



2nd Report

JOINT SELECT COMMITTEE ON
LOCAL AUTHORITIES, SERVICE COMMISSIONS
AND STATUTORY AUTHORITIES
(INCLUDING THE THA)

on an

An Inquiry into the efficiency and effectiveness of the National Insurance Appeals Tribunal (NIAT)(with specific focus on the tribunal's capacity to dispose of appeals).

First Session (2020/2021), 12th Parliament

Second Report

Of the

Joint Select Committee on Local Authorities, Service

Commissions and Statutory Authorities

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2nd Report on an Inquiry into the efficiency and effectiveness of the National Insurance Appeals Tribunal (NIAT) (with specific focus on the tribunal's capacity to dispose of appeals).

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ACRONYMS AND ABBREVIATIONS

ABBREVIATION	ORGANISATION
ANICCA	Association of National Insurance Contributors, Claimants and Appellants
CMO	Chief Medical Officer
DPS	Deputy Permanent Secretary
FY	Financial Year
ICT	Information and Communication(s) Technology
ISSA	International Social Security Association
KPI	Key Performance Indicators
MOF	Ministry of Finance
MOH	Ministry of Health
NIAT	National Insurance Appeals Tribunal
NIBTT	National Insurance Board of Trinidad and Tobago

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EXECUTIVE SUMMARY

1.1 At its 3rd meeting held on Wednesday 6th January, 2021, the Committee resolved to examine the efficiency and effectiveness of the National Insurance Appeals Tribunal (NIAT). In making its decision to proceed with an examination of this entity, the committee noted that a previous Parliamentary Committee had examined the operations of the Tribunal in October 2013. Consequently and given the current socio-economic challenges confronting the country, the Committee considered that it was critical to examine to what extent the operations of the Tribunal have improved. To this end, the Committee agreed that the following four (4) objectives would guide the inquiry:

- i. To evaluate the performance of the NIAT (over the past 5 years) in treating with appeals made against the NIBTT;**
- ii. To identify the gaps in the administrative operations of the NIBTT which are hindering the efficient processing of claims;**
- iii. To examine the business continuity strategies of the NIAT and NIBTT, in response to the Covid-19 pandemic;**
- iv. To determine whether the current legislation and policy provisions adequately empower the NIAT to carry out its mandate**

1.2. In furtherance of these objectives, the Committee engaged with the relevant governmental stakeholders to acquire a holistic perspective on the issues under consideration. On Wednesday 3rd February, 2021, the Committee convened a public hearing with the primary stakeholders involved including the Ministry of Finance (MOF), the National Insurance Board of Trinidad and Tobago (NIBTT) and the National Insurance Appeals Tribunal (NIAT). Additional input was provided by interested stakeholders in writing.

1.3. Some of the issues which were highlighted and explored during the course of the inquiry included:

- a. **The need for additional human resources to support the operations of the NIAT;**
 - b. **The need to review the current arrangements for the appointment of Tribunal Members. A determination must be made on whether these appointments should coincide or be staggered.**
 - c. **The potential revision to the appeals process utilised by the NIAT with a view to addressing the relatively slow rate of disposition of matters awaiting adjudication;**
 - d. **An examination of the collaborative measures taken by the NIBTT and the NIAT to optimize the appeals processes utilised by the NIAT;**
 - e. **The need for greater public awareness of the mandate and functions of the Tribunal and the services it renders to the public;**
 - f. **The absence of strategic planning within the operational framework of the NIAT;**
 - g. **The efficacy of collaborative activities between the NIBTT and the NIAT;**
 - h. **The effects of covid-19 on the core operations of NIAT and NIBTT and the contingency measures employed to sustain business operations;**
 - i. **The consequential effects of inaccuracies in Claimant Information;**
 - j. **The urgent need for the integration of Information and Communication Technology into the operations of the NIAT;**
 - k. **The establishment of systems and procedures to mitigate the risk of fraudulent practices clients/claimants;**
 - l. **the legislative amendments required to improve the service delivery of the NIAT.**
- 1.4. Further to the evidence received and the observations glean therefrom the Committee has proffered recommendations which it believes will appropriately address the operational shortcomings and challenges of the Tribunal. A summary of these recommendations follow this Executive Summary.

- 1.5. We anticipate that the Parliament, NIAT, NIBTT, MOF and other relevant stakeholders would give due consideration to the findings and recommendations contained in this Report with a view to ensuring that clients of the NIS have access to timely and adequate redress of claims discrepancies. The Committee looks forward to reviewing the line Ministry's response to this Report, which becomes due, sixty (60) days after it is presented to the Houses of Parliament.

SUMMARY OF RECOMMENDATIONS

The key recommendations proposed by the Committee are as follows:

- 1. The Committee endorses the recommendations proffered by the previous Joint Select Committee and the consultant Ernst and Young. Given that the requirements for improving the operations of the NIAT are now well documented, the Ministry of Finance must now work with other relevant agencies with a view to implementing the necessary changes as soon as is practicable. To this end, the response to the report should contain an implementation road map which should identify the following:**
 - a. The timeframe for the execution of the recommendations and deliverables;**
 - b. The person or entity responsible for the implementation of the recommendations and or deliverables;**
 - c. Factors which may be contributing to the delay in the implementation of the recommendations and or deliverables.**

- 2. With respect to expanding the number of establishment positions relevant to NIAT on the establishment of the MoF, there must be continued dialogue with the key central human resource bodies, including PMCD and Public Service Commission, for the creation of the additional posts. The long-standing backlog and slow disposition of matters maybe be notably referenced in justifying the case for additional human resources to be assigned to support the work of the Tribunal;**

- 3. The NIAT must establish Key Performance Indicators in the absence of a strategic plan as a measuring tool for efficiency and improvements;**

4. Applications will continue to be submitted in error to the NIAT, unless it engages in a robust public engagement campaign geared towards informing the public of its rights of appeals and the types of applications which may be submitted. Simultaneously there must be improved efficiency in its administrative operations since greater awareness of the tribunal may translate into a greater demand for its services;
5. The establishment of a prioritization system is a necessary measure when treating with time-sensitive appeals. To this end, the NIAT should consider formulating a policy document outlining the criteria, which must be satisfied for an appeal to be given urgent priority;
6. The NIAT must work speedily to incorporate ICT solutions into its operations both at the Tribunal and the administrative levels. In this regard, immediate attention should be given to:
 - a. the creation of a digital platform or portal for the submission of documents related to appeals;
 - b. The convening of virtual hearings.
7. Pursuant to this recommendation, the Ministry of Finance is asked to intercede on behalf of the Tribunal and engage the Ministry of Digital Transformation (especially i-GovTT) to render assistance;
8. Although physical offices that are well outfitted and resourced are essential for connecting NIAT with the wider population, pending the establishment and improvements of these offices, the use of digital interfaces will assist with mitigating the existing infrastructural challenges faced by the NIAT;

9. **The Ministerial Response of the MOF must include a status update on the Case Management proposal submitted by the Association of National Insurance Contributors, Claimants and Appellants (ANICCA);**
10. **The NIBTT and NIAT should formalise their approach to cooperating by establishing an inter-agency working Committee to continuously monitor and evaluate the appeals process's performance;**
11. **Additional steps should be pursued by the NIBTT to improve its clients' records management system systems.**
12. **The establishment of a Fraud policy by the NIBTT is commendable; it is a necessary, safe guard especially given the Board's plans to expand its e-business services;**
13. **The NIBTT should consider undertaking a robust public relations campaign highlighting the need for employers to cooperate with the Board and comply with the provisions of the NI Act to ensure that accurate contributions are made on behalf of employees;**
14. **The NIBTT and the NIAT should establish a shared digital database for accessing client records. Discussions should commence within the next three months concerning the establishment of this database;**
15. **The Ministerial Response of the MoF should provide a status update on the Benefit Administration Forms that are being modified to align with current policy and procedures;**

16. **The NIAT should make the necessary arrangements to urgently commence virtual hearings on a phased basis. An effort must be made to introduce virtual hearings of the Tribunal within the last quarter of 2021;**
17. **That the NIAT prioritise the introduction of ICT solutions given that it is a client-based organisation where the potential improvements that adequate ICT solutions can make to its operations are significant;**
18. **The NIAT should request that the Permanent Secretary, Ministry of Finance assist with providing the Tribunal with a dedicated ICT support technician. NIAT should aim to have this technician onboard by the end of 2021;**
19. **The establishment of an advanced Web-enabled system to view retirement projections is endorsed by the Committee. Furthermore, the committee recommends that discussions on the full establishment of this feature be prioritised by the NIBTT;**
20. **Given the delay in the full proclamation of the Electronic Transactions Act, which provides for the use of electronic signatures in business transactions, we recommend that in the interim, the National Insurance (Appeals) Regulations should be amended accordingly to facilitate the submission of Notices of Appeals with electronic or digital signatures;**
21. **It may be useful to conduct a job analysis of the administrative positions assigned to the NIAT with a view to ensuring that the job responsibilities and functions (workload) are properly aligned with the required qualifications and competencies;**

22. **Given its significant client base, the Committee fully endorses all feasible e-business projects of the NIBTT. In light of discussions surrounding Fintech, the NIBTT must ensure that it obtains the necessary systems to adequately protect the financial data of its claimants as they proceed to engage in electronic payments;**
23. **Given that the necessary legislative and administrative modifications for the proper functioning of the Tribunal are properly documented, the Ministry of Finance must now actively support the tribunal in accomplishing the necessary reform measures;**
24. **Provide a status update on the establishment of the following positions: Deputy Chairman, Deputy Registrar and an alternate to the Chief Medical Officer;**
25. **A follow-up meeting should be held with the PMCD, the MOF and the NIAT with a view to discussing the additional job positions needed to improve the NIAT's operations;**
26. **That the NIBTT and the NIAT should endeavour to engage in a public consultation exercise with the stakeholders who were previously not considered, with a view to ensuring that all credible concerns are considered and rectified through legislative amendments and administrative adjustments, where necessary;**
27. **Provide a status update on the submission of the legislative amendments to Section 60 of the NI Act and Regulations 6 and 31 of the Appeals Regulations to the MOF for their consideration;**

- 28. Perhaps a comparative review of the administrative arrangements and resources afforded to other similar bodies may be useful. The Registrar of the Tribunal should consider engaging her counterparts at other quasi-judicial bodies e.g. Equal Opportunities Tribunal, Integrity Commission.**

INTRODUCTION

Background¹

Regulatory Framework

- 2.1. Provision was made for the establishment of the Appeals Tribunal under Section 60, 61 and 62 of the National Insurance Act Chapter 32:01 for the purpose of receiving, processing, hearing and determining appeals from persons who are not satisfied with any decision of the National Insurance Board. The Tribunal operates with complete independence and is funded by monies approved by Parliament through the Appropriation Act.

 - 2.2. The National Insurance Act provides for the appointment and composition of the Appeals Tribunal as follows:
 - i. an Independent person as Chairman who is in the opinion of Her Excellency the President, independent of Government, Labour and Business (i.e. a neutral person);
 - ii. Three (3) persons nominated by the associations, mostly representative of Business, one from each Administrative Division;
 - iii. Three (3) persons nominated by the associations mostly representative of Labour, one from each Administrative Division;
 - iv. Three (3) persons nominated by the Government, one from each Administrative Division;
 - v. The Chief Medical Officer in the Public Service of the country.

 - 2.3. **The Regulations provide that such persons who are aggrieved with any decision of the National Insurance Board have the right to appeal.** This is done either by
-

completing the prescribed form (Notice of Appeal Form-1) or in writing signed by the Appellant and shall contain the grounds of Appeal. Following receipt of an Appeal, the process includes registration, notification to the National Insurance Board, Hearing of the Appeal by the Tribunal and issuing of a Decision.

Composition of the Tribunal

2.4. The composition of the Tribunal is subjected to a three (3) year term. As at February 3rd 2021, the members were as follows

i.	Ms. Stacy Cummings,	Chairman
ii.	Ms. Elicia Douglas-Cruickshank	Member
iii.	Ms. Olivia Constantine	Member
iv.	Mr. Charles Peter Mitchell	Member
v.	Ms. Sumattee Baldeo	Member
vi.	Ms. Ermine De Bique-Meade	Member
vii.	Ms. Nicolette Camps	Member
viii.	Mr. Wesley Jackson	Member
ix.	Ms. Lydia Peters	Member
x.	Ms. Akkianne Duke	Member

Inquiry Rationale

2.5. Social security is a human right which responds to the universal need for protection against certain life risks and social needs. Effective social security systems guarantee income security and health protection, thereby contributing to

the prevention and reduction of poverty and inequality, and the promotion of social inclusion and human dignity².

- 2.6. These objectives are achieved through the provision of benefits, in cash or in kind, intended to ensure access to medical care and health services, as well as income security throughout an individual’s life cycle, particularly in the event of illness, unemployment, employment injury, maternity, family responsibilities, invalidity, loss of the family breadwinner, as well as during retirement and old age.
- 2.7. In light of the social-economic challenges the Covid- 19 pandemic has generated, the importance of adequate and responsive social security systems have become even more crucial.

Methodology for obtaining evidence

- 2.8. On Wednesday February 3rd, 2021, a public hearing was held virtually via Zoom Video Conferencing program with representatives of the NIAT, the MOF and the NIBTT at which time the Committee interviewed the officials on issues relevant to the inquiry objectives. The respective entities were represented as follows:

National Insurance Appeals Tribunal (NIAT)

- | | |
|--------------------------|---------------------------------|
| a. Mrs. Sharon Hassanali | Registrar |
| b. Ms. Stacy Cummings | Chairman |
| c. Ms. Naseem Farrier | Senior Research Officer |
| d. Mr. Prakash Ramlochan | Administrative Officer II (Ag.) |

² <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/social-security/lang-en/index.htm#:~:text=Social%20security%20is%20a%20human,life%20risks%20and%20social%20needs.&text=Finally%2C%20it%20reinforces%20social%20cohesion,decent%20living%20conditions%20for%20all.>

National Insurance Board of Trinidad and Tobago (NIBTT)

- | | |
|-----------------------------|---|
| a. Mrs. Niala Persad-Poliah | Executive Director |
| b. Mr. Douglas Camacho | Deputy Chairman |
| c. Mr. Feyaad Khan | Chief Operating Officer-
Business Services |
| d. Ms. Sarah Baboolal | Executive Manager, Legal
Services |

Ministry of Finance

- | | |
|---------------------------|---|
| a. Mrs. Jennifer Lutchman | Deputy Permanent
Secretary |
| b. Ms. Yvette Babb | Executive Director, (Ag.)
Investment/ Divestment |

- 2.9. The Minutes and Verbatim Notes relevant to the Committee's public hearing with the NIAT, the MOF and the NIBTT, are attached as **Appendix VI** and **Appendix VII** respectively.

Summary of Evidence Together with Findings and Recommendations

Objective 1: To evaluate the performance of the NIAT (over the past 5 years) in treating with appeals made against the NIBTT

3.1.1. The Committee sought to examine the effectiveness of the NIAT in executing its mandate, particularly during the last 5 years. The Committee considered it important to evaluate the performance of the Tribunal in executing its core responsibilities especially given the prevailing social-economic challenges that Covid-19 pandemic has created included:

- a. increased unemployment;
- b. an increase in incidents of disabilities or impairments among members of the workforce;
- c. reductions in salaries and disposable income; and
- d. social apathy and other psycho-social fallouts.

Human Resources of the NIAT

3.1.2. The National Insurance Appeals Tribunal (NIAT) operates with a relatively modest staff complement of five (5) persons.

3.1.3. NIAT has five (5) positions on the establishment of the Ministry of Finance; they are as follows:

- i. 1 Registrar (Rg. 46D)
- ii. 1 Clerk III (Rg. 24 E)
- iii. 1 Clerk Steno II (Rg. 20)
- iv. 1 Clerk Typist I (Rg. 13)
- v. 1 Messenger I (Rg. 9).

- 3.1.4. In instances where additional support is required, On-the-Job Trainees and Clerical Assistants have provided short-term relief.
- 3.1.5. According to NIAT's submission, all positions on the establishment have been filled, however, this is not a fixed arrangement as all officers are subjected to rotation within the MOF with the exception of the Registrar. The intermittent need for additional staff as well as staff rotations have adversely affected the retention of institutional knowledge. The staff specifically assigned to the NIAT as at February 1st 2021 are: 1 Administrative Officer II (Range. 46D), 1 Estate Constable (Range. 17/20) 1 Clerk I (Range. 14).
- 3.1.6. During the public hearing, the Registrar, Mrs. Hassanali, stated that her role as the Registrar is administrative. She further stated that:
- "I perform the duties of a secretariat to the tribunal in receiving and prepping all of the matters that come through the Appeals Tribunal, liaising with the members of the public directly and setting schedules, dates, times, venues for hearings, notifying all the parties concerned"*
- 3.1.7. The Deputy Permanent Secretary, Mrs. Jennifer Lutchman stated that early in 2020, the Investments Division, Ministry of Finance, assigned a senior research officer to the NIAT to assist in strengthening the procedures and processes of the NIAT. An AOII has also been assigned to the NIAT.
- 3.1.8. Additionally, the NIAT stated in its written submission that an appropriate staff structure should include a Deputy Registrar, Appeals Tribunal Officers I and II and a Legal Officer to provide clear lines of succession and allow continuity.
- 3.1.9. In light of the increasing awareness of the NIAT, there has been a steady increase in submitted appeals, therefore as stated by the NIAT in its written submission,

the staff complement is inadequate to treat with this increase. The pandemic has curtailed the submission rate of appeals; however, it is anticipated that appeals will continue to be submitted.

Performance Targets of the Tribunal

3.1.10. Based on the evidence provided, the NIAT has no documented Strategic or Business Plan. However, the Tribunal has identified three strategic objectives and performance targets to be accomplished within the next three years. These targets included:

- i. Reduce the backlog of cases awaiting the Tribunal's determination;
- ii. Address staffing issues;
- iii. Determine more matters:-
 - a. Engage in an outreach program to members of the public;
 - b. Conducting a Case Management Conference which would include the NIBTT, NIAT and appellants to reduce the backlog;
 - c. File Audit to determine validity of appeals currently on hand;
 - d. Restructuring the current staff structure to fit the current needs of the Unit.

Changes in Tribunal Members

3.1.11. A significant component of NIAT's mandate is the efficient disposal of appeals. This process is hinged upon having an adequate complement of members of the Tribunal to adjudicate on matters. The Committee was advised that the current membership of the Tribunal was as follows:

- i. Ms. Stacy Cummings, **Chairman (Term ended in March 2021);**
- ii. Ms. Elicia Douglas-Cruickshank, **Labour North;**
- iii. Ms. Olivia Constantine, **Business North;**
- iv. Mr. Charles Peter Mitchell, **Government North;**
- v. Ms. Sumatee Baldeo, **Government South;**

- vi. Ms. Ermine De Bique-Meade, Labour **South**;
- vii. Ms. Nicolette Camps, Business **South**;
- viii. Mr. Wesley Jackson, Business **Tobago**;
- ix. Ms. Lydia Peters, Labour **Tobago**;
- x. Ms. Akkianne Duke, Government **Tobago**.

3.1.12. All nine (9) members had been appointed with effect from October 8, 2020 for a period of three (3) years. The current Chairman was appointed with effect from March 2, 2018 for a period of three (3) years. That term came to an end on March 1, 2021.

3.1.13. In live discussion, the former Chairman, Ms. Cummings, stated that the inconsistency in appointing members significantly delays the hearing of appeals. A fully constituted Tribunal is required to hear appeals. Further delays occur because new members require training prior to their full engagement. Appeals are still submitted in tandem with these delays and this further contributes to existing backlogs.

3.1.14. During the public hearing it was stated that the expiration of Members' terms has impacted upon the Tribunal's ability to convene hearings. **The current Registrar assumed office on April 7, 2014 and at that time the number of appeals on hand totaled 1025.** The Members' term had ended in September 2013. Eight (8) Members were appointed on April 28, 2014 and one (1) on July 26, 2014. All Members were appointed for a period of three (3) years.

3.1.15. Additionally, the NIAT submission stated that the Chairman and Members are not appointed at the same time and the term of one usually ends before the other. The Tribunal cannot be properly constituted with a Chairman only, or with

Members only. According to Section 6 (1) (2) of the National Insurance (Appeals) Regulations, the quorum requirements are as follows:

- a. for Ordinary hearings -the Chairman and two (2) Members and,
- b. for a Medical Hearing -Chairman, two (2) Members and the Chief Medical Officer.

3.1.16. Furthermore, the most recent Chairman's term expired in March 2021. Mrs Hassanali stated that the required steps to replace the former Chairman had commenced with communication with the Office of the President of the Republic of Trinidad and Tobago.

Appeals Process

Hearing Appeals

3.1.17. The NIAT reported that, no changes have been made to its administrative procedures which support and facilitate the disposal of appeals in the last five (5) years. The Committee further noted that there are no international benchmarks which inform the operations of NIAT. However, as it pertains to hearing an appeal, a date and time is stipulated and 21 days' notice is given in advance of the date to the appellant.

3.1.18. The following statistics were provided by the NIAT with respect to the appeals received and addressed from 2014 - 2020.

TABLE 1: NUMBER OF APPEALS SUBMITTED TO NIAT

Year	Appeals Received	Determined/Concluded/ Disposed
January - December 2014	129	0 (Members appointed with effect from April - July 2014)
January - December 2015	198	0 (New Chairman assumed in December 2015)
January - December 2016	239	43 (Hearings resumed June 2016)
January - December 2017	241	31 (Members term ends April 27, 2017)
January - December 2018	209	20 (New Chairman appointed 01/03/2018 and Members appointed for 3 years w.e.f. 06/08/18)
January - December 2019	198	88
January - December 2020	161	33 (Members term ended August 5, 2020)

The number of appeals:

- i. Withdrawn as at February 1st 2021 - 434**
- ii. Mixed Law and Fact - 52**
- iii. Out of Time (outside of Tribunals jurisdiction)³ - 271**
- iv. Decisions - 215**
- v. To be withdrawn/Not genuine appeals - 309**

³ Some appeals have been deemed to be out of time by the NIBTT, that is the appeal was submitted more than twelve (12) months’ timeframe allowed for appeals, or, the claim may have been submitted late (more than 12 months from the date of the injury/illness/birth of a child etc.)

3.1.19. Regarding the matters awaiting a decision from the Tribunal, investigations are still being conducted by the NIBTT and the NIAT is awaiting the outcome of these investigations.

3.1.20. Notwithstanding, in accordance with Regulation 14, the Registrar is required to ensure that a copy of every appeal lodged or received, is served to the NIBTT. In this regard, the NIBTT can confirm that over the past 5 years, that is 2016 to 2020, the NIBTT received 977 notices of appeals from the Registrar.

TABLE 2: NOTICES OF APPEALS SUBMITTED TO THE NIBTT

Year	No. of Notices of Appeals received from NIAT
2016	237
2017	211
2018	206
2019	172
2020	151
Total	977

3.1.21. Consequently, **the NIBTT responded to 876** and were **processing 101 Notices of Appeals as at January 28th 2021**. However, the NIBTT was advised by the Registrar that eleven (11) notices of appeals were withdrawn and warranted no further action.

3.1.22. A significant challenge which was highlighted was the fact that some appeals may be submitted to the Tribunal in error. In instances, matters require legal interpretation. Those matters are submitted to the High Court. As such, it was highlighted that persons lodging appeals with the Tribunal should be

immediately informed of specific categories of appeals which may be submitted to the NIAT. A system should be created to ensure that this determination is made earlier in the process. A shortcoming expressed is the NIAT’s inability to readily receive counsel in determining whether cases are mixed fact and law.

3.1.23. The detailed process of submitting an appeal may be found in **Appendix III**.

Response Time

3.1.24. During the period 2016 to 2020, the NIBTT has improved its response time to the requests per Regulation 15. A summary of the response rate for appeals received between 2016 to 2020 is shown in the table below:

TABLE 3: TURNOVER TIME FOR SUBMITTED APPEALS BETWEEN 2016 - 2020

Response time	Days overdue
On-time	147
1-30 days	170
31-60 days	105
61-90 days	74
>90 days	380
Total	876

3.1.25. The NIBTT submitted that it still utilizes a mail courier service to communicate with claimants. This is attributed to the absence of a database containing the email addresses or residential addresses of their claimants. Therefore, there is a disparity in the time of the NIBTT decision and the claimant’s receipt of the NIBTT’s decision. In instances where appeals are submitted ‘out of time’, the

NIBTT is amenable to receiving said appeal if the reason for late submission is appropriate.

Prioritising Appeals

3.1.26. The NIAT stated in its submission that there are no fixed criteria for prioritising appeals. However, appeals are selected from both old (5/6 years old) and new (2/3 years including the current calendar year) appeals.

3.1.27. According to the Registrar, the selection of a matter is determined by examining the existing backlog under the former chairmen, and whether or **not submitted files have all the required information to proceed with the consideration of the matter.**

3.1.28. In some cases, older appeals may no longer be valid, as persons may no longer want to pursue cases or, in more unfortunate circumstances, may have passed away.

3.1.29. The backlog which may have existed under a former chair has made it difficult to determine which appeals should be addressed. A proposed way of prioritizing appeals is to institute a case management system which streamlines submitted appeals and allows the Tribunal to make an informed decision. According to the Registrar, National Insurance Contributors, claimants and appellants have reached out to the NIAT to assist in establishing an effective case management system however only discussions were held, the details of which were not provided.

Infrastructural Arrangements for Hearings

3.1.30. As at February 1st 2021, the current physical accommodations which exist to hear appeals were as follows:

A. North

The office space used for staff is also utilised to host hearings.

B. South

The NIAT relies on the Ministry of Labour to provide a venue for the south hearings. The NIAT has underscored the need for a dedicated south office and has stated that a sub office in the South would provide some relief with regard to interviewing appellants and provide a fixed venue for Hearings.

C. Tobago

In comparison with Trinidad, the number of appeals submitted in Tobago is miniscule however, the NIAT noted in writing that it is still imperative that the Registrar visits Tobago on a monthly basis to address the issues submitted by appellants.

3.1.31. NIAT facilitates two (2) Hearings per month, one (1) in the Administrative District North, one (1) in the Administrative District South **or** one (1) in the isle of Tobago.

Hindrances to operational efficiency

3.1.32. According to the NIAT's submission, there are several critical shortcomings that impact upon the NIAT's efficiency. These are as follows:

- i. **Financial** - NIAT's allocations are small, however, NIAT's biggest expenditure is usually for training for Members, Chairman and staff of NIAT;
- ii. **Infrastructural** - NIAT requires a staffed sub-office in the south;
- iii. **Administrative Resources** - The Registrar is the only officer in the past five (5) years that had not been subjected to rotation. Invariably, this therefore

concentrates the responsibility of the NIAT's core functions on one officer holder (i.e. the Registrar).

- iv. **Lack of ICT integration -The lack of a digitalised case management system requires that files still be physically retrieved, leading to significant inefficiencies in obtaining information to investigate submitted appeals.**

Public Outreach

3.1.33. Public Outreach is vital to educating the public on the NIAT's operations. As such, the NIAT reported that discussions were held pertaining to public outreach efforts which would be facilitated through social media, public discussions and written material, however, this has not materialized in large part due to the lack of funds.

An Examination of the Recommendations proposed in the Seventh Report of the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group 1) in November 2014.

3.1.34. The Tenth Report of the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group 1) on an Inquiry into the administration and operations of the National Insurance Board of Trinidad and Tobago [with particular focus on the Board's relations with the National Insurance Appeals Tribunal (NIAT)], recommended several measures NIAT should consider for the purpose of improving its operational efficiency. The NIAT was asked to report to this committee on the measures it has taken towards the implementing of these recommendations: **The NIAT reported as follows:**

- i. NIAT relocated to the Level 2 Eric Williams Financial Complex in April 2014;

- ii. NIAT noted that while Benefit Unit files may not be submitted to the Tribunal within the three (3) week as stated in the Act, a response to the Registrar is received from the NIBTT within that time frame acknowledging receipt of the request;
- iii. The fact that matters are still adjourned continues for various reasons:
 - the Chairman may request the appellant be present in a first-time matter for questioning;
 - The appellant may not be able to attend on the day in question and request an adjournment which the Chairman may consider;
 - The NIBTT may request additional time;
 - a piece of evidence may have been introduced for the first time, and the Chairman may request time to consider;
 - Witnesses may be unavailable on the date and the Chairman may adjourn.
- iv. Matters continue to be withdrawn due to the following reasons:
 - NIBTT settles the claim. Appellant withdraws;
 - Matter is deemed to be out of time, appellant is asked to withdraw;
 - Matters deemed to be mixed of law and fact and consequently fall outside of the jurisdiction of the Appeals Tribunal. Appellants are asked to withdraw.
- v. A Case Management proposal was submitted to the Appeals Tribunal by the Association of National Insurance Contributors, Claimants and Appellants (ANICCA) in June 2019. To date, however, the proposal has not;

- vi. The NIBTT embarked on a review exercise in February 2015. This was an effort to review the active appeals and make a final determination. While this exercise did result in the closure of some appeals, most of the appellants wanted their matters brought before the Tribunal;
- vii. The date of the appointment of a Chairman and Members to the Appeals Tribunal continues to be at different times and for different periods. The Members can be appointed for three (3) year or two (2) year terms. It varies from appointment to appointment. The Chairman is appointed for three (3) year terms;
- viii. The difficulty that arrives from the Chairman and Members being appointed at different times (different years) contributes to the lapses in having continuous Hearings over a period. If the Members term ends before the Chairman, or the Chairman's term ends, and Members have been appointed close to the end of the Chairman's term, there can be no Hearings. A quorum for an ordinary Hearing comprises the Chairman and two Members, while a quorum for a Medical Hearing requires the Chairman, two members and the Chief Medical Officer.

Status Update on the Recommendations of the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group 1)

3.1.35. The following updates were provided on the implementation of the recommendations proposed by the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group 1) in November 2014:

- i. The creation of the posts of Deputy Chairman of the Tribunal and Deputy Registrar;

This has not been done.

- ii. The appointment of three Independent Members by the President, one from each division – Tobago, North and South;

This has not been done.

- iii. Amend the legislation to allow for the Chief Medical Officer to nominate a substitute to tender advice to the Tribunal;

This has not been done. According to the NIAT the EY report of July 2015 recommended an alternate.

- iv. Treating with the lack of administrative capacity within the Tribunal's Secretariat;

This has not been done. EY report of July 2015 recommended staff restructure.

- v. That a case management system be implemented to make the processing of the appeals more efficient.

This has not been done to date. The EY report of July 2015 also reinforced this recommendation.

Recommendations of the Ernst and Young Limited to Upgrade NIAT's Operations

3.1.36. The Ministry of Finance contracted *Ernst & Young Service Limited (EY)* in November 2014 to review the operations of NIAT and to provide a strategy to

make the NIAT more efficient. In a letter dated March 02nd, 2021, the Ministry of Finance (MOF) stated that the cost of the Ernst and Young consultancy was \$401,120. This exercise commenced on November 4, 2014 and ended on April 30, 2015. EY's final report was submitted to the MOF in June 2015 with recommendations for restructuring the staff.

3.1.37. EY's report dated July 2015 included the following recommendations:

- i. Review and revise the NIS Act to allow for the following:**
 - a. A proxy for the role of the Chief Medical Officer for Medical Hearings. (A medical committee to act as proxy);**
 - b. A Deputy Chairman;**
 - c. An Assistant/ Deputy Registrar.**
- ii. Implement a second review by the NIBTT for cases that do not require the Tribunal.**
- iii. Have an independent Legal Advisor determine whether cases are law or fact, or both.**
- iv. Implement continuity and succession planning for the NIAT.**
- v. Update the staff structure and train staff in all the processes by restructuring the staff compliment and create an avenue for succession and continuity for NIAT.**

Findings and Recommendations

Based on the evidence set out in this section, the Committee concluded as follows:

- i. In examining the human resources of the NIAT, it is evident that the continuous rotation of staff has negatively affected the retention of institutional knowledge of the NIAT. Notwithstanding the temporary staffing arrangements which instituted**

from time-to-time of the NIAT, the long-term efficiency of the NIAT continues to be impeded by poor staffing arrangements. The need for effective succession planning was also highlighted by EY;

- ii. Given the importance of the NIAT's mandate, the absence of a strategic plan may be indicative of a lack of capacity within the management function of the Tribunal. Notwithstanding, the Committee took note of the three strategic objectives and performance targets established by NIAT. However, no strategies were presented that would guide the implementation of these objectives and targets;
- iii. International benchmarks serve to inform the operations of any organization. Therefore, the absence of same and the lack of innovation in the NIAT's administrative procedures in disposing of appeals in the last (5) years are evidence of the lack of proactivity by NIAT to transform its operations;
- iv. The issue of whether tribunal members should be appointed concomitantly or on a staggered basis required serious examination with a view to determining the most suitable approach to be adopted;
- v. The frequent rotation of staff assigned to support the Tribunal has adversely impacted the reliability of the Tribunal's operations and has prevented the growth of institutional knowledge;
- vi. Also of significant concern to the committee was the lack of a suitable system to prioritise the hearing of appeals. Although a first-in first-out system may be considered to be fair and appropriate, the classification of matters based on criteria to be determined by the Tribunal may be beneficial. Notwithstanding the

importance of each matter referred to the Tribunal, the time sensitivity of certain cases may require an expeditious response from the NIAT;

- vii. Notwithstanding the advancements that have been made in obtaining a Head Office for the NIAT, the organization has a national obligation and ideally, additional sub-offices should be established in all major geographical regions. However, the committee is cognizant of existing resource constraints that are currently confronting the Tribunal even as it attempts to operate 1 main office and 2 sub-offices;
- viii. Notwithstanding the physical limitations of the NIAT's offices, two-three hearings per month are gravely inadequate to treat with its existing backlog and the increasing number of submitted appeals;
- ix. Undoubtedly, Covid-19 has acted as a catalyst for the wider application of internet-based/digital services in both the public and private sectors. It is imperative that the NIAT embraces this trend and urgently commence the incorporation of ICT solutions at the level of the Tribunal and its secretariat. Given the significant improvements in operational efficiency which may be derived from the digitisation of services, the Ministry of Finance must support the Tribunal in achieving this important organisational transformation;
- x. The NIAT must establish and capitalise on the proliferation of virtual platforms to host digital hearings with a view to increasing its monthly hearings. This is pivotal in alleviating its current backlog;
- xi. Over six (6) years have elapsed since the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group 1) submitted several

recommendations with the aim of contributing to the improvement of the Tribunal's operations. This Committee is concerned that several of these recommendations are yet to be implemented while several administrative shortcomings persist. The Committee noted that some of the recommendations of the consultant Ernst and Young overlapped with those of the previous JSC. As such, it is reasonable to conclude that the issues and challenges confronting the NIAT are well documented; however, the rate at which these issues are being addressed is unsatisfactory.

Recommendations

Based on the evidence received and further to the foregoing findings, the Committee respectfully recommends as follows:

- i. The Committee endorses the recommendations proffered by the previous Joint Select Committee and the consultant Ernst and Young. Given that the requirements for improving the operations of the NIAT are now well documented, the Ministry of Finance must now work with other relevant agencies with a view to implementing the necessary changes as soon as is practicable. To this end, the response to the report should contain an implementation road map which should identify the following:**
 - a. The timeframe for the execution of the recommendations and deliverables;**
 - b. The person or entity responsible for the implementation of the recommendations and or deliverables;**
 - c. Factors which may be contributing to the delay in the implementation of the recommendations and or deliverables.**

- ii. **With respect to expanding the number of establishment positions relevant to NIAT on the establishment of the MoF, there must be continued dialogue with the key central human resource bodies, including PMCD and Public Service Commission, for the creation of the additional posts. The long-standing backlog and slow disposition of matters maybe be notably referenced in justifying the case for additional human resources to be assigned to support the work of the Tribunal;**
- iii. **The NIAT must establish Key Performance Indicators in the absence of a strategic plan as a measuring tool for efficiency and improvements;**
- iv. **Applications will continue to be submitted in error to the NIAT, unless it engages in a robust public engagement campaign geared towards informing the public of its rights of appeals and the types of applications which may be submitted. Simultaneously there must be improved efficiency in its administrative operations since greater awareness of the tribunal may translate into a greater demand for its services;**
- v. **The establishment of a prioritization system is a necessary measure when treating with time-sensitive appeals. To this end, the NIAT should consider formulating a policy document outlining the criteria, which must be satisfied for an appeal to be given urgent priority;**
- vi. **The NIAT must work speedily to incorporate ICT solutions into its operations both at the Tribunal and the administrative levels. In this regard, immediate attention should be given to:**
 - c. **the creation of a digital platform or portal for the submission of documents related to appeals;**

d. The convening of virtual hearings.

- vii. Pursuant to this recommendation, the Ministry of Finance is asked to intercede on behalf of the Tribunal and engage the Ministry of Digital Transformation (especially i-GovTT) to render assistance;**

- viii. Although physical offices that are well outfitted and resourced are essential for connecting NIAT with the wider population, pending the establishment and improvements of these offices, the use of digital interfaces will assist with mitigating the existing infrastructural challenges faced by the NIAT;**

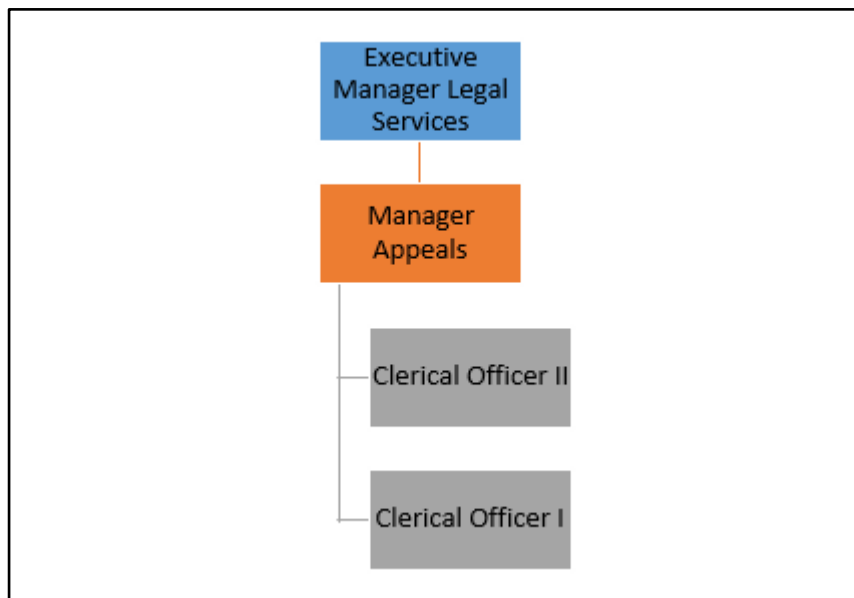
- ix. The Ministerial Response of the MOF must include a status update on the Case Management proposal submitted by the Association of National Insurance Contributors, Claimants and Appellants (ANICCA).**

Objective 2: To identify the gaps in the administrative operations of the NIBTT which are hindering the efficient processing of claims.

Human Resources of the NIBTT

- 3.2.1. The NIBTT reported that it has established a dedicated Appeals Section with responsibility for the management of appeals, including but not limited to:
- a. responding to correspondence from NIAT;
 - b. implementing written decisions of the NIAT regarding appeals; and
 - c. coordinating actions within the NIBTT as it relates to appeals matters.
- 3.2.2. The Committee was also advised that there is a direct line of communication between the Manager, Appeals of the NIBTT and the Registrar of the Tribunal.
- 3.2.3. However, during the public hearing, the Executive Director of the NIBTT stated that in 2015/16, the Appeals Section was more appropriately placed in the Legal Department. This section is now headed by the Executive Manager, Legal Services. Support is further garnered from the Manager of Appeals and two support staff. The structure of the section is outlined in Figure 1. The NIBTT stated that the staff utilised to process these appeals and respond to NIAT is sufficient.

FIGURE 1: ORGANISATIONAL STRUCTURE OF THE APPEALS SECTION OF THE NIBTT



3.2.4. According to the NIBTT, the Appeals Section is supported by various other departments of the NIBTT, including the Insurance Operations Business Unit which provides benefit unit files, effect payments for appeals allowed by the NIAT and conducting inquiries/ investigations useful for the hearing of appeals. The NIBTT’s in-house attorneys advocate at hearings of appeals on behalf of the NIBTT together with the staff of the Appeals Section.

3.2.5. Given the legal requirement of Regulations 15 and 30, which requires NIBTT to respond to the NIAT within 3 weeks on service of a notice of appeal and to comply with written decisions on the NIAT on appeals within one month of receipt, respectively, systems are in place to monitor outstanding benefit unit files or any delays in complying with the appeal decisions.

Appeals Process of the NIBTT

- 3.2.6. According to the NIBTT submission dated January 28th 2021, in accordance with Section 8 of the National Insurance (Appeals) Regulations, a Notice of Appeal must be lodged at any office of the NIBTT or the Ministry of Finance. Further, Regulation 12(2) requires that the Registrar of the NIAT clear receptacles for the lodgment of notices in the afternoon of the last working day of each week.
- 3.2.7. The NIBTT can confirm that receptacles for the lodgment of notices are available at all Service Centres of the Board. However, as the Registrar is responsible for clearing receptacles for the lodgment of notices of appeals, the NIBTT is unable to advise on the number of Notices of Appeals lodged with the NIBTT and/or the Ministry during the last 5 years.
- 3.2.8. Additionally, the current document management process which involves physically retrieving files for each submitted appeal, has stymied the process. Notably, the NIBTT has embarked on an ICT transformation as part of its Vision 2024 strategic plan. This will include improvements to document management/retrieval of data. Ultimately this system will assist the NIBTT in providing a much speedier response to the NIAT.

FIGURE 2: THE PROCESS OF TREATING WITH APPEALS MADE TO NIAT AGAINST THE NIBTT



Measures for Identifying Fraud

3.2.9. The NIBTT has implemented a comprehensive fraud control framework, a fraud policy and claims adjudication. There is also an internal unit that treats with internal and external controls and possibilities of fraud. Additional documents are also requested prior to determining a claim with further checks for employment which include contacting relevant institutions.

Gaps in Processing Claims

- 3.2.10. According to the NIBTT, it has approved and implemented the 'Claims Policy and Procedures' for the 23 benefits administered by the NIBTT. This policy came into effect on November 13, 2019. In the development of the policy, the NIBTT also reviewed operations and developed the procedures and process maps. Benefit Administration Forms for the 23 benefits are currently being modified to align with the current policy and procedures.
- 3.2.11. As it relates to Appeals, the process was re-engineered and adopted following organizational transformation initiatives in 2016. The process map is carded for review and modification in this financial year.
- 3.2.12. Further evidence submitted stated that the NIBTT has also embarked on an end-to-end ICT project which will improve the efficiency of its operations through the implementation of a solution to meet both the strategic and detailed business requirements of the organisation and its various functional units, inclusive of claims processing. This initiative was rebranded "Empower" in financial year 2020 with the key activities focusing on project scoping and vendor selection. The efficiency to be derived from this project through easier verification of contribution records by the NIBTT and individual contributors, will be a key aide in significantly reducing claims turn-around-time for both long-term and short-term claims by 66% and 27%, respectively, by the year 2024. This is in line with Corporate Targets or Key Performance Indicators (KPIs) for turn-around-time established by the NIBTT for the processing of claims.
- 3.2.13. It is anticipated that the current financial year will result in a formal award of contract as the NIBTT moves forward to bring the "Empower" project closer to realisation.

Challenges in Verifying Benefit Files/ Records

3.2.14. One issue that also affects the NIBTT's submission of information requested by the Tribunal, concerns obtaining information through investigations. In many instances, these investigations relate to employers no longer in operation, where records are often unavailable. Resultantly, it is not unusual that investigations are protracted affecting the timeliness of NIBTT's submission of information to the Tribunal which may be pertinent to the hearing and determination of appeals.

3.2.15. Additionally, the Executive Director of the NIBTT stated that "the NIB is a 49-year-old organization, and at present, the current document management process is a heavily manual one". The process that is undertaken to treat with a Notice of Appeal submitted by the NIAT, involves submission to the legal department where a request is made for the file. The Executive Director also stated that "*when a notice of appeal comes from NIAT, it comes to our legal department, a request is made for the file, there must now be the location and the physical retrieval of that file, bearing in mind, of course, that we operate out of 18 locations, the file is provided, it is copied, and we also take the opportunity to provide our case or our position, and then it is submitted to NIAT*".

Collaborative Relationship between NIAT and NIBTT

3.2.16. According to the NIBTT's submission, from April 7, 2014 to the present, the NIBTT and the NIAT has maintained a very cordial working relationship. Through the Registrar's office, there is active and regular communication concerning appeals via emails, telephone, and written correspondence.

3.2.17. There is notable cooperation between the NIBTT and NIAT where appeals for hearings may have to be adjusted due to unforeseen circumstances. As it relates to the restrictions and limitations due to the COVID-19 pandemic, the NIAT via

the Registrar engaged the NIBTT and there was a discussion which initiated the sharing of ideas and suggestions for the conduct of appeals hearing, whether in-person or virtually, taking into account heightened health and safety protocols.

3.2.18. The parties are also readily available to exchange information upon request. Often insured persons who may contact the NIAT regarding a claim, albeit not an appeal, are redirected to the NIBTT's Appeals Manager, given the good working relationship between the Registrar's office and the Appeals Manager.

Findings and Recommendations

Based on the evidence set out in this section, the Committee concluded the following:

- i. The establishment of a Unit by NIBTT that is dedicated to treating with appeals is a highly commendable move. It was evident that this decision has resulted in some meaningful improvements in the processing of appeals. It was also noted that the Board has undertaken other institutional strengthening initiatives, including the rebranded "Empower" project.
- ii. It was encouraging to learn that the NIBTT and NIAT have maintained a cordial relationship which involves robust communication practices. Notwithstanding this state of affairs, the Committee would prefer that appropriate systems and protocols be documented and established to fortify the existing inter-agency corporation.
- iii. The establishment and enforcement of a Fraud policy on the part of NIBTT is necessary to mitigate against inaccurate and dishonest submissions related to contributions and claims.

- iv. It is also commendable that the NIBTT has embarked upon an ICT transformation plan which aims to improve its document management system. Given that the covid-19 has inadvertently acted as a catalyst for the increased infusion of ICT in business operations, we expect that the NIBTT with a significant client base will explore all feasible options of digitalizing its service delivery channels.
- v. Although the NIBTT may be establishing systems to easily verify existing contribution records. A significant challenge exists with records are unable to be reconciled due to missing or inaccurate records.
- vi. Based on the submissions received, it was evident that NIBTT's current manual records management system is archaic. Arguably, the conversion of manual files to digital records ought to have commenced since 2015 following the report of JSC (Group 1) and should be an ongoing project.
- vii. Notwithstanding the modest number of staff attached to the Appeals Unit of the NIBTT, the Committee was assured that the existing staff complement was adequate to efficiently process appeals and respond to the NIAT.

Recommendations

Based on the evidence received and further to the foregoing findings, the Committee respectfully recommends as follows:

- i. **The NIBTT and NIAT should formalise their approach to cooperating by establishing an inter-agency working Committee to continuously monitor and evaluate the appeals process's performance;**

- ii. **Additional steps should be pursued by the NIBTT to improve its clients' records management system systems. Instances of discrepancies in client records are among the main contributors to delays in the processing of claims. Invariably, such discrepancies lead to the lodging of an appeal with the Tribunal;**
- iii. **The establishment of a Fraud policy by the NIBTT is commendable; it is a necessary, safe guard especially given the Board's plans to expand its e-business services;**
- iv. **The NIBTT should consider undertaking a robust public relations campaign highlighting the need for employers to cooperate with the Board and comply with the provisions of the NI Act to ensure that accurate contributions are made on behalf of employees;**
- v. **The NIBTT and the NIAT should establish a shared digital database for accessing client records. Discussions should commence within the next three months concerning the establishment of this database;**
- vi. **The Ministerial Response of the MoF should provide a status update on the Benefit Administration Forms that are being modified to align with current policy and procedures.**

Objective 3: To examine the business continuity strategies of the NIAT and NIBTT, in response to the Covid-19 pandemic

Impact of Covid-19 on Operations of NIAT

- 3.3.1. The Committee sought to examine the efforts made by both the NIAT and NIBTT to sustain their operations given the advent of Covid-19. NIAT reported that its administrative processes have been modified to ensure operations are sustained (i.e. business continuity) through the following measures:
- i. One (1) Hearing was held in July 2020;
 - ii. The number of matters listed was reduced to ten (10) on the day, and each appellant was given a fixed time to appear before the Tribunal. This was done in an effort to control the numbers and ensure that there is adherence to Government instituted measures, i.e. no congregating.

NIAT's Transition to Online Services

- 3.3.2. Prior to the pandemic, NIAT allowed appellants to submit Notice of Appeals to the Registrar via email. In recent months this has been encouraged to a greater extent, especially to the overseas appellants and the elderly.
- 3.3.3. Given the limitations presented by Covid-19, the NIAT is also exploring the option of virtual hearings. However, this has not been finalised. In order to facilitate this, it would require the submission of electronic versions of documents. At present, there is an electronic version of the Notice of Appeal-Form 1, however, this document requires the signature of the Appellant, provisions for electronic signature were not included in the Act. Therefore, the appellant can print, complete, scan and resubmit electronically. All supporting documents can be submitted in the same manner.

3.3.4. Discussions have been held with the MOF's IT department and efforts continue to determine what will best suit the NIAT. Given the current responsibility of the Registrar, the responsibility of receiving and documenting online applications should be assigned to another officer. The current case records are managed using Microsoft Excel.

Impact of Covid-19 on Operations of NIBTT

3.3.5. Given the critical role NIBTT performs as a primary social security provider throughout the life of the pandemic, the NIBTT has continued to provide social insurance services to the insured public and their dependents. This has required the rapid adaptation of service delivery channels to ensure the health and safety of internal and external customers. As such, drop box services were introduced for claims and registration documents during the early stages of the pandemic.

3.3.6. Due to these revisions, the NIBTT was able to continue to operate within its statutory framework and maintain its business processes with little to no discomfort, in its view, to customers.

NIBTT's Transition to Online Services

3.3.7. Further to the foregoing, the NIBTT has focused on online services to improve its customer service offerings during this time. Of significance in this regard is the implementation of:

- i. An email appointment system for claims which not only ensures that social distancing is practiced but also allows a greater focus on claims resulting in a reduced need for persons to re-visit service locations to submit additional documents. This appointment system is further supported by the publication on our corporate website of claim form guides which allows

customers to be adequately prepared before seeking an appointment to submit claims;

- ii. Requests for Certificates of Compliance by employers;
- iii. Requests for Contribution Statements by Insured persons;
- iv. The addition of the **Automatic Clearing House (ACH) facility as a contribution payment option**. As noted, an increase in the use of its Online Payment facility for employers to remit contributions on behalf of employees was evident since March 2020. The NIBTT is intent on further expansion of this service to all employers and will be engaged in robust promotion of this facility in this Financial Year.
- v. An online portal for the submission of information from the NIBTT to the Ministry of Social Development and Family Services (MSDFS) to support the eligibility assessment of persons for Social Welfare Benefits. This has been in effect from May 2020.

3.3.8. The NIBTT has taken steps to digitize all files related to Notices of Appeals submitted and submit them to the NIAT. The submission of which is hinged upon the NIAT's ability to receive files in that manner.

3.3.9. The NIBTT has also embarked on an ICT project that aims to bring full digitisation of all NIBTT records and files that is set to be established by Strategic plan 2024. The NIBTT further stated that it is in the preliminary stages of engaging a service provider to support this initiative.

3.3.10. The NIBTT would like to embark on creating a customer portal where persons can view their contributions and projected benefits at retirement. Therefore, the

NIBTT is potentially embarking on Web-enabled services. Discussions are underway concerning this measure.

Cyber Security Systems

NIBTT

3.3.11. According to the NIBTT, information is still submitted via physical forms and digitally. However, information submitted physically is digitised. Digitally submitted data is submitted via the following sources:

i. Removable media (diskettes, CD, DVD, etc.)

a. The removable media is scanned for malware before uploading onto the NIBTT network before uploading into the system.

ii. Email

a. The email system utilizes encryption and Advanced Threat Protection to protect the organisation from interception, spam, malware and phishing attacks. The system is a cloud service which is fully resilient and has a 99.999% uptime.

iii. The Employer online bank payment application

a. The online employer bank payments are a web application which sends information via an encrypted web channel to a secure FTP site inside of NIBTT, where it is scanned, verified and processed before uploading into our Insurance Administration system.

3.3.12. Additional details on the NIBTT's cyber security systems are contained in **Appendix II.**

NIAT

3.3.13. In contrast, the **NIAT is still in its preliminary stages of digitizing its services** and has not embarked on obtaining finalised cyber-security system. The NIAT has to engage its IT personnel to guide this process.

Human Resources of the NIAT in light of Covid-19

3.3.14. Written evidence stated that NIAT’s full staff complement **consists of eight (8) persons**. In its attempt to comply with the measures outlined by the MOH, one (1) member of staff is working-from-home for three (3) days and in office for two (2). As it pertains to the redistribution of staff across the network of NIAT’s offices, it was reported that there have been minimal changes to the deployment of staff. Work continues in the usual manner, inclusive of days in office and days in the field.

Human Resources of the NIBTT in light of Covid-19

3.3.15. The ongoing pandemic did not substantially impact NIBTT’s staff complement. For the period under review, the NIBTT operated with a staff complement (permanent and temporary employees) of six hundred and seventy-nine (679) employees. There was a 2% increase in staff for FY 19/20 attributable to the filling of vacancies.

TABLE 4: STAFF COMPLEMENT FOR THE LAST 5 FISCAL YEARS.

FY	Total	
	Count	% Change
19/20	679	2%
18/19	667	3%
17/18	645	-1%
16/17	650	1%

FY	Total	
15/16	644	

3.3.16. Additionally, based on Government’s Covid-19 guidelines and calls for citizens to reduce their exposure by staying at home, NIBTT implemented remote work through staff rosters etc. Work-from-Home arrangements at the NIBTT were initially effected in March 2020 when the Prime Minister ceased all non-essential activities. At this time, all essential staff, were rostered. As the cases decreased, so did the need for rostered staff. At the second wave in September, approval was granted for eligible staff to access Work-from-Home Arrangements. Eligible staff being defined as where the nature of the employee's work to be performed remotely is operationally feasible. These employees were permitted to work-from-home no more than 2 days per week. This resulted in 33% of staff being rostered, with 12.4% of staff rostered at any given time. This has since decreased to 28% of staff being rostered in December, with 11.2% rostered at any given time.

3.3.17. Customers were also required to practice social distancing and adhere to health and safety protocols when visiting our offices during our reduced working hours. Staff were and still are required to comply with measures outlined in the NIBTT’s Health and Safety Plan as it relates to the pandemic. This is supported by the extensive infrastructural and other appendages implemented by the NIBTT such as sneeze guards, face masks, sanitizers etc. to ensure the health and wellbeing of staff throughout the organization.

Findings and Recommendations

Based on the evidence set out in this section, the Committee concluded as follows:

- i. The increased use of electronic channels and platforms is a necessity in successfully navigating the operational challenges created by the Covid-19 pandemic. Therefore, the Committee found it very unfortunate that NIAT had not embraced the current digital wave and commenced virtual hearings. This may be attributed to inadequate financial and technical resources. Notwithstanding, this transition should be prioritized and completed with alacrity.
- ii. The need to obtain a physical signature on a Notice of Appeal Form 1 is a limitation of the Act.
- iii. The transition to online services within the NIAT requires dedicated human and technical resources. Consequently, there appears to be a strong justification for the hiring of ICT professionals to handle the ICT needs of NIAT.
- iv. The increasing utilisation of ICT solutions in its operations is a long overdue strategically useful move by NIBTT. We consider it an immensely worthwhile investment given NIBTT's significant national clientele. If it is properly conceptualized, executed and maintained, NIBTT's e-business services may bridge the gap in service delivery that has confronted the Board for several years.
- v. Notably, NIBTT is in its advanced stages of submitting all requested digitized documents to the NIAT as it relates to Notices of Appeals. In view of this, it may be inferred that the administrative bottleneck is now concentrated at NIAT as the evidence received demonstrates that the NIBTT has enhanced its systems and arrangements for treating with appeals.

- vi. The Committee noted that after a year into the Covid-19 pandemic, the NIAT is still in the preliminary stages of digitizing its services which is concerning given the prevailing trend toward online and digital services.

Recommendations

Based on the evidence received and further to the foregoing findings, the Committee respectfully recommends the following:

- i. **The NIAT should make the necessary arrangements to urgently commence virtual hearings on a phased basis. An effort must be made to introduce virtual hearings of the Tribunal within the last quarter of 2021. The Committee is cognizant that there may be clients who may not have access to an electronic device and/or the internet. In those instances, traditional hearings may need to be arranged while adhering to the necessary Covid-19 protocols;**
- ii. **That the NIAT prioritise the introduction of ICT solutions given that it is a client-based organisation where the potential improvements that adequate ICT solutions can make to its operations are significant;**
- iii. **The NIAT should request that the Permanent Secretary, Ministry of Finance assist with providing the Tribunal with a dedicated ICT support technician. NIAT should aim to have this technician onboard by the end of 2021;**
- iv. **The establishment of an advanced Web-enabled system to view retirement projections is endorsed by the Committee. Furthermore, the committee recommends that discussions on the full establishment of this feature be prioritised by the NIBTT;**

- v. **Given the delay in the full proclamation of the Electronic Transactions Act, which provides for the use of electronic signatures in business transactions, we recommend that in the interim, the National Insurance (Appeals) Regulations should be amended accordingly to facilitate the submission of Notices of Appeals with electronic or digital signatures;**

- vi. **It may be useful to conduct a job analysis of the administrative positions assigned to the NIAT with a view to ensuring that the job responsibilities and functions (workload) are properly aligned with the required qualifications and competencies. As a client-based organization, adequate human resources are crucial for enhancing the Tribunals efficiency and effectiveness;**

- vii. **Given its significant client base, the Committee fully endorses all feasible e-business projects of the NIBTT. In light of discussions surrounding Fintech, the NIBTT must ensure that it obtains the necessary systems to adequately protect the financial data of its claimants as they proceed to engage in electronic payments.**

Objective 4: To determine whether the current legislation and policy provisions adequately empower the NIAT to carry out its mandate

Legislative and Regulatory Changes

3.4.1. In November 2014, the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group 1) completed an inquiry into the administration and operations of the National Insurance Board of Trinidad and Tobago [*with particular focus on the Board's relations with the National Insurance Appeals Tribunal (NIAT)*]. Based on this inquiry, several legislative shortcomings that impede the operational efficiency of the NIAT were identified.

Restructuring of Organisational Structure

3.4.2. According to the DPS of the MOF, Mrs. Jennifer Lutchman, there were suggested amendments that were hinged upon restructuring the organisational structure of the NIAT based on the Ministry's examination of Ernst and Young's report and the JSC Group 1's recommendations. She stated that these included a Deputy Chairman, Deputy Registrar and an alternate to the Chief Medical Officer. The MOF stated that the PMCD would be approached to provide recommendations on the positions listed; additionally, the Treasury Solicitor is to be engaged in these discussions.

3.4.3. Additionally, the MOF submission stated that fixed periods of appointments for the Chairman and Members are a necessary measure. Appointments for the Tribunal should be done at the same time.

Timeframe for Appeals

- 3.4.4. According to the then Chairman of the NIAT, a suggested legislative amendment would aim to extend the time period for the submission of appeals as stated in Section 13 (1) of the National Insurance (Appeals) Regulations. The lack of public knowledge of the role and mandate of NIAT and the appeals process has resulted in appellants having insufficient time to submit all required documents and, in some cases, even appeal. As a mitigating measure, the letter sent to claimants who have received their verdict from the NIBTT should state that an appeal could be made, however clear steps to do so are often omitted.

Legislative and Regulatory Changes Proposed by NIBTT

- 3.4.5. The NIBTT reported that based on its review of the National Insurance Act; there are opportunities for the Act to be revisited/amended. For instance, Section 60 of the Act and its corresponding provision in the Regulations (Regulation 6) deals with the composition of the Appeals Tribunal. Reviewing the composition of the NIAT to include an alternate (medically qualified) officeholder to serve as a member at hearings of medical appeals where the Chief Medical Officer (CMO) is unable to attend can be beneficial. This can increase the frequency of medical hearings and the resolution of this category of appeals which otherwise cannot proceed if the CMO is unavailable.
- 3.4.6. Additionally, Regulation 31 stipulates that at an appeals tribunal hearing, an appellant can be represented by an Attorney-at-law or any person qualified or competent to represent the appellant. Based on a comparative review of the national insurance/social security laws of Caribbean jurisdictions as well as local precedent to allow individual litigants to appear in person before courts or tribunals, the Regulation can be amended to allow the appellant to represent in

person or through another person without reference to qualifications thereby improving access to justice.

- 3.4.7. Further clarification was sought on the six-month timeframe, which commences when the NIBTT makes a decision on an appeal. The implementation of a helpdesk was discussed as a measure to inform and update appellants and potential appellants on the status of their cases. The NIBTT is also willing to include contact details to assist the potential appellant in accessing the necessary information for the NIAT.

Amendments to Existing Legislation

- 3.4.8. The NIBTT has undertaken a project to review the National Insurance Act and Regulations which was supported by an external legal consultant. This project entailed the following:
- i. Review the NIBTT's list of potential amendments alongside the NI Act;
 - ii. Identify which amendments are feasible and how they can be effected;
 - iii. Identify which amendments are not workable, together with the legal rationale which underpins such a determination;
 - iv. Conduct a comparative analysis of the NI Act against like Social Security bodies' (regional and international) legislation and norms.
- 3.4.9. The final internal report of the external consultant was submitted to the NIBTT on March 29th, 2019 and through a series of presentations, was considered and approved by the Nomination and Governance Sub-Committee of the Board of the NIBTT. These decisions will be presented to and considered by the Board of Directors of the NIBTT during the current financial year. A comprehensive proposal for suggested amendments/reformations of the Act and Regulations will then be submitted to NIBTT's line Minister for consideration. This proposal

will include (inter alia) the recommended amendments to section 60 of the NI Act and Regulations 6 and 31 of the Appeals Regulations.

Findings and Recommendations

Based on the evidence set out in this section, the Committee concluded as follows:

- i. The Committee was very concerned that following a report of a previous Joint Select Committee in 2014 and an operational review by Ernst and Young, greater progress was not achieved in implementing the necessary administrative modifications to enhance the operations of NIAT. It appears that these critical institutional strengthening measures are being delayed by bureaucratic procedures and inadequate transformational leadership at the level of the Ministry of Finance.
- ii. We endorse the amendments proposed to the NI Act and the Appeal Regulations by the NIAT and the NIBTT. The Committee is convinced that these proposed statutory changes can, in part, assist with improving NIAT's capacity to efficiently and effectively achieve its mandate.
- iii. It was clear that both the legislative and administrative modifications required to enhance the performance of NIAT are now well documented. We expect that the Ministry of Finance, as the line ministry for both NIAT and NIBTT, will perform a more active role in driving the necessary reforms to this important quasi-judicial body.

Recommendations

Based on the evidence received and further to the foregoing findings, the Committee respectfully recommends as follows:

- i. **Given that the necessary legislative and administrative modifications for the proper functioning of the Tribunal are properly documented, the Ministry of Finance must now actively support the tribunal in accomplishing the necessary**

reform measures. In essence, the Tribunal's scope of responsibility is relative narrow. The path to efficiency is attainable if key stakeholders, including the leadership of the Ministry of Finance and NIAT are motivated and willing to achieve the desired outcomes;

- ii. Provide a status update on the establishment of the following positions: Deputy Chairman, Deputy Registrar and an alternate to the Chief Medical Officer;
- iii. A follow-up meeting should be held with the PMCD, the MOF and the NIAT with a view to discussing the additional job positions needed to improve the NIAT's operations;
- iv. The NIAT is again encouraged to enhance its public engagement and outreach strategies. This objective may be achieved by using digital and social media platforms to disseminate accurate information about its role, functions, procedures and processes involved in the appeal process;
- v. Provide a status update on the submission of the legislative amendments to Section 60 of the NI Act and Regulations 6 and 31 of the Appeals Regulations to the MOF for their consideration;
- vi. Perhaps a comparative review of the administrative arrangements and resources afforded to other similar bodies may be useful. The Registrar of the Tribunal should consider engaging her counterparts at other quasi-judicial bodies e.g. Equal Opportunities Tribunal, Integrity Commission.

Other Findings and Recommendations

Ramcharitar and Associates

- 3.4.1. By written submission dated April 1st 2021 Ramcharitar and Associates, National Insurance Consultants, and former Registrar of the NIAT (1983- 2002) reported that 719 appeals dating between 2005 – January 1st 2021 were submitted by his company to the NIAT. It was stated that several submitted appeals have not received action to date. A list was provided outlining the number of appeals submitted and awaiting action by Ramcharitar and Associates between 2005 to 2021.
- 3.4.2. During the public hearing on February 3rd 2021, Executive Director, Mrs. Niala Persad-Poliah stated that out of 977 appeals, the Board had responded to approximately 876 of these. However, according to Mr. Ramcharitar's submission, the Tribunal is yet to receive 50% of the appeals submitted by his company. Ramcharitar and Associations is of the view that approximately 309 of the 977 appeals submitted to the NIBTT have not received attention. This list maybe found in Appendix VI.
- 3.4.3. Mr. Ramcharitar further highlighted that former Registrars and National Consultants were neither consulted nor given the opportunity to contribute to the revision of the operations of the NIAT.

Findings and Recommendations

Based on the evidence set out in this section the Committee concluded as follows:

- i. The Committee noted the claims made by certain stakeholders in the National Insurance System that there has been inadequate consultations in the formulation of proposed legislative and administrative changes to the NIAT. Given that NIAT

continues to face major operational challenges including a significant backlog of cases, the Committee supports any and all efforts to facilitate greater stakeholder consultations and cooperation which may assist in enhancing the efficiency and effectiveness of the Tribunal;

- ii. However, every effort must be made to minimise any real or perceived conflicts of interest held back external parties willing to offer their technical advice or services to NIAT.

Recommendations

Based on the evidence received and further to the foregoing findings, the Committee respectfully recommends as follows:

- i. **That the NIBTT and the NIAT should endeavour to engage in a public consultation exercise with the stakeholders who were previously not considered, with a view to ensuring that all credible concerns are considered and rectified through legislative amendments and administrative adjustments, where necessary.**

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

Dr. Varma Deyalsingh
Chairman

Mr. Esmond Forde, MP
Vice-Chairman

Mrs. Lisa Morris-Julien, MP
Member

Mrs. Ayanna Webster-Roy, MP
Member

Mr. Nigel De Freitas
Member

Ms. Khadijah Ameen
Member

Mrs. Renuka Sagrarsingh-Sooklal
Member

Ms. Jayanti Lutchmedial
Member

Dated November 03, 2021

Appendices

Appendix I

Appointment Dates for Members of the Tribunal

The following outlines the timeline for the Members appointed to the NIAT

- i. Nine (9) Members were appointed to the NIAT for a period of three (3) years with effect from April 28, 2014 and July 26, 2014 respectively.
- ii. The sitting Chairman's term ended on January 24, 2015. A new Chairman was appointed on December 15, 2015.
- iii. Following periods of training for the new Registrar and staff of NIAT, Members and Chairman Hearings resumed in June 2016 and ended April 24, 2017.
- iv. NIAT facilitates two (2) Hearings per month, one (1) in the Administrative District North, one (1) in the Administrative District South or one (1) in the isle of Tobago.
- v. The Chairman resigned on November 22, 2017.
- vi. A new Chairman was appointed with effect from March 1, 2018.
- vii. Nine (9) Members were appointed to the Tribunal for a period of two (2) years with effect from August 5, 2018.
- viii. Hearings resumed on October 2018 and continued to March 13, 2020. The 2020 pandemic and subsequent lockdown by the GORTT curtailed the Appeals Tribunal's timetable.
- ix. One (1) Hearing was held in the North on July 17, 2020 before the Members term came to an end on August 5, 2020.
- x. The Chairman's term comes to an end on March 1, 2021.

Appendix II

Cyber Security Systems utilised by the NIBTT

The NIBTT uses the following systems and processes to safeguard information submitted digitally or via the internet:

1) Up to date software

The NIBTT operates are far as possible system that are updated with software provider security patches. In instance where patches cannot be installed due to operations requirements further safety measures have been put in place.

2) Thumb drive restrictions

The use of thumb drives and other portable media across the organisation that increase the likely hood of the introduction of malware and cyber security threats have been restricted across the organisation.

3) Restricted Internet Access

The NIBTT uses internet filtering. Internet access is available to defined persons within the organisation who require access to perform their duties. Access to the internet is managed and restricts access to defined categories of sites.

4) Password and right management

Complex passwords are required to access NIBTT system that are changed every 30 days.

5) Rights Management

The NIBTT uses the least rights first principle, whereby users is given the minimum levels of access – or permissions – needed to perform his/her job function. Access control is audited annually.

6) Managed Wifi Access

Wifi access is separated into two independent networks, one for guest and another for employees of the NIBTT.

7) End Point Protection

A centrally managed end point protection system is used to manage the download and deployment of up-to-date security patches on the network.

8) Firewall

The NIBTT firewall operates current version of firmware and is patched in line with vendor specification. Logs are periodically reviewed to identify trends and threats to the organisation.

9) Awareness Programmes

Security awareness programme are designed to keep staff informed and advise on how to respond and report peculiar incidents for investigation.

10) Backup and Restore Procedures

The NIBTT conducts routine backups which are stored both on-premise and offsite. This back-up and restore process is capable of meeting RTO and RPO objectives – a vital measure in the event that data is wiped or locked by malware.

11) Annual penetration testing

This testing is conducted to assess vulnerabilities.

Appendix III

Process of Submitting an Appeal

Stages of Submitting an Appeal

Based on written evidence, the NIAT outlined its appeals process. The stages of submitting an appeal to NIAT are outlined below:

- i. Subsequent to submitting a claim to NIBTT, that claim may be denied or the claimant may be dissatisfied with the benefit offered by the NIBTT.
- ii. An appeal can be made by completing the Notice of Appeal - Form 1 which is accessible in any NIBTT Service Centre.
- iii. If it is determined that the matter is to be brought before the Tribunal, the Registrar prepares the Case Papers for Hearing and the documents are delivered to the Chairman, Members, NIBTT representatives, and, in the case of a Medical Hearing, to the Chief Medical Officer prior to a hearing date.
- iv. Upon receipt of the NIBTT's Benefit Unit file and accompanying letter detailing the NIBTT's position, the Registrar contacts the appellant and advises accordingly.
- v. A request is made to the NIBTT for information while a letter of acknowledgement is sent to the appellant regarding the appeal.
- vi. Decisions arising out of a Hearing are drafted by the Registrar and submitted to the Chairman for vetting. The Chairman returns the decisions noting any corrections to be made and the final and corrected decision is printed and again delivered to the Chairman for his/her signature.

- vii. In the event that either an appellant or the NIBTT is dissatisfied with the decision of the Tribunal either party can seek redress through a Judicial Review in the High Court.

Appendix IV

An Examination of the Recommended
Appeals Process proposed by JSC
Group 1 for potential implementation
by NIAT

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

Recommended Process:

When an appeal is sent to the National Insurance Board, the response will be within 21 days as required by law, i.e. the Board decides either to review its decision and pay the claim or join issue with the appellant and contest the appeal, when the Benefit Unit file of the appellant is promptly processed and forwarded to the Tribunal.

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

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

In or about 2013/ 2014, the NIBTT initiated a process whereby appellants could request a review of their claims by the Manager Appeals. At that time, appellants in respect of over 750 appeal matters were invited to make an appointment with the Manager Appeals at the NIBTT to discuss the facts which supported the grounds of appeal in an effort to have the matter settled. Appellants were allowed to be accompanied by any persons to support them during the review process. The appellant could then voluntarily withdraw his appeal from the National Insurance Appeals Tribunal (NIAT) or proceed with the appeal on a more clearly defined and usually narrower basis. Approval was obtained by the NIBTT from the relevant Permanent Secretary for this initiative. As a result of this project, approximately 32% of outstanding appeals were withdrawn.

Further to this initial undertaking, the NIBTT sought to establish an ongoing facility for appellants to have their claims reviewed with the expressed permission of the Registrar NIAT. To this end, a form and procedures were developed in collaboration with the then Registrar NIAT, Ms. Sharon Augustus whereby appellants would be advised by the Registrar of the option to have the NIBTT review their claims which were the subject of appeals without any prejudice to their right to appeal.

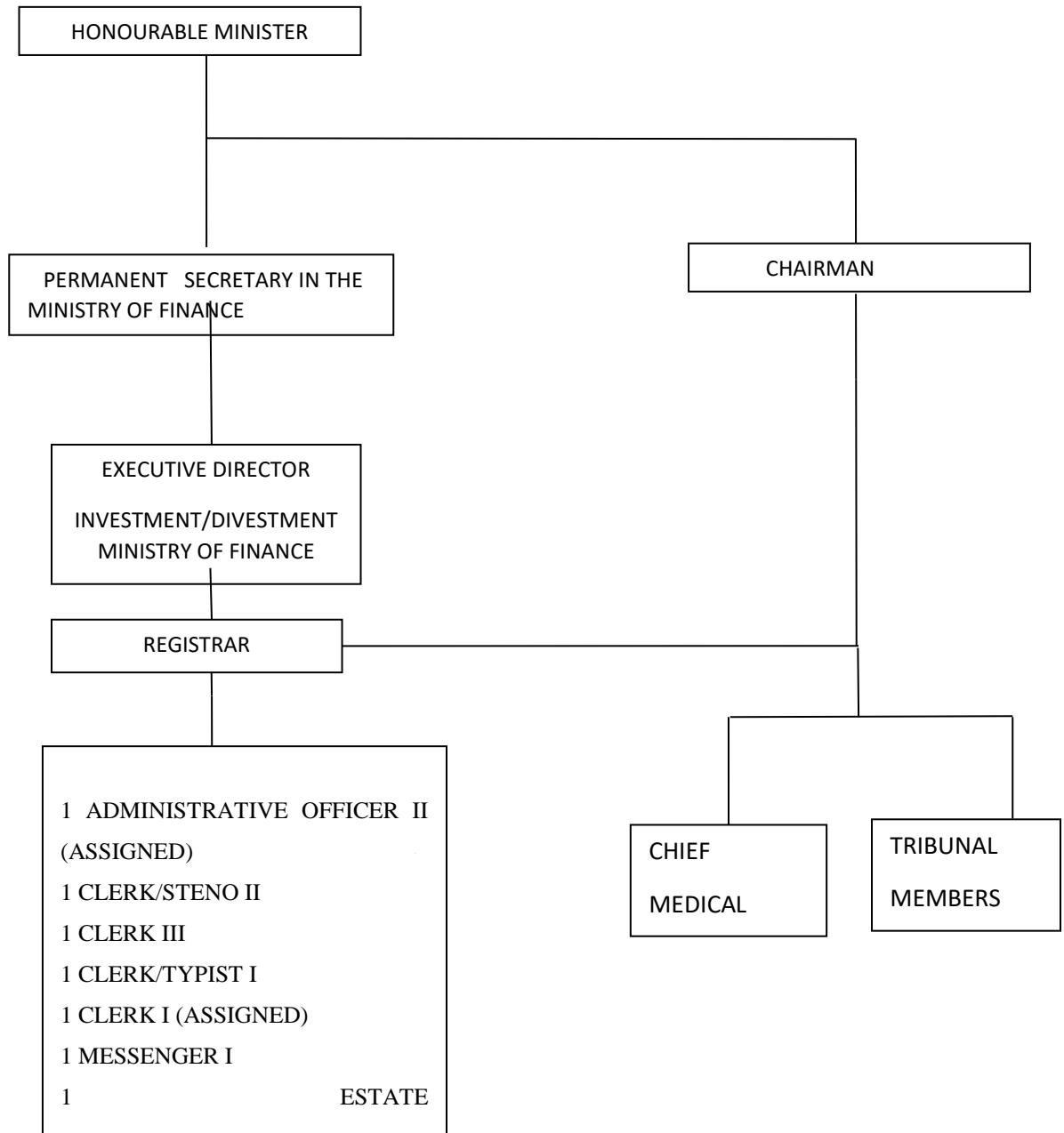
The review must have been requested within four months of lodging the appeal (if an appeal was lodged) and the process was designed to be completed within 6 to 8 weeks, to cater for the initial 6-month time frame for submitting an appeal. This process was satisfactorily implemented from January 2015 however, over time the NIBTT no longer receives the requests for review from appellants.

The NIBTT remains amenable to the recommendation of the Committee and the recommended process.

Appendix V

NIAT's Organisational Chart

2nd Report on an Inquiry into the efficiency and effectiveness of the National Insurance Appeals Tribunal (NIAT) (with specific focus on the tribunal’s capacity to dispose of appeals).



Appendix VI

Minutes

**MINUTES OF THE FOURTH MEETING OF THE JOINT SELECT COMMITTEE
APPOINTED TO INQUIRE INTO AND REPORT ON LOCAL AUTHORITIES,
SERVICE COMMISSIONS, STATUTORY AUTHORITIES (INCLUDING THE THA)
HELD ON WEDNESDAY, FEBRUARY 03, 2021**

This meeting was held virtually via Zoom

PRESENT

Members

Dr. Varma Deyalsingh	Chairman
Mrs. Lisa Morris – Julien, MP	Member
Ms. Khadijah Ameen, MP	Member
Mr. Nigel De Freitas	Member
Ms. Jayanti Lutchmedial	Member
Mrs. Ayanna Webster – Roy, MP	Member

Secretariat

Mr. Julien Ogilvie	Secretary
Ms. Khisha Peterkin	Assistant Secretary
Ms. Terriann Baker	Graduate Research Assistant
Ms. Nicole Brown	Graduate Research Assistant

The following persons were Absent / Excused:

Mr. Esmond Forde, MP	Vice- Chairman
Mrs. Renuka Sagrarsingh-Sooklal	Member

THE FOLLOWING PERSONS WERE ALSO PRESENT:

National Insurance Appeals Tribunal (NIAT)

Mrs. Sharon Hassanali	Registrar
Ms. Stacy Cummings	Chairman
Ms. Naseem Farrier	Senior Research Officer

Mr. Prakash Ramlochan

Administrative Officer II (Ag.)

National Insurance Board of Trinidad and Tobago (NIBTT)

Mrs. Niala Persad-Poliah

Executive Director

Mr. Douglas Camacho

Deputy Chairman

Mr. Feyaad Khan

Chief Operating Officer-Business
Services

Ms. Sarah Baboolal

Executive Manager, Legal
Services

Ministry of Finance

Mrs. Jennifer Lutchman

Deputy Permanent Secretary

Ms. Yvette Babb

Executive Director, Investment/
Divestment

PUBLIC HEARING

- 6.1 The Chairman reconvened the meeting at 10:45 a.m. and welcomed both the listening and viewing audience.
- 6.2 The Chairman highlighted the objectives of the inquiry and introductions were made.
- 6.3 The Chairman then invited the lead official of each delegation to make a brief opening statement.
- 6.4 The following are the main issues highlighted during discussions with the **National Insurance Appeals Tribunal (NIAT)** (*for further details, please see the Verbatim Notes*):
 - i. NIAT has a core staff complement of five (5) employees.
 - ii. On the Job Trainees and Clerical Assistants have provided short-term relief to NIAT. However, the short-term nature of this relief has created challenges regarding the retention of institutional knowledge.
 - iii. There have been periods where the Tribunal was unable to convene for years at a time due to the expiry of members' terms.
 - iv. In 2019, the Tribunal was able to adjudicate upon the largest number of cases in recent years due to their ability to hold regular meetings. Cases with backlogs of up to 6 years were cleared during this time period.

- v. NIAT is instituting systems to allow for digital hearings.
- vi. The South Office conducts operations out of the Ministry of Labour's facilities. Operating in a shared space has made it difficult to fully adhere to COVID-19 protocols.
- vii. The current Chairman's term expires in March 2021. The necessary procedures for replacing/reappointing the Chairman have commenced by way of informing the President of the Republic of Trinidad and Tobago of the impending term expiry.
- viii. Some citizens are not cognizant that they have the right to appeal decisions of the NIBTT. Ostensibly, those who are aware, are uncertain of how to proceed with the appeals process.
- ix. Many appellants do not have access to their own legal counsel. Approximately 80% of appellants attend hearings unrepresented while the National Insurance Board of Trinidad and Tobago (NIBTT) is usually represented by 2-3 attorneys.
- x. One of the challenges to implementing an electronic system for receiving appeals is the requirement of a signature. As such, documents must be printed, signed and scanned if they are submitted electronically. The current legislation does not allow for electronic signatures to be accepted.

The following are the main issues highlighted during discussions with the **National Insurance Board of Trinidad and Tobago (NIBTT)**:

- i. One hundred and thirty-eight (138) matters have been adjudicated over the past five (5) years.
- ii. The number of matters that have not been heard is estimated to be between 1,000 and 1,500.
- iii. For the period 2016-2020, NIBTT has provided 876 files (out of 977) relevant to notices of appeal received from NIAT.
- iv. NIBTT has moved the Appeals Division from the Insurance Operations Department to the Legal Department. This has created greater efficiencies in transferring appeals to NIAT. However, the processes at NIAT remain unchanged, leading to a further backlog of cases.
- v. NIBTT is currently engaging a service provider to digitise its files.
- vi. NIBTT has committed to taking part in virtual hearings when they become available. Appellants will need to have the requisite technological capabilities in order to participate in these hearings.
- vii. Information on the appeals process is provided to clients along with their decision letters. However, NIBTT is willing to collaborate with NIAT to make the information more user-friendly.
- viii. Decision letters are delivered primarily via the postal system.
- ix. NIB clients are able to view their contributions via the NIB's website.

The main issue highlighted during discussions with the **Ministry of Finance (MOF)** is:

- i. The position of Registrar (NIAT) is now pensionable.
- ii. NIAT's Port of Spain Office now has a suitable and permanent location.
- iii. The Ministry of Finance has assigned an Administration Officer II (AOII) to NIAT.
- iv. The MOF is committed to strengthening the institutional capacity of NIAT and to pursue legislative amendments to allow NIAT to function efficiently and effectively.

ADJOURNMENT

7.1 The Chairman thanked Members and adjourned the meeting.

7.2 The meeting was adjourned at 12:37 p.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

February 22, 2021

Appendix VII

Verbatim Notes

VERBATIM NOTES OF THE FOURTH VIRTUAL MEETING OF THE JOINT SELECT COMMITTEE ON LOCAL AUTHORITIES, SERVICE COMMISSIONS AND STATUTORY AUTHORITIES (INCLUDING THE THA) HELD (IN PUBLIC) ON WEDNESDAY, FEBRUARY 03, 2021 AT 10.45 A.M.

PRESENT

Dr. Varma Deyalsingh	Chairman
Mrs. Lisa Morris-Julian	Member
Mrs. Ayanna Webster-Roy	Member
Ms. Khadijah Ameen	Member
Mr. Nigel de Freitas	Member
Ms. Jayanti Lutchmedial	Member
Mr. Julien Ogilvie	Secretary
Ms. Khisha Peterkin	Assistant Secretary
Ms. Terriann Baker	Graduate Research Assistant
Ms. Nicole Brown	Graduate Research Assistant

ABSENT

Mrs. Renuka Sagramsingh-Sooklal	Member
Mr. Esmond Forde	Member

NATIONAL INSURANCE APPEALS TRIBUNAL (NIAT)

Mrs. Sharon Hassanali	Registrar
Ms. Stacy Cummings	Chairman
Ms. Naseem Farrier	Senior Research Officer
Mr. Prakash Ramlochan	Administrative Officer II (Ag.)

**NATIONAL INSURANCE BOARD OF
TRINIDAD AND TOBAGO (NIBTT)**

Mrs. Niala Persad-Poliah	Executive Director
Mr. Feyaad Khan	Chief Operating Officer Business Services
Ms. Sarah Baboolal	Executive Manager Legal Services
Mr. Douglas Camacho	Deputy Chairman (NIBTT)

MINISTRY OF FINANCE

Mrs. Jennifer Lutchman	Deputy Permanent Secretary (Ag.)
Ms. Yvette Babb	Executive Director, Investment/ Divestment

Mr. Chairman: [*Audio missing*]*—of the, you know, the NIAT and we propose to have an enquiry into the efficiency and effectiveness of the National Insurance Appeals Tribunal with specific focus on the tribunal's capacity really to dispose of appeals and its functionality in terms of the fact that there was a previous enquiry in 2013 and we would now like to review to see if those goals are met, if the interest of the public would be there to full satisfaction in terms of what the NIAT is about. And officials at this meeting and also other stakeholders also would be the NIBTT, the National Insurance Board of Trinidad and Tobago members and the Ministry of Finance.*

So I am Dr. Varma Deyalsingh. I am the Chair of this enquiry today and I want to just remind participants that this is a virtual meeting and certain specific guidelines would apply including making sure that your microphone is off when you are not

speaking and that you are actually—would look at the camera so that your face is clearly visible and also, please, mute your cell phones and any other electronic devices that may cause a little disturbance to this meeting.

Members of the listening and viewing public are invited to, you know— as they look, they can send their comments via *ParlView* and YouTube Channel and Twitter as the proceedings go on the way.

So, at this stage, I would like to introduce the representatives from the National Insurance Appeals Tribunal and I would like to welcome on board the members of this Committee. So, Mrs. Sharon Hassanali, the Registrar is here. And do you mind introducing yourself and your team, please?

[Introductions made]

Mr. Chairman: And I would like to—the National Insurance Board of Trinidad and Tobago, the NIBTT, starting with Mrs. Niala Persad-Poliah, the Executive Director, would you introduce yourself and your members, please? Thank you.

[Introductions made]

Mr. Chairman: Thank you. And lastly, the members of the Ministry of Finance, starting with Mrs. Jennifer Lutchman, Deputy Permanent Secretary, Acting.

[Introductions made]

Mr. Chairman: Thank you. And I give all of you a warm welcome and I am hoping we can have a very fruitful and productive morning because we have a very important role to play for the public out there who needs some sort of relief with their pension, you know—for their pension to be expedited in a particular, efficient manner.

At this stage, I would like the members of my Committee to introduce themselves and I would start with—my members, please, if you can start introducing yourself. We can start with the ladies first and go in order.

[Introductions made]

Mr. Chairman: And now with the males that are here.

[Introduction made]

Mr. Chairman: Good. So, thank you members for being here. And at this stage, I would like to say that I am—I think it is very fortunate that we have this meeting today because the public is waiting for some sort of relief, especially in this COVID time, where unemployment, persons have problems really to service their relatives, their family and they need their—sort of any—sort of claims to be handled efficiently.

I am a bit disappointed though when I looked at the 2013 report and I noted that a lot of work went into that report, and a lot of what are recommendations were there, and I am still seeing some of the same sort of questions are now being asked today. I am still seeing some of the same inefficiencies are still there. So I am hoping now with the COVID situation here, with the online platform, I am hoping somehow we all could get together and create something that would really be beneficial to the public interest because it is really the public interest that we serve.

So, at the stage, I would like to invite any of my members, if you would like to start with an opening question. But before we do that, I would like the members of the different bodies to, at least, give us some opening comments on your performance. So, I would like to start with Mrs. Sharon Hassanali to give us brief, probably a minute or two, opening comments about your function and, you know, and anything you would have to tell us before we start the proceeding.

Mrs. Hassanali: Good morning, again, to everyone. My role as Registrar to the Appeals Tribunal is an administrative role. I am—I perform the duties of a secretariat to the tribunal in receiving and prepping all of the matters that come through the Appeals Tribunal, liaising with the members of the public directly and setting

schedules, dates, times, venues for hearings, notifying all the parties concerned.

We have stipulated times set out in the Act for notice of appeals, notice of hearings and we have to adhere to those guidelines always. So if we are setting a date and a venue, a time for a hearing, whether we do it in the administrative division of north, south or Tobago, we have to give notice—21 days' notice in advance of the actual date.

Those times can change only if the Chairman has asked for a specific adjournment or the NIB has asked for a specific adjournment, and then we shift those days to suit. Once we have agreement on any date, we continue. We try as much as possible to bring relief to members of the public but this tribunal is a fact-finding tribunal as the Chairman will detail more in her responses, and it is heavily dependent on the appellants and what they can provide in terms of evidence to the tribunal to assist them in their matters. Any matters that would have matters of law, those are referred to the High Court. The tribunal cannot adjudicate on any matters that would hinge on law, mix law and fact, anything like that. Those must go to the High Court.

Mr. Chairman: Thank you very much and I see you have a lot of the responsibility of your organization on your hands. You are the main player there, I think, to get things from the tribunal and also get things from the Ministry, and from also the NIBTT, so it is a heavy duty on your part. So I thank you for those opening remarks and I would please like Mrs. Niala Persad-Poliah, the Executive Director of the National Insurance Board of Trinidad and Tobago to please give us some opening remarks.

Mrs. Persad-Poliah: Chairman, thank you and this morning our opening remarks will be by our Deputy Chairman, Mr. Douglas Camacho.

Mr. Camacho: Thank you, ED. Good morning all. First of all, I will like to thank the Committee for the invitation to attend. It was extended to the NIB for this hearing

which is really for the efficiency of the NIAT. It is indeed a pleasure to be here today that we, the NIBTT, who is a key stakeholder of the NIAT—and we remain open to the constant and rich dialogue with all relevant authorities. It is very important to note that while the NIBTT plays a pivotal role in the business of the NIAT, the organization must work in conjunction with other stakeholder in the whole appeals process.

Particularly pleased, Chairman, to see that one of our former employees is part of your commission's panel. So hopefully, they will be able to bring some of the insights they would have gleaned while they worked with us at the NIBTT into the fore here.

So thanks, again. I mean, we are a participant. Today is really not about the NIBTT but about NIAT, and we are really eager to participate and to offer suggestions and recommendations on areas where we believe, working in collaboration with one another, we might be able to better serve the needs of the wider public which, I think, is the intention of both the NIAT and the NIBTT, to ensure that it is fair, transparent and meet the needs of the whole population at large. Thank you very much, Chairman.

Mr. Chairman: Thank you, Mr. Camacho, and I am glad that you realize that amongst our Committee we have a member—but we have two members actually who worked at your organization because member Morris, I think, was also—Julian-Morris was also a former employee. So we have some inside information, so that is good in a sense. [*Laughter*] I mean, it would be good for us, I “doh” know—so, at least, we are hoping we can get something done. And at this stage, I would like to invite Mr. Jennifer Lutchman, the Deputy Permanent Secretary, Acting, to please give us some opening remarks.

Mrs. Lutchman: Good morning again, Chairman, and members. The Ministry of

Finance's role is to provide support to NIAT in the area of administration and resources. Arising out of the last Joint Select Committee enquiry and the administration and operations of NIAT, the Ministry of Finance engaged the services of the firm, Ernst & Young, to undertake a business process review of NIAT.

On receipt of the report, the Ministry commenced an analysis of the recommendations that the report would have provided and commenced to undertake implementation of the report. However, early in 2020, the Investments Division, Ministry of Finance, they assigned a senior research officer to the NIAT to assist in the restructuring of NIAT in order to strengthen the process that the tribunal undertakes.

However, due to the onset of COVID-19, we had to put a pause and discussions were suspended. However, we understand how important the discussion is, you know, to continue to strengthen NIAT and therefore, very shortly, we will recommence the discussion and the—ensuring the recommendations of the report are actioned. Thank you.

11.00 a.m.

Mr. Chairman: Thank you very much. And, again, it startles me a bit that I am saying that we had a lovely report in 2013, and yet still, we did not meet any sort of major goals or any sort of—I look at more matters coming before the NIAT and I am looking at the fact that even though there is a more, the clearing of the backlog is a challenge as well as dealing with the new cases. So, definitely, I am saying that the Ministry of Finance has to look at what transpires. Because, remember, a problem we had with the last Committee was the fact of staffing, that they needed more staff, and I think your department is probably very, you know—should be upfront in looking at the staffing for the tribunal, at least to get the efficiency running. But I must say, even though I may appear to be critical, I am critical because

you find that a lot of people out there, the elderly, widowed, persons who are waiting, unemployed persons, they are really in a way that they might be suffering and looking for some sort of a relief.

So I am hoping that we can do something a little better in terms of the last report. And with the COVID, I am thinking it has revolutionized the running of the Attorney General's Office and certain other departments. And there is the Ministry of information and technology now, and I am thinking if we can tap into that, we can most likely be able to have hearings, you know, that could occur at a much greater pace, even though you have the geographical problems. So, I think there are some positives that could come out with this COVID and I am thinking it is really keeping a pace with what is happening out there in other Ministries to see if we can also get something going here.

And it is not just your organization, because we recently had a discussion in Parliament with the statutory authorities, and it seems it is a same situation whereby you have plans but they are not really put into place in such a way. There are a lot of challenges. So, it is not just what is happening in this tribunal but it is really a broad spectrum. And I think we are here to say, "Look, we are not going to waste time again as the last committee," in terms of saying, "Well, we are here, we are putting in our effort." So let us try and see if we could have some benchmark and some goals. So, at this stage, I think one of my members indicated they would like to start the opening batting. So, I think it is member Lutchmedial, I would recognize.

Ms. Lutchmedial: Thank you, Chairman. With respect to the Ministry of Finance, firstly, I wanted to find out some more about the legislative amendments and a status update on the legislative amendments that you said were proposed in 2017. You indicated in your submission—on page 2 of your submission that it was sent to the Investments Division to the Administrative Officer. Can we get an update on those

amendments? And can you give us some more information on what the proposals were coming from the board, from the NIAT, with respect to legislative amendments, and how those amendments—how the Ministry views those amendments? And also, an update on, you know, the status on it?

Mrs. Lutchman: Okay, first of all, it was felt that we had to look at the restructure of NIAT before we even undertake the legislative amendment because the reports, as well as the report emanating from Ernst & Young, indicated that certain things needed to happen, one of which, there was a recommendation for a deputy chairman. There was also a recommendation for a deputy registrar. There was a recommendation for an alternate to the Chief Medical Officer, to name a few of the legislative amendments that would have been required. So it was felt that we needed to look at the organization structure before we propose the legislative amendment. And this is the conversation that started in 2020 where the structure was being examined, and we will continue to pursue that. One of the actions that we would undertake, as soon as we decide on the appropriate organization structure, would be to make or to engage the PMCD of the Ministry of Public Administration and Digital Transformation, to provide recommendations based on what we have agreed on, so that we could move forward with it. Subsequent to that, we would engage the Treasury Solicitor, within the Ministry of Finance, to determine how best we would undertake the legislative amendments, and we will go from there.

Ms. Lutchmedial: So, the amendments proposed in 2017, you are saying that there is—are they in line with the recommendations of Ernst & Young? When was that Ernst & Young report dated?

Mrs. Lutchman: The Ernst & Young report was dated 2015. Subsequent to the Joint Select Committee meeting, the Ministry of Finance would have engaged Ernst & Young in 2014 and the report was presented in 2015. In 2016, we started to look at

the recommendations of the JSC and the Ernst & Young report, and, you know, staff rotation posed a challenge in continuity, but we felt that it was important to continue, and that is why we started earnestly pursuing that in 2020.

Ms. Lutchmedial: So, I mean, what I am getting from you here is that we had no earnest action on the Ernst & Young report from 2015 to 2020. Could you just tell us between 2015 and 2020, apart receiving recommendations that you referred to here from the NIAT, has the Ministry really, you know, apart from—I mean, are we still reading the reports? That is what I am trying to ask. Is it that? COVID only happened last year March. So I am saying, between 2015 and 2020, I have not heard anything really, you know. Was there really any action at all?

Mrs. Lutchman: What we would have done, there were some issues that we needed to fix. The position of registrar, we pursued for the position to become pensionable, that is one of the things that we did—

Ms. Lutchmedial: And what is the status of that?

Mrs. Lutchman:—to ensure—

Ms. Lutchmedial: Sorry, hold on. Let us just take it one by one then. So, you said that there were some issues that needed to be fixed. You mentioned that one. Has that issue been resolved—the status of Registrar?

Mrs. Lutchman: Yes, it has.

Ms. Lutchmedial: So it is now a pensionable position? It has been created?

Mrs. Lutchman: It has. Yes. Yes.

Ms. Lutchmedial: Thanks. I am just taking notes.

Mrs. Lutchman: Based on the report of the JSC, accommodation was an issue. At this point, the NIAT is housed at the Ministry of Finance, I believe it is Level 2. So, therefore, we believe that they have appropriate accommodation at the Port of Spain office. There was an issue before where they were moving from place to place, so

now they have a fixed place and, you know, all the security and other amenities that they would have asked for were provided. And it is not that we did not do anything, but we have been having discussions. It is just that it has not come to fruition where you have the hard evidence to support things that have concluded.

Mr. Chairman: I would like to ask one thing before—how much did that Ernst & Young consultation cost the Ministry?

Mrs. Lutchman: Chairman, I cannot say offhand because I was not at the Ministry at that point, but I will definitely provide that in writing to the Committee.

Mr. Chairman: Sure. Thank you. I would like to ask something there. The amount of staff that presently is assigned to the Tribunal, could you tell me how many persons are there? Because I have a flowchart here saying: one Administrative Officer, assigned; one Clerk Steno II; one Clerk III; one Clerk Typist I; one Clerk I, assigned; one Messenger; one Estate. So, this flowchart that I was provided with, it actually shows that NIAT has five positions on the establishment of the Ministry of Finance as follows: the Registrar, the Clerk III, Steno II, Clerk Typist I, Messenger I. And what amazes me is that, if you all are handling thousands of cases with that backlog with just five persons—my office, I have five of us in my office alone. So I am wondering, how could you actually service the country—I think it is how much—about 60,000 pensioners properly, if they have appeals, with just five?

So, something really needs to be done and I am asking the Ministry of Finance with this question. Previously, staff was loaned to NIAT, is it possible that you could at least put members on staff to have them on board with NIAT for at least about two years, three years, to say you are stationed here, you get to learn the ropes, and let us see if we can clear up that backlog? How difficult is that? And in terms of staff rotation, why is there a necessary—why is it a need to move staff? Can you not look at that two-year period that we can get a sort of a guidance, within two years we are

going to aim at this backlog and increase it? So, if you can guide me in terms of having to wait for Ernst & Young report, which was probably sitting there, probably paid a lot of money for. I think giving staff to those persons should—is it a problem from the Ministry of Finance's point of view to say, hey, we are going to provide you with more staff to kind of—[*Inaudible*]

Mrs. Lutchman: Chairman, the staff—the five members of staff are the staff of the Ministry of Finance, but there are other support staff such as the messenger and so. Definitely, we will consider—reconsider and consider the organization's structure and the needs assessment of NIAT going forward.

Mr. Chairman: But in the short-term measure, instead of, you know, considering it, I am thinking, if the chair of NIAT makes a request for you tomorrow, provide us with staff, is it a difficult proposal that he can suggest to say, give us, let us say, staff for two years—let us try and get with it. Is that a difficult thing to do? Are there any things in the way that could prevent your Ministry from doing that? Plus, another point. There was—in the 2013 report, the Joint Select Committee—actually, there was a consultant from the outside, Mr. Hubert Dolsingh, who actually mentioned that he would be willing to work with the Tribunal to see if they can somehow expedite their appeals? Because, as he puts it in his letter—and I would just like to read a little part of it. It is a letter that he had given to the Committee in 2013, and he mentioned there:

It is estimated that your board has failed the meet legal obligation under regulation 15 in about 90 per cent of outstanding appeals.

So again, if there is a regulation and if NIB is failing to at least put their files to the NIBTT in a matter of three weeks, persons out there may consider it as a failure of your duty of something that is flouting the regulations and the illegality, and I am thinking that three-week period was really put in. It sounds very—with the public

service and probably with the work ethics, people may think it is a bit, you know—somehow it is like a fantasy to expect that. But the persons who actually put that in realized that the public out there need their money, the elderly persons who are retired and depending on certain things. And I think they put that three-week period there in the regulations to best serve the public. So, I am looking at Mr. Dolsingh's report where he actually—letter, which he said that:

In the circumstances, I wish to recommend that you meet with the relevant authorities—which I guess the Joint Select Committee has done.

But, in closing, he said that:

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

So, I am suggesting, is it difficult to hire out consultants to come in to help you—consultants who are out there advising the public, as well as your in-staff to put them to help the Tribunal?

Mrs. Lutchman: Thank you, Chairman. So, the Ministry of Finance would have assigned some staff—well, I think—I believe there was an AO II that the Ministry assigned to NIAT to provide assistance. Mrs. Hassanali will be able to advise on that further. But definitely, consideration would be given to consultancies, of course, within the confines of the resource constraints that we now face.

Mrs. Morris-Julian: Through you, Chairman, I am going a little lower on staffing issues level, Ms. Lutchman. I was one of those, at the time, young women who came in with data-driven aspect of the National Insurance Board and at no point did they touch NIAT, meaning that we did not input any data for appeals, et cetera. I want to ask about, with regard to your staffing issues again and besides from the board level, what is being done at the lower level with regard to staff? Could you let me know

how many people work with the committee to assist you?

Mrs. Hassanali: Mrs. Morris-Julian, good morning, is that question posed to me?

Mrs. Morris-Julien: Yes.

Mrs. Hassanali: All right. NIAT, as the Chairman rightly said, has four staff of five. That has been on the establishment since NIAT came into existence, and with the aid of the AO II assigned to us and a Clerk I currently, that is our four staff. Prior to the AO II that is in the unit coming in, we had OJTs and clerical assistants, and by the very nature of their employment, that would have been short term. So, the OJTs may have come in to finish whatever part of their OJT stint that they had, they completed it here in NIAT. And the clerical assistants would have been here six months, six months, until they left the Ministry. So, that has been once—[*Inaudible*]

Mrs. Morris-Julian: Through you again, Chairman. So that would definitely affect your—the constant moving of staff. The changing of staff will definitely affect your output at some level. Now I must say that working at your institution was one of my more enjoyable work experiences, so I know that there is an opportunity for growth for more permanent staff members to move up in the organization. And it is quite troublesome to hear that you have to rely so heavily on OJT and people who will be in and out, when you really need institutional knowledge to help build up your particular arm. Correct?

Mrs. Hassanali: Correct.

Mr. Chairman: Yes, I see there is a lack of institutional knowledge, eh. And I am thinking—this is why I am looking at the fact that if we want to somehow get things going quickly and we could get a commitment, like a two years, we are going to have—even if you get OJTs and you stay there fixed for two years, or staff from the Ministry coming in for a two-year period to say our prime purpose is to expedite some of the backlog, I am thinking we can make a little headway in this—

commitment from the Finance Ministry to give that staff hiring out, as I said, consultants who are willing to come on board, and also, the OJT there who could be trained to say, let us get this.

But remember, a criticism that was made from that first letter I read was from the NIBTT in terms of their delay, their tardiness in bringing files because, you see, if the Tribunal has a file in, and the mandated time is three weeks, and sometimes it takes a year or more to get those files, this is something we have to see how we could improve that. So I am hoping that someone from the NIBTT who could at least give me an idea of what is holding back that. I know there may be plenty reasons where you may have to look at certain files, where people worked and get information. But the idea is once you get that three-weeks mandated period, I am thinking, if it is not coming for the Tribunal, that means we are waiting since 2013 for this. We may have to reach a stage, well, if an appeal comes to the NIAT, the Tribunal, and you are waiting for this file, could the Tribunal on its own decide, well, if we are not forthcoming with the—we are going to hear this matter in favour of the appellants.

So, that is two questions. One to the—I would like to direct the first question to anyone in the NIBTT in terms of the delay in carrying it. And the second question I would like to direct to—in terms of a delay comes in and it is lasting long, you are waiting for this after a period, you know, three weeks or a reasonable period, three months, could we now say, “Well, we are waiting too long, let us just dismiss this and go in favour of the appellant”? And that would be directed to someone in the NIAT. Okay, thank you.

Mr. Camacho: Chairman, if I may? Before I actually hand it over to the ED, I think it would be interesting to look at the numbers and maybe the numbers tell the story. If one were to reflect on the number of matters which have been adjudicated upon over the last—if you take the last five years, I think you had used 2015 or some

report in one of your comments, the total number of matters heard over the last five years aggregates to about 138; 1-3-8. The interesting part about that is the outstanding matters that have not yet been heard.

And, I mean, just listening to this dialogue today, I realize staffing is obviously a major issue that needs to be addressed at the NIAT, is probably in the region of 1,000-plus, possibly in the region of 1,500 unheard matters, and those matters may date back way more than the five years in this conversation. Because if on average—let us just take an average of 150 to 200 claims are made per year, and if you take the 140—138, 140 in the last five years as an average, you are probably talking less than 30 out of every new 200—150 to 200 that are coming forward. All we are doing is increasing the backlog. We cannot even handle it would seem—based on the resources available at the moment to the NIAT—to handle the existing requirements where files are available and in the hands of the NIAT.

So, I think I will hand over to the NIB to talk about the efficiency, improvements to get files in on time. But while we are getting files in on time, remember, Chairman, that to get more files in faster, when we cannot handle the 1,500 outstanding for the last, I do not know, 10 years or however long some of those claims may be, I wonder whether we are solving the problem or looking in the wrong place. But I would hand over to the ED to see if she would like to speak to the issue of the improvements made or direct it to the appropriate person on the team.

Mr. Chairman: ED.

Mrs. Persad-Poliah: All right. Mr. Camacho, thank you. And, Chairman and members, again good morning. Just to support what Mr. Camacho was saying, when we analyse the numbers of the number of notices of appeal that we would have received from NIAT over the period 2016 to 2020, that amounted to 977 notices that we got. And out of the 977 notices, we have provided 876 files, Chairman, to the

NIAT. At this point, 101 files are still outstanding and we are committing to the Committee to ensuring that those files are submitted to NIAT in the fastest possible time frame.

But going back to what my Chairman was alluding to, out of the 876 files that would have been submitted, just over 100 matters would have been heard over the same period. So clearly, in our respectful view, it speaks, as you were saying, to a level of staffing issues that may be required to support the Tribunal. And I just wanted to go back to member Julian's—Morris-Julian's point, in that this really—the NIB staffing is very different to that of NIAT. Right? So the National Insurance Appeals Tribunal is an independent body and our interaction, of course, with that body is limited to supporting the Tribunal when we receive a notice of appeal. With respect to our structure and our staffing, allow me to say that following the hearing in 2013, we ourselves would have done a little bit more of a comprehensive, holistic review of our structure, and changes were made on our end.

So, for example, on or about 2015 to 2016 or thereabouts, we felt that the Appeals Division would have been more appropriately placed in the legal department. So we moved the appeals division from our insurance operations department to our legal department, where we felt it was more appropriately positioned and would lead to greater efficiencies. In addition to that, we have a dedicated appeals unit, headed by our Executive Manager, legal services, and supported by our manager, legal, and two support staff. Of course, that division itself is supported by other divisions in NIB that would provide the files, et cetera, and information.

Speaking a little bit, Chairman, with respect to the delays that were suggested in the 2013 report, we felt that having reviewed the system and the structure, it has in fact now led to a greater level of efficiencies. And we continue to look at our operations to see how we can even improve upon that. But bearing in mind, Chair, that the NIB

is a 49-year-old organization, and at present, the current document management process is a heavily manual one, and it involves the actual location and retrieval of a physical benefit unit file. So, just to give the Committee and put it into context, when a notice of appeal comes from NIAT, it comes to our legal department, a request is made for the file, there must now be the location and the physical retrieval of that file, bearing in mind, of course, that we operate out of 18 locations, the file is provided, it is copied, and we also take the opportunity to provide our case or our position, and then it is submitted to NIAT.

So, Chair, we feel confident on this end that the structure that we have in place at this time can support the demands of the National Insurance Appeals Tribunal.

Mr. Chairman: Mrs. Poliah, I must congratulate you for that impetus that you did from the last 2013 by having this appeals committee that you have there to expedite. So, what I am hearing really is you have improved your system and this is something to be congratulated. So then, the major issue may be the staffing issue from our Tribunal. So, therefore—but I would still like to get a feedback now from the Tribunal in terms of the fact that what are some of the delays? Because if you are now getting files quicker, what are your major constraints? What do you want us to help you to improve, because we are here to try and get a solution? So, I would really like an input from a member of the NIAT to give me that, either Mrs. Hassanali or Ms. Cummings, please. Thanks.

11.30 a.m.

Ms. Cummings: Good morning, Mr. Chairman. Thank you very much. I think I will take this question on behalf of NIAT. I would just by way of backlog and treating with the backlog, I would just like to bring a particular issue to the attention of this Committee based on my experience as Chair. I was appointed on the 2nd of March, 2018. At that time I was the sole member of the Tribunal, because the term of the

other members had expired since April of 2017. So between that time, April of 2017 and my appointment, of course, there would have been no hearings, no sittings of the Tribunal. And even with my appointment the other members of the Tribunal were not appointed until August 2018. So that will give you an idea of the kind of delay that we are talking about in terms of the appointment of the—this is from the members' position. And given a period of time for training of the new members we would have started hearing under the new Tribunal in October of 2018.

So when we are talking about treating with the backlog, that is one of the major concerns I would like to raise before this Committee today because it is not an isolated incident, it has happened in the past where the Tribunal was not able to sit for extended periods of time, sometimes for more than three years, because of the appointment of the members and/or the Tribunal expired and it took a long time to have their replacement appointed. So in terms of, you know, of course in the meantime more appeals are being filed and cases would have been—files would have been sent from the NIB doing their duty to the Tribunal. But having no members duly appointed or having just one member, the chairman, without members or the members without the chairman you can see how this will stymie the operation of NIAT.

So that is a critical issue and it has hampered the ability of the Tribunal to do its work. And if I may just add one quick thing as well, Mr. Chairman, once we had our members and the chairman duly appointed and trained we were able to achieve quite a lot in my term, and in fact the year 2019 we were able to hear and decide on the largest number of cases going back, I would say, the past six, seven years, because we had our members and we were able to have regular hearings. So apart from the issues of staffing, the issue of the appointment of the members would have to be something that must be taken into account in terms of the efficiency of NIAT.

Thank you.

Mr. Chairman: Thank you Ms. Cummings, as a former Independent Senator I must say I welcome you again here and your input. So we are hearing about office staffing that could be provided from the Ministry of Finance as well as your own members may not have been appointed together in tandem—that leaves a sort of disruption with people having a time to settle in in office. So at this stage do you have the full complement of the staffing, you know, like from in South in terms of the members of the Tribunal now, not office staff which Ministry of Finance could probably give. What about your members of the Tribunal? Do you find that in the past the members were coming to meetings, were they being absent, was a challenge to get them? You see, I think your last hearing was in July 2020, but what I am saying now with the virtual hearing and platform I am thinking this could now be a way that we can go forward with quicker hearing. So a member from Tobago might sit in in your Tribunal hearings and I am thinking—so this is something we can go forward. But have members of your Tribunal been forthcoming in attending these meetings?

Ms. Cummings: Thank you. Yes, Mr. Chairman, I think we have been very fortunate during my tenure to have members who are very committed to the work of the Tribunal. I have never had an issue with members not attending and if for whatever reason they are not able to attend on a particular day we have sufficient notice and we are able to have a quorum. So we have never been able to not have a sitting because we are not able to make a quorum.

Mr. Chairman: So I congratulate you again for having good members. Because that was one of the critiques that the previous report, whereby members were not coming forward to meetings and meetings had to be cancelled and it was even mentioned in the report that after three meetings if you are absent you would be removed. And it was mentioned in the report that sometimes members would just come to one

meeting and skip two and come to one. But again we have now reached a better level of efficiency in terms of your staff being on board. And in terms of the virtual hearing, I think one of our members wanted to—I think member Webster-Roy I think you wanted to explore the idea about the virtual hearings that could be something very beneficial, because I have been seeing moves in other governmental department that in the courts, in the AG's Office and then thinking that somehow if we could develop that. So I do not know if member Webster-Roy would like to pose any question.

Mrs. Webster-Roy: Thank you, Mr. Chairman. Actually I had my hands up because I wanted to ask NIAT, in terms of the Tribunal now, do you have your full complement of members? I am not sure if I heard you answer that question when it was asked by the Chairman.

Ms. Cummings: Yes, Mrs. Webster-Roy, we do have the full complement. The caveat is that my term as chairman comes to an end on—are you hearing me?

Mrs. Webster-Roy: I am not hearing you properly.

Ms. Cummings: I am saying that we currently have—[Inaudible]—list of members, but that my term as chairman ends on the 1st of March, 2021. So that hopefully—[Inaudible]

Mrs. Webster-Roy: I missed the last part of what you were saying but I heard that you said that your term in office will come to an end at the end of March, right?

Ms. Cummings: Beginning of March.

Mrs. Webster-Roy: Beginning of March. Okay. Another question, from experience looking on the inside, what would you recommend to improve the efficiency of the Tribunal? I know the Chairman would have mentioned maybe looking at virtual meetings, but what else can you recommend so that you have greater efficiency.

Ms. Cummings: Well in that case I would like to refer to some of the

recommendations we had made before—[*Inaudible*]

Mrs. Webster-Roy: I am not hearing you. You are breaking up.

Ms. Cummings:—probably seek some assistance from the technician, our IT people.

Mrs. Webster-Roy: Okay. Go ahead.

Ms. Cummings: Are you hearing me now?

Mrs. Webster-Roy: Yes, I am hearing you.

Ms. Cummings: Okay, so what I was saying, I agree with some of recommendations that have been made previously to have a deputy chairman be appointed, because in the event that the chairman is absent from a meeting that would not cause an interruption in the—[*Inaudible*]*—Tribunal to sit. And also in the interim of the number of cases and small society it is always possible that—[Inaudible]—may not come before the Tribunal and he or she is unable to appear for whatever reason. And so in a case like that the status quo, that matter would not be able to be heard in the term of that chair. But if you have a deputy chairman who is able to—[Inaudible]—*or act in the absence of the chairman or in the case where the chairman recuse themselves for whatever reason, then that would assist greatly in the continuity of the—that I think is one of the recommendations I would make.

Mrs. Webster-Roy: The NIBTT would have indicated that you all have to work with physical facts. Does that in any way hamper your ability to work faster and work more effectively and more efficiently in any way?

Ms. Cummings: I think in terms of operations if we have an electronic filing system or a need for getting a case worker to members, that would be a great improvement, because as it is—[*Inaudible due to audio breaking up*]*—delivered to each member and if you could—[Inaudible]—15 cases approximately per sitting, that is 15—[Inaudible]—files that have to be physically delivered to each member prior to a*

sitting.

Mrs. Webster-Roy: And this question would be for both NIBTT and NIAT. What steps are being taken to move towards digitization of files and also file sharing across all offices?

Mrs. Persad-Poliah: So, Chairman, if I could go first in terms of the response. In fact, Chair, that was one of the recommendations that the NIB came today with, in that for all the remaining files that we have notices of appeals for we are actually prepared to digitize those and to submit those digitally via email or so depending on the platform to NIAT if NIAT is prepared to receive those and if that will in anyway support the efficiencies of their operations.

From an NIB end though, in addition to that we are also moving digitally, in that we have embarked upon our ICT project which would see the transformation and digitization of all our records and all our files in this strategic period, which is strategic plan 2024. We are right now at the cusp of engaging a provider to support us on that. But even before that, even at this time we are prepared to support NIAT and commence the digitization of all those files and submit those to them for all the remaining files, Chair.

Mr. Chairman: So then NIAT could probably welcome this assistance to get their online platform going in a more efficient way. So I want to just bring up one case in there. In terms of the office closure in south, are there plans to have, I mean, if you are looking at this virtual platform I am thinking that with the closure in south if there is some other means that we can have a virtual hearing from there. And Tobago, are there any problems in Tobago in terms of any hearings in Tobago? Because with the online platform now, I am thinking those things could be solved. Are there any plans for NIAT to follow through on those areas, San Fernando, South and also Tobago?

Mrs. Hassanali: Thank you, Chair. We have been discussing that very issue with the DPS, Ms. Lutchman and the executive director, the senior research officer, seeing that the COVID has caused a disruption in the actual way NIAT would usually hold a tribunal and have everything in person. We are moving towards doing digital hearings, but that is a conversation we would have to have with NIB as well. And because the Chairman's term is coming to an end very soon, March the 1st will be here with us very soon, we are hoping that the new chairman would be installed and we would be able to not only continue the conversation but begin that process to facilitate Tobago.

At the moment we do not have many Tobago matters on hand as well as the south appeals. Because our biggest concern for south would be the fact that we are being accommodated by the Ministry of Labour but it means going in physically into the Ministry and using their facilities which would encompass not only their conference room, but all the amenities, everything that we have to use, we have to share with the Ministry of Labour and that is what we are trying to avoid. So the online hearing is something that we are actively pursuing right now.

Mr. Chairman: Well, I mean I realize you are squatting in south, but in another office. But what I am thinking, if you really go online this problem will be solved, eh. So I am thinking too, I have great fear now that I am hearing that your chairperson would be demitting office in March. But from now to March how hard is it with the help from the Ministry of Finance also probably liaising with information and technology, as well as the input from the NIBTT with their help, I mean could we have like a timeline to say before this chairman leaves, this chairperson leaves, you can actually set up this online hearing, which I am thinking with what has been going on with other Ministries may not be so difficult to do. So could you try and see if you can probably in a sense give me some kind of assurance with the timeline that

this could be done.

Two, if the post is being, again, you know, the post is coming to an end, has the relevant personal be informed of such, that either the chairman continue, a new chairman be appointed. Just a reminder to the relevant persons, the President, that this post would be coming to an end soon and we may need to look in to fill in the post expeditiously or continue with our present chair.

Ms. Cummings: Chair, if I may refer to your last question, yes, Her Excellency was notified on December 2nd of last year that my term comes to an end on March 1st and it was my decision not to seek reappointment, and I know the Office of the President is actively seeking a replacement to take up the position of chairman going forward.

Ms. Baboolal: Chairman.

Mr. Chairman: So that—sure.

Ms. Baboolal: Chairman, this is Sarah Baboolal from the NIB. I just wanted to support some of the comments of the NIAT and the Registrar as well as the chairman in that once—immediately after the onset of COVID in March, once there was some direction about how work can resume the NIAT and the Registrar did engage the NIB about the possibilities for virtual hearings and there was an exchange of ideas about how that could be done. The virtual hearings did not go off but we were able to at least meet once in person in July. And the NIB would want to go on record to commit to participating and cooperating with any sort of virtual platform in the interest of having hearings resume. Also in a way that meets the needs of their appellants because they would also have to have some capabilities as well.

In addition I just also wanted to comment on the NIAT chairman's earlier comments about the hearings. We were also very happy in 2019, there was almost a record number of hearings under the chairman stewardship and we had discussions about possible ways to “projectize” this backlog and strategies as to well, how could

we possibly have the appeals listed and heard because we know it is going to be a task so to speak to get on top of it. But we are, NIB is, we know the challenge ahead and we are committed to being available for hearings at the frequency that is needed going forward and if those hearings need to be virtual as well. So we are looking forward to that opportunity and to hear more about that if NIAT does have the capability to do it.

Mr. Chairman: Thank you. I would like to look at the—question, to representative of NIAT. Where your submissions that you have given this Committee stated that with regard to the system used to prioritize appeals, remember appeals have been their law and you had mentioned there is no criteria applied and I think that was on question 16, on page 9. So I wanted to ask you, what are their reasons for not having any criteria to prioritize the appeals and do you plan to have some sort of system for at least developing a criteria?—because remember if persons have their appeals for a long period in terms, some people may actually die before their appeals are held, some elderly individual waiting for some sort of recourse. So could you please direct that, answer to that question? Thanks.

Mrs. Hassanali: Thank you, Mr. Chairman. When I assumed as Registrar in 2014 there was already a backlog, and when we resumed hearings under the new chairman in 2016 we would have had appeals coming in over that period to add to the backlog. So one of the discussions prior to the resumption of hearings was that we deal with appeals coming in during, closer to the appointment of the chairman. But we recognized as well in that discussion that we could not leave the old matters to just languish we had to deal with the old as well as the new matters that were coming in. So NIAT does not have a process that I have seen to select matters that would come before the Tribunal. In selecting I would look at the particular matter, whether it is from the backlog or from the current term of that chair and members, and once all

of the pertinent information required for that appeal is on file that would determine what is selected.

Among the backlog matters though, we realized that some matters had been settled and we did not have any notice of it, so we were going through the older files in the backlog to address a lot of the issues that we were encountering. So those that had to be brought before the Tribunal we had some that had started under the former chair and had been adjourned for whatever reason and those matters we bought back to the Tribunal because we wanted to have those matters resolved. Because we are dealing with a lot of elderly persons, a lot of infirmed persons, so we are not sure if the persons are alive still, if they are still interested in pursuing the matters. So all those things are taken into consideration when we have to select the matters that come before the Tribunal.

Mr. Chairman: Thank you. I recognize member Lutchmedial.

Ms. Lutchmedial: Chair, thank you. There is a mention in the submission from NIAT about a case management system that had been proposed sometime in 2019. I also noticed that some of the matters, the method of disposal is that it is deemed to be a matter of mixed law and fact. So my question is, one, whether that proposal for a case management system, does that require some legislative intervention or is it something that the Tribunal working together in tandem with the board and the Ministry can implement as an administrative type of arrangement? Because, of course, that is the way that all judicial and quasi-judicial bodies are operating right now. It is some sort of case management process and procedure, it might streamline and it might address what the Chairman is speaking about in terms of fast-tracking matters prioritizing, et cetera.

And coming out of that, I would like to know at what point in time would a determination be made that a matter is mixed fact and law? How long does it take

you, of course, if the Tribunal is not able to address its mind to an issue because it is mixed fact and law, strictly a legal point, and how soon is that determination communicated to the appellant, because the appellant's recourse might then be in judicial review which obviously has time factors involved and so on. So I am concerned about that determination, and what point it is made, who makes that determination and how long it takes and whether or not a case management type of structure if it is implemented—no details were given here about the proposal that came from the national insurance contributors, claimants and appellants, I guess that is some sort of an association that deals with matters. But can you tell us a little bit more about case management proposal whether there was any merit to it and if it is something that you all will be willing to pursue?

Mrs. Hassanali: The case management proposal it is administrative for the most part. And we had—that association, national insurance contributors, claimants and appellants, they had reached out to NIAT to assist us in this process, but we were never able to get further than discussions. So NIAT has been doing its own internal case management to an extent. The files that were deemed to be mixed, law and fact and out of time, we have been writing these appellants and asking that they have their matters withdrawn from the Tribunal. That has not yielded as much results as we would have liked, because more often than not the persons still want to have their matters brought before the Tribunal.

Ms. Lutchmedial: Okay, so getting back to the question, when exactly would that determination be made? Is it that you have a process where you vet the notice of appeal and you make a determination? Do you have to wait for all the files to come from NIB and look at it and then make that determination? And if it is that they do not agree to withdraw, it is open to you I suppose to dispose of the appeal by way of saying it does not fall for our remit and you would have to communicate your

decision somehow to them in writing, right?

Ms. Cummings: Ms. Lutchmedial, if I may take that question. At this point in time what the Tribunal's approach is that—so when an objection is raised or an issue is raised by the NIB, for example, that this is a matter that is of mixed fact and law and is outside of the jurisdiction of the Tribunal, the Tribunal itself determines whether it has jurisdiction in the matter. But I take your point because it has happened that persons would have been waiting years to have their matter come before the Tribunal only to find out that the Tribunal does not have jurisdiction. So in terms of case management system I would certainly like to see that process be included in terms of the determining whether it is in fact a matter of mixed fact and law much, much, earlier in the process. And I think that in a case like that the Tribunal would need to have counsel to advise it because NIB has its counsel advising it. So the Tribunal would need to have its own counsel advising it, whether this is in fact the matter that is mixed fact and law, early in the stage, early in the process, sorry, so that appellants can be informed and they can be guided accordingly. As it is there is no system to sift out those matters early in the process.

Ms. Lutchmedial: So barring an objection to your jurisdiction from the NIB it would remain, let us just say the appeal gets into the queue and when it comes to the attention of the Tribunal you then make that decision. Do you have access to the resources such as, through the Ministry for a legal opinion or is it—do you all have to brief counsel to give an opinion to you? What is the process?

Ms. Cummings: Sorry, we do not have access to our own counsel on matters like this. No, we do not. So we do have to make a determination as the Tribunal whether it is something that falls within our jurisdiction and we would certainly like a determination to be made earlier in the process for the benefit of appellants.

Ms. Lutchmedial: And when that determination is in fact made at whichever point

it is made in the process as it stands right now, you communicate that in writing to the appellant and inform them that you are, for want of a better word, dismissing their appeal or that you are informing them that it needs to be dealt with elsewhere.

Ms. Cummings: Yes. And it is made actually in a hearing setting where the appellant—both sides get an opportunity to make submissions as to whether the matter does not fall within the jurisdiction of the Tribunal and make a finding. And, yes, a decision is made formally and the appellant is informed in writing.

Ms. Lutchmedial: Okay. The other question, I am just backtracking a little bit, my first question was on the legislative proposals and I heard about the—we heard that they wanted to deal with the positions and so on, and the creation of deputy chairman and all of that.

But apart from that, could the Tribunal tell us about other legislative measures that they feel might assist apart from the creation of additional posts and whatnot? Is there anything else legislatively that needs to be done that you think would help with the operations of the NIAT.

3.15 p.m.

Ms. Cummings: I would certainly like to suggest that the time period for appeals be extended. Right now the appellants have six months to appeal and very often by the time they even are aware that they have the option to appeal, part of that time may have gone. And even if they are aware early on there are certain things that they would need to put in place in terms of getting their documentations, and so on, before they can submit the matter to the tribunal.

Mrs. Lutchmedial: Right. Just stick a pin there. Stick a pin. Can you just tell me—because I have had this issue before and I have encountered it. You said by the time they are aware of the need to appeal half of the time has gone, would time not begin to run when you become aware of the decision that is made and when you have to

come before appeal? Because I have had this issue from both the—I have seen it come up on both the side of the NIB as well as the NIAT that somehow you all start counting time from when you make decision and not when the person becomes aware of it, which legally speaking is incorrect as far as I am concerned and I think there is substantial case law on that point in judicial review and otherwise. So when the persons becomes aware of it does the six month period not begin running from there? Is that not how the Tribunal would deal with these matters and start counting the six-month time period?

Ms. Cummings: We count six months from the—well legislatively, how the legislation is structured right now, the six months starts to run from the decision of the National Insurance Board.

Mrs. Lutchmedial: Well, you see I—

Ms. Cummings: How it is stated in the legislation.

Mrs. Lutchmedial: Yeah. A legislation is also meant to be read with a tinge of interpretation. I cannot possibly see if the person is not aware of the decision. You just said that by the time the person becomes aware of the decision sometimes half the time is gone. If it is that the person is not made aware on the same day that the decision is made the six months cannot begin to run.

Ms. Cummings: No, actually what I said was that by the time they are aware that they have the option to appeal, because some persons do not know that they have a right to appeal or an opportunity.

Mrs. Lutchmedial: All right. But in any event when someone is advised of a decision they are also advised—from my recollection they would be also advised of the right of appeal. Is that something that is done by the board?

Ms. Cummings: Yes, it is—well typically they would advise the person of their rights to appeal, but it is not always done. I think members of the public are supposed

to be advised of their right to appeal and the procedure for submitting their appeal, for lodging their appeal.

Mrs. Lutchmedial: Yeah, I mean, I think that information should really accompany the decision.

Ms. Cummings: Yes. So they will accompany the decision. I have seen letters where they tell the claimant you have the right to appeal. What do you do now? But they are not told how that is supposed to be done, that they have to submit their notice of appeal at the box at NIB offices and all of that. The procedure is not explained to them. So what I am saying is oftentimes appellants are not aware of the full context in which they are to exercise this right to appeal and so to wait for more time for them to be able to—

Mrs. Lutchmedial: And you any think also perhaps some more information accompanying the decision might be useful in terms of getting people to operate? But you must have a time frame, whether it is six months or a year or how much ever it is. The fact is that that perhaps the provision of information ought to be mandatory in terms of assistance with the appeal and maybe some more—

Ms. Cummings: Some more guidance for appellants to say—

Mrs. Lutchmedial: Yeah, and maybe something like a—I do not know. It really ought not to be for the NIB to be offering assistance to people who wish to appeal. I mean they can advise them of the rights when they communicate the decision, but NIAT itself perhaps could use some resources to assist whether it is a helpdesk or something practical then to assist with people lodging their appeals to them in a timely manner. You think that would be useful?

Ms. Cummings: Yes, I do and that is something that Mrs. Hassanali and I have actually discussed particularly in terms of maybe like a plea hearing or conference with appellants to let them know exactly what the scenario is with respect to their

appeal is and, of course, in that case if that is in conjunction with a case management system where the Tribunal is able to be advised that it is a matter of mixed fact and law, or it is outside of the jurisdiction, then we would be able to inform the appellant or potential appellant through this process of a helpdesk that the [*Inaudible*] cannot be forwarded for X, Y, Z reason and you would need to get counsel to take it to another direction.

Mrs. Lutchmedial: So the entire case management proposal probably is something that you may wish to have all of this incorporated into them.

Ms. Cummings: One hundred per cent. Yes.

Mrs. Lutchmedial: Okay. Thank you.

Mr. Khan: Good morning all. Just to add some more information to the discussion regarding the rights to appeal and what is provided to the customers of the NIB. We do issue disallowance notices to all of our claimants who would have not been successful and we put information with respect to their rights to appeal, but we take the feedback that perhaps we could provide some more information. In collaboration with NIAT we are willing to take a phone number, an email address, some sort of contact information that we could put on our letters to our claimants. So we accept the feedback and we are willing to support.

Mrs. Lutchmedial: Could I ask a question? Is NIB still communicating its decisions via regular paper mail, or do you all have a system now whereby you utilize email and so on to communicate the decision to the claimants?

Mr. Khan: The majority of our customers actually—on our records we do not have email addresses for them. So our correspondence is still done via regular mail.

Mrs. Lutchmedial: Okay. So I mean that comes back to the challenge where I was indicating whereby sometimes physical mail can get lost, it can be delayed. With COVID I know, for example, you would have had a delay. So the actual pinpointing

the time that a person becomes aware of a decision at this point might be a bit challenging both for appeals and other legal recourse as well?

Mrs. Baboolal: Yes. That has become an issue on a number of occasions where you have the date NIB made the decision, then you have the date the appellant receives or becomes aware of the decision. But the appeal's regulation does give some leeway to the chairman to consider the appellant's reason for his late submission. In my attendances at the hearing if an appellant says well I have your notice dated three, four months, but I actually received it, we have been amenable to—we do not object to it being out of time and there is that—the Chairman does have the jurisdiction to say this is good reason why your appeal is late. So that has happened, but we know that putting some more information into the decision notices can assist an appellant in coming in within the time as opposed to trying to explain why I did not meet the time.

Mr. Chairman: Okay. So therefore what I am gathering is that the virtual knowledge out there should be something that—I think the NIB has mentioned that they are already on par with that. But I think it was the UK Parliament actually they now have something called “pension dashboards” that they were exploring that person's information like how much contributions they have, when they go to retire what they might get, and it is out there for the public to access that information. So that is probably something we may have to think about in the NIB in the future. I would like also at this stage to—

Mr. Camacho: Chairman, could we quickly respond to that please?

Mr. Chairman: Sure.

Mr. Khan: I know that our Chair and Executive Director would have spoken a bit about the technological changes that we are currently embarking on as part of this strategic period. That exactly is one of the items on our requirements for the

platform. So a customer portal, where customers can come in and take a look at their own contributions and their projected benefits at retirement. Similarly, a portal would exist for employers to be able to look at their contribution history and calculate their contributions that are due. So a number of Web-enabled services are on the radar for the NIBTT and we are very close to engaging someone to provide this service to us.

Mr. Chairman: Thank you. I am getting some very good news this morning. You are making me extremely happy this morning to hear how far we are progressing, but I would like to ask one question. The NIBTT has implemented control mechanisms to reduce fraud—you know, you had given that submission—and has developed claims guidelines to reduce the incidence of defective claims. That was in page 7 of, I think, your response to us. Could you please describe the control mechanism that NIBTT has implemented to reduce fraud? And secondly, what are some of the key components of the claims guidelines which aim to reduce the incidence of effective claim?

Mr. Khan: Mr. Chairman, the NIBTT would have implemented a comprehensive fraud control framework, a fraud policy, and the claims adjudication is just one small component of it. So our framework at the NIBTT includes policies, procedures. We have a dedicated unit right now that treats with internal/external controls and possibilities of fraud. In terms of your specific question with respect to the claims adjudication process, there are some additional documents that we now request prior to us determining a claim, and checks that are done as it relates to proving employment, proving someone's maternity claim is indeed valid by contacting relevant medical institutions, et cetera. And in terms of the analytics and so on, we do have in-house capabilities. So all in all the controls are in place right now and we have implemented this successfully since 2019, and it is all for the benefits of all

stakeholders to the National Insurance Board.

Mr. Chairman: Thank you. I would like to direct a question to the Tribunal members. In your submission you stated that currently there are no benchmarks for the operations of the NIAT. Page 5 I think you had given that comment. So in the absence of guiding principles, what tools are utilized to measure the effectiveness of your organization in the daily operations; and has the Tribunal considered establishing key performance indicators?

Mr. Camacho: Chairman, I do not know about you, but I am not seeing them online.

Mrs. Lutchmedial: Chairman, yeah, I am not seeing the Tribunal anymore. I think they may have gotten disconnected.

Hon. Member: Chairman, we are having some connectivity issues. We got bumped off a short while ago. So I am presuming the same thing with them.

Mrs. Lutchmedial: Well Chair, while we wait on them could I pose a question to the Ministry of Finance then until we—

Mr. Chairman: Proceed.

Mrs. Lutchmedial: Ministry of Finance, PS Lutchman. With respect to training and allocation of resources for training, you know one of the things that I find challenging in the public service is that as soon as people are trained we have a rotation, and you mentioned rotation of staff, but we also have persons on the Tribunal as well that may need training but then you do not have continuity. Is there a training plan and has the Ministry allocated resources for training; and what does the Ministry see or what can the Ministry do to ensure that training is really being given to persons who would remain either in an administrative capacity or in capacity as a member of the Tribunal so that the training is put to its best use; and what type of training have you all facilitated for members of the tribunal and for the administrative staff in the past, let us say two to three years.

Mrs. Lutchman: Through you, Chairman, in this year's budgetary allocation we would have included an amount for training under NIAT and I suppose that would have been in anticipation of the new members coming in. So when a new chairman or new members come in they are required to be trained, and the registrar would coordinate that training. So the chairman, members and NIAT staff, the staff of the Secretariat, they are trained when they come in. I concur with your concern about continuity. Once you have staff rotation you know the staff would have to be trained. We have put in place—well the Ministry has under its vote the NIAT allocation, and as I said we have an allocation for training which can be utilized.

Mrs. Lutchmedial: PS Lutchman, quick question. The administrative staff that—well we used the word “assign”—is it that they are actually officially seconded to NIAT or is it just an arrangement whereby they are placed there? Is that an official secondment in the public service? Does it work that way?

Mrs. Lutchman: I believe the staff members of the Ministry of Finance, they are not seconded. The position of registrar resides with the NIAT.

Mrs. Lutchmedial: Right. But the rest of the administrative staff are just Ministry staff that are assigned to work there. They are not actually officially seconded to NIAT?

Mrs. Lutchman: Yes, I believe so.

Mrs. Lutchmedial: Okay.

Mrs. Lutchman: So there is no secondment.

Mrs. Lutchmedial: Okay.

Mr. Chairman: At this stage I just want to mention the fact that I was fortunate to get an email from members outside, the external consultants who participated in the 2013 enquiry. This email is from Mr. Hubert B. Dolsingh, Mr. Ramnath Ramcharitar who actually worked as a regulator before and has his private the consultancy, and

also Mrs. Neesha Dolsingh-Jody. So they were kind enough to put some recommendations that they think that since the 2013 hearing—and part of their recommendations, I do not know if it was already fulfilled by the NIB, but one of the recommendations that was made is to re-establish a claims review committee at NIB to lighten the caseload of NIAT. Is that existing or is it a good suggestion? Could I get a feedback from that?

Mrs. Persad-Poliah: So, Chair, following the 2013 sitting of this Committee we carefully considered the recommendations that were made and in fact probably only one would have been a direct recommendation to the NIB and that would have been for the establishment of a case management system or an appeal's management conference to review all appeals, et cetera. And while that in itself did not actually happen because that would have required the support of the NIAT. What the NIB did do in commencing 2014/2015, we actually went ahead to initiate a process whereby appellants could have requested a review of their claims, and we saw approximately 750 appellants were invited to make an appointment and to review their cases depending on whether it was a matter of fact, et cetera. We saw some success with it in that we did get approval from the Ministry of Finance, the Permanent Secretary, for this initiative, and coming out of that initiative approximately 32 per cent of the outstanding appeals were in fact withdrawn by the appellants.

Over time though the facility has actually not been accessed and it is more accessed now on a very limited basis over the few years. At this point we have very little if any persons who would have come forward to actually utilize this process. So we have given the appellants, Chair, starting back in 2015, and coming of the recommendations made we did provide the appellants with an opportunity of coming to us to have that case reviewed as opposed to going to the route of litigation.

Mr. Chairman: So it was offered but you are getting some sort of resistance there from the—

Mrs. Persad-Poliah: Yes, it was offered. There was some success and it is still an available facility, Chair. It has been publicized. It is on our website. We remain open, we are ready and willing to support the review process and to see how we can improve upon it.

Mr. Chairman: Sure. My other question would have been was it advertised, but you have answered that.

Mrs. Persad-Poliah: It is on our website, yes.

Mr. Chairman: Another recommendation coming these esteemed consultants outside was:

And establish a three-month deadline for NIB to hand over all information regarding an appellant's case or the NIAT will rule in favour of the appellant. Now, I think I had gone through a similar motion here, but then you have already mentioned that your limits of sending, your time limits have now improved and at least you are working on that. So I think somehow we are heading in the right direction in terms of you providing the information about the appellant's case. Right? Another recommendation actually was cases presented to the NIAT are only allowed to be adjourned once after which a ruling has to be made. So I think this is an answer really for the NIAT, the tribunal, but unfortunately they are not here. Because the consultants found that backlogs occur when there are too many adjournments of the same case. If there are only a specific number of cases allotted to particular hearing and the committee adjourns, half of them goes to the next hearing. So this is one of the recommendations made by the team here. And also the increasing the frequency of hearings temporary to clear up the current backlog of cases which I think is something that I think the Chair of NIAT had mentioned that

they are working towards this. So this letter will be communicated to all to get some comments to see if somehow that could help us in our overall assessment of this and improvements that are needed.

Mrs. Hassanali: Mr. Chairman?

Mr. Chairman: Mrs. Hassanali, you wanted to—

Mrs. Lutchmedial: I think NIAT is on.

Mrs. Hassanali: Yes, thank you. We had some technical challenges, but I wanted to respond to your last comment about the adjournment of matters. I take responsibility for that in terms of my tenure, and what I would say to that is appellants who come before the Tribunal are very often unrepresented. Most of them, about 80 per cent of them are unrepresented either by counsel or national insurance consultants. Whereas the National Insurance Board usually has two to three qualified attorneys representing their interest. So I tend to err in favour of the appellant in terms of giving them opportunities to get the information that they need whether it is witnesses, documents from their employers and, of course, we cannot compel any witnesses or persons to appear before the Tribunal. So oftentimes appellants would need time to build their case and they may not be aware of some of the kind of information that they need to bring before the Tribunal to bolster their cases.

So, I as chairman, I had taken the view that I will give appellants not an unreasonable amount of time, but enough time as possible to get their cases together, and that may warrant and from time to time has warranted adjournment of the matters. And we have also had requests for an adjournment on the part of NIB who may have ongoing investigations in matters that come before the Tribunal. So I just wanted to make that clear. Thank you.

Mr. Chairman: Thank you. I think we may be about to wrap up this session. I want

to ask are any members of my Committee, do we have any other burning questions, any questions you may want to address to the members present here from the various—

Mrs. Lutchmedial: Chair, yeah, I have two questions. One for NIAT about the emailing the notices of appeal. You indicated that you have been—especially with overseas applicants we know that sometimes we have a lot persons who may have migrated but they are entitled or they make claims to National Insurance, to NIB, and they would want to perhaps approach the NIAT if they are not happy about the decision. So how has that emailing system of emailing the notices of appeal, how has that been working? Is there any room for further improvements with the lodging of the notice of appeal electronically particularly with COVID and so on right now? So that is the first question if you could give us a feedback on that.

Mrs. Hassanali: The notices of appeal can come to us electronically or the physical document and that has been so ever since I assumed as Registrar here in 2014. We had more so during the 2020 period because of COVID having more nationals living here submitting their appeals that way. The challenge with that though is that the system requires that the appeal document must be signed by the appellant. We must have a signature. So even when we consider doing an electronic version of the notice of appeal to have the appeals come to us electronically, have them fill online and resubmit to us, it must have that appellant signature on it and a date. Those things are important. So we have not figured out any other way to do that to date other than to have the appellants wherever they are, at home or abroad, download the actual application, fill it out, scan it and send it back to us, and that is what we have been using primarily as far as the electronic version of the appeal application is concerned.

Mrs. Lutchmedial: And the signed scanned document is accepted?

Mrs. Hassanali: Is accepted by us and by the NIB.

Mrs. Lutchmedial: Right. Okay.

Mr. Camacho: Chairman, if I may? Is it possible to have an editable document so that people could electronically affix their signature, date it and send it back electronically to avoid them having to find somewhere with a scanner or whatever? Just a forum. In the modern world now one would think you could affix your electronic signature if the legislation permits and you do not have to go through print, sign, scan, send back. The days for that are gone.

Mrs. Lutchmedial: Subject to correction, Chair. I think that the legislative requirement in law for public authorities to accept electronic signature is not fully proclaimed as yet. So that might be the challenge that you might have with that position, but I am certain it is doable with the—

Mr. Camacho: Technology.

Mrs. Lutchmedial: Yeah, once the legislation is fully implemented. So could I ask if the NIB accepts electronic signatures or any sort of electronic submission of documents. Apart from signing, scanning and emailing back, is there any sort of electronic form in place? I know there is a form you can request your contribution statements but that is not to be signed.

Mrs. Baboolal: Yes. So that is correct. We do have an online request for contribution statement, but it is just a request saying that you want your statement. And otherwise we have not gone online claims, and the only other online feature we have is online payment where you just upload your documents regarding your contributions for the month. So we have not gone that way as yet either.

Mr. Camacho: Chairman, if I may, to Ms. Lutchmedial's comment? I do not know, is there some timeline for actual—it is “proclamation” you used, the word, of the rest of the Act to allow for it?

Mrs. Lutchmedial: It is outside of my remit, but I have no idea. I know that there

is a law in place. I do not know how many parts of it have not been proclaimed, but I cannot speak to the rest of the proclamation of it. I will look it up and see how much has been proclaimed.

12.00 noon

Mr. Chairman: Well at this stage, I would like to thank members for their contribution and I think there are no further questions on our part from Committee members I understand. So at this stage, I would like to get brief closing remarks from Mrs. Sharon Hassanali, the Registrar of the National Insurance Appeals Tribunal.

Mrs. Hassanali: Thank you, Chairman. I do apologize for us being off camera, it is interfering with our feed.

Mr. Chairman: I thought you were hiding from us actually. [*Laughter*]

Mrs. Hassanali: [*Laughter*] No, it actually kicked us off the Zoom for a moment. Thank you to everyone that has participated today and assisted, have listened to the needs of NIAT. We are a small unit. We are trying our best with the resources that we have to facilitate the citizens of Trinidad and Tobago, those that reside here and those that reside abroad. And we are hopeful that with the implementations that we are asking for that, we can continue to do the work of the tribunal and to remove this backlog so that the next Registrar that comes before the JSC perhaps will be able to say that there is no backlog and they are more current and up to date than we are at this moment. Thank you very much.

Mr. Chairman: Thank you very much. And I say it is a small unit but we are hoping, you know, we can expand it a bit, get your additional staff and assistance that were offered. And at this stage, could Mrs. Niala Persad-Poliah, Executive Director of the NIBTT give closing remarks?

Mrs. Persad-Poliah: Chairman, thank you very much and yes, I just wanted to share that we at the NIB, we are happy to have been here today. We recognize the National

Insurance Appeals Tribunal to be a key and important stakeholder where and of course we pledge our willingness to continue to support and collaborate and partner with NIAT in an effort to improve upon what we do and whom we serve because we recognize that that will only redound to the benefit of our 200,000 plus beneficiaries that we continue to serve in this country. In addition to continuing and be willing to partner and collaborate, Chair, we are also willing to go the route digitally in terms of hearings and we will be reaching out to NIAT in terms of how we can support with those digital hearings.

Thirdly, we are committing to submit all the remaining files in the shortest possible time frame and we are also willing to do that digitally in a format that is approved by NIAT. We have committed here, Chair, to amending our letters of disallowances that will allow for a little more information to be placed so that the appellant can have just a bit more information in terms of the routes that he or she can take. And as I would have said before, Chair, the review process that we initiated in 2015 will remain open and available to all our appellants. Thank you, Chair.

Mr. Chairman: Thank you very much and as I mentioned before, I commend you for your thrust in the electronic world to assist and also your promise to assist the members of NIAT through their venture.

At this stage, Mrs. Jennifer Lutchman, Permanent Secretary, Ministry of Finance. There is a lot on your hands really to try and push in some staff so I would love to hear some closing remarks from you please.

Mrs. Lutchman: Thank you, Chairman. We are committed to continue to support NIAT administratively and we will continue to pursue the strengthening of the organization structure. A lot of recommendations have been made in this Committee sitting as well as in the previous Committee sitting and we will continue to pursue those. We will also commit to continue the pursuit of the legislative amendments

that would allow for NIAT to function efficiently and effectively. Thank you, Chairman.

Mr. Chairman: Thank you very much. So at this stage, you know I am very happy to be here today to hear another thrust that we are going to help our population, the persons who are in need of the pensions and to expedite their appeal, and I am saying that I think if we all push together, we can probably have a timeline where the different stakeholders can really try to get together to ease that backlog.

At this stage, I would say I would like to thank the officials of the NIAT, NIBTT and the Ministry of Finance for your contribution in today's proceedings. I would like to thank the Committee members who participated for this virtual hearing, also the staff of the Office of the Parliament for their procedural and logistical support and the viewing and listening audience who actually tuned in to this to get some idea of what is happening in terms of NIAT.

So, I thank you all and I declare that this is the end of the hearing. Thank you.

12.35 p.m.: *Meeting adjourned.*