime Minister came and he testified and he used some very colourful language to describe the situation there. He talked about the fact that the port is procuring million-dollar trucks; whereas, I mean, there is a direct need for cranes. All of this is part of a larger malaise of a larger problem. My issue is this—was the port—I mean, I understand that your board is new. Were you aware of any of these situations? Were you in discussions beforehand before this JSC in terms of looking at the situations? Did you understand the gravity of the situations and were you in the process of coming up with any kind of prescriptions to deal with them?

Mr. Beharry: I must say, and I can speak for the Chairman—and myself in this respect—that we were forewarned at the level of Ministry with respect to the problems and the challenges we would encounter at the Port Authority. The fact that we accepted our appointments and swore to an oath at the Office of the President confirms our dedication to duty with respect to our role as commissioners and members of the Board of the Port Authority.

You may rest assured, we knew that we would be stepping on certain corns when we came into office, but we took on the challenge and we intend to continue with that challenge in spite of the ramifications as we have witnessed. We expected this. We knew every step of the way we were making decisions, we always reminded ourselves that we should be prepared for third-party scrutiny and we did our job with due diligence with that objective in mind.

I would go further, because you have asked certain questions and I listened very careful to the questions, member, also the Chairman has raised the question on more than one occasion regarding a strategic plan. I, myself, prior to my own appointment, submitted a copy of the World Bank Port Reform Tool Kit to the Minister in order to indicate the direction in which the board should be heading with respect to the question of port reform. The fact that we have not been able—and I teach strategic planning, incidentally, at the University, so I am very familiar with the theory and the practice. In fact, I used strategic planning as the methodology for my own Master's thesis, so I can tell you, you are knocking on an open door.

The truth of the matter is—and that the facts will speak for themselves—we have not been able to engage in a concerted effort to develop a strategic plan for the Port Authority. There are plans on the records of the Port Authority, the last one dated until 2016. I, myself, have seen the plan and I have used it in my lectures both in the case of the Port Authority and PLIPDECO, and right now in fact coming out of my first lecture last week with a year-three class, they have now to research ports that use the concept of strategic planning because not all ports do.

One of the things I would say to you, as a matter of port reform that I would like to see, and the board shares that view, is the whole question of using the port no longer as a publicly owned and operated entity and, therefore, coming out of the public service, but looking at the port in a different structure along the lines of what we call the P-3 model, which is the public/private partnership model—

Mr. Chairman: If I may interrupt you, the relevant issue there is not what can be done, it is whether you all had commenced doing that.

Mr. Beharry: Well, the straight answer to you is that we have not been able to get off the ground because we have been “outing” one fire after another fire with

respect to this sea bridge service.

Mr. Chairman: Which brings up the question as to multi-tasking. Are you saying, as such, every board meeting all you all did was matters arising from the last one and no time set aside for a strategic perspective? Because I am saying any board of management—which is what you are—have to resist the temptation to micromanage, to do what management should be doing, because the difference between management and the board is that the board should be looking at what is happening from a particular level and management is caught up in the day-to-day operations. So the problem I am having is that you all seem to have been subsumed in what should have been management activity, because if you are saying you are “outing fires”, that is management’s job and they report to you when there are “outings”, or what they propose to do about it, but the discourse during the board meeting has to be at another level.

Mr. Beharry: Chairman, do you want me to respond?

Mr. Chairman: You are free so to do.

Mr. Beharry: We in fact had set up and made arrangements for the board to go into recess in order to address those issues that you have raised and you have also mentioned. The fact that we have not been able to do so—and if you read carefully the reports that have been submitted both to the Mouttet Committee and to yourself, you will see that it has been a formidable task to out these particular fires and avoid a total collapse of the sea bridge.

We have engaged in special meetings of the board, regular meetings of the board, emergency meetings of the board, all designed to respond to the imperative to find vessels that are suitable to maintain that sea bridge between Trinidad and Tobago. It is not for a lack of professional acumen on the part of the board. In fact, every member here has a particular professional qualification that meets the requirement

for the composition of the board.

Mr. Chairman: Mr. Beharry, I think the point you are missing and what I keep trying to hammer home is that you were involving yourself in what management is paid to do. They should be reporting to you and you could question to see they are on the ball, but what we are seeing in the documents you provided is that you and management were indivisible.

Mr. Beharry: Chairman, what I would say to you is this. The fact that we have had to play a lead role in avoiding a total collapse of that sea bridge should indicate to any objective observer that the conditions at the port require substantial support at the level of the board. The fact that the last board was unable to carry out its mandate, as has been given in evidence here, is testimony to the fact that there are certain deeply embedded weaknesses in the structure and management of the Port Authority which we have had to address.

And if it means that we have to go out there and bat together with the management to try to resolve these problems in the short term, and the four-month period that we have been there, once we have overcome these hurdles this will give us an opportunity to address the more macro issues regarding the Port Authority.

5.25 p.m.

Mr. Chairman: I would leave it there for now.

Mr. De Freitas: So I just want to, from the Tobago perspective, sort of get to a certain point. So you guys would have been here either the first day or the second day as the current board, and now you are here so as the final witnesses still being the current board. And what I am trying to get at is that a lot of people in Tobago will want to know what happens tomorrow, so I am going to ask two questions in relation to both services, the cargo service and the ferry service. So the *Cabo Star* is here fulfilling an interim arrangement, it is here for a year, that gives it about

seven months left on that one-year contract. Where are you guys in terms of finding a longer term solution in relation to the cargo vessel?—because if it is that we are still dealing with the ferry service, and that seems to be taking up your focus now, because you have to deal with that, it is still an emergency situation there, I do not want that seven months rolls by, you end up in April, and the same thing you encounter when you came in this April, which is all the vessels are gone for the summer, you cannot find a cargo vessel and then you are going from one emergency to the next. So where you now, with seven months left on the contract for the *Cabo Star*, in relation to getting a longer term cargo vessel? That is one question, I will ask the second one after.

Mr. Beharry: Member, our proposal on the level of the board of the Port Authority, and we have the approval of the Ministry of Works and Transport so to do, is to within the short term issue an invitation to tender for the time charter. In fact, we have done so, and today we close tenders for the supply on time charter of our RoPax vessel. In other words, a passenger and vehicle fast ferry that would serve us for an option of a time charter of two years, with an option to renew for a further one year. Hold on a second. With respect to the cargo vessel our intention is to issue an invitation to tender for a three-year time charter. So we divided up our plan this way, we would have a short-term on interim solution, we would have a medium-term solution, and during the three-year time charter we would then be given the opportunity over that three-year period to build a new building and deliver it to the service of the sea bridge, and that would be the sustainable long-term solution, and this is the plan we have been working with.

I think that the board, coming into a very new situation, and not fully in control of the dynamic forces surrounding the question of the cargo vessel, and the condition, the maintenance condition of the two fast ferries took the prudent step to

time charter on the basis of a one-year time charter, and give us a little bit of breathing room in order to accomplish the longer term objective. Now, having said that, I want to say to the members here today that we are about to finalize the terms of reference for the commissioning of a short-term consultancy service by a firm that has been recommended by the World Bank, which is currently doing a consultancy service in the southern Caribbean with respect to ferry operations. Why do we want to do this? We want to question the business model that attends that sea bridge service that results in a Government subsidy of \$250 million per annum. Everything else that we discussed in terms of contracts here and contract there are subsets of that bigger problem, and, therefore, our intention is to question that model. If you saw in the newspapers either early this week or last week, the Shipping Association put out an extremely informative article on why not use liner shipping services to provide that sea bridge service between Trinidad and Tobago, or, alternatively, why not use the public-private partnership model in order to engage the private sector and derive greater levels of efficiency in the service between Trinidad and Tobago. All of those are models that have not yet been explored on that sea bridge service, and we need to pay attention, but we have first to do the groundwork consultancy that drives us in terms of the achievement of particular objective, designed to produce a lower cost service and a greater level of efficiency and satisfaction.

Mr. De Freitas: Thank you very much, and that sounds very good for the future going forward in terms of increasing the efficiency on the sea bridge. So just to summarize for people listening, we expect a tender shortly for the cargo vessel?

Mr. Beharry: Absolutely, that will be done within the next few months.

Mr. De Freitas: Great, perfect. My only concern, re the service ferry now, is that we have been told that this time period there should be more vessels available?

Mr. Beharry: This is quite correct. We have just experienced what is called the peak season of demand for passenger shipping services globally. It is the summer months in most areas, and, therefore, there is very little on the market that is available during the peak season of demand that you can go out there, and we have experienced this. Now, as we come off the summer months and we enter into September—well, October now, you are going to get a reduction in the demand for passenger vessels, and, therefore, they should, under normal conditions, become available in the market for charter hire.

Mr. De Freitas: Right, and I was leading up to a particular question, does that mean that there is a higher chance that we get a vessel that is closer that does not have to make a crossing from South Korea to Panama, then to Trinidad?

Mr. Beharry: As I told you, tenders closed today at two o'clock, and I cannot report on anything surrounding the tender, but the prospects look good.

Dr. Francis: Mr. Chair, as one of your, maybe short-term or medium-term strategies going forward, is the board going to make any recommendations vis-à-vis the management? And I am asking that in the context of giving you some easy advice, which is, if you find yourself fighting fires you will always find fires to fight. At some point there must be that distancing where you can allow yourself to provide the oversight required so get this thing functioning, at least semi-properly. So is the board going to make any suggestion vis-à-vis management, which is really where, I could argue from my perspective, the crux of the issue lies?

Mr. Beharry: Let me just say on the question on that particular issue, it has been a subject of discussion at the level of the board, and we do have certain options that we want to consider. I do not wish to say anything further on that matter.

Mr. Paray: Mr. Chairman, thank you. I noticed members double up on me so I am looking for some penalty time to finish my line of questioning. I want to ask

the three members who sit on the evaluation committee, that is Mr.Jaggernauth, Ms. Baptiste and Mr. Primus, it is correct?

Mr. Primus: Yes, Sir.

Mr. Paray: Could you state for the record what are your professional qualifications?

Mr. Primus: I am an attorney-at-law.

Ms. Baptiste: I am a civil structural engineer.

Mr. Jaggernauth: I am an economist.

Mr. Paray: Okay, thank you. In your last sitting here, I had requested some additional information with regard to what other documentation outside of the Dun & Bradstreet report that would have been submitted for Bridgemans did you use to come up with your assessment on the financial stability of that company to eventually give it the weighting of the marks that you did, and there was some commitment on your part to supply it. If I am not mistaken, I have not received anything along that particular line as of yet. Can you confirm whether anything was provided?

Mr. Primus: Member, by cover letter dated September 18th, the requested information which is in fact something should look similar to this would have been forwarded to the Committee. And I believe the questions solicited were answered in this via a three-page covering letter with the relevant annexures.

Mr. Paray: Can you point it out for me? I have the document in front of me here.

Mr. Primus: The document is labelled: an enquiry into Trinidad and Tobago. It is in caption—

Mr. Paray: What number, 1, 2, 3, 4, 5, which section?

Mr. Primus: Sorry, the section of the document you mean?

Mr. Paray: Yes.

Mr. Primus: There is no appendix relevant to that particular question. That question is answered at Roman numeral number (xi), which is on page 2 of 3. So it should be the second page of the bound volume.

Mr. Paray: Okay. Second page. It has introduction on the top of that second page?

Mr. Primus: No. It is the first page titled: September 18th, Mr. Stephen Creese, Chairman.

Mr. Paray: “Yep.”

Mr. Primus: At the bottom it says, page one of three—at the bottom right?

Mr. Paray: Is this the first page of your document?

Mr. Primus: No, that is not it. The letter is the first page of the document.

Mr. Paray: Okay, item—

Mr. Primus: Roman numeral (xi), the last item on the bottom of page 2.

Mr. Paray: Copies of documentation.

Mr. Primus: Correct.

Mr. Paray: So nothing else besides the brochure on the Bridgemans Services that Dun & Bradstreet document was used?

Mr. Primus: That is not absolutely correct. At the tender evaluation stage in terms of what was being done, it is the brochure that would have been used. The Dun & Bradstreet Report is not something that is the normal course of Port Authority request. So what would have happened—

Mr. Paray: The question that I had asked was, what else in terms of the financial decision-making process, besides the Dun & Bradstreet Report, would have been used, and there was an affirmation that, yes, there were other documents. So this is telling me that there were no other documents that would have been used to ascertain the financial strength of the company?

Mr. Chairman: Company brochure you said, right?

Mr. Primus: Yes, company brochure.

Mr. Jaggernaut: In researching the request with management it was revealed that because there was a lack of financial data with all persons being evaluated they decided to not give a score.

Mr. Paray: To not give a score?

Mr. Jaggernaut: Yes. In fact, they would have relied on other aspects in the profile but not financial. This is my understanding from management.

Mr. Paray: As an economist does that sound sound in terms of—I mean, I am just looking at the process here, I am not making any judgment on you, Sir, but in terms of the process as you have identified that it was not something that is too relevant since all of them “eh” supply too much “ah” information, does that sound reasonable in terms of making these sorts of decisions, in your personal professional opinion?

Mr. Jaggernaut: Well to be guided by management—

Mr. Paray: No, I want your professional opinion, Sir. “Geh meh yuh professional opinion nah man, you are an economist.”

Mr. Jaggernaut: Because of the lack of financial data from each of the persons, and management advising us on this, this is the advice I would have taken.

Mr. Paray: Without query, without question?

Mr. Jaggernaut: I would not say that. I mean, I am hearing your comments, and additional information would support, but in light of not being available we would have relied on management.

Mr. Chairman: And you are an economist.

Mr. Jaggernaut: Yes, Sir.

Mr. Chairman: You see why I say there is need for the board to function at the

strategic level, because these are the kinds of questions, rather than getting involved in the execution of tasks, these are the tasks that the board should have been addressing, because to grant full marks on the firm's brochure—so the manufacturer of the car says, this is the best in its class; the ad on the TV says, this is the best in its class. If I sit in front of the TV long enough, Toyota would say so; BMW would say so; Mercedes Benz would say so; Kia would say so, and I could go all the way down to that car that nobody wants to insure or give loans for now. I would not call it because we are going live. This is what you are saying to me, that the brochure that what the salesman says is taken at face value?

Mr. Primus: Chairman, if I may respond to the process. Unfortunately I was not here on the last occasion so I am not sure what may have been said on this topic, but the process that was used by the tender evaluation committee was, one, although we did not have a formal tender in the way that the rules were typically described there was one before which resulted in one vessel and it was squashed. What the tender committee did was to try to mimic that process as much as possible. So in other words, in that tender that went out that was squashed there would have been an established evaluation criteria. One of the items in that evaluation criteria was company profile, and sort of like an industrial experience. So I think explanation needs to be done.

So we have, for example, five main categories of analysis, when the tender evaluation committee meets, within that allocation of a score, so, for example, 20 points may be allocated to one of those five sections; there is a breakdown within that section. The statement here that is made that everyone got full marks does not relate to the financial aspect of it. What it relates to is that within that breakdown, of let us say 20 points an element, because no one had the financial data that element within was taken out, and the remaining elements of that score were

evaluated based on the documentations provided to us.

Mr. Chairman: Vice-Chairman, you are comfortable with that?

Mr. Beharry: Chairman, the Commissioner, Brandon Primus, has accurately represented what in fact occurred. We need to be very, very clear in our minds that after having issued the invitation to tender, upon receipt of the short notice of termination of services, we received one proposal that was unsuitable, consequently under an—

Mr. Chairman: Vice-chair, I asked a specific question—

Mr. Beharry: The answer is, yes.

Mr. Chairman:—are you comfortable with that?

Mr. Beharry: The answer is, yes.

Mr. Chairman: Thank you, Sir.

Mr. Paray: So, to continue, Mr.Jaggernauth, just to be clear, and I just want to touch back the Dun & Bradstreet Report, that raised no red flags for you outside of what was the requirement in terms of liens and judgments against it?

Mr. Jaggernauth: Let me go into it a little bit. The Dun & Bradstreet Report was not part of the formal evaluation, it was used by the board as extra diligence on the company. The company, as I understand, was incorporated in September, 2015. By June when the report was requested you would appreciate that only one year of financial data would be available—

Mr. Paray: Just put a pin there, in one of your tender documents where you have the seven areas, they talk about the companies ought to have between three and five years of experience in the industry, and that they must provide that information, or part of the evaluation. Is that correct? Am I remembering correctly?

Mr. Primus: Yes, you are correct. So the formal that tender went out—

Mr. Paray: So this company, it is just two years old, your tender evaluation requirement says that we want three to five years of experience, and that too raises no red flag in terms of the crisis?

Mr. Primus: That was not a requirement of the tender, with all due respect. As I mentioned before, there was a formal tender that was advertised in the press—

Mr. Paray: So you have a formal and you have an informal?

Mr. Primus: Can I perhaps continue?

Mr. Paray: Go ahead.

Mr. Primus: There was a formal tender process that was issued on April the 1st, that closed at some time in April, I believe, the 13th, shortly after we were appointed, that tender, that formal tender had one tenderer which did not meet our requirements. As a result, that process was squashed. So anyone who submitted in response to that document would have been required to submit evidence of three to five years or so, on whatever the formal tendering requirements were done. If the tender document said you needed that, you must have submitted it. What I said a short while ago is that while the Ministry gave us authorization to use a process of unsolicited tenders, therefore people were not required to submit everything listed in the formal tender document. We tried as best as possible to analyse it along those lines. Now, obviously, if you do not have a formal tender document saying you need to produce 10 items, each tender or proponent is not going to give you 10 items. So, therefore, in order to ensure there is parity between all the players you now have to adjust the tender scoring that would have happened if you had a formal tender process, to therefore properly evaluate the tender before you to make sure there is parity amongst everyone. So in such a circumstance there was no former requirement in the process of using unsolicited bids to have a three to five-year experience.

Mr. Paray: Okay. You mentioned that the tender before, there was one submission. Would you mind telling this Committee which company made that submission that was eventually not—you did not move forward with?

Mr. Primus: It is in one of the documents and I could try to find it. I cannot remember it off the cuff, but it is here.

Mr. Paray: In the meantime, all right. I find it hard to believe that in the whole of the marine world that we would find difficulty finding companies with three to five years' experience, but that is just my opinion. I want to move on—

Mr. Primus: Member, may I just say, we found it, if you look at the original submission there is a note that says:

The tender was received from SC Brokerage and Consulting LLC.

And there is also a note afterwards saying:

The tender was cancelled due to the unresponsive of tender and the decision to engage the assistance of the World Bank in procuring a vessel.

So there is an explanation—

Mr. Paray: Unresponsive?

Mr. Primus: Yes. There is an explanation at appendix 4 that speaks of that.

Mr. Paray: All right. Okay. Just moving on very quickly. Ms. Lewis, I have a document here that you sent on the 16th of June, 2017, to the acting Permanent Secretary, Ms. Dhanmattee Ramdath, where you advised of the draft Cabinet Notes, and so on, to execute the charter party agreements, and so on. In your last paragraph you made it a point, which stuck out at me when I read the document, where you are informing Ms. Ramdath that, and I read:

In addition to the above mentioned submission the management of the Port Authority—this is your team, not the Port Authority board—is also including the Dun & Bradstreet Report on the Bridgemans Services Group

Limited for the review of the Ministry of Works and Transport.

Now, the reason why that stands out to me is I am of the view that you, doing your due diligence as the CEO, who I think have a duty to make sure we get the best deal, felt that, “aye, before allyuh sign dis ting pay some attention to dis Dun & Bradstreet Report for meh”. May I ask, ma’am, if that was your state of mind when you included this particular paragraph, or this was just standard in your normal routine of submitting correspondences to the Ministry?

Ms. Lewis: Good afternoon, member. In terms of the Dun & Bradstreet, the report was commissioned, and the directive given was for the audit committee to review the report, so that management did not review the report. I was requested to provide the Ministry with certain pieces of information, and having not reviewed the report, except for a cursory look at it, I thought it prudent to point it out to the Ministry to make special emphasis of that, so hence the reason the letter is crafted like that.

Mr. Paray: But I am assuming that you must have read it, especially that report for you to make it a point in the document here. Correct?

Ms. Lewis: It is because I did not go through it and it was not sent to the management to go through, I looked at the report. I did not go through it in detail because it was supposed to be for the audit committee to go through it, but I glanced at the report and I said let me point it out to the Ministry, because I could not say for sure that I had analyzed it, or whether the audit committee had finished doing what they were supposed do, so I felt it was necessary to point it out to the PS. I think it was the acting PS.

Mr. Paray: Let me ask you this, ma’am, in terms of the audit committee doing their due diligence, and correspondences that any member or even people in your management team may find that may be indicative of the direction the audit

committee has to head, is that a normal procedure to share information amongst the group that will assist the audit team in terms of their evaluations? Is that a practice?

Ms. Lewis: Sorry, I do not understand the question.

Mr. Paray: Okay. So, for instance, you have correspondences from someone that gives information on a particular item that the audit committee is looking at that impacts the assessment. They are sitting on the board, you are in management, is it normal for you to exchange correspondences that will have an impact on their assessment ability, or is that something that is not done?

Ms. Lewis: Is it normal for what?—exchange of correspondence between the board and the management?

Mr. Paray: Yeah, between the management and the board.

Ms. Lewis: Well, it goes in both directions, the management may send documents to the board, and the board may direct whatever it chooses to the management.

Mr. Paray: Okay, so that is a standard thing?

Ms. Lewis: I need to clarify that Dun & Bradstreet a little more too. Now, the Dun & Bradstreet, it was commissioned. In my capacity as General Manager I did not get the document, but I knew it existed, and we commissioned it, and in packaging the document to the PS I pointed it out. However, in August sometime I actually got a copy of the document. Besides it passing through my desk to go to the PS, when I glanced at it in a cursory fashion, I actually got to look at it a little closer in August, and I remember remarking to one of the commissioners, I think it was, that I was concerned about the results in the document.

Mr. Paray: So you had some concerns?

Ms. Lewis: Yeah.

Mr. Mohammed: May I please, Sir.

Mr. Paray: Sure.

Mr. Mohammed: Chairman, the Dun & Bradstreet, a lot of heavy weather is being made about this Dun & Bradstreet. The Dun & Bradstreet report was the initiative of the board, just as a back stop, and as was said earlier on, as was explained earlier on, it is just to see whether there were any liens against the company. If it were a part of the evaluation process Dun & Bradstreet would have been requested for all vessels that are being evaluated.

Mr. Paray: Okay. So perhaps it should. But, Mr. Jaggernaut, I just want to go back to the evaluation document here, and I would not be too long any more, and I just want you to explain to me, and I understand—the last time we spoke I queried about the evaluation, and this is specifically for I to understand how you came about, because I am measuring the effectiveness of the process by which you evaluate these documents, so I want to test something. In your delivery PAN assessment for the *Mega Jet* it identifies within 30 days delivery, 10 points; the *Ocean Flower 2* within 30 days, 10 points; the *Tera Jet*, 81 to 120 days, zero points, and there were two other vessels. What correspondence did you get that would have determined that this vessel was not available to operate in Trinidad and Tobago within the 30 days as required for the maximum points like what the other two vessels got? How would you have determined that they cannot do it and they were awarded zero points?

Mr. Primus: Perhaps I can respond to that.

Mr. Paray: Sure.

Mr. Primus: As part of the evaluation process again weight was given to when you can deliver the vessel. Again, neither the tenders committee nor the board was in communication with any of the tenderers—proponents should be the correct work because it is not a tender, prior to the negotiation committee meeting. So

there was no direct liaison at all at that point in time. Right. So what would have happened is that throughout the process if, as I said, it was not a formal tender so documentation may have been missing, somebody may have stated something another person did not. So in cases where something as critical as delivery, because, again, we are dealing with an emergency situation, we need a vessel as soon as possible, so the relevant weight was ascribed to that particular component. If it was not presented by any person contact was made by the port management. I believe it would have been through some member of the evaluation committee, or the port secretary to confirm via writing, or email, or otherwise, when they can actually have it delivered. So there is a difference between the vessel being available now and delivery date; again, that depends on location. So, for example, the vessel out of South Korea may have been available for delivery. It could probably leave within 10 days of award, but if it is, however, 2,000 nautical miles away, the delivery time may be much longer. So we would have received documentation through the management and who did the evaluation as to exactly where the vessel would have been, how long it will take to get here, and how long can it, more importantly, fill its active duty. So these vessels were actually in active duty, they may have contractual arrangements, somewhat like the *Galicia* case, although they left us high and dry, right, there are some honourable ship owners out there and they would have fulfilled their duty.

Mr. Paray: We will come back to the *Galicia*, just stop right there for a second. I would not be too long again, just hang on right there. Mr. Jaggernaut, do you have correspondences from the owners of that particular vessel that says that the vessel cannot be delivered according to your time frame of within 30 days that would have afforded them zero marks?

Mr. Jaggernaut: Member, can you say which vessel you are speaking about?

Mr. Paray: I am looking at the evaluation criteria under Seajets *Tera Jet*, zero, submitted on the 13th of June, 2017.

Mr. Beharry: Chairman, with your permission, I would like to address this particular issue. At the time of the evaluation whatever documentation would have been submitted to the executive management, and it was used in the evaluation, the duration that you see quoted there in terms of making the vessel available would have been used in evaluating that particular vessel. Having said that, I need to put into the record the following. The Dun & Bradstreet Report, I am seeing in today's *Express* a report that says the Dun & Bradstreet Report is dated the 29th of June, 2017. This is inaccurate information. I have here the correspondence from Dun & Bradstreet by email that shows that the Dun & Bradstreet Report requested by the Port Authority was in fact sent on the 2nd of June, 2017 at 3.00 p.m.

I want to emphasize to the members of this Committee that the Dun & Bradstreet Report was commissioned by the board of the Port Authority, and it was not done so in relation to any particular vessel proposal. It was done in order to make an assessment of the firm that we were dealing with and, in particular, whether any financial liens were held on that firm. So it may be that Mr. Bassant, when he made his request for his one-pager that he made it on the 29th of June and, therefore, it reflects that date. However, I want to assure the Committee that this report was in fact requested at our very second meeting with Bridgemans Services Group, held on the 2nd of June, 2017.

Mr. Paray: So what you are saying is that because it was requested for this singular company that you are satisfied that their finances were in good standing based on that document?

Mr. Beharry: No. No. I did not say that, what I am saying is that the request for the Dun & Bradstreet Report was done for a particular purpose, and it was not

done with the intent to use that report in any particular evaluation of any particular vessel.

Mr. Paray: Okay. I am just coming back to the issue on the *Tera Jet*—

Ms. Lewis: Member, I have the document with the *Tera Jet*, the submission here—

Mr. Paray: The?

Ms. Lewis: I have the submission here for the *Tera Jet*, which we would have used. It is dated the 24th of May.

Mr. Paray: 24th of May. Would you mind just reading it out if it is not too lengthy?

Ms. Lewis: 20th August to 10th September, which is the Laycan, the latest or the earliest arrival date, the range was 20th August to 10th of September.

Mr. Paray: Okay. I have a document submitted in our bundle here that is from a gentleman by the name of Elias Bezas, and it is on the 29th of May, 2017, and it is addressed to a Ms. Charmaine Lewis, and if I could just read the second paragraph here. Sorry, let me read it from the top:

Good afternoon, we understand the pressure the Port Authority must be under to secure tonnage and we would like to assist if we can. Following an internal management meeting today I write to advise, *Tera Jet*, should you require an earlier delivery of *Tera Jet*, for instance, June, 2017, we will be willing to consider such a request. *Tera Jet* is a vessel that is well capable—and so on.

And they went on to give you all the pluses about the *Tera Jet*. Three weeks later, actually, another email—it is a bit hazy here—says—it should be somewhere in the last week of June, I cannot make out the date here, but:

Dear Ms. Lewis

I write to follow up on our previous correspondence to the Port Authority in

respect of our time charter offer on the *Tera Jet* as now three weeks have passed since our offer was made, but we have received no feedback at all. And I am assuming, probably, a feedback means acknowledgement. My understanding, on the 29th an offer was made that the vessel could have been available by, I assume June 2017 could be the 30th of June, 2017, that may have stopped the weighting from being zero to 10. Now, what is the impact of that? The impact of that—and what I am trying to get at is the process here, and I want to point out the weakness of the process, for whatever reason. If 10 points were awarded, based on that email that the vendor is saying we can get you the vessel at the end of June, it means that *Sea Jet*, their marking would have gone to 71.8, whereas Bridgemans Services would have remained at 68.7. Now to me that would have pointed your conversation in another direction other than Bridgemans. So all I am saying here is that for whatever reason Bridgemans was eventually selected and forwarded, something is wrong with the process. Because if we are using mathematics to measure apples for apples, grapes for grapes, it does not do justice here because of how it is being done. And my question to Mr. Jaggernauth and the audit team, was this information passed to your team that this vessel could be available by the 30th of June?

Mr. Primus: Just to clarify, the first vessel that would have been selected through the evaluation process was not even the *Ocean Flower*, right. The first vessel that would have been selected would actually have been, I think, recommendations would have made prior for a vessel called the *Algulade*, it is reflected in the note. Again, because we are dealing with the summer period people are grabbing up these boats. Every day that passes the boats become less and less available. The first vessel that was suggested by Bridgemans would have been the *Alkioni*, then it would have been the *Mega Jet*, and then we ended up with the *Ocean Flower*. At

the point in time when the analysis was done to compare the *Tera Jet* with the *Mega Jet*, the *Alkioni*, 82m Caribbean, *Virgin*, L-Valley, and others, at that point in time there was no receipt of communication from the *Tera Jet* owners as to that increase in date, accelerated date. The document, as you would see, speaks, the evaluation report speaks to the fact that they can deliver it within 81 to 120 days. That was in their own writing, the document that Ms. Lewis just read from, that was what they were able to deliver. So at that point in time—

Mr. Paray: I hear you, and I read some of that somewhere, but Ms. Lewis now told me, and this Committee, that it is normal for correspondences to be exchanged, right, and to me something as important as a ramp-up of a delivery date, noting the criticality of the nature of the problem existing at the port, I find it a little hard that Ms. Lewis would hold on to this email and not share it with you guys, noting the impending collapse. And, I mean, I keep hearing you all talk about this movement of the *Galicia* being sudden, and so on, and from my reading of the documents, between the people month to month charter, right, without a contract, four tenders, that to me does not sound like if “de” man pull out the boat and gone just so. But I want to just come back—

Mr. Primus: But I can say as a member of the evaluation committee that information was not forwarded to us.

Mr. Paray: Okay, and thank you for that.

Mr. Primus: So I do not know what would have transpired again between Ms. Lewis and—perhaps in keeping with Mr. Francis’s comment we probably were not involved in that level of minutiae, but that did not come to us. Certainly, if that would have come to us formally, and there was an avenue to change that report, perhaps we might have, as you have said, we would have caused a re-evaluation of the process, but that information—

Mr. Paray: Last question to the audit team. At any time during the course of this evaluation were you asked, instructed or pushed along to give this business to Bridgemans?

Mr. Primus: I can categorically say, no. In fact, just to repeat, as I said, up until the point in time that a board decision was made and things were done to appoint the negotiations committee there was no interaction between the tenders committee or the board with any proponent including Bridgemans. And it would have been only after these things were done that direct communications with members of the executive and the negotiations committee took place. So I can, without a doubt, certainly on my personal basis, and I am sure the others can speak for themselves, no one ever spoke to me, I never spoke to anyone, no email, fax, teleconference, WhatsApp, categorically—and, in fact, up to this day I have never seen a single person from Bridgemans, and I still have not spoken to them, up to this day.

Mr. Paray: Ms. Lewis, have you ever been asked to not share this particular email with this team by anyone?

Ms. Lewis: No, I have not been asked. But I just want to add, when you spoke about the communication and I said it goes both ways, and the communication usually direct to the board, goes via the port secretary, usually that is what happens, the port secretary. So very early in the emailing between Mr. Bezas and myself, I included the port secretary in the correspondence, you would see it there. So the document dated the 24th is what would have been considered by the evaluation team, and from the notes that evaluation took place on the 26th of May when they were doing the assessment against the *Mega Jet* and the *Tera Jet*. So, therefore, his further communication to me came after the evaluation committee would be in possession of the documents. In addition to which, during the evaluation what also emerged, apart from the points for the time of delivery, it had

to do with the pricing of the offer, because the *Tera Jet* was offered at US \$33,457 per day. In addition to that there was a fee for, depending on what speed you use there was a fee for that, and there was a mobilization of US \$1 million, and a demobilization of US \$1 million.

Mr. Paray: And that is reflective in the weighting on the price, so it has no relevance to the zero being afforded to delivery.

Ms. Lewis: I was not part of the evaluation team so that I am not sure.

Mr. Paray: Mr. Jaggernauth, because of what Mr. Lewis has now said that would have been reflected in the low score on the pricing side, but that has no impact on the overall weight of the total score in terms of where it would have eventually landed.

Mr. Jaggernauth: No. My understanding is that when the evaluation took place that financial did not form part of it.

Mr. Paray: Okay. All right. And, lastly, in the correspondence there was also an offer from *Tera Jet* that because they can move the timing up for this vessel it would have gotten them short of one vessel in their Mediterranean fleet, and they would like to engage the port to consider, because they understood that the *Warrior Spirit*—one of the ferries was on the dry dock and not being in use, and they were willing to offer to purchase the vessel for cash to relieve it out of our hands rather than taxpayers have to fix it, and they will refurbish it, carry it back to Gibraltar, wherever it going, and add it to the fleet in about 90 days. So I am finding it difficult that something as critical as this does not form part of the evaluation conversation. Not that it would have impacted it in any way eh, it “doh” have to, but what I am saying, I find the process difficult that something as critical as this does not impact the overall decision-making process.

Mr. Beharry: Chairman, if I may provide some further clarification to what the

General Manager just said, and also to read it into the record. There are a number of criteria in which, as you are familiar with the document, has been submitted, age and condition, suitability, duration, delivery, cost of their time charter, company, profile and industry experience. Now, in an evaluation process, and I was not a member of the evaluation team, so I am outside of the process, both the chairman and myself, there are certain things that you can consider to be fatal flaws. In other words, if a vessel does not meet a particular condition then you have to consider whether it can go further. In this particular case, as you will no doubt see, that vessel was allowed to continue through the entire process. But let me clarify and point out, and read into the record the following.

That vessel is a monohull fast ferry, it has as deep draught. The vessel has a capacity of 17—80 passengers and 440 vehicles. Our normalized distribution, in other words, if you were to walk down on the port to take a fast ferry to go to Tobago you will find, on average, the demand, the passenger demand is 660 persons and 120 vehicles. If you take the capacity of that vessel and you relate it to the utilization, the demand for services, in other words, you would find out that that vessel capacity would have been utilized to the extent of 25 per cent. Secondly, as the GM pointed out, in addition to this premium daily charter hire rate of some thirty-something thousand dollars per day, I saw something that I have never seen before in time charters, you have to pay a premium for the use of gas turbines, and they have three speed modes. In speed mode three, which we would have requested, 36 to 38 knots, that gets you from Trinidad to Tobago in three hours, you will then pay \$1,900 per operating hour. So if you assume three hours to Tobago and three hours back, that is six hours; that gives you \$11,400 per day. In addition to which, you pay \$925,000 mobilization fee to get that vessel from Greece to Port of Spain, and you pay an additional US \$925,000 to get it from Port

of Spain back to Greece. As well as, something again I have never seen before in a time charter, the charterer, meaning the Port Authority, is responsible for the payment to remove slop and sludge from the engine room; that is a maintenance issue. We were not able to quantify that. In addition to all of these charges, we, as I explained earlier, under the terms of a time charter, you are responsible as the charterer from fuel costs and the cost of lubes. When I checked with my marine engineering lecturers at the university, a gas turbine requires a very refined fuel akin to kerosene that is a highly combustible fuel that is a very pricy cost. In other words, above and beyond all of this, they wanted a minimum time charter of 18 months, and here we were asking for simply a fast ferry service to cover us for the duration of the dry docking of the vessels, and we were prepared to go to one year—

Mr. Paray: And you made my point—

Mr. Beharry: Hold on, and to finalize, because I do not want—to finalize, the total cost for the 18-month period was \$175million.

Mr. Paray: You have made my point, Sir. The point that I was making, if, because all of that would have been reflective in the score, all what you are saying, my point that I am making is that if the delivery time was 30 days, and this went up to 10 points, and their overall mark went high, all I am saying is that the process that we are using to evaluate these vessels; you say that tenders are closed or open today for a next round—

Mr. Beharry: That is correct.

Mr. Paray:—if we are going to use this same formula, in my view, we run the risk of doing the same thing. So all I wanted to identify, because I agree with you, I would never sign the *Tera Jet*, based on what you now said, but if we are doing this thing on weighting, it means that the *Tera Jet* could have slipped in here very

easily as the preferred vessel, if you are going with the weighting.

Mr. Beharry: Member, again, just for clarification, and to read into the record, it is very clear to me that someone, particularly in the media, had been prosecuting a case on behalf of the owners of the *Tera Jet*. I want to say to you, I am not a member, as I said earlier, of the evaluation committee, and I am quite clear in my mind that that 80 to 120 days would have been in their initial submission, which is the document that would have been used by the evaluation committee, and on which basis the evaluation scores would have been awarded. Consequently, any subsequent representation of reducing 180 days to 120 days down to 30 days is clearly designed to put that player back into the game.

Ms. Lewis: Chairman, if I may—

Mr. Khan: Just one follow-up comment, because I do not want to say much in this thing, I think I have grilled each team sufficiently. I did not plan to say anything else, but I think Mr. Paray made a good point, because from what you just articulated there the *Tera Jet* did not stand a chance like a snowball in hell to get this contract.

Mr. Beharry: But you would not believe it—

Mr. Khan: No. No. No. Let me finish, but had the *Tera Jet* included in their proposal, a 30-day delivery time, based on the scoring they would have surpassed Bridgemans, you know, and then you would have been in the dilemma of having to recommend, based on your scoring system, a boat that is so ridiculously overpriced, over capacity, and all the other things there. So his point, I think, about checking your evaluation criteria into a more robust model and template is very valid. But I like how you articulated the *Tera Jet* unsuitability for this—

Mr. Beharry: Member, I think the Chairman has made the point to me, and you have now reinforced it and reiterated it, and I wish to totally agree that we need to

re-examine the criteria and ensure—the problem arose, as Brandon explained, Commissioner Primus, we moved from an invitation to tender document that had details on the evaluation criteria to now a second phase of evaluating unsolicited bids. And as you can well imagine, each individual proposal is going to submit in accordance with his own style, and that is where you have a lack of consistency and standards in the submission that present challenges for any evaluator.

Mr. Primus: Mr. Chairman, if I can just add to that, based on what the Deputy Commissioner has said, even if, for example, the evaluation committee's scoring had given the *Mega Jet* above everyone else—sorry, the *Tera Jet* above everyone else, we must remember this is not a rubber-stamping exercise. The management meets, the tender committee meets, the board meets, the Ministry meets, then the Ministry sends it to Cabinet and Cabinet meets, and I am fairly certain that—

Mr. Khan: Do not go down that road, the issue is set your template right, because there is something called judicial review, you know. Good?

Mr. Primus: But, member, the point I was just going to make, even if it had made it to the board level and we made a recommendation, there is one primary factor that may have shut it down notwithstanding the scoring, and that being that the Port of Port of Spain, just down the road, does not have the bunkering capability to fuel that vessel. So even if we selected it we would have had a major problem to figure out how are we going to fuel it. You would probably have to send it some other port somewhere else, so it may not even have passed muster within the port's own process, even if the scoring mechanism allowed it.

Mr. Khan: Well that brings us back to Mr. Beharry's point about fatal flaws, and that could be defined as a fatal flaw. So once you—it is like probability theory, once one of our probability is zero, the whole sum becomes zero. So that is a fatal flaw, as you hit the fatal flaw you are out. So my point, which I support Mr. Paray

on, and the general thinking is, please, for heaven's sake, set your template in a more robust way. That is all I say, but I agree with your analysis.

Mr. Mark: Yeah. Yeah. Yeah.

Mr. Chairman: And that is the bottom line there you know, because the template being used would not have unearthed that aspect of the matter, and, therefore, any other vessel could have won and then we wake up and find out that, “aye”, it cannot come in this port, which would not have been the first time we woke up and found out that the vessel chosen is not ideally suited to this port.

Mr. Beharry: Chairman, once again, your point is well taken.

Mr. Mark: Mr. Chairman, may I. I just want to support—I have some points I have to make, but I just want to support the point made by my colleague, Minister, Sen. Franklin Khan, and Rushton Paray, and supported by yourself. And to deal with the whole question of procurement again, Mr. Chairman, there appears to be inconsistencies with the port when coming to advertising for tenders. And I believe that the tender that closed today will be a replication of a disaster to come, and I will tell you why. Mr. Chairman, this is the advertisement [*Mr. Mark holds up newspaper article*] which was repeated in several of the newspapers, it is as flat and bland as a tenders bid or document can come. Now, I will tell you why, nowhere in this tender advertisement did the public know the specifications that was being requested of whoever is applying for this vessel. Now, the reason why I am saying there is inconsistency, I have a document here in which the closing date is the 26th of February, 2016, which is coming under the same board—

Mr. Beharry: How long?

Mr. Mark: When were you appointed?

Mr. Primus: April of this year.

6.25 p.m.

Mr. Mark: So, in 2016 the port advertised for what is called a supply of a passenger cargo roll-on/roll-off ferry, on a three-year charter basis. But you know what is significant about this? I will tell you, Mr. Chairman.

The vessel shall meet the following average specifications:

So here it is, you have an advertisement being placed in the newspapers, and it is telling anyone, anybody who wishes to apply that they must meet the following specifications, and it tells you:

...carrying capacity of—

Mr. Beharry: Member, could you make a citation on that document for our reference please? I do not understand. What is the date of the document, for example?

Mr. Mark: The document, it is dated the 20th—date for the submission is the 26th of February, 2016.

Mr. Beharry: You know we are in 2017, so that is a previous board?

Mr. Mark: Yes. I am not dealing with you. Your board. I am just dealing with the principle.

Mr. Beharry: I am trying to understand.

Mr. Mark: Like for instance, Mr. Chairman, that can arise. Because why would this new board not put into their advertisement, for public consumption, specifications? Why they would not do it? So, in this advertisement of 2016, anyone who is applying to provide a tender for a ferry, roll-on/roll-off ferry for a three-year period, or a three-year charter is being told upfront, anybody could know that that particular ferry must have:

- carrying capacity of minimum 200 passengers;
- cabins for use by passengers, carrying capacity of a minimum of 1400 lane meters;

- 80 trucks;
- 20TEU flatbeds;
- length overall, 140 meters;
- DWT, 5,000 tons;
- draught 5.9 meters;
- speed, 20 to 24 knots;
- maximum age, 15 years;
- journey time, approximately five hours.

Mr. Chairman, this outlines the specifications that anybody must meet.

Mr. Chairman: Just to be careful member. In the current ad, were people supposed to come in and pay for the package?

Mr. Beharry: Chairman, let me just clarify the current invitation to tender process, and read it into the record as well. I appreciate what member Mark is attempting to point out, and your point is noted. However, there are certain levels we need to be aware of that allow us to reach to the point where we are able to invite tenders. One of which involves the drafting of the invitation to tender document, which we call the invitation to tender document package. Now, that draft goes to the Ministry of Works and Transport, where they review the draft and they will create what is known as a Cabinet Note, as you are familiar with, and submit it to Cabinet, and Cabinet will then review and approve, and make any directive they may choose to so do. That document is then sent back by the Permanent Secretary in the Ministry to the Port Authority, and that forms the basis for our directives, which have now been approved by the Government and the Cabinet for the issuance of an invitation to tender. All that can go in the press at this point in time is going to be the advertisement. However, the invitation to tender package must be collected at the office of the port secretary.

Mr. Mark: The reason why I—

Mr. Chairman: That is why I intervened, because I know that that is one way of proceeding to avoid lengthy ads in newspaper. So only those when you pay and you come in you see the actual detail. And that is acceptable process. That is acceptable process.

Mr. Mark: I am not arguing. I am just bringing it to the attention of this Committee that when information would have been requested, what is the maximum length of addressing it? The answer is not specified. What is the maximum beam of the vessel? Answer not specified. What is the maximum draught of the vessel? Answer not specified. I am just saying to this Committee, that we have put out a tender, and people are requesting information to complete their tender, and they are telling these people, not specified, not specified, not specified. How can a citizen who wants to apply, and he is asking for information from the Port Authority, that person is going to need information. So, this thing, it appears to me, Mr. Chairman, we have a determined outcome in advance. Because when some people advance and others advance their documents, they would not be able to provide the necessary. Anyway, we will see what will emerge at the end of the day.

Mr. Primus: If I could just reiterate what the commissioner—

Mr. Mark: We will see it emerge.

Mr. Primus: We must recall, as the charter party documents in fact shows, the port is not the contracting party to these documents. The port acts as the agent of the Ministry in running the tender process. So, the Ministry, after receiving Cabinet approval, gives the port the directive on what to do. Those specifications are approved by the Cabinet, sent to us via the permanent secretary to the port, and the letter of invitation goes in the advertisement, and a very tick document, once

someone comes in, it has all of that information. So every single person who came to the port and got that has that detail. So it is a very level playing field that every single person who wants to put in a tender must have collected a package, and that package has a lot more detail. Because there is no way the document—I believe it is something like 30, 40, 50 pages. There is no way we can publish that in the press.

Mr. Chairman: I understand. I have generated that in the public service.

Mr. Mark: Chairman, my areas of concern would be as follows: evidence before us shows that sea trials are always conducted before entering a charter party agreement. Information reaching this Committee advises that Lloyd's does not conduct sea trials. I would like to know, Mr. Chairman, if they can supply us—that is Mr. Beharry and the board of the port—with the team, to tell us rather, where did the Lloyd's inspection take place, first of all? And secondly, were members of the local professional teams involved in that exercise? You could always provide me with those answers at the appropriate time.

Mr. Chairman, I want to ask Mr. Leon Grant—coming at Mr. Leon Grant. Mr. Leon Grant, the Prime Minister, during his contribution here and evidence, indicated that he received a copy of an email dated the 25th of May, 2017, from one Oscar Ruano from Baja Ferries of Mexico, stating that they owned the *Cabo Star*. This email was addressed, according to the evidence submitted by the witness, the Prime Minister, to one leong@patt.com, and carbon copied to one Brian Jones, and the name of a lady whose name slips me at this time. He intimated to us, in evidence, that the Baja Ferries people indicated that they had direct, or they would like to have direct relationship with the Port Authority, and if that were to happen, they were told Trinidad and Tobago, the taxpayers, would have saved roughly around US \$5,000 to US \$6,000 a day on the *Cabo Star*, which would amount to

over US \$1 million at the end of the year.

I would like you Mr. Grant to advise this Committee, whether the port was advised of this development? Did you receive and communicate to this individual? And did you at any point in time know that the *Cabo Star* was owned by this Mexican Oscar Ruano? And therefore the question that follows immediately, how did it get into the hands of Bridgemans Services Group? If you can clear the air, because this was tendered in evidence. And I am glad that you are here today, so you can give us your side of the story on this matter. Please?

Mr. Grant: Thank you. I can say at this forum that I never received any email or letter with any proposal concerning the *Cabo Star*; that was indicated a couple days ago. The first time I heard about the *Cabo Star* was during negotiations with the team, was when Bridgemans placed it on the table for us to consider. It was never part of the initial evaluation process. So, I never knew anything about the *Cabo Star* until when during the negotiations Bridgemans placed it on the table, and then the evaluation committee was asked to look at that proposal and evaluate it, and come back to the tenders committee and report.

Mr. Mark: Mr. Leon Grant, are you saying that this email addressed leongrant—oh no, leong@patt, and this email being sent to you at this address, is this a fake email? Is this a false address? Or, are you saying that this is your email address, but you never received any correspondence to the effect that was given in evidence by the witness, the Prime Minister?

Mr. Grant: Let me say, Sir, my—the email address for work is leong@patnt.com.

Mr. Mark: P–A–N—

Mr. Grant: patnt.com.

Mr. Mark: Well, unless I have it wrong, that is what I recall.

Mr. Chairman: Careful you know member, we do not want a next emailgate.

Mr. Mark: Now, well, clearly, I do not want another—that is what I am trying to get clear. So, we have it on record. I do not have the Minutes. I would ask the Secretary to give me the Minutes so I can come back to you to see if that is patnt or patt.com.

Mr. Grant:—patnt.

Mr. Mark: Yeah. Well, okay.

Mr. Grant: But what I did subsequently upon hearing it tendered into evidence, is that—because I am not aware or never saw that email or letter, I did write the Joint Select Committee’s Chairman, requesting a copy of it, and I also wrote to the chairman of the board, requesting copies of these purported emails and letters which I never received.

Mr. Chairman: Let me take this opportunity to respond to you. The problem we have with furnishing that kind of detail is this: we ourselves received the “Moultet report” on Tuesday. So that members of this Committee would have received that on Tuesday. With that is a stack this high [*Indicates with hand how high*] of supporting documents, letters, appendices, what have you. And I do not think any of us, neither the staff nor the Committee members have had the opportunity—especially those of us who are in the Senate, because the Senate met yesterday—to go through that so I could say that this is at page 100, you know, and instruct them to photocopy it and make it available to you, which is what we would normally do in response to such a request.

So, that is our challenge at this state. I cannot tell you whether or not that is one of the documents in the compendium that we have. But, we would go through it, and once we locate it we would make it available. There is no challenge. We have consulted the relevant people as to whether those documents can be made available. Because, in fact, the Prime Minister had indicated that he would lay it

for Parliament. Our advice is that once he submitted it here it becomes a document that we can utilize, and that we can interact with you on. But, as I said, we have to familiarize ourselves what is in that stack. Good? So I cannot tell you what is really in that stack, but if that document is there we would look for it, and we would afford you the opportunity to treat with it.

Mr. Grant: Noted.

Mr. Chairman: Fair enough?

Mr. Grant: Thank you; noted.

6.40 p.m.

Mr. Mark: May I continue? Mr. Grant or Ms. Charmaine Lewis, seeing that you all are management personnel and you all have been at the port for several years, evidence was proffered by one Mr. Andrew Purdey, Vice President of Bridgemans Services Group who indicated—and it is on the record—that an agreement to purchase the *Cabo Star* and the *Ocean Flower* was entered into with whichever party had these vessels, on the understanding that once the contract for these two vessels, which is the charter party agreements, were granted, or they were awarded those agreements, they would then purchase those vessels. I want to ask—and the evidence is showing that in the case of the *Ocean Flower*, that vessel was purchased after the charter party agreement. I want to ask Ms. Lewis, Mr. Grant and maybe the Deputy Chair, whether this is a normal practice at the port. This was tendered into evidence that vessels—charter party agreements could be entered into before vessels can be seen and the only time they can be purchased is when assurance is given that the charter party agreement would be granted; whether that is something that you can elaborate on or share with us as it relates to your own experience with this piece of evidence that we have there.

Mr. Chairman, this reminds me of a similar experience we have before us

involving a tender dated the 2nd of February, 2016, for the supply of a passenger cargo roll on/roll off ferry on a three-year time charter which was rejected by the evaluation committee based on certain weaknesses of the tender documents. The four responsive companies would have been Treasure Queen Stores Limited, A & V Drilling and Workover Limited, Intercontinental Shipping Limited and Windward Ferries Limited. The tender was squashed. Information reaching us shows that the best out of the four was A & V Drilling and Workover Limited at a value of \$36 million, but they had no vessel.

Mr. Grant: The tender was squashed.

Mr. Mark: We know it was squashed. The question that I am asking is whether anyone here: Ms. Lewis, Mr. Grant, even Mr. Adrian Beharry, could you provide us with any clarification or elaboration on this matter where Mr. Purdey is on record as saying this agreement must be reached before they can purchase vessels? Could you give us any clarification of this evidence?

Ms. Lewis: Clarification on the accuracy of what he said?

Mr. Mark: Yes, whether that has any basis in material fact or that is just “ole talk” being given to this Committee by the gentleman who came before us.

Ms. Lewis: At the time when Bridgemans—when they were—after they had evaluated—part of the process, Bridgemans was—they indicated to the port that they had a Memorandum of Agreement to purchase a vessel or the vessel, because there were different vessels. First there was the *Mega* and then there was the *Ocean Flower*. So they had indicated to the Port Authority that they were going to purchase the vessel and they had an MOA.

Mr. Mark: That is it?

Ms. Lewis: And in terms of whether it is the normal process that you will sign—what was the question?—signed the contract or entered the agreement with

somebody who did not have a vessel, I do not recall that being done prior.

Mr. Mark: Can you tell us whether the charter party agreements for the both vessels, the *Cabo Star* and the *Ocean Flower 2* were signed insofar as your recollection is concerned, before those vessels were seen by the authorities at the port?

Ms. Lewis: Before they were?

Mr. Mark: Before they were seen.

Ms. Lewis: Seen?

Mr. Mark: Seen, seen, meaning, went on a sea trial; make sure that, for instance, everything was in top shape before, because my understanding as a layman, before you can sign a charter party agreement you must go on a sea trial with the vessel that you are going to purchase. We were being told by Mr. Purdey a complete reversal and that is why we want to get clarification from the port on this matter.

Ms. Lewis: So usually the norm has been that representatives of the port, or on behalf of the port, will go out to the port of origin and there will be trials conducted at the port of origin. So that is the norm that we would employ over the years. We would also have a surveyor at the port of origin do a condition survey and when the vessel gets here we would do an on-hire survey, a bunker survey and then we will do some test sailings in our waters.

Mr. Mark: And was that done in the case of the *Cabo Star* and the *Ocean Flower*?

Ms. Lewis: No. We would have shared with the Ministry the traditional steps, the project implementation. I have a copy here which I had sent to the Ministry outlining what the usual steps would be when you are getting a vessel, and it would have been shared with the chairman as well.

Mr. Mark: So who would have taken the decision to allow these vessels to be—

who would have taken the decision to, first of all, have a charter party agreement signed before those vessels were subject to sea trials so we could determine the suitability and the seaworthiness of those vessels? That is a function of the Ministry of Works and Transport, or is it a function of the Port Authority?

Ms. Lewis: I could say it was not the management, so I do not know who took the decision. I cannot say whether it came from the Ministry or whether it was at board level, but it was not the management.

Mr. Mark: But therefore you are confirming to this Committee from your recollection that the party charter agreements would have been signed before those two vessels, the *Cabo Star* and the *Ocean Flower 2* were subject to, what is called, sea trials for the port to determine their seaworthiness. That is the point I am trying to get clarified here.

Ms. Lewis: The sea trials for the *Ocean Flower* took place on August 06th and I imagine you have the date that the charter party would have been signed, and I think from what you said it means that the sea trial took place after. And for the *Cabo Star*, the sea trial took place in July, the 13th, somewhere around there, and I think the date that the charter hire agreement was signed would have been prior to that.

Mr. Mark: My final question before I get into a third round. Could you indicate to us whether this is a normal practice in the maritime industry and is it something that the Port Authority of Trinidad and Tobago has gone through in the past, or this was the first experience that the port has gone through as it relates to the acquisition of vessels for the sea bridge? Could you clarify for this Committee?

Ms. Lewis: As far as I know, we usually go and we will do the sea trials first, but Leon would have been the person in the inter-island ferry for many, many years, so he can verify or otherwise.

Mr. Mark: Mr. Grant, could you help us?

Mr. Grant: Usually what obtains is that you do the inspection and sea trials before you finalize the charter party agreement. In this case, it was done a little differently and the Deputy Chair could answer all of that, but I could only surmise that because of the urgency and the critical nature, the decision was taken to do the Lloyd's inspection and rely on that inspection before the sea trials were conducted.

Mr. Chairman: Could the chair clarify this further for us?

Mr. Beharry: Certainly. I thought we had gone through this line of questioning previously and I had given certain answers, but I am gladly—I will be happy to repeat. The process with respect to the sale and purchase agreement is laid out in a Norwegian sales form which allows for a memorandum of agreement to be executed between the buyer and seller of a particular vessel, and I think that is the process that was used by Bridgemans Services when they represented to us that they held a memorandum of agreement for the purchase of the *Ocean Flower* which was suitable for our purpose in the provision of a double hull Catamaran of 82 metres length overall, capable of carrying 600-plus passengers and 140 vehicles.

Mr. Chairman: All we really want to get clear is what is the process and whether the process was followed. So, could you frame your answer in those terms?

Mr. Beharry: Okay. I was answering it in relation to the sequence of questions posed by Member Mark. That deals with the memorandum of agreement and that is a matter between Bridgemans Services and the owners of the—what we would have been interested in is that they held a letter of authorization from the owner of that vessel to allow them to transact business with respect to that vessel.

Now, with respect to the charter, the time charter, our first step as a charterer is to request a pre-charter condition survey of the vessel which we did, using the

services of Lloyd's Register of Surveys. That exercise was conducted in South Korea for which we have a copy of the report, and that has been submitted to you.

Mr. Chairman: All right. But it is the process we are just trying to document.

Mr. Beharry: Fine. Now what I want to emphasize once again, Chairman, yes, there is a process that allows for the charterer to send its officials, meaning Leon and Mr. Powder, to inspect the vessel, but I want to make it perfectly clear that neither Leon nor Mr. Powder are qualified ship surveyors. Consequently, they are not authorized to conduct a sea trial in the sense of the meaning of that term. As I said previously, sea trials are conducted in the—

Mr. Chairman: But it is the process we are trying to track—

Mr. Beharry: So that is the process. And I think that—

Mr. Chairman: And the process is that that survey should have been conducted. Am I correct? I am not into whether it should be done by Mr. Grant, but a survey should have been conducted. Am I correct?

Mr. Beharry: What I am saying is that the most convenient time and location to do such an inspection was in Panama when the vessel had to stop on its way to Trinidad and that is where it was—

Mr. Chairman: I was avoiding all the details—

Mr. Beharry: And that is the answer.

Mr. Chairman:—I am just trying to identify the process so that if another Port Authority, another boat purchase time charter comes up, I would have the process clear in my mind. Good? So am I correct in asserting that the process requires a survey to be done?

Mr. Beharry: Chairman, every process—

Mr. Chairman: I think the answer to that is either yes or no, you know.

Mr. Beharry: Yes, but I need to—

Mr. Chairman: No, no, you do not need to, you need to answer our questions.

Mr. Primus: Mr. Chairman, there are two different processes at play here—

Mr. Chairman: Hold a sec. I have another question. So that the process is that a survey should be done. Because, you see, what I want to be clear is that we are following logical steps, so that if I ever have to interview anyone down the line, I could say to them that a lecturer at UWI on this matter, identified this process to me. I could start at that point and they would either agree that that is a valid process or say no. So that is why I want to itemize the process, then we could get into what was done. But the process. Because if I am to interrogate you I must interrogate you against the backdrop of a process, of a method. So you would agree with me that there should be a survey done?

6.55 p.m.

Mr. Beharry: I agree with you and I want to add, just as you mentioned that there should be a background and a process, there must also be a context within which we need to understand the decisions that are being taken.

Mr. Chairman: Well we could get into—you see, you are going where I have not reached as yet. I just want to identify the process and then when we get into following the process you can explain to me why there may have been need for a deviation. But it is the process I want to itemize and we have viewers following this subject and I want them—because this is a national issue—to have clear in their minds what is the standard operating procedure and then we could get to the uniqueness of our current situation for the processes. Sir, could you itemize for me what would be the standard process?

Mr. Beharry: Okay. As I explained to you, you have the pre-charter conditions survey and this is going to be followed by officials of the charterer. I want to emphasize and make the distinction between the process used for a time charter

and the process used for a sale and purchase agreement. In other words, what would be of utmost importance to a purchaser may not be of similar importance to a charterer. What we are interested in, in a time charter is output. Can the vessel perform at a certain service speed; can it make the trip from Trinidad and Tobago in three hours; can it carry so many passengers; can it be accommodated at the port? Those are the important issues.

Mr. Chairman: I am saying the stage of the survey that is what you projected to take place in Panama. And who were the surveyors?

Mr. Beharry: The officials were Mr. Leon Grant and Brendon Powder.

Mr. Chairman: But I think I just heard you say that they were not qualified to do that, or I heard wrong?

Mr. Beharry: They were the officials sent by the employer, the charterer, the Port Authority, to inspect the vessels.

Mr. Chairman: The question I put to you—you indicated earlier on that they were not qualified to be surveyors—was I wrong in recording that to my mind that you said that?

Mr. Beharry: I am saying that we need to be careful in identifying the role that was played by Mr. Leon Grant and Mr. Brendon Powder, they are inspecting the vessel on behalf of the charterer; however, they are not ship surveyors. That work was done by Lloyd's Register in South Korea.

Mr. Chairman: Now what I want to be clear on—because like I say I am sticking to process—you are indicating there is a different twist between your purchasing or if you are getting into a time charter, and in this case you all were getting into a time charter. So that for a time charter you are saying it is sufficient to have Lloyd's of London. Is that what you are saying to me?

Mr. Beharry: I am saying we have different considerations as a time charterer

compared to someone who is—for example, if you are purchasing a vessel—

Mr. Chairman: I just want to know whether the survey by Lloyd's of London was sufficient.

Mr. Beharry: Correct.

Mr. Chairman: And that is your assertion there is need for—

Mr. Beharry: That is my assertion.

Mr. Chairman: So then why did we send these two gentlemen to Panama?

Mr. Beharry: Because as the time charterer, you also need to be satisfied that the vessel has been inspected by your own employees and meet the standards that you require in order for it to perform to your satisfaction.

Mr. Chairman: If I get the process clear, the time charters, that second survey, is not necessary, right?

Ms. Lewis: Chairman, if I may, I am part of the management and over the last few days everybody is saying all sorts of things and attribute it to the management, and so I am not going to sit here and know something else, or another process which is what I am accustomed to and this is what we do as the management, and I have documented the steps, and basically what I said earlier, that is what we do. We do an on-hire survey or a condition survey, we do it out where the ship is and representatives go, they do sea trials. I am not dealing with the semantics of whether it is a vessel that is new built, that is what we did over the years. We did a sea trial. That is what we call it and we went to meet the vessel and we did it.

When the vessel came, we did other surveys here, we did on-hire surveys, we did bunker surveys, and we did trials again in our waters. That is what we did over the years and I have documented it and I can share it with the Committee.

Mr. Beharry: That is correct.

Mr. Chairman: So that my question arising from that, are you satisfied in the

instant cases that we followed our standard operating procedure?

Ms. Lewis: No, we did not.

Mr. Chairman: And what did you see as the consequence of that?

Ms. Lewis: Well, doing the surveys as we did it in the past, if there was an issue you would pick it up earlier, and then it would inform your decision. It does not say, however, that the vessel when it got here you may not have had issues because when the *Galicia* came here we had issues with the winch and the anchor and so on, but you try to do your checks and balances in a timely fashion and as early as you can, and that is what we did over the years.

Mr. Chairman: So you would agree with me that given where the base of the supplier was, if we do not have a process that could review the readiness, seaworthiness of the vessel, even if the owner or the agent has other vessels, has a huge fleet of like vessels, our problem would be the time it will take to replace the first vessel if it was found wanting?

Ms. Lewis: To mobilize another.

Mr. Chairman: Which would get to the crux of what our problem was in the first place, the mobilization time, the departure or the dry docking of any of the vessels that were in service including the *Super Fast Galicia*. So are you satisfied as a manager that the process that was eventually followed was efficacious?
[Interruption] No, I am directing it to Ms. Lewis.

Ms. Lewis: Had we done the sea trials earlier and all those things would have manifested at that time, then we would have arrested it at that point in time.

Mr. Chairman: Mr. Grant, you share that view or you hold a different perspective?

Mr. Grant: No, my belief is that if you do the sea trial before, it is always the best approach.

Mr. Chairman: And that is how you would advise your board?

Mr. Grant: That is how I would advise, Sir.

Mr. Chairman: Thank you, Sir. I think you wanted to say something, Vice-Chair?

Mr. Beharry: I wanted to make this point to you. Let us assume, for example, that a sea trial was indeed conducted in South Korea and the trial was satisfactory, thereafter the vessel left on mobilization to cross from part of the globe to the other side of the world ending with the net same result. Would your sea trial, Mr. Chairman, have helped you to solve that problem?

Mr. Chairman: The thing is due diligence requires that we take certain courses of action at certain points in time. So if you examine it at its base and you find it wanting, that cuts off any further time wasting with regard to the use of that vessel. That is all I am on.

Mr. Beharry: Very good, Mr. Chairman, and therefore, in order not to speculate we must rely on the reports that have been submitted to us, and what the Lloyd's survey report showed is that the vessel at the time of inspection in South Korea was in a satisfactory condition. Indeed, the vessel was in active service between South Korea and China. What we can therefore conclude is that somewhere between that long journey from South Korea to Panama the vessel sustained significant damage to one of its engines, and therefore, that engine now has to be replaced as I understand it.

Mr. Chairman: Now, I have one other question in that context because again I am not familiar with what the Lloyd's survey would have entailed, so I am asking—any of you could provide the answer—would the Lloyd's survey have been equivalent to that other survey you were suggesting, Mr. Vice Chair, that Mr. Grant was not qualified to carry out?

Mr. Chairman: They are both equally important in my view from the charterer's perspective. However, if I had to go to a court of law to pursue a particular case, I would have to depend on the Lloyd's survey report because I would know beforehand—

Mr. Chairman: But you are not answering my question.

Mr. Beharry:—that my employees are not ship surveyors.

Mr. Chairman: My question is not whether Mr. Grant is qualified for anything. My question is, if the Lloyd's survey and the survey you are saying Mr. Grant is not qualified to make, if they are one and the same, if one could replace the other? That is my question.

Mr. Beharry: The survey conducted by Leon Grant compared to a survey conducted by the Lloyd's survey?

Mr. Chairman: No, no, no. I am not referring to Leon Grant. You said that Mr. Grant is not qualified to carry out a certain type of survey, did you not?

Mr. Beharry: Correct. He is an employee of the port.

Mr. Chairman: Right. No, no, no; I want to be sure that that is what you said, and I am asking you, that survey you said Mr. Grant is not qualified to make, is that the same, for all intents and purposes, as the survey done by Lloyd's?

Mr. Beharry: Let me say this to you, Mr. Chairman, in answer to your point. If the Lloyd's Register survey had gone to Panama along with Leon Grant and Brendon Powder, they would have come back with exactly the same result: the vessel is now in an unsatisfactory condition.

Mr. Chairman: You still have not answered the question I posed, you know. I want to know whether the survey that you said Mr. Grant is not qualified to conduct, for want of a better description of it, is that equal to the survey that Lloyd's does? That is all I am asking. It is a simple question.

Mr. Beharry: It is an inspection. What is conducted by Lloyd's is a pre-charter condition survey. They are two different things.

Mr. Chairman: Right, and that is what I have been trying for the past five minutes to ascertain from you, because I want to know if that Lloyd's survey allows us here in Trinidad and Tobago to say okay, from this point on we clear with seaworthiness and so on, because I was getting the impression that that other survey—the one you say Mr. Grant is unqualified to conduct—whether those two are approximately the same, so that I can have the comfort when Lloyd's did their survey that, listen, at that point it is the equivalent of that survey they went to do in Panama, or whoever should have done it in Panama, whether Mr. Grant or some professional consultants—maritime consultants—from wherever. That is the point I am on.

Mr. Beharry: Chairman, I agree with you—

Mr. Chairman: You follow me?

Mr. Beharry: I follow you and I would like to refer you to this submission made to the JSC, it is clearly stated at the top, Precondition Survey, Lloyd's Register Marine. If you look at Leon's report and indeed Brendon Powder you will not see the term “survey”.

Mr. Chairman: And I am not talking about Leon's report. You have submitted to me that he is not a surveyor. So I have accepted your position and I keep asking if the surveyors who we would have liked to see gone to Panama, if the Lloyd's inspection is equivalent to that? I do not know how else I could put it.

Mr. Beharry: So, we have answered that question.

Mr. Primus: Chairman, if I may add a clarification. The process, and we are talking about the process laid out in the tender rules of the Port Authority, if that process is employed and followed as expected as you are questioning, that is a

process that takes approximately four to five months. Built into that process, which is what Ms. Lewis is alluding to, you start off. So first of all you have the advertisement, people come in, they have a month to develop a proposal; it comes in, you have a month of analysis, it goes to Cabinet for approval, do we have money, do we have this, do we have that. Detailed investigations are done based on the documentation provided, whether you want Dun & Bradstreet, send people out, all of that is built into that process. Then, after an award is made following Cabinet's approval, Ministry approval, back to the Port Authority, we then have to deal with the delivery time of the vessel.

7.10 p.m.

So your point is, if we were following a process, yes, we should have, according to precedent in the port, done a survey before. It is not required by the rules but what we have understood is, so far in the past, for all of the long-term hires, which were not done in an emergency, were done using that process, but that process would have taken us a four to five-month—in fact, if that process was followed up, to this date, we still would not have had a vessel.

However what we used were the emergency procedures and we looked at the state monitoring procedures, the standard sort of timelines; what should we develop in a circumstance like this. So to consider the public's interest in a circumstance like that, you need look at the contract and the various circumstances that apply to make sure we have substitute checks and balances. Certainly, “yuh rushing”—if you look at the timeline, all of these things were done in the space of a month, in fact, a few weeks. Right? So you cannot superimpose a four-month process, five-month process and put it into a two-week or a one-month period.

In doing that, however, we did seek to put in place whatever protection measures could have been done. The first step, as Mr. Beharry said, would have been to get

Lloyd's, the independent check, to do that survey at the point of origin which was done in Korea. The next point, knowing that the vessel would have had to face a long voyage, it would have been better to have that sea trial down at the end of the voyage versus before. Because, in fact—

Mr. Chairman: I hear you and I accept that as being a valid point. So my next question would be: on whose authority did Mr. Grant go to Panama? Because I am getting the impression that we are saying, okay, we needed to do that surveying analysis at Panama and I accept that as being reasonable.

Mr. Primus: There are two other steps that have not been mentioned as yet.

Mr. Chairman: Hold on, there. That is the part I want to interrogate. Okay? Because I am getting the impression that Mr. Grant went there and I want to know whether Mr. Grant went there on a frolic of his own. Because if we are saying that he is not qualified to do that testing, that examination, then why was he allowed to go? Why some other consultant suitably qualified was not the executers of that survey? That will be my question now.

Mr. Primus: Chair, if you permit me to just say what we envision the process to be, it may—give you some of those—

Mr. Chairman: No, I accept that it is an emergency situation and I am not holding you to ransom in that manner.

Mr. Primus: Chairman, but there is an important thing that has not been said.

Mr. Chairman: But I want consistency in all that is presented to us. So if you are saying, if the Authority is saying that Mr. Grant is not qualified to conduct that survey that should have been undertaken in Panama, because I accept that there is good reason to do it in Panama. My question is: why were not suitably qualified team, whether it is consultants from wherever, why were they not?

Mr. Primus: Chair, permit me, that was a part of the process. So it was a three-

stage inspection process that was envisioned. The Lloyd's survey would have been one, a sea testing by Port Authority would have been number two, and the contract, again, I am getting to—because it was an emergency, we had to have replacement checks and balances. The BIMCO form of contract that was followed—and we made sure that was in there, we got legal advice from external parties—it provides that when the vessel arrives here, we have a formal survey. So the checks and balances were threefold. Before we signed the deal, we have the Lloyd's survey, the second check would be our person. And what Lloyd's is doing—and this is what chairman Beharry was trying to say. Lloyd's function in the inspection versus the Port Authority's inspection are two different things altogether and they are not—

Mr. Chairman: I accepted that you know. All I am asking is, I picked up from what the vice chair was saying, that a certain kind of examination should have been done in Panama and he seems to be suggesting that Mr. Grant and whoever his team was, were not qualified for it. So I am asking, if that is so—

Mr. Beharry: Chairman, that was not my intention.

Mr. Chairman: That was not your intention?

Mr. Beharry: That was not my intention.

Mr. Primus: So it is normal in all from what we gathered, the process, you always send the port's personnel to conduct that phase. But the critical factor—again, we have spent no money on this. The critical factor, the contract provides, it is only when the vessel arrives at the port of Trinidad that the proper contractual—that is the only contractual test that is actually relevant. The contract provides that when the vessel arrives here, both parties appoint two different surveyors and they do a joint on-hire survey, and it is only if that process passes that the contract actually takes effect. So the effective date of the charter party as drafted, even

though it was signed on the 16th of June, the effective date only takes place when it reaches to Trinidad and the two independent persons do the on-hire survey, it is cleared and fit for purpose—

Mr. Chairman: That is in the charter party agreement?

Mr. Primus: Correct. And then the Trinidad public and the Government would have then been bound. So we were satisfied that given that there were three different tests to be done before we had to spend money, that that was sufficient in the emergency circumstance. And I agree with you, that had we had the luxury of a four-month, five-month period, we definitely should nip the problem in the bud at the beginning, but clearly that time frame was not with us, and we tried to use the next best option.

Mr. Khan: Mr. Primus, I really want to compliment your last discourse because I think it is for the first time you brought that level of clarity to the process. The three stage process, there was a lot of ambiguity in it. What Lloyd's was doing and I mean, I am sure everybody here is convinced that it was better to do that survey in Korea before you engage the vessel because the long journey, you see from evidence now that you would have hurt very badly had you done that. Then you do your port inspection in Panama and then what you call the joint inspection here to kick in the charter party agreement, so to speak, from an effective date.

And you clearly articulated your position that had you gone through the normal process, this process would have taken four months and it was a crisis situation, as articulated by—the general public knows that, the Prime Minister articulated that very, very clearly, that it was a crisis situation. The people of Tobago was hurting, they were hurting badly and as a Government certain remedial action had to be taken.

Having said that, if there were certain procedures that were traditional, as Ms.

Lewis had articulated, that was not followed, the key question—and this is for the national population now because a lot of people feel there was some sort of impropriety or malfeasance in the process. Now, as I articulated to Mr. Dumas earlier, malfeasance and impropriety are different to missteps, mismanagement and not following procedure. Malfeasance and impropriety calls for evidence, documentary evidence, paper trails and what have you. So are you saying that any slight breach in procedural matters, based on your established tender rules and the normal sequence of tests, is entirely attributable to the emergency of the situation and nothing else?

Mr. Primus: Member, certainly I can say that the process we envisioned was followed out, it was crafted to protect the public at the best and it was certainly only because of the emergency situation. Again, we discussed back and forth. We could have easily have said, “Government, we do not recommend this, it should be done for four months”. But again, as you said, we did not have the luxury of that and ultimately, we are acting as the agent of the Government. If Cabinet gives us the directive that we need to provide a vessel to fill the gap within a four-week period—and that is what dictated the timeline of criteria. The 30-day delivery window is something that comes from Government. Government would have said, you need to do this in 30 days and the point of it was, you needed to find now a process mechanism that is not written. It may not have been perfect, I do not think anyone here is saying that. But we used all the different tools that we had: the state manual, standard rules, emergency. We used a variety of things to come up with a system that notwithstanding it being an emergency, we tried to get and put in as many protections as done. And as far as I am concerned, this is my personal view, that has been done to the best of our ability given the time constraints.

Mr. Khan: All right. Thank you very much, Sir.

Dr. Francis: Mr. Chairman, it has come out organically as part of the discussion that perhaps the tendering committee needs to look at the template via which boats are selected. Very simple question: can that be addressed to deal with the tender that has closed today?

Mr. Beharry: Very early in the game when the board was first constituted, I mentioned to the Chairman during a meeting of the board that I was certified in procurement, Request For Proposals Procurement by the Caribbean Procurement Institute and they run a number of seminars certainly when I was at the Ministry, and the Ministry, in fact, paid for my two-week seminar and attendance. And I recommended that whoever we put on the tenders committee, they should undergo similar training, so that would be the first principle of getting them to understand procurement and the procurement process. Following which, we would then be in a better position to exercise degree of control, due diligence and rigorousness that is required in a procurement process.

Now, we are at this second stage. We have had the experience of all that has occurred before us and I think that we are in a much stronger position to exercise—particularly the kind of feedback and questions that have been asked by this Committee, I think we are in a much stronger position today than we were then in order to carry out our duties.

Dr. Francis: So that is yes?

Mr. Beharry: That is a yes.

Mr. Primus: And if I can add as a member of the tenders committee since Mr. Beharry is not, what the tenders committee did—again, we have taken on-board all these lessons learnt. We are not here—and in fact, even the current procedure, formal as it is, three to four months is not perfect itself. So what we have done is we have taken on board lessons learnt and we have actually modified the process

already. So even in terms of sending that invitation to tender out, the tenders committee and then the board, we actually met, and the same specifications that member Mark spoke about, we added additional criteria into the process to ensure that when we do get proposals, there is additional information for us to weigh on.

But I do agree with you that that was done again. This is still a rush process, right, because again, it is not a one-month window, there are several things that are still being rushed because we have a need to get the *Ocean Flower* here but we have already taken steps to modify the process. And certainly what we can do within the parameters of what we have published, we can certainly do. So published in the criteria would have been the seven scales, the seven sections and we cannot deviate from that at this point, but certainly, within the analysis and the breakdown of how we look at the subcomponents of those seven areas, we can certainly make modifications to those areas to ensure that best practice and lessons learnt have been adopted. But we cannot actually change what has been published as the weighting so far but we can certainly change the sub points to ensure that we get a much better result in the analysis.

Dr. Francis: Just a comment. As long as something fundamental, something concrete, comes out of this JSC, it has been well worth the time, but just to make a comment about, perhaps, the quality of the level of communication in all of this. Because in a really fundamental sense, what you have just explained, maybe 10 minutes ago, might have made all of this unnecessary because you laid out a logical step via which this process occurred, even in the context of an emergency, you have just outlined in the most clear way that there was a logical procedure, in context, that happened. Whereas the public's perception for weeks was that this was just chaotic and there was collusion and there was corruption. So I thank you for the logic and sequence of your explanation when it might have been quite a bit

more helpful maybe a month or two ago. Thank you.

Mr. Primus: If I could just even add to that, from a process view standpoint, when—again, the tenders committee is not concerned so much with which vessel was picked and which company was picked. When we met, our very first tender evaluation, we looked and we made corrective measures in terms of the procedure. Because for example, there was a process where, for example, if someone looked at a vessel of 15 years versus 10 years versus five years, we wanted to make sure that, again, parity is there. There should be something mathematically or otherwise that you could say that somebody who got a 15-year boat versus a five—got the appropriate scores.

And what we actually did at our first meeting, without even getting into who got an award, we put forward a process and say, “Look, we want a mathematical way to analyse each of these numbers”. So whether it is rated to speed, rated to age, rated to fuel and cost, we actually had the tenders evaluation committee go back and say, “Look, we do not care if you come back with the exact same result, we want to make sure the thought process you have used, and that we are now going to recommend to the board, can be analysed properly” and that was actually done over, and we had them actually use standard deviation methods to vary the weight.

7.25 p.m.

Mr. Primus: So, if someone—because at first, the port’s practice, for example was, if someone had a boat one to five years old, it may have gotten five points. If a boat was six years old, only one year older, it would have gotten maybe three points, and we found, for example, that was not fair. It is not spread equally. Just because you happen to fall in a different band you would have suffered tremendously, in terms of points and we actually went through. We were there I

think almost at 10.00 p.m. into the night, working out a mathematical formula to say, look, let us analyze it properly, use formulas. If our benchmark age is 10 years or 15 years, get a standard deviation off of that and rank each person off of that. That was done, and you know what happened? We still came back with the same result and we did not care. The point was that we know that I could stand up here today and say we followed some sort of process. It was not, again, the by-the-book process of four months, but we did do something that could stand the test of scrutiny.

And one other thing that we insisted upon and I do not know if it has made its way into the evidence so far, the BIMCO form of contract is a standard document. So the first 10 or 15 pages or so, it is printed. It is almost like FIDIC and it is standard form, you do not change the wording in it. You scratch out what is not applicable but you also have the opportunity to add clauses to the end of it that deal with your particular circumstances and there is one clause in particular that we as a board, through my recommendation, we insisted upon, and we stuck into there— it is not in the standard form BIMCO—we added an anti-corruption clause. So notwithstanding the rush, we as a board made sure, look, it is not the best scenario but let us pull all we can do and put it in to protect the public. So even up to this day, if at the end result of the Mouttet report or this report, it is found that Bridgemans, or anyone else was involved in corruption, we have the right, as Trinidad and Tobago Government, to cancel this contract.

Mr. Chairman: I am glad you closed on that note because, to me, the key lesson in all of this is the question of effective or lack of effective communication to John Public. Because, you know, one of the things I find hard to stomach is that somebody, a President of the United States or some public figure in the United States falls sick and we know what is the diagnosis, the prognosis, the doctor, the

hospital. Whereas in, quote, unquote, Third World—in our situation—that information does not flow and it feeds all kinds of foolishness, to be quite frank.

I could think of, I think it is the Nigerian or Tanzanian leader was in hospital recently, and spent considerable time there. He is back home and well and nobody has a clue as to, you know, what was wrong and the implications for the stability of the country. And that is the part we lose sight of, that the stability of the country is negatively affected when the information flow is not as it should be. And if I am to chastise the port, it would be, not on the conduct of the tender, not on the selection of the ship, but on the information flow that the port takes charge of the situation, almost as it were like when a storm is coming, the way ODPM would take charge and be issuing bulletins as the situation progresses, so that you get a sense that they are in charge. And as the saying is “large and in charge”, and know what they are about. That, to me, is one of the lessons from this, the extent to which John Public felt that the Port Authority was in charge and commanding the situation.

So that your late night deliberations, until nine and 10 o'clock in the night, have not been projected across the country so we could appreciate the effort, the quantum of effort that has been going into this exercise, quite frankly.

Ms. Lewis: Chairman—[*Interruption*]

Mr. Beharry: Hold on a second.

Ms. Lewis: I agree with most of what Commissioner said. But I just want to correct the timetable from start to finish. It is actually 105 days and inclusive in those 105 days would be 40 days you will have to discount because we did not start with the tender invitation, and so it is really start to finish is 105 days, the process would have been, less the 40 days. I wanted to make that point.

I also wanted to correct some things that have been said on the record earlier. In

terms of the team with the negotiations, what was said, the names of the persons we called but I just wanted to correct that at the Ministry, and I made the corrections earlier at work, I was in attendance for only one part of the evaluation and that would have been for the *Atlantic Provider*. So that is just to correct but the negotiations were conducted by the Deputy Chair. We were there, but we were not negotiating.

In terms of the one at the port, we were also there in attendance and my part at that particular meeting was to the extent of interjecting when Bridgemans would have proposed the *Ocean Flower* because the *Mega Jet* deal fell through and they presented the *Ocean Flower*. Initially they had said at the meeting earlier in the day that it was going to be cheaper for the Port Authority to take the *Ocean Flower* and it would be cheaper for them, because the *Ocean Flower* was going to cost them less. They left. We adjourned and they came back and they quoted the same price as the *Mega Jet* which was the 27,000, after having said it is going to be cheaper.

So, my only role, when they said the 27 was to say, “surely you said it was going to be cheaper, and now you are saying it is the same price; so surely you can do better than that”, and that was the extent of my negotiations. And they went out the room, they came back and they said \$500 less and the Deputy Chair said “deal”, and that was it.

So I just wanted to correct, because the impression is being laid that there was this team doing active negotiation. The Deputy Chair led it and that is why I said when I said earlier that I was in attendance. So I wanted to correct that.

I also want to touch on some of what has been said about the management, in particular I heard where the management misled the board. Now, I have a particular issue with that because the board is not made out of cardboard and so

that, if you give them a recommendation I imagine they are there because they have a particular skill set and they can evaluate the veracity of what is before them. So that, to say the management misled the board, in terms of Bay Ferries, I totally reject that because Bay Ferries was there for 11 years and the management recommended that, pursuant to the contract—which is always the transition—that it was time for us to seriously effect the transition and if all had gone well, it would have been a 10-month period. But then Mr. Mc Millan explained what happened, which was very factual. So, to say we misled the board, in terms of Bay Ferries, that is totally false, because we just effected what should have been done a long time ago.

And even to go further to suggest we misled them to the extent that, perhaps, the implication is that Bay Ferries should have continued, then I will query why would one want Bay Ferries to continue without a contract, without a tender for year number 12 and have no issue with that, but instead have an issue with a recommendation again made by the management in what we saw as a looming crisis with the *Galicia*. We made the recommendation for three years plus one and one, which does not translate to five. So "doh" matter how you look at it, it is not five. It is three and it is not quarter million dollars. It is three years, which was equal to the same thing as you going out for tender shortly with a three-year tender for the *Cabo*.

But instead, persons felt we had interest, and our only interest was to serve the people of Tobago and avert a crisis because it was a good recommendation. It was a business recommendation. And the recommendation was we would reduce the price by 400 euros, we will take part of the money in TT currency to avoid leakage of foreign exchange, we would employ locals. There were a couple other things. And when we looked at the situation, you had no boat and you did not sign the

charter party and the gentleman put a new offer on the table. And that is what the management considered. So that I totally reject all that has been said yesterday, and even today where they want to suggest that the management is, what, a den of iniquity and several other things.

And so the guns are constantly being trained on the management when in fact we did recommendations, because we are familiar with the environment. And not even anybody who sits for a month and gathers information has lived the experience. So to discount the management like that, I thought it was very disrespectful.

In addition to that, it suggests that certain persons should be afforded respect and consideration, and because they are serving and they have come forward to serve, but we are serving as well. Most of us have been serving on the port for many, many years and most of us would have served well in the interest of the country. Most of us are quite qualified and competent. So that I do not know that certain members of society are entitled to respect and we are not, and I am accepting that. So I just wanted to make those points.

Mr. Mark: Mr. Chairman, I just have one question I wanted to ask. I just wanted to clear the air, Mr. Brandon Primus. I do not know if I have it wrong, but I do not accept what you have put forward here today. My understanding and I am a layman and I would like to get clarification from Ms. Charmaine Lewis and Mr. Grant on this matter. You gave the impression to this Committee that there is a three-phase process. You talked about first I think Lloyd's survey. That was the first thing you talked about and I think you went on to talk about sea trials afterwards, and then something about is it a formal survey?

Mr. Primus: An on-hire survey.

Mr. Mark: On-hire survey. What you talk about an effective—when you say the

charter party agreement takes effect from the higher survey period, which is the third leg, what are you telling us at this Committee, that when the charter party agreement was signed on the 17th of June, with all those terms like the letter of credit, which is irrevocable, the mobilization fee of US \$500,000 that took effect immediately, and others, you are telling us that the only time that charter party agreement took effect is in the final phase of the three-stage process?

Mr. Primus: The charter only commences upon the completion of that special report, the boat is deemed to be fit for purpose—sorry, let me repeat—upon that joint process, as outlined in the BIMCO form, which we did not draft. It is in the main standard clause of BIMCO. Once that process goes through and the process says that the boat must be deemed fit for purpose at that on-hire survey in the Port of Port of Spain, at that point in time is when we are on the hook to pay the charter rate. The charter itself, yes the agreement. Perhaps, I spoke in broad terms, of course the agreement takes effect upon signing. But the charter and the country's financial liability does not start until that survey is done and the boat does its first day of service and we then pay moneys.

Mr. Mark: So, all right.

7.40 p.m.

Mr. Mark: Let me just ask another question, I will come back to that. I want to ask Ms. Charmaine Lewis and Mr. Grant, I do not know if you recall, but I recalled it was a CNC3 story, it was given by a lady called, Tewari; I forgot the first name and she was talking about the *Terra Jet*. And Mr. Chairman, in that report we were told by this reporter that Mr. Elias Bezas emailed—come back to email again; the Prime Minister talked about email—something called Palmazan, I will spell it for you, P-A-L-M-A-Z-A-N@yahoo.com in Hong Kong. It was a Hong Kong email address of the Minister of Works and Transport, where for instance the Minister

was being invited by this same Elias Bezas, either to come to Greece with his team to visit the *Terra Jet* or alternatively for Mr. Bezas to come to Trinidad, given that Trinidad needed a vessel urgently.

Now, this is what came on CNC3 and I have the recording you know, I kept it; so I wanted to ask Ms. Charmaine Lewis or Mr. Grant, when it come to the procurement process, what is the role of a Minister? Because we got testimony from Mr. Stephen Cadiz, and I would like to know what is the role of a Minister. What is Mr. Elias Bezas doing sending an email to the address of Mr. Rohan Sinanan, Minister of Works and Transport in Hong Kong, and that is sent to the country through a CNC3 report? And this is why I wanted to know from Charmaine Lewis, Grant and others, what is the role of a Minister, be it Minister X, Minister Y, as it relates to the procurement process? And why would for instance a party who is seeking to get involved in the sea bridge communicate with a Minister directly?

So that is what I want to get clarified, because we want to get to the bottom of this, and this is why I ask for the professionals to give me some guidance on this matter. I do not know if I can get it from Ms. Charmaine Lewis, Mr. Grant or whoever.

Ms. Lewis: The role should be, as it relates to taking the Note to Cabinet, because usually the procurement process takes place at the port and at the end of the board approval, we would transmit that to the PS and we would draft a Cabinet Note and that should be the role of the Minister—the interaction with the Cabinet Note.

Mr. Mark: But are you aware, I have correspondence here dated the 16th of June, 2017. I have correspondence in my possession addressed to Ms. Alison Lewis, Chairman of the Port Authority of T&T, Dock Road, Port of Spain:

Dear Mrs. Lewis,

Approval of the Board, Resolution for the Charter of *MV Cabo Star*—and it says—

Reference is made to board resolution 16th of June, 2017 concerning re: passenger solution for the inter-island sea bridge for the period of one year.

It goes on to say:

In that regard, I hereby grant approval for the charter hire for one year for the *MV Cabo Star* on the terms and conditions outlined in the contract.

/s/, Sincerely

Rohan Sinanan, Minister.

I would like to know, what is the role of a Minister in the procurement process? What is a Minister doing signing a document to the chairman of a board that is responsible for determining and finalizing tenders—who first, who second, who we should approve. The only role for the Minister as far as I am concerned is once the board determines this matter the Minister will take it to the Cabinet for funding, because that is why you have a board established—

Mr. Chairman: You are answering and asking the question, or will you allow them to answer.

Mr. Mark: —no, I am saying it is my view, so I would like—thank you for your guidance.

Mr. Chairman: So we will allow them now to answer.

Mr. Primus: Member Mark, if I can perhaps—

Mr. Mark: No, no, I am not asking you anything right now.

Mr. Primus: No, you said any member could response, the record will note that.

Mr. Mark: No, I am asking the professional; I think you are a commissioner.

Mr. Primus: Yes.

Mr. Mark: Yes, I am not asking the commissioner.

Mr. Primus: But you said that any person could respond, you can check the note taker.

Mr. Mark: No, no, no, listen I am in charge here, listen—

Mr. Primus: You did say that. I am not making things up.

Mr. Chairman: No, but, member Mark you did say anyone can answer.

Dr. Francis: Anyone could answer.

Mr. Primus: And I would say Ms. Lewis has given a correct interpretation that the role of the Minister, in accordance with the state performance Act, the guidelines, regulates authorities and state enterprises.

The shareholder of these entities or an authority, the Minister of Finance is the firm line, there is a dotted line to the Minister. The Minister gives policy directives, so she is correct in that regard. If, however, you read the tender rules and if, however, you also read all of our board resolutions on this topic. And it has well been touted that we did not follow the procedure outlined, the “three to four month”, as I called it before.

The tender rules of the port passed “donkey years ago”, specifically saying—we did not come up with it—the tender rules say that if the policy is to be deviated from, the Minister must approve. So the reason why—and, again, I am speaking from our perspective why that may have come—from our perspective we needed to put in our board resolution that we have not followed the process; I think earlier on someone read it.

We followed a process of using unsolicited bids, the Minister had given tacit approval to that from a policy standpoint; we could only move forward if we received that formal approval from the Minister in writing. The tender rules require that; so what blessed this new process is the fact that the Minister said it was okay. Otherwise, we would have been found guilty of breaching the rules by

not following the process laid out in the document.

So, again, he may have had other intentions but from our perspective we said in the board approval, the Minister—subject to receipt of the Minister's approval, that the procedure of using unsolicited bids receives formal approval. So it would have gone, yes it would have gone to Cabinet and so on, but unless the Minister himself wrote to us and said, “I approve of the process you used”, we would have been in trouble. So in this particular instance, it was required for the Minister to say that. We would have also received, however, in the normal course the Permanent Secretary would have been the one to say Cabinet has approved, but in this case we required Ministerial approval.

Mr. Mark: Listen, the Chairman asked earlier on about process. We got a testimony, some time ago from Mr. Stephen Cadiz, when the *Warrior Spirit* had challenges and there was also an emergency situation there, they followed process, they invited the Tenders Board to be part of this whole exercise. You are saying that there was an emergency, and because there was an emergency you had to deviate from the tenders procedure, and it is against that emergency that the Minister's approval was needed and I had asked the question—again, it is process—What is the normal procedure when you have a tender, would it actually have to go to the Minister for his approval or would it end at the board level and then once the board approves it then the Minister's responsibility would be to take the Note to Cabinet for funding?

Mr. Primus: You are correct, member, so in the normal process, if we did an open tender analysis, all that full-blown thing, the Minister's involvement would not be to write to us. As I know it and the way the public service works, the Note would go, once again the Ministry from board approval, it goes to the Ministry, their legal division, the PS and her Secretariat, they review the matter again, and

they could in fact block it at that point. From there if they are satisfied they make a recommendation to the Minister.

The Minister on that basis instructs that a Cabinet Note is to be prepared it is then submitted to Cabinet. Cabinet then makes whatever deliberations it has, Cabinet Minutes are secret—as a former member of government you would know that. So we are not entitled to see a Cabinet Minute, so what is normally done is that the Cabinet Secretariat, one week following the Cabinet approval, the Minute moves from an unconfirmed status to a confirmed status; at that point in time the Permanent Secretary would get from the Cabinet Secretariat an outline of the approval that Cabinet gave.

Once the Permanent Secretary receives that outline, based on an extract of the Minute because she herself is not supposed to see the Minute, right? Once the Permanent Secretary has that, they will then write to the port and say Cabinet by Minute dated so-and-so-and-so has approved the following, and that in the normal sense would have then been our directive and the board will then instruct management that pursuant to this approval you can now go ahead formalize the documentation. Again, and there is another step, it goes back up again, the board does not sign the charter party agreement. Right?

Because, again, the contracting party is the Government of Trinidad and Tobago; we would see to it, as in this case we hired external counsel—the external counsel negotiated with their external counsel. They came up with an agreement, the board looked at it, we said okay we are happy, we then send that document back to the Ministry. The Ministry's legal team again reviews it, confers with our external counsel and only when they are happy, then the Minister directs as a policy, “I am satisfied it has been done, Permanent Secretary please sign the document”. That is how it should work in a normal sense; that is my

understanding.

Mr. Mark: Yeah, well that is why I was asking—thanks for your input. Because of the unusual situation in these circumstances, the unusual circumstances, the emergency that was created, we met people in Tobago, you know, and they gave evidence about this crisis and what they thought about it that led to this emergency, it is there in writing, it is evidence and that is why I wanted to ask the management about this practice. This email I mentioned here, I wanted to get the views on that email.

Why would this particular gentleman, Elias Bezas, be sending an email to the private email address of a Minister? Was the Minister part of the process? So that is why I wanted to ask, as you said, and the Chairman corrected me, I asked anyone so my apologies to you. But I wanted to ask the management on this matter, what is the management's view on this matter that was carried on CNC3?

Ms. Lewis: It is different, usually I do not know if that happens usually, it is, different but that is the same gentleman who was emailing me as well and it was carried on to TV6, except that the TV6 version did not speak about the Minister getting the email that was sent to the Chairman and I, and the CNC3 version spoke about the other part of the email that went to Palmazan, because I saw it as well, so that was strange.

7.55 p.m.

As I would have shared with the one-man enquiry, Mr. Mouttet, what I also had concerns about would have been when the Minister would have asked Mr. Grant to go and look at the barge—that was before we started to evaluate the barge—he had asked Mr. Grant to go and look at the barge, which is the barge we ended up taking, because he said: “Dem fellas and dem have ah barge and they normally bring rigs from Miami and he think it would be suitable and that they had wanted

about 12,000 but beat dem down to eight”. So that conversation took place even before the evaluation and the formal submission of the barge to the port. Yeah? So he was instructed to go and look at the barge even before.

In terms of the *Atlantic Provider*, I would have cautioned at the ministerial level and in a meeting at the port that we had all heard that the *Atlantic Provider* was around since about February and was coming to the port. In fact, Mr. Mc Millan had gone to do a job on a complex assessment down in Chaguaramas and the people for the *Atlantic Provider* thought he had come to look at the *Atlantic Provider* on behalf of the Port Authority, because since February of this year, we had heard that the *Atlantic Provider* was coming to the port. So I would have said, I thought we should stay away from it because the perception was already out there that the *Atlantic Provider* was going to be the vessel to come to replace the *Galicia*. When I would have mentioned to Minister that we should stay away from it because that is what is being said, he said: “Well, once somebody have a boat and we want a boat we will look at it.” So I had concerns, as I would have shared with Mr. Mouttet, I had concerns over those things. So long story short, it is not usual.

Mr. De Freitas: Mr. Chair, I just wanted to put on the record, as much as we are hearing this testimony from Ms. Lewis, that you are saying things that people are saying and these people are not here to sort of respond to that. Do you have any evidence of that?

Ms. Lewis: Well, Mr. Grant got the instructions to go and look at the barge. He is here.

Mr. De Freitas: Okay. So he can say that you got instructions to go and look at the barge but—

Ms. Lewis: Prior to the evaluation.

Mr. De Freitas:—I think we would have heard earlier today from another witness that one of the things that is done in the public service is that you ask for things in writing. So do you have that in writing?—because you are saying things that somebody is saying and then the person is not here to sort of respond to that. We are just saying you are getting into that realm of a round robin where you are standing here publicly saying this person is saying that but the person is not here to sort of respond to that. That person came before the Committee before.

Ms. Lewis: Well, we are here to give the testimony and we have said lots of things, but you have singled out this particular one to test the accuracy or the truthfulness of it; I note that you have singled out this particular one. But Mr. Grant is here and Mr. Grant received the instructions.

Mr. De Freitas: No, I could tell you that in the process of these proceedings I have done the same thing when the last chairman was here and it was being said about the last chairman, and I indicated then that the last chairman would have left the building and was not able to respond. So I am just saying that when it is you are saying something about someone and what they are saying, that unless you have—this is a Committee—the documentation to back that up then just, you know, it is not really a fair thing to say that this person said that because they are not here to really respond to that. So you cannot say to me that I am singling that out, because if you go back to the records you would see that I have been on record as saying, if the person is not here and you are saying what the person said, then it is not really fair because they are not here to defend that. So I am just keeping consistent in that regard.

Ms. Lewis: You are right but I was simply saying that I have said lots of things for today and I have said it. So similarly to how I have said a lot of things today, I said that because that is what occurred, but I take your point, but I have said it in

similar fashion that I have provided answers to everything else because it is an oral submission. So there are things we have in writing and there are things that we do not, but that is what occurred, but I take your point.

Mr. Paray: Mr. Chairman, thank you. All right. Mr. Primus, I sat and listened to your entire monologue concerning the processes, and I have a simple question to ask and I would like you to just make the answer really short. Did your process work, yes or no?

Mr. Primus: Unfortunately, being a lawyer we have problems with short answers.

Mr. Paray: Yes or no, that is all I need. Yes or no? Did the process work?

Mr. Primus: I would say—it is not a yes or no answer, unfortunately. It is not a yes or no answer.

Mr. Paray: For my benefit, give me a yes or no answer.

Mr. Primus: The process we followed was the best we could follow and if we had to do it all over again, I believe in the circumstances it still would have been the best process we could have followed. So in the sense that what we did came with a result—while it may not have come with the expected result—I think the process we adopted was the best we could have and yes it worked to arrive to a conclusion. Again, you cannot foresee every single thing that would happen in a process, but throughout the process we put in place whatever mechanisms and protections we could have put in place to avoid things. And I could say that notwithstanding what happened with the *Ocean Flower* and it has not been here, the protections worked and are protecting us. The mere fact that we have not spent a single cent says that it works.

Mr. Paray: Okay, I get the message. Let me answer it for you, it is no, and I would tell you why it is no. I have been here for two weeks—thousand pages here—and if your process worked, none of us would have been here at eight

o'clock in the night. That is that. So "leh meh leave dat dey". All right? The process did not work. I have a document here. You said if you had followed the old process that Ms. Charmaine Lewis had been referring to—

Mr. Primus: Not the "old", the proper process.

Mr. Paray: Well, the proper process, that it take five months. I have a page here that was submitted by the Port Authority—I just want to put some dates here for you—and to me the five months sound unreasonable, because I have here with this document concerning the *Galicia*—and I am starting from the survey point. A survey was done on March 19th to 23rd, 2014 and within five weeks a charter party was signed with all the relevant visits to the home port—all the tests, all the Lloyd's—everything was done in five weeks. So, I find it unreasonable to say if you had followed the process it would have taken five months. That is the first thing.

Mr. Chairman: Member, in fairness to the entire authority, I think Ms. Lewis intervened and said 105 days.

Ms. Lewis: I corrected it; 105 days, and about 40 of those included sending out the invitation to tender and evaluating. So I corrected it.

Mr. Paray: So it is about three months? Okay.

Ms. Lewis: It is not five months. The entire process with tender and invitation is 105 days.

Mr. Primus: As scheduled. But whether that actual happens or not in reality—

Mr. Paray: Well, I am going with what the document says. Member, I am not here to judge anybody. I am quoting what the document says.

Mr. Primus: If I can respond to your point.

Mr. Paray: Hang on, hang on. You had a fair chance. Hang on a second. The other thing that I wanted to ask is, in this document here from what I read here

with reference to the *Galicia*, all the processes were followed to a successful outcome and that is not me saying it. This is this saying it, a document that you all have provided. The process entailed the visit to Gibraltar, the check, the speed trial, the same people involved, a vessel land. So that is my view on that particular issue. Mr. Grant—

Mr. Primus: But Sir, you pose certain issues to me, do I get to respond?

Mr. Paray: I will ask you the question just now. “Hang on nah, I would ask you ah question. Hang on. Gih meh ah chance.” Thank you.

Mr Grant, there is some bad information circling around throughout this entire exercise because the data is saying one thing on the paper here and then there are conversations that happened that reflect something else. One of the issues—and the Prime Minister spoke about a seven-month sitting down of the *Galicia* doing nothing in the port here in Trinidad. Can you substantiate whether that vessel came to Trinidad and sat for seven months doing nothing?

Mr. Grant: No, it was not here for seven months doing anything.

Mr. Paray: Okay. There is a conversation that the vessel came here and it did not start to work until August, sometime in the middle or the end of August of 2014. Can you, to the best of your recollection, tell this Committee when did this vessel arrive and when did it start to work?

Mr. Grant: It began its operation the 4th of August.

Mr. Paray: 4th of August?

Mr. Grant: Yeah.

Mr. Paray: Okay. And when did it arrive at the Port of Port of Spain?

Mr. Grant: It arrived on June 7th.

Mr. Paray: On June 7th?

Mr. Grant: Yeah.

Mr. Paray: Between June and the first day it worked, because I saw the Tobago House of Assembly Chief Secretary was thankful on the 8th via a media release that the vessel came to Tobago in one piece and they were all happy.

And, again, there is a conversation that there was an \$18 million “goodness” that was given to the *Galicia*, “goodness”. I interpret that as being a “hold dat nah, thank yuh”. That from the documents here—and it is listed on the terms of the breakdown for payments—\$18 million was made up of a three-month prepayment which I understand is standard in the charter world when you are chartering a vessel. It was inclusive of 500,000 euros I think for your bunkering and fuel on the visit to Trinidad. Is that a correct assumption what that \$18 million may have been for rather than just a goodness to hand to the agent? I want to get that clear because that is bandied about in this Committee that a goodness was handled, was handed over to the *Galicia*.

Ms. Lewis: May I help him? So the \$18 million consists of three months charter hire which is the norm. You pay in advance. It consists of the three months’ charter hire, bunkers for 500 and—and that is euros. So it was 1.3 million euros for the three months in advance and bunkers of about 500—about 600,000 euros. So I rounded it up. That is what the \$18 million is about.

Mr. Paray: The original contract for the *Galicia* was six months in the original conversation and then it was changed to one year. There are those who have peddled that the corruption started from there because originally it went for six months and by some conversation—and I mean accusations were made against your management team calling the Port Authority a “den of corruption and iniquity”. I want to know if it is reasonable, based on the explanation given in this document here which was submitted to us that the reason for extending the six months to 12 months was that the mobilization and demobilization of a vessel, the

cost to the taxpayer, would have been about three months of service and it did not make sense to contract the vessel for six months.

So, the thing about it is, I mean the hon. Prime Minister himself made quite a bit of these comments too, and I dread to believe that people are misinforming him. I feel that he was misinformed with the seven months' delay; he was misinformed with the date the vessel started to work; and he has been misinformed with the \$18 million goodness because it is in the document here. I trust his own investigation through the Mouttet report would clear that up. I mean, if I am reading the documents wrong, Ma'am, I would appreciate some redirection.

8.10 p.m.

Ms. Lewis: No. No. You are absolutely correct. In fact, when it moves from the six months to 12, we have a document in here from Central Tenders Board, because the Central Tenders Board was aware of it, and it is dated the 24th of March, 2014:

Please be informed that I have conveyed my concurrence as to the revision of the terms of the tender for the charter of the cargo vessel from six to 12 months, subject to the inspection and sea trials of the vessel.

So it was in a context that it was done and it was with Central Tenders Board. We were consulting with Central Tenders Board all the time.

Mr. Paray: Ma'am, you see, what is bothering me, as somebody who is reading the documentation—I am not here to give a conclusion of innocent or guilty—but I am reading the documents and I am forming an opinion, and I do not agree with Sen. De Freitas in terms of his position in terms of what you can say, because this is oral evidence; you are giving first-hand conversation information, and this is not a court of law, so the requirements are a little less. We do not expect you to lie. We expect you to say what you believe to be the truth. And if in your conviction,

what you believe to be the truth, Madam, I give you full coverage, go ahead and speak.

But coming back to my point a little while ago, misconceptions again, because it is written here. I recall, in testimony, someone brutalized the *Galicia* because of its anchor, its winch, its draught, and all these things were identified by Mr. Grant in a document here before they signed the contract. And the Government of the day agreed, listen, this is the best vessel and we will fix it. So why criminalize the *Galicia* when the State was supposed to fix those things, because I am of the view that the root cause in my industry, in the energy business, there is root cause analysis, and the conversation that many people are making that the *Galicia* just “ups and go”, that was never the case. This was a case of a number of factors, and if the *Galicia* had remained based on all the information here we would not be here today.

But the misinformation—no, it is written here, it is written here, it is my view, the issues around the vessel, and so on, the State—look it has it written here that the State agreed that we will fix those things. So we could not blame the vessel. We have testimony here that the vessel worked and had an operational uptime of about 99 per cent.

Ms. Lewis: Member, might I add?

Mr. Paray: Sure.

Ms. Lewis: The crux of the matter was that we, the charterers—well, the Government—the charterers are supposed to provide a proper berth for the vessel. We did not have a proper berth because we did not do the dredging, and that was also another conversation, and the port would have done several iterations of the Cabinet Note, the draft Cabinet Note for the dredging, up to present, and we still cannot get the Ministry to progress the Note to Cabinet so the dredging could be

done.

So even if you get a vessel tomorrow, say you get a fast ferry even and it is not compatible with the berth at the inter-island ferry terminal, you will be in problems because you will have to berth her where the cargo area is. So had the dredging been done as well we would not be having some of the challenges with the *Galicia*, the *Galicia* would have berthed comfortably. We have a new jetty that was built under PSIP, and the jetty cannot be operationalized because it is too shallow. So it is just \$27 million, I think it is, just lying there for how many years because the Government is not supporting the port in giving us the money for the dredging. And it is not this Government alone, it is spanning two Governments. So we have not gotten the money for the dredging up to today.

So that is one of the major things that would have occurred as well. And I just want to clarify, there is a contention with a date of July and one of August for the *Galicia*. So what happened is the first commercial sailing was August, but the vessel did do an inaugural sailing in July, and we did some test runs with containers and different simulations, but the first commercial sailing was August.

Mr. Chairman: We have five objectives and the last one states, to determine the changes and challenges with respect to the maintenance of ferries, and it occurred to me that this whole issue of berthing is one which we have not addressed head on, because what you just said implies that that is an issue that is still unaddressed. And I was wondering, given the specs that had been put out, have the specifications that you all have in the package, does that deal with the berthing issue? In other words, are providers of possible vessels being told what is the circumstance in which the vessel has to perform?

Ms. Lewis: No. No, they have not been told. The specs were very vague.

Mr. Chairman: It is not in the package?

Ms. Lewis: No. The specs were very vague. The Ministry revised the specs to be a minimum, and that is why we had the questions that member Mark—he was alluding to where persons were writing, asking for the further details on the specs, but we did not have it because the Ministry adjusted the specs to be a minimum.

Mr. Chairman: So that as it stands today—I think today was the closing date?

Ms. Lewis: Yes.

Mr. Chairman: All right. So as it stands today, there is no guarantee that someone who would get 90 per cent of the marks under all of the categories, you know, for your criteria, we could still end up as we were with the *Super Fast Galicia*, the vehicle not operating in an ideal situation?

Ms. Lewis: This one is a passenger ferry, but if it is not compatible with the fast ferry ramp, which exists now at the ferry service, if it is not compatible we will have a problem.

Mr. Chairman: And what I am seeking clarification on is that the package that you all, you know, have put out there with the specs, and so on, does not address that—

Ms. Lewis: No, it does not.

Mr. Chairman:—it does not alert people to that?

Ms. Lewis: No, it does not.

Mr. Chairman: Thank you.

Mr. Paray: Ms. Lewis, item 21 on this same page, and it is a note with commentary by Mr. Grant, and it says, the report of 2014, March 24th, under cover letter of 2014, May 1st, was submitted to the then acting Permanent Secretary from the office of the CEO, TTIT, with the recommendation that from the perspective of vessel cargo capacity and functionality, the *MV Super Fast Galicia* meets the existing and future requirements of a cargo vessel, which may service the

inter-island route between Trinidad and Tobago. And, you know, we get the impression, at least I get the impression, that the vessel is being demonized for things that it had no control over, because on item 24 there is a letter issued to the hon. Minister of Transport by the office of the port secretary, of behalf of the board, providing the non-objection. This non-objection letter was accompanied by two documents:

- a) The berthing requirements and arrangement being designed for the arrival of the *MV Super Fast Galicia* by the former engineering consultant, and
- b) TTIT's plans to address challenges associated with the *MV Super Fast Galicia*, by the acting CEO, TTIT.

So I am saying that we have demonized this vessel. We have demonized this vessel for whatever reason about it being stuck in the middle of the den of corruption and iniquity. And that has Tobago seeing stars, because that vessel gone. It was hounded out unreasonably.

And, I mean, you are entitled to your opinion, but I am basing it based on the documents I have here, documents between the company and the port, the company and the Ministry, the company and the Ministers, right? And as a root cause—I mean, we had the opportunity to make some adjustments and we would not have had Tobago having the issues that they are having now, because it is all here in the documentation, and, I mean, it is hard to go and convince me now, you know. I mean, Mr. McMillan said quite clearly that the vessel was not fit for purpose in his assessment, but—no, no, it is six to 15 months? It moved from, “meets the future and existing requirements” to “unfit”.

So, to me, all that could be a symptom of either processes that have not worked, and we have ended up here. And I am saying, Mr. Primus, you have outlined some good processes, clearly it did not work. I am saying there is a

process that I see documented in this document here that seemed to work well. It was based on the same emergency situation, Central Tenders Board was involved, a vessel was sought, and a vessel worked admirably for 99 per cent of the time on the route between Trinidad and Tobago. So, I mean, if I am wrong, Ma'am, or Mr. Grant, please, you know, guide me in the right direction.

Mr. Primus: Member, in relation to your statement, I just think there is a fact that needs to be clarified about the process. I think you made a statement that it took the *Galicia* process only five weeks. I am not sure if the documents were submitted to the honourable committee, but, in fact, the process started much longer than the five-week process, and that part of the process is the greatest cause for concern for me when I read the documents. So, again, I was not there at the time, so pretty much like you and how this commission operates, we can really only act on the documents before us, and on a balance of probabilities you have to decide whether we are telling the truth.

But I can tell you one of the most alarming things, documentation-wise, I saw about that process, and perhaps it is why it took five weeks, is that before the *MV Galicia*, was part of the process was tendered, a decision was already made to recommend the *Galicia*, and that is part of the documented records of the port. And if one looks at Nyree Alfonso's invoice, it outlines that she was involved in the process of gathering vessels of which the *MV Galicia* was one of them. She was part of the analysis with the port, then port management and board, of analyzing that.

Out of that process, the *Galicia* was actually selected to be recommended, and that is in her own invoice because she billed for that. She billed for meeting with us—I am talking us, meaning the authority—billed for meeting with the thing, doing this, analyzing, seeking, and so on. And then the next line item in her bill is,

and helping analyze the tender, the documentation, drafting the documentation, then she skips a step to then say, “I also billed you for helping draft the charter party agreement, advise the port and the Ministry”, but also she was the person who was invited to tender. So she was invited to tender having already been part of the evaluation criteria, pre-evaluation that selected the boat, she tendered that board herself, right, and then after the tender process, picked it back again.

She then advised the Ministry and the port on the terms of the charter party agreement to govern, and the Government then paid for that. So there is no wonder in my head that because this one party was involved months before the formal tender—throughout, during and after—that we could as a Government then have arrived at a five-week process, because the same party was involved throughout.

Mr. Paray: Okay. I have two questions to follow up on that, right? Ms. Lewis—

Mr. Beharry: Mr. Chairman—

Mr. Paray: Just hang on a bit, Mr. Beharry.

Mr. Beharry: Please, on a point of clarification here. On a point of clarification, please. I would like to state—

Mr. Paray: Ms. Lewis, did that process work?

Mr. Beharry: Thank you. I would like to state for the record, Mr. Chairman, although the *Super Fast Galicia* precedes this board, this weekend, out of curiosity, I decided to have a look at this shortlist of nine firms by googling a research on these firms. There are nine firms stated here which were invited by a selective process to tender.

8.25 p.m.

Let me tell you for the record please, of the nine firms: Maritime Workers Offshore Contractors is an individual who is noted in the documentation as a

supervisor at Petrotrin; Windward Ferries submitted a tender, that is Tour Tyson; ND Alphonso is not a broker; Auckland Ship Brokers is; East Coast Marine Brokers, although they are named brokers they are specialized only in yachts; Atlantic Marine Equipment LLC USA is not a broker, they supply equipment; All Ship Hamburg is a broker, Germany; Algoship Brokers, Bahamas, is a broker; and Ferrando & Mazzone is a broker.

So, a total of four brokers out of a list of nine, of which, the following three companies submitted proposals: Ferrando & Mazzone of Italy submitted a proposal; Intercontinental submitted a proposal; and Windward Ferries submitted a proposal. So in other words, of the four listed shipbrokers that are reputable, and you can find a website for them, one of the shipbrokers submitted a proposal. This is not stated anywhere, but if you do the research and you analyze it, you come to a conclusion, how did they arrive at this shortlist of selective tenderers?

Mr. Paray: I hear you and I agree with you. All right? And I agree with everything Mr. Primus said. Those things are cause for concern, but my position is, did that impact the performance of the vessel to serve the people of Tobago? I want to separate the performance and the operation of the vessel against how it get there. Because how it get there will be dealt with in law, in contract. Whoever has to face the music for that, well that is that. I am trying to understand, how could we toss a functioning vessel, knowing that there is nothing on the horizon, in the height of a July/August season, which is the summer, where you cannot get vessel, and then you make a decision to frustrate a process? You know, that to me is what is worrying to me. And I mean, as I say, this is just my opinion.

When the team sits down to look at all the data, and a report has to be written, that view may change. But, from the reading, because all I could do is read the information that has been presented to us—and you are right Mr. Primus,

just like you, you are reading information and you are making an assessment based on what you have read, and it is the same thing that I am doing. But, as I close I just want to say that, you know, that is what is standing out, because I am hearing a chorus from choir books that sounds the same, and, to me it stands out. I can recall Minister Hinds being interviewed here, and he came out and he reminded me in one of my questions, that perhaps I should not be looking at mischief at the ministerial level, and it may be at all the lower levels, which I assume the lower level is the port, and the port management, and the port authority.

And then I have the Prime Minister coming before me, and he is also singing a song from a very similar hymn book, that, hey, the port management and the port authority is a den of corruption and iniquity. So, I mean, the Prime Minister talks about the vessel—“yuh cyar look at it in Korea, because by the time it reach down here it break down, who is responsible for that?” Is the same explanation you gave, Mr. Beharry. And, to me, I am trying to put everything together, and say, well listen, if we have to be analytical about this situation I would expect some variations in the conversation. But it is not happening. And this is just my take on it, Sir. And I want to continue to tell you all that I know it is a hard job that you are doing. I know it is a difficult job. The country is looking at every single thing that we say, that we do.

I know you did not take up those assignments to be ridiculed. You did not take up those assignments to be judged, and, as you know no good deed goes unpunished. And all I would tell you people is that, as public servants, do your best. Do not let anybody influence you to do the wrong thing. And as a stand, we have to protect the taxpayers’ money in this country. And I commend you for the work that you are doing. Mr. Primus, your process, you know it is going to work, keep doing it, let us plug those holes, and I rest my case on this particular matter.

Mr. Khan: I want to make two short interjections here just for clarity. Mr. Primus spoke about state enterprise and state enterprise manuals, and the role of the Minister of Finance. Just for the record, the Corporation Sole is responsible for state enterprises who are registered under the Companies Act, creatures of statute, which is WASA, Port Authority, Airports Authority. The legislation quotes the Minister with responsibility to there. So, the line Minister is truly responsible for the creatures of statute.

Mr. Primus: I stand corrected.

Mr. Khan: Yes, okay. So, that is one. Secondly, in another point of governance, this theme has permeated the entire discourse that came from this bench. There is something in writing called false dichotomy, and I think inadvertently or advertently or consciously you have attempted to create a false dichotomy between management and board. That does not exist. The Port Authority of Trinidad is governed by the Port Authority Act. The Port Authority Act says:

The Authority will be governed by a board of commissioners.

And there is a seamless, there is no differentiation in that between management and port. You all have, either, as I say, subconsciously, consciously, or otherwise created a false dichotomy. In law and in terms of governance, and in terms of this Committee, and in terms of the Cabinet, and in terms of every other part of Government, we see no distinction between the board of commissioners and the management. It is one and the same. That is an internal process.

So when you interface with a Committee like this, you have to interface as an entity, because you are an entity in law. It comes as if you go to the management, and middle management say, it is not middle management you know it is upper management, and then the worker say it is not us, it is the supervisors. You are an entity in a law governed by an Act. So, I just want to caution you that

throughout this discourse, either, as I said, consciously or unconsciously, you tried to create a false dichotomy and that is wrong. That is my case. [Interruption] I am not asking for any response now. I am just making a point.

Ms. Lewis: I just want to respond, Chair, because while I heard what the member said, we were all invited to go to governance seminars at the Hyatt, and the reference—the *State Enterprises Performance Monitoring Manual*—and in that piece of legislation, which was done by the Ministry of Finance, it clearly states the role of board, the role to chairman, the role of the management, the role of the—not the management necessarily, the CEO. So that while I hear what member Khan is saying, that is at stark variance with what we were exposed to at a seminar at the Hyatt, which was put on by the Ministry of Finance.

So that I imagine one has to make up one's mind, are we to follow what we were schooled in at the seminar and the manual that we all have? Or are we to follow what Mr. Khan says, that we are one? Because, I sat and I heard everybody vilify the management. They did not say the board. In fact, when they were speaking of the board they were speaking in glowing terms. So now it is strange to hear today that we are seamless and we are one. Because I heard—the port, we have no business plan, we do not have basically any vision or any direction. But we have had business plans in the past. The last board was presented a business plan, they did not do anything with it after management presented it. I just did the cover—[Holds up document]—we have a document called, “Towards Commercial Viability”. This was done, it was sent to Minister Cadiz. He embraced it.

We revised it in 2016, nothing happened. So that I just want to say, because that was the message that was being said to Trinidad and Tobago, that this is a management that is clueless. They “doh even have a business plan, they doh have a strategy”, and that is far from the truth. And what we had done, is when we had

to do our submissions to the Government we would be informed by what we would have prepared, because we know—and we knew the Panama Canal was coming. We made presentations to the Government, they did nothing. This is a government port. To hear persons say, everything old and the port did not get ready and Jamaica is ready. Jamaica is not even a government port, but they were ready for the Panama Canal. We, Trinidad and Tobago, we did nothing, and the port submitted ad nauseam all sorts of documents, and we got no support. We were left to languish. And that is the truth.

So, to say we went and got tractor trucks and not cranes. We tried to get the cranes, and incidentally, those tractor trucks were approved since 2014, and it was because CMA, one of our customers was saying we needed more equipment. So, it was in a context that the tractor trucks were agreed to be purchased, and the Ministry then was aware of it. They gave us funding for five, and the contract was signed, and we would probably be sued by the supplier because we did not get the rest of the funding that we applied for. They gave us money for a crane, yes, but they gave us about \$8 million. A crane is about \$65, so that would probably buy a part of the crane. And then they said to the port, “go and raise funds.” Go and raise funds how, if you do not have support? If you are not trying to help us fix the business.

We recently presented a draft Cabinet Note as well to the Ministry, putting in a context if we have to do the increase in salary and wages, what would we need to do? This is what we need to do. We need to have 24/7, which is something called the five-in-seven. We need to have the concept of the docker, we need to probably consolidate debt. It is all there. When we do things and submit it to the Ministry, if the Ministry ignores it, then nobody hears of that, but everybody hears that the management does nothing. Well, I am part of the management, and I do a

lot.

Mr. Chairman: Thank you for that contribution. But just to set the record straight, when the port was here previously, I asked the chairman about the issue of strat plan and business plan, and the records would show, and my fellow members will say, she is the one who put into this record that there was none.

Ms. Lewis: Yes, she did, because we have revised and presented the—

Mr. Chairman: I know. I was just making the point that there is no “they” who is doing damage to you. Good? She said to this Committee, this very place, that there was no strat plan, and there was no business plan. Good? The other members who were present, I am sure they remember that. Our records would show that. So that, I am saying this, not to contradict you in any way really, but to reinforce the point that there is a communication issue, and it is imperative that you all treat with it, and there is only one way to start out with that.

And to come back to member Khan’s statement—that is member Khan’s statement, that is not the view of the Committee, and certainly not the final view of the Committee, because we have not sat to deliberate on all the information that we have gathered thus far. So that I would recommend that you be guided by the directions given by the Ministry of Finance, and how at the management and board level you all should operate. Which brings me back to the thing which usually precedes a strat plan or a business plan session, which is team building initiative. Because I think if you viewed or listened to our interview of the previous port authority board you would realize the problem they had. And yours is a version, not the same thing, but a version of that in the sense of the need to build a cohesive team. So, I think member Khan’s point really was about that aspect of it, the need to really be seamless.

So, yes, there is that distinction between what everybody should do in terms

of roles and responsibility, but at the end of the day, there really should be that kind of seamlessness that you refer to in terms of the effectiveness of what you all are seeking to do. And it is not too late to get to that place in terms—and I would strongly recommend that whatever else happens, whether they decide to remove the board, the Minister, whatever, for whatever time you are there, it would be beneficial for all the hard work you all have put in thus far—whatever people may want to accuse you of—that you take some time out to get to know each other better, and the team building strategies are still the best way to do that. Because with whatever time you have left, the more cohesive you all become, the better for all of us in Trinidad and Tobago

8.40 p.m.

And I would hope, if you have an opportunity beyond that to go to a strategic review of, you know, those plans you see that exist, that the question of whether—

Ms. Lewis: Mr. Chairman, it is a draft plan—

Mr. Chairman:—it should be privatization or some—I think your vice-chair had hinted at, what you call it, public/private partnership, that all those various models should be analyzed, and we all have an open mind on what may be the best option for Trinidad and Tobago. All right? I think we need to close up because I have some public servants who have been at this since one o'clock and I really do not want Duke to swim down from Tobago for me. So at this point in time I will allow you all, if you desire to make some closing remarks, to do that.

Mr. Beharry: Mr. Chairman, I would like to close on this note, and it has to do with the point that you have raised this time for the second occasion, which was the question of communicating to the public. And it is interesting that you should raise that point because it is the last line in my statement to the Christian Mouttet Enquiry which is that—and I reiterate the line itself, which is that: “Public

procurement cannot be conducted in the media”. And I have a whole range of journalists who somehow acquired my phone number and have been sending messages and making offers to me to hear the port side of the story, and all such foolishness. It is very clear to me that certain people have been prosecuting a case in the media to pursue agendas—hidden agendas—on behalf of disgruntled individuals, companies. And in any competitive environment you are going to have winners and you are going to have losers. We understand that and we have been hard-pressed as a board in order to devise a communication strategy.

What we have opted for is to issue paid press releases in order to communicate the message in a very clear and concise fashion and we continue to do so. But, please bear in mind that public procurement cannot be conducted in the media. It is a very difficult and sensitive thing because eventually certain statements are made, misrepresentations of facts and they gain traction, and in gaining traction you end up with an avalanche coming down the mountain that you have no way of controlling other than to rely on your own integrity and the integrity of your process and your procedures. And this is what confronted the board in this particular situation.

I thank you for listening to us today, for taking the patience to listen to our side, to ask very, very interesting and direct questions and also to provide advice to the members here which we have certainly taken on board and we will certainly give due consideration in our steps going forward as a board and management. I thank you on behalf of the board and the management for meeting with us today.

Mr. Chairman: I thank you again and I say to you in parting that Trinidad is not “ah easy place”, as we find out from time to time. Thank you again.

This session is suspended for 15 minutes.

Members of the Board of the Port Authority depart.

8.43 p.m.: *Meeting suspended.*

9.00 p.m.: *Meeting resumed.*

Stakeholder

Mr. Winston Riley Chairman, Private Sector/Civil Society Group

Mr. Chairman: Good evening and welcome to the resumption of the 20th meeting of the Joint Select Committee on Land and Physical Infrastructure. We are in the process of conducting an enquiry into the Trinidad and Tobago Inter-Island Ferry Service with specific focus on the procurement and maintenance of the ferries. The key objectives of this enquiry are:

- to understand the current state of the ferry service in Trinidad and Tobago;
- to examine the policies and procedures used to acquire ferries and to ensure that value for money is obtained;
- to determine whether due diligence governed the conduct of all aspects of the maintenance and management of the provision of the sea bridge service; and
- to determine the changes and challenges with respect to the maintenance of ferries.

I would ask members and our guest to ensure that their cell phones are either turned off or placed on silent or vibrate, and to remember to activate your microphones when speaking and to deactivate it when you are finished speaking.

I am, of course, Stephen Creese, the Chairman of this Committee.

[Introductions made]

And, Sir, would you introduce yourself for the record?

Mr. Riley: Mr. Chairman, my name is Winston Riley and although I was invited as an individual, because of my role as chairman of the Private Sector/Civil

Society Group in public procurement I specifically requested that the invitation be addressed to the group itself. The group, as you may be aware, consists of the two Chambers of Commerce: American Chamber of Commerce and the Trinidad and Tobago Chamber of Commerce. It also consists of the Manufacturers' Association; it consists of the JCC, FITUN and two other members, one is a group called the Public Procurement Group in Trinidad and Tobago—it was formed just a few years ago—and CISL.

Because of that situation it was wise for me, if I am going into a public forum, to ensure that I have the cognizance and the understanding of the group of what I am going into, because if I speak, it will be assumed in the public domain that I am speaking on behalf of the group. That is the first statement I want to make.

The second statement I want to make is that there was need for clarification based upon what I heard here last time, and I could go through that clarification easily, and that is the state enterprise manual is not alone. It is not an Act of the Government of Trinidad and Tobago or the State. And the second one has to do with Minister Franklin Khan. I want to clear this up quickly. I know him quite well. On the question of the relationship between the board and the management, the Minister has the power to allow the general manager—I think the term is used in the Act—to sit on board meetings. He has that power. So that kind of linkage that you are looking for is already established within the Act itself.

Now, I am saying those two things because in order to look—we were at a disadvantage. I have to apologize for not being here on the 4th because I had to leave the country on the 2nd and as soon as I was back I informed the Secretariat that I am back and that I have no objections to appearing before the Committee. But before that, what I had to do was prepare a paper. At least to prepare the

paper, to me, it would have been a guide to the Committee as to how to proceed.

And before one can talk about procurement in any reasonable context, one has to be clear about the framework under which one is operating, because the issue of best practice is limited by your legal framework. So that is one issue that one had to be clear about. And then one had to be clear about what are you procuring; what constitutes procurement in the context of which we speak.

Now, under the legal framework I was a little taken aback myself when I realized that there are 34 conditions under the Act that specify a role for the President—34. In addition to that, there are 11 conditions that mention the word, “Minister”, and of those 11 conditions, seven conditions are specifically stated as conditions for the Minister of Finance. That is very important to me. And, of course, what I had to do in order to get my position clear was to look at the Constitution and determine what the Constitution is stating when you have the word “President” and there are no constraints on who he is supposed to talk to and what the Interpretation Act is saying in that context. And it is clear to me that the President acts on the advice of the Minister, or a Minister that has the authority of Cabinet or of Cabinet itself, except in the context—and, of course, this Minister will have—where it states specifically that the Minister is the Minister of Finance and that goes to financial matters. It specifically states that.

So whether or not the Minister has direct authority to act or he has to act through the President, the fact of the matter is that there is a certain amount of controlling interest with respect to the Cabinet on the question of the commissioners in the Port Authority. So that became very clear to me. The protocol for handling that is another issue. That aspect of the protocol never concerned us, or myself, because we wanted to know where the authority lies and what are the functioning processes that can take place under the Act itself.

Now, when we look at the legal framework we understand the role of the President in appointing the commissioners, and we understand that:

“The Authority may, with the written consent of the President, sell, demise or otherwise dispose of any real or personal property or rights”—notice the term “rights”, which went beyond property—“vested in by Act.”

Then you move from that and you see:

“The powers conferred by subsection (1) shall be in addition to”—that is not relevant—“and not in derogation of any powers conferred on the Authority by section 9(2)(d) relating to the disposal of real or personal property or rights.”

I am going to try to move quickly along because, I do not want to read all of this because you have it before you. But the important issue here is that we are aware that a lot of the problems that we have here now are determined by the fact that a matter with respect to the *Galicia* was not solved. That is the most polite way I could say it. The issue with the *Galicia* was not solved. Whether we consider it a commercial issue that was not properly negotiated, that is one; or whether it had to do with the hard-line position of the people who were running the *Galicia* that was forcing the Government in a particular position, those things are not relevant in this given situation. The situation is that it was not solved, and in the context of that, what rights existed under the law if such a situation was not solved?

9.10 p.m.

Then we go to section 83 of the Interpretation Act, defines “assets” to:

“...includes property or rights of any kind;”

In this context, it is necessary to determine whether or not the procurement or termination of a lease of a vessel is an acquisition or disposal of an asset which can be dealt with under procurement and procurement procedures. We will leave that

for the time being. In other words, you are dealing here with disposal of an asset. Was it done? We are dealing with public money issues in the context of the new Act. Was this not done properly in a way that you can say that the people of Trinidad and Tobago in the action that you took, that they took good care of public money, or the assets that have been disposed of? That is the context in which this was being interpreted. And by the way, I make no interpretation because there are legal people who will have to look at this, and I thought that by outlining this in this way I was giving some sort of guidance to your Committee to make reference to these issues and make sure that these issues are addressed in any interpretation that you are given.

Now, the other issue that I want to draw on, which has to do with the Act itself, has to do with the question of owner, and this is a very important issue because it then determines what you are in fact procuring. The Port Authority Act under section 60 allows for the establishment of a Government's Shipping Service. Section 60 of the Act states:

“...the ‘Government Shipping Service’ means the service supplied by vessels owned by the State and engaged in the carriage of passengers and goods between Trinidad and Tobago.”

Section 61 of the Port Authority Act specifies that:

“(1) The Authority shall operate the Government Shipping Service...”

Notice the term “operate”, not procure. It is a distinction that we have to make here. The Act does not allow them to procure. That does not mean that the Government could ask them to procure. The Act allows them to operate the shipping service done by an owner, and I am coming to the context of the definition of the term “owner”.

“...‘Government Shipping Service’ means the service supplied by vessels

owned by the State and engaged in the carriage of passengers and goods between Trinidad and Tobago.”

Section 61 of the Port Authority Act specifies that:

“(1) The Authority shall operate the Government Shipping Service, in this Part referred to as ‘the service’, as the agent of the State, and subject to such Regulations as may be made by the President on that behalf.”

In the regulations and in the definition section of the Act there are two definitions for the word “owner” in relation to a vessel including:

“...any joint or part owner, and a person who, through only the hirer of a vessel, appoints the master and other persons working such vessel, and also includes the agent of the owner or hirer;”—in the definition of the section of the Act, master, et cetera.

So one has to be clear as to what it is you are actually procuring. I think the term they use here—because this is another factor I have to be clear on. We have no maritime engineers in our group, and therefore, any Act—although we are talking about these Acts, you have to find that anything you do also comes under maritime restrictions in accordance with international law. We could address those, but I am assuming that your Committee would have had the kind of advice that were required in this context.

Now I want to repeat the regulations and the definition section of the Act:

“‘owner’ in relation to a vessel includes any joint or part owner, and a person who, through only the hirer of a vessel, appoints the master and other persons working such vessel, and also includes the agent...”

You have to then define who is the owner of the vessel, and if the owner of the vessel that the port is engaged in management, whether that meets the requirements of the Act itself. Those are the concerns that we have.

I am not drawing any conclusions. All I am saying is that this was specifically set out in this way to give guidance to the Committee as to some of the restrictions that are required, and it says here there is need for clarity on the restrictions imposed on the service—the Government Shipping Service—by the definition of the term “owner”. Clarity is important in order to determine the procurement requirements in the context of procuring through leasing contracts or without management or employment requirements, and then there other relevant laws which I quoted in the document I submitted.

Chartered purchase agreement is what I heard a lot about here, and one has to determine whether chartered purchase agreement meets the requirement of the Act in accordance with “owner”. Who are the owners in the context of the agreements that we have, be it the *Galicia* or the other boats that you are talking about in this context? Then I listed a series of other Acts under which you have to come in to understand, as such like the exchequer Act, the shipping Act, the Integrity in Public Life Act, corporation sole—by the way, of course, Minister Khan was clear in his statement that the Port Authority does not come under corporation sole in the same way as is defined, as too the Minister of Finance, but, however, the Minister of Finance has the power in terms of financial power to deal with the Port Authority. So that is one area that I clarified very early, and all the bylaws of the state enterprises.

Now, the other interesting aspect here is that when I looked at the tenders board Act they are not stated there. The Port Authority is not stated there. When I looked at the state enterprise Act the Port Authority is not listed there, but what happens in the final analysis is that the procurement regulations, they state quite clearly under that Act that all state enterprises come under the Act but that is not law. That is what it also states. So one has to be clear as to what one is dealing

with when one is dealing with the issue of procurement.

The other issue that I wanted to draw here in the document I submitted was the question of the new Act that is coming into play, and if that Act came into play whether we would have been in this situation at all. I am convinced that if that Act came into play—which was supposed to be in play sometime in March according to the last budget—we will not have been in this position. All the discussions I heard here, procurement procedures and so, that would not have been in there, and, of course, the point I want to dramatize in this presentation is that there is a question of memory that is lacking completely from all that I heard here today. I listened to the first presentation that was done on the fourth of the month, there is a lack of memory. Where are the documents that are in place in the port that allows them to do proper procurement process? There is no reference to that. There is reference to a lot of new procedures and reference to the state-owned enterprise Act.

Procurement for the port is a specialized type of procurement. Therefore, anything that you get from the state-owned enterprise, if you are using that, has to be dovetailed to meet your specific type of procurement and deal with it in that context. There is no such documentation that I have heard of so far. That is the crucial aspect that is missing. That is an aspect that will be determined by the new procurement legislation when their handbooks are set up, when their regulations are set up and they will be enforceable by law. So that any new administration that comes into play, any change of board or change of management that comes into play, there are documents in place which have to be followed and it will have the power of law. That is what is crucial in the new regulations. The question of just setting up a new Act is only one step in the process.

The second step is allowing that Act to operate in such a way that all the

organizations of the State are set with a process, a memory, a process by which you could improve over time as such and you could judge and measure the improvement. That is the strength of that legislation. And, of course, what is important here is what happens at the level of your budget, and I think there is a lot of talk about that, and that is the whole question about good budgeting. You must be clear on what your outputs are, otherwise the whole question of value for money becomes nonsense. Okay? With those two situations in place, you will find that the whole issues in Trinidad and Tobago are going to go for dramatic improvement.

Now, I also listed the phases that one should follow—those are standard phases—but those phases have to be clarified or dovetailed to take into account what is specific with respect to the question of procurement of vessels. Now as I said before, the Port Authority under the Act was supposed to do with managing the service. The procurement of vessels is not one of their prescriptive rights, but that does not allow to prevent them from being involved in a procurement process if they are asked by the State. So a lot of the issues you have here in which the Minister is involved, of which the people in the Ministry of Works and Transport involved—and from what I remember rightly, a lot of those other vessels were done through NIDCO. If I remember rightly, those issues have no right to arise in the context of this.

The question that arises here, is there not a conflict of interest with the people who are managing and the people who are involved in the procurement interest? That is clear here when I listened to it, where Mr. Grant and the others went and did things which were different and people are talking about Lloyd's. There is a whole host of procedures that are supposed to be followed if you are purchasing, and another host of procedures that are supposed to be followed if you are managing. What

Mr. Grant and they were involved in were processes that were relevant to the management process, and I am convinced here that the procurement process was not properly done with respect to—this whole talk about whether it come from what part of Japan, that is irrelevant in the given situation.

There is a conflict of situation here in the role that the Port Authority played, and that conflict of situation was never clarified in the processes that they were involved in and that is the key to the problem inside here. The other part of it is the disposal issue. The disposal issue was an issue that should have been handled with more finesse. If that was handled with more finesse, then I do not think that we would have been in this situation. Oh yes, you had corruption. That is a given. But when you have new management you do not allow corruption to determine your behaviour patterns.

If you are in the private sector and this is a facility that you had to be working with in order to get your livelihood, you are not going to allow that facility to be shut down. You cannot do that. You will have to make absolutely certain that the facility remains working and that you have the negotiating power to make that facility work, or if it cannot work because of what has happened there are other things you can do. I mean look at the American army, they have plenty vessels sitting down you know. You do not have to look at the marketplace alone you know. The American army has vessels like “stupidness”, then you get inside here tomorrow to handle cargo. What is this all about? I do not know. What is this all about?

People used to talk a lot about Government to Government arrangement which I personally opposed and got the Act adjusted. You could ask the Canadian Government to lend you a ship for a particular period. What is this all about? So if the people that are involved in holding the gun to you believe that they could

hold a gun to you, we are a State, you talk to other States and you remove the problem. That is how I see this. It is a commercial issue that has went foul and the commercial issue was clouded by corruption issues, and then the management position—you have no right as a manager to allow corruption issues to influence your commercial decisions. That is how I personally see it. People may disagree. That is my view of it. Thank you very much. That is my opening remarks.

Mr. Mark: Yes. Well let me once again welcome you, Mr. Winston Riley. I want to thank you for the piece that you have done and it would mean that at our level we too might have to get some further interpretations as it relates to concepts and terms. I want to ask you if you could probably share with us.

9.25 p.m.

From your reading of the Act, that is the Port Authority Act, does the Minister—well, first of all, I should ask, from your reading of the Act, what do you see as the role of the board in the procurement process re: the acquisition of vessels and what or how do you see the role of the Minister in charge of and has responsibility for the port, Minister of Works and Transport, in that procurement process? Because I think there is a little problem that I would like you to clarify for us, based on your interpretation of the law, roles of the board, role of the management and role of the Minister, in the procurement process. And as you are there, if you can give us your understanding of the concept or term “President” versus “Minister”, as you outlined in your earlier presentation.

Mr. Riley: I am not a lawyer and I raised these questions in the context that the legal advice is required by your Committee. However, I do not see any section under the Act that gives the Port Authority the right to procure vessels, it gives them the right to manage a service. That is what the Act says. It is the management of a shipping service. Okay? But that does not preclude them from

procuring vessels because they are a state enterprise. The Government can ask them to do that but they have to be aware that if they are doing that, they may be in a conflict situation or they may be breaking their own Act and that is why I raised it in that context. Right? I am not going to give answers here. I am saying that those are the things that one has to draw because any decision that is made by the board in that context that lands up in a conflict situation or is breaking the Act, every decision could be challenged in the court and could become null and void. Those are the issues that I think have to be addressed and you should seek clarity. I am not a lawyer, I have just posed the questions. Okay?

In terms of the Minister, the Minister has powers. In accordance with the Act, he has powers through the President. I have looked at the Constitution and the Constitution is clear on that area. Let me see if I can read it directly. Okay. The exercise of the President's function is determined by the Constitution of the Republic of Trinidad and Tobago, section 34 of the Port Authority Act states. It says:

“Notwithstanding section 32 of the Exchequer and Audit Act...”

And I am telling you where the contradiction starts. I deliberately put that to show the conflict. Right?

“Notwithstanding section 32 of the Exchequer and Audit Act, sections 33, 34, 36(1), 37 and 38 of that Act do not apply to the Authority.”

Now if you understand that there, that has to do with authority under the Exchequer and Audit Act with its responsibilities under the President. Section 32 of the Exchequer and Audit Act states:

“Subject to subsection (2), sections 33...”—and I say—“to 40 shall apply to every statutory body notwithstanding anything to the contrary contained in any other law.”

But there is an exception in the Act stating that. Right? Sections 33 to 40 of the Exchequer and Audit Act deals with matters requiring the approval of the relevant Minister and matters related to a statutory body. The Port Authority Act deals with similar matters requiring the approval of the President by the advice of the Cabinet or relevant Minister as outlined in section 80(1) of the Constitution. And then it goes on to say, that section says:

“In the exercise of his functions under the Constitution or any other law, the President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of Cabinet...”

This means that the Cabinet of Trinidad and Tobago directly or through a relevant Minister, under the Cabinet’s authority, advises the President as specified in the Port Authority Act.

As I said before, there are 34 sections under the Port Authority Act in which the President has authority and the President has specific authority to give general and specific guidance under the Act. I do not know about the protocol that operates in the context when that arises or if that protocol demands a certain kind of approach to the President, I do not know, but that is something that I think any legal person on constitutional law could tell you; or whether any action by any Minister could be taken without discussing with the President, I do not know, but I think those clarifications should be got by this group, this Committee before they move forward. That is my understanding.

I am not making any statement with respect to that. The Act is clear. As I said before, there are only four areas where the word “Minister” was involved and one of those areas was when the Minister wants to make sure that the general manager sits at a board meeting. He has that authority directly. In the other cases, the word “Minister” specifically refers to the Minister of Finance. Okay?

Mr. Mark: Now, when it comes to the issue of procurement, from your examination of the various Acts, including the Port Authority Act, would you say that the Port Authority of Trinidad and Tobago is responsible for issuing invitations for tenders to supply or for the supply of vessels for Trinidad and Tobago to operate, let us say, the sea bridge?

Mr. Riley: That I think needs clarification. That is one of the first points I made. Right? The Port Authority can involve itself in any procurement procedure as such. Of course by now, when it is hope that for a Port Authority that is operating for so long, that those procurement procedures will be well documented, refined in accordance with things they have done before, indicate what best practice, mistakes have been made and corrections made. It is a long time. To be talking about their procurement processes now, “is ah joke”. Right? You cannot be involved in that when you have an organization that is spending that amount of money and talking about procurement procedures and good practice now. I mean, what are we doing in Trinidad and Tobago? I mean it is the same issue with Petrotrin and I am as shocked that that is going on there.

Anyway, what I am saying is that in the context of the procurement of vessels, there may be a conflict of interest in the Port Authority’s role as managers and operators of this service and also procuring on behalf of an owner. I am saying there could be a conflict of interest. I am not quite sure that the way they carried on the procurement and under what they call it, a charter agreement, is in accordance with the Act, Sir, I do not know. But that there is need for legal clarification and that is specifically stated in the document.

Mr. Mark: Yeah, because the reason why I asked that question, Mr. Riley, has to do with evidence that we got earlier on today when we were informed, as a Committee, that an advertisement in the newspapers issued by the Port Authority

on the acquisition of a roll-on/roll-off passenger fast ferry for a two-year time charter, the specifications were reduced by the Ministry of Works and Transport to the minimum. So that, for instance, interested parties who would like to submit their tenders for this particular service that they wished to supply did not know what is the maximum length of the vessel, that was not supplied to them; they did not know what was the maximum beam of the vessel, that was not supplied, and they did not know what was the maximum draft of the vessel, that was not supplied. Because we were told in evidence today that the Ministry of Works and Transport reduced the specifications to a minimum so that persons who applied and submitted their bids would have minuses on all these areas that I have just mentioned. That is the information that has reached this Committee.

So I wanted to really clarify this matter as to whether it is the Ministry under the leadership of the Minister, under the Act, that is responsible for procurement and determining the specs that should deal with that issue or where does it really lie based on your study of the Act of the port and the powers of the Minister, the Port Authority, the President of the country, as examples.

Mr. Riley: Okay, Sen. Mark, I listened to that discussion because I stayed here since 2.30 p.m. I almost went to sleep, if “yuh doh mind”, listening to what was going on here with, of course, quite a few shocks and such. What I can say first of all is, I have a copy of both procurement procedures, all right, and, of course, what was clear to me is that the Port Authority does not of itself have proper procurement procedures when it comes to the issue of the vessels. And in the second case, that is the one that you spoke about in which there is nothing on the document that went to the public domain, it is clear that people who are interested will go and purchase the relevant documents and get the specifications.

Under the new Act, once it comes into play, that will be on the website. In other words, you could have the advertisement, in one case, and draw the people to the website to get the detailed specifications that they required, but a lot of these organizations now are using the purchase of documents in order to enhance their fiduciary conditions. [*Laughter*] That is one of the things. That is an aside I have thrown in there, right. It is also clear that the Port Authority is acting under the authority of the Ministry when it comes to the question of the procurement of vessels. It is clear that that is the authority. They are not acting in their own right, with the normal authority, to procure vehicles, either state-owned vehicles or under charter agreements. Okay?

I do not know where the charter agreements for the *Galicia* was done, whether it was done under the Port Authority before, all right, but I know that a lot of the other purchase agreements were done directly through the Ministry of Works or through NIDCO of other vehicles that I am aware of, and I only have limited understanding of that so far. So, yes, they are under the control of the Ministry, they are acting as an agent of the Ministry for the procurement process. What I am saying is that if you are acting as an agent of a Ministry for a procurement process and there are specific requirements for your operation under the Act, you have to be clear that in carrying on those two functions that you are not in conflict. That is all I am saying.

Mr. Chairman: Member Paray.

Mr. Paray: Thank you. Mr. Riley, good evening, and thank you for staying. I was a bit depressed after the last group based on having four hours listening to a lot of information, and you have opened up with some very inspiring remarks and information that I do believe that there is hope and we could fix this.

9.40 p.m.

Mr. Riley, I have two short questions. It emanates out of data presented, but I will ask you it in a general sense for your response because since you are not a material witness in terms of the procurement and maintenance I expect you to give your opinion without diving too much inside of it. Can a Permanent Secretary sign a contract above \$1 million, in terms of the legislation, as far as you are aware and if there are any exceptions to that rule?

Mr. Riley: That is a very interesting question. It is a question, and then I understand clearly now why the Port Authority went to the Central Tenders Board, because the Permanent Secretary is under the Central Tenders Board Act and the Permanent Secretary, they have to follow procedures under that Act. And there are two stipulations under that Act. One is if you are going for consultancy services, there is a maximum of \$1million. If you are going for construction services, there is a maximum of \$2 million, but the procedure and the relationship with respect to the Central Tenders Board are clearly identified with respect to the committees that have to meet on that. It is not a responsibility of the Permanent Secretary alone. So you have to ask yourself in the first context, whether that was carried on. Just look at the last set of regulations, under the Central Tenders Board Act. There are two limitations. One is consultants, which is a million dollars. One is for contractors, which is \$2 million and there are procedures in the committee and who sits on the committee in making those decisions, and those are the limitations of the Permanent Secretary. And I think that the Port Authority, what I will say they were quite, probably through the advice of the Permanent Secretary, alert to fact that they had to bring the Central Tenders Board involved in the process. But whether they were involved in a manner that satisfied the requirements for due diligence is another story.

Mr. Paray: Second to that, in terms of appropriateness, right, hope that is a word,

there exists a portion of contracts that I saw were month-to-month contracts for these vessels, at one point in time for various vessels. And the spin-off question to the first one: can month-to-month contracts exist? That is, expending taxpayers' money over a million dollars, without Cabinet approval? Because no Cabinet Notes were sent; therefore, I assume that means no Cabinet approval. But you had month-to-month contracts in excess of a million dollars. Is that something that our legislation would allow?

Mr. Riley: Well, if you are about operating under the Central Tenders Board Act, that is strange. That is what I would say, very strange. And then that would go straight to the Permanent Secretary in that context, if she is the one who is signing off those contracts.

Mr. Paray: Okay. Because for these vessels, from the data we have that comes from the *Warrior Spirit* come right back, as far as I recall, all the charter party agreements have been signed by Permanent Secretaries. So, again it comes back to your position, in terms of a misinterpretation of the legislation.

Mr. Riley: Well in this case, it is the Central Tenders Board Act, eh.

Mr. Paray: Right.

Mr. Riley:—not the Port Authority Act.

Mr. Paray: So, I thank you for those two responses because I think it is going to be very relevant in summing up our report because it shed some light, in terms of, to me, some processes and clearly there is a breach of a whole number of processes emanating from the conversations over the last two weeks and your two responses fit nicely into that, Sir, and I want to thank for that. Chairman, that is it for me.

Mr. Chairman: I want to take this opportunity to thank you, Sir, for greatly assisting us and is there anything you wish to say before we close because we are about to close.

Mr. Riley: The one issue I would like to raise, because this has been my passion for the last 15 years, and that is the speedy implementation of Act No. 1 of 2015, with its amendments, as speedily as possibly. That is the procurement Act.

We got it to the stage where the Act is in place. It is only partially proclaimed. It is at a place also where a series of promises were made, with respect to the whole question of putting that Act in place. And I would read to you what has happened to date with that issue. Hope I have that document here. There are a series of promises that were made. Okay.

The present administration successfully advocated for amendments to the existing legislation and successfully amended the legislation through Act No. 5 of 2016, when was assented to on the 6th of June, 2016.

The Prime Minister in his address to the nation on September 11, 2016, stated:

I give you the assurance that I have issued instructions to take imminent steps, immediate steps, to operationalize the procurement Act in the shortest possible time.

The Attorney General on September 19, 2016, stated that the implementation is imminent, apart from proclamation of the legislation, draft regulations accompanying the legislation are in substantial form. The regulator must be appointed by the President. The establishment of the procurement units in the State Government Ministries and the State Enterprises are being built out as we speak.

Where is the Port Authority in this? This was on September 19, 2016. We are in 2017 and they do not have any procedures in place yet that one can discern.

The Minister of Finance, in the 2017 Budget Speech, gave the 31st of March, 2017, as the target date for full implementation.

That is the date for full implementation. This is a straight quote. But the important

issue here was no provision was made in the 2017 budget for the implementation and operationalization of the Office of Procurement Regulator. Now, how could you make a statement like that for March of the same year and there were no requirements in your own budget for that issue?

That raises a red flag to everybody who was interested in the speedy implementation of procurement and I would say it went further. It went further in raising that red flag when the person who is operating as Minister of Finance objected to what was being proposed for procurement regulations at the Uff Commission. It is similar to what we have now. I think he has gone a long way and he is acting. Some people refer to it as an epiphany moment and he is trying to push it, but the question is we are suspicious of what is going on at every level.

Recently, salaries and remuneration arrangements for the Board of the Office of Procurement Regulator was approved on May 9th in the Senate. Okay? That is the last time it was approved. Now, the question here is that the situation now lies totally in the authority of the President of the Republic. This President has an opportunity to do something that is unprecedented and has not been done by any President to date. He has, under the Act, to consult with the Prime Minister and the Leader of the Opposition. But he has to be assured that transparency takes place and accountability takes place. Nobody to date knows exactly what is in the President's mind in what is going on, and I would plead with him now publicly to make his position transparent to the population of Trinidad and Tobago. And he cannot do it himself, otherwise he will have to be held accountable for anything that takes place. So the procedures for accountability have to be established.

We had, under the last administration, there was an oversight committee that was established by the last administration; that was abandoned by the present administration; and the group that I speak for now, that is the Private Sector Civil

Society Group on Public Procurement, advocated strongly for a process by which the President could become accountable. That process was clear. We met the President on it because no process can go on under that Act unless the President understood and agreed. There was in play at that time UNDP, who were giving all the training and advice for procurement in all the Ministries and all the state enterprises and they are at present doing the same thing under this administration. Okay?

Our view of it is that since they have that understanding, and they were given that authority under the last administration prior to the Act coming into operation, because their mandate was to make sure that even though the Act did not come into operation certain procedures were set in place for better governance of our finances.

The recommendation that was made was that the President should find a way where you could engage UNDP to do a form of advertisement shortlisting and give it to the President. In other words, if the shortlist was five, then those five people would have been five people who the people of Trinidad and Tobago would have been confident that they met the requirements for the procurement regulator or for the officers on the board of procurement regulation. Two things have happened since then.

By the way, we wrote the President hinting at some of these things before. So it is not going to be quite new to him. But what I am saying offhand is that this is where we are. The President initially went out to a series of people, including the groups that we are in charge of, asking for recommendations and then lately he went internationally for the Office of Procurement Regulator.

This Act cannot function without a board. It cannot function with the office alone. There is no money yet placed for the operationalizing of what is going to occur

outside of the board and we are hoping that that comes in into the next budget and there is a clear understanding of the amount of money that is required annually for keeping this procurement regulation active. Thank you very much.

Mr. Chairman: Thank you very much, Sir, for deliberations you shared with us. I now declare the 20th meeting adjourned.

9.53 p.m.: *Meeting adjourned.*