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CHAIRPERSON: Good morning everybody. Maybe before we start with the leading of evidence one should start with the letter which we received yesterday from the Mr. Terry Crawford-Browne and the letter I think seems to be a request
5 that he's making and as it's said in one of the paragraphs of the letter it's suggestions to this Commission for this Commission to consider. Maybe before we start with the leading of the evidence if Mr. Crawford-Browne is around can I ask him maybe to try and deal with this letter, and if possible
10 readsame into the record and from there we can try and deal with this request.

MR CRAWFORD-BROWNE: Thank you Mr. Chair. Would you like me to read the letter into the record first?

CHAIRPERSON: Read the entire letter into the record first.

15 MR CRAWFORD-BROWNE: And then I have some points of clarification to make.

CHAIRPERSON: Carry on.

MR CRAWFORD-BROWNE: Dear Judge Seriti, there are 23 points in the letter.

20 *"1. I herewith lodge my objection to the closure of yesterday's afternoon session. The Minister of Justice assured the people of South Africa in October 2011 that the Commission will be an open and transparent process. More pertinently the*
25 *closure is in contempt of the Constitutional Court*

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which in November 2011 gave its consent to the Commission's process and Terms of Reference. Thereupon I agreed to withdraw my case CCT103-10.

5 2. *The Chief of the Hawks General Anwar Dramat confirmed in Parliament in September 2010 the Hawks had inherited in 2009 from the Scorpions 460 boxes and 4.7 million computer pages of evidence in respect to the BAE Contracts, plus also the files*
10 *relating to the German frigate and the submarine consortia. Dramat told the Standing Committee of Public Accounts (SCOPA) that there was so much evidence it would take up to 10 years to analyse it.*

15 3. *Dramat announced two weeks later that the Hawks have abandoned the Arms Deal investigation whereupon I lodged my application CCT103-10 to the Constitutional Court but given this huge volume of evidence it was irrational and therefore unconstitutional for President Jacob Zuma to refuse*
20 *to appoint a commission of inquiry into the Arms Deal.*

25 4. *The President's legal counsel was unable to refute these elements plus other evidence that I submitted to the Constitutional Court. Consequently, President Zuma announced in*

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September 2011 that he would appoint a Commission of Inquiry into the Arms Deal and thus finally acceded to demands which Archbishop Emeritus Ndungane and Patricia De Lille, Archbishop Emeritus Tutu, the former President F W De Klerk, Dr Mamphela Ramphele, the late Helen Suzman and I plus many other South Africans have been making since August 1999.

5. One of the first actions of my legal representatives was to write to the Commission to request that the documentation referred to in paragraph 2 could be secured, being the documentation of the Arms Deal contractors and not of the Department of Defence it is not classified material.

6. In recent days it has been reported that this documentation is in fact stored in two containers in the Hawks' parking lot. It is also reported notwithstanding the experiences at the Constitutional Court of 2011, that the Commission does not deal as evidence as a significance to its investigation.

7. I am concerned that objections by the Department of Defence to the Commission's use of reportedly classified documentation, is merely a

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ploy to further prolong and obfuscate the Commission's work. Indeed there was no need to use classified documentation given the huge volume of unclassified documentation already held by the Hawks and inherited from the Scorpions.

8. I made my written submission to the Commission in June 2012, now well over a year ago and supported by a legal opinion by Advocate Geoff Budlender [SC] that the Arms Deal acquisitions were unconstitutional and illegal in terms of Section 217(1) of the Constitution, and also fraudulent.

9. I made a supplementary submission in December 2012 reminding the Commission that Section 237 requires that all constitutional obligations must be performed diligently and without delay.

10. The Commission has still, after 14 months, been unable to rebut my contentions that the Arms Deal was unconstitutional and illegal right from inception.

11. Nor has the Commission contested Budlender's findings that the Internationally accepted remedy for fraud, is cancellation of the contracts, return of the equipment and recovery of the monies.

12. In addition, the remedies in case of bribes

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clauses in the Arms Deal supply contracts gives the South African Government the right summarily to cancel the contracts and to claim compensation.

5 *13. It is public knowledge that ThyssenKrupp, on behalf of the German Frigate Consortium, paid a plea bargain fine in Germany of Euros 46 million after German tax authorities rejected claims that bribes paid to secure the frigate contracts were useful business expenditures (indistinct) and thus a*

10 *tax deductible.*

14. It is public knowledge that the new management of MAN Ferrostaal acknowledges that offsets were simply vehicles to pay bribes and that the company's old management had no intention of

15 *complying with offset commitments.*

15. It is public knowledge that the Department of Trade and Industry informed Parliament that the offset commitments did not materialise.

20 *16. It is public knowledge that the new management of SAAB acknowledges that BAE misused its accounting system to launder bribes to secure the BAE/Saab Gripen fighter aircraft contracts, and that some of these bribes were paid to Fana Hlongwane.*

25 *17. It is public knowledge that the former National*

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5 *director of Public Prosecutions in March 2010 refused to seize an estimated R200 million worth of bribes paid by BAE to Hlongwane which authorities in Lichtenstein had frozen pending seizure by South Africa. He gave us spurious excuse of insufficient evidence whereupon Judge Willem Van der Merwe placed about 500 pages of documentation into Public Register in the North Gauteng High Court.*

10 *18. It is public knowledge that authorities in the United States between 2010 and 2011 fined BAE a total of US\$479 million US for accounting irregularities in numerous cases in several countries, including South Africa.*

15 *19. The South African Air Force as early as July 1997 rejected the BAE proposals as both being too expensive and unsuited to South African requirements. The former Secretary of Defence resigned in 1998 rather than be held accountable for such blatant tendering irregularities as the late Minister of Defence's so called visionary approach to exclude price from consideration.*

20 *20. Amongst the documentation that I submitted to the Constitutional Court there is a 160 pages of affidavits by the Scorpions and the British Serious Fraud office which detailed how and why BAE*

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laundered bribes of £115 million to secure it's BAE Hawk and BAE/Saab Gripen fighter aircraft contracts to whom those bribes were paid and which bank accounts were credited.

5 21. *Instead of confining itself to the 6 Terms of Reference established by the President and the Minister of Justice, the Commission is reported by two former staff members to have pursued a second agenda, to silence the Terry Crawford-Brownes of*
10 *this world. In addition Judge Francis Legodi has also resigned.*

15 22. *Given the evident inability of the Commission to deal with its Terms of Reference within the time allocated to it. I suggest that you immediately and without delay write to President Zuma, recommending to him:*

20 (a) *That the Arms Deal contracts were unconstitutional and illegal right from inception, the offsets failed the requirements of Section 217 (1).*

25 (b) *That it is public knowledge confirmed by the Minister of Defence and Veterans Affairs that the frigates and submarines are inoperable and almost half of the BAE/Saab gripens have been placed in long-term storage because*

South Africa lacks the pilots to fly them, the mechanics to maintain them and even the money to fuel them.

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(c) *That in terms of 1.6 of the Terms of Reference South Africa has the right to cancel the contracts and to recover the monies.*

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(d) *That the foreign loans incurred to finance the Arms Deal contracts were underwritten by the German Government Hermes Export Credit Agency and by the British Government's Export Credit Guarantee Department. Thus repudiation by South Africa of these contracts and their loans because of bribery and fraud would mean that the financial consequences would fall to British and German taxpayers and not to South Africans.*

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(e) *That in recovering the monies the South African taxpayers would also recover the bribes since, obviously, these were built into the prices of the Arms Deal acquisitions.*

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(f) *That the Arms Deal contracting companies should be black listed both in South Africa and internationally in terms of the OECD Conventions against bribery of foreign officials.*

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(g) *That you will withdraw the Commission's*

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request for extension of its mandate and for additional public funding.

(h) *That you advise the President to appoint retired judges to ascertain from former President Thabo Mbeki, former Minister Alec Erwin and Minister Trevor Manuel, what pressures and threats were exerted upon them by European Governments and Arms Companies and also why they abused their powers of public office to block meaningful investigation of the corruption that followed.*

23. *It is estimated that the Arms Deal debacle has cost about R70 billion. I respectfully suggest that these funds could be far more beneficially applied towards social upliftment in keeping with the commitments of the Constitution, including Section 198 regarding the principles which govern National Security”.*

Thank you. May I proceed with clarifying points, your honor?

May I proceed with the clarifying points that I was asked to present this morning?

CHAIRPERSON: Which points are those?

MR CRAWFORD-BROWNE: These were points that were made to you yesterday after I lodged the objection and the letter with the Evidence Leader Advocate Barry Skinner.

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CHAIRPERSON: I'm not aware of those points.

MR CRAWFORD-BROWNE: I have points that I would like to make to clarify.

CHAIRPERSON: Okay, you can go ahead.

5 MR CRAWFORD-BROWNE: May I proceed? Thank you Sir, thank you for inviting me to speak this morning, I have six points that I wish to make.

1. The primary reputable point is the rationale of the Arms Deal with the R30 billion spent on the armaments will
10 somehow generate R110 billion in offsets to create 65 000 jobs. That is recorded in (indistinct) and elsewhere. Three of the Commission's six Terms of Reference meaning 1.1, 1.3 and 1.4 refer to offsets. Offsets are internationally discredited as a scam promoted by the armaments industry with connivance
15 and corrupt politicians to please the taxpayers and to promote the proliferation of weapons. Offsets are also prohibited under the rules of The World Trade Organisation because of their notoriety of corruption. The Cabinet was warned by the Auditor-General and also by the Arms Deal Affordability study
20 that the Arms Deal and its offsets were a highly risky proposition that could lead the country into mounting economic, fiscal and financial difficulties.

The study warned that instead of job creation of 65 000 jobs a negative economic consequences would be job
25 losses of about 150 000 jobs, which has subsequently been

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estimated that between 500 000 and 1 million jobs were lost. Parliamentarians and even the Auto General were prohibited the details of the offset contracts on mysterious excuse impose by the British Government that the contracts were commercially confidential. The British Government seconded officials extensively to secure the success of the offset program, in reality their function was to block investigations.

As we know the cost of the Arms Deal escalated sharply, first from R8 billion to R30 billion and subsequently it was up to an estimated R70 billion. The offsets never materials and it was simply vehicles to pay bribes, nor did South Africa ever receive the promised technology. Section 217(1) of the Constitution requires Government procurement to be conducted in accordance with the system which is transparent their equitable competitive in cost effective. The Arms Deal contracts failed all of these constitutional obligations.

2. The Arms Deal was therefore unconstitutional and illegal right from inception. Section 217 trumps whatever evidence is produced to the Commission, whether that evidence is classified or unclassified. The President's legal counsel was unable at the Constitutional Court to refute the reality that there are millions of pages of evidence of corruption, thus the ramble over classification of documents and rules of this cross of his emanation is a complete red herring and is a further ploy

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to waste time and public patience.

3. The Commission further allocates 37 days to officers and officials of the Department of Defence and 26 days for officials from the Department of Trade and Industry ...

5 CHAIRPERSON: Mr. Crawford-Browne I'm sorry, but some of the issues that you are raising, I thought you are going to clarify the points that you have raised in your letter. You seem to be raising totally new issues now. And 2; the arguments that you are making I think is the same arguments that you are making in your submissions, I never thought that this was a stage in which you should deal with the submission. I have looked at your letter and I have seen the points that you are raising, I thought that was all that we need to deal with at this stage, at a later stage, if needs be, you will be given an opportunity of making your full submissions. Is there any other thing that you want to raise besides what you have said in this letter without going into details?

15 MR CRAWFORD-BROWNE: Yes Sir, I have two further points to make. Three points, 4, 5 and 6.

20 4. The Cabinet Sub Committee that, some of the Arms deal was led by Deputy President Thabo Mbeki, the Minister of Trade of Industry, the Minister of Finance and the late Joe Modise and the late (indistinct). These 5 Government leaders, some of them are still alive got South Africa into the mess. The people such as Prince Bandar of Saudi-Arabia

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(indistinct) were simply bag men. I will cut through some of this.

5 5. In violation of the EU Code of Conduct on Arms Exports European governments exerted massive pressures on the New South Africa to buy armors that the country did not need and could not afford. Again the Air Force had rejected the BAE proposals in early 1997. I will cut some of the others but I will then go on to say, well off course I note that President Mbeki, former President Mbeki have a Masters
10 Degree in Economics and Minister Manuel as the minister of Finance was responsible for the affordability and funding of the purchases, his signature on the loan agreements recklessly committed South Africa to deform clauses which Advocate Michele Cooper in the Cape High Court in 2003 can accurately
15 be described as potentially catastrophic for South Africa. Mr Cooper also confirmed the authenticity of these documents.

CHAIRPERSON: I'm afraid, Mr. Crawford-Browne I'm not going to allow you to go into those details, you have made your submissions, the points that you are making, they are
20 contained in your submissions, can you briefly try and summarise what you are saying now?

MR CRAWFORD-BROWNE: Thank you Your Honour. I think I will leave this, I have actually, if you would excuse me, I must leave to another, attend another conference on corruption
25 which began at 10h00 but I shall attend at lunchtime would

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then be available for further clarifications, if you would excuse me please Sir.

CHAIRPERSON: Mr. Browne, I think I want to deal with your application now. Once you have finalised your application if I am not (indistinct) on your suggestion that you are making now then we would like to start leading the evidence of witnesses who are ready to lead evidence today. If you don't mind you can give us also a copy of that document but then before you do that let me just find out from any of the Evidence Leaders (indistinct).

ADV MPHAGA: Thank you Chair. We just want to reply briefly to the contents of the letter of Mr. Crawford-Browne. May I just hand in this notice of our argument? Thank you for that. Commissioners, the letter which was received from Mr. Browne in 19 August 2013 was received yesterday during the closed hearing conference between the legal rep of the parties and the Evidence Leaders, it was raised initially as an objection to the closed peak hearing conference and we understood it as that, that those peak pre-hearing conference in itself amounted to the contempt of the original court application. But we wish to mention that Mr. Crawford-Browne was allowed in that closed session, he was a part in that closed session, so he was not in any way prejudiced by the session itself, so the closed sessions but a closed session of the Commission itself and I think it was made clear when the Notice was published that the

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Commission would start at 10h00 and thereafter at about 14h00 there will be a closed session, so no prejudice follows from that closed session.

5 But to deal briefly with the contents of the letter from Mr. Crawford-Browne, we just want to mention that the request or the application he makes has far-reaching consequences when one considers what it seeks to achieve and in this respect one has to consider the suggestions or the request that he makes in paragraph 22 (a) to (h) of the letter.

10 It is evident that what Mr. Browne seeks to for the Commission is to make findings of fact and law without the benefit of having heard any oral evidence of the relevant parties at all. The same allegations which emanate from this letter were made by him in various correspondence, the court action that he brought

15 against the President and then the Government of the Republic, including the application that he brought before the Constitutional Court.

These allegations are not new at all. He knew very well in advance that the Commission was preparing for the

20 hearings and did nothing, and now wishes to bring all the efforts of the Commission to note. He alleges matters of public knowledge upon which the Commission can be able to make findings without enquiring into these matters. The basis of the request is premised on the basis that after fourteen months the

25 Commission has been unable to rebut and we emphasized the

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word rebut. His contentions that the Arms Deal was unconstitutional and illegal from inception. The duty of this Commission is not to rebut allegations made by witnesses but to enquire into and make recommendations.

5 He further mentions in his submission to the Commission that he relies on the opinion that was given by Advocate Geoff Budlender[SC] have made several submissions. A closer look at the opinion itself clearly indicates that no findings were made in the opinion, but rather the opinion
10 concludes as follows. The procurement contracts in the Arms deal were required by law were in accordance with your system, which is fair, equitable, transparent, competitive and cost effective. To in assisting to which was used in these contracts, offsets played a very material role, there is reasons
15 to doubt whether such a system is in accordance with those requirements.

3. If the contracts were not in accordance with those requirements, they were unlawful and invalid, whether such a contract sets aside by a court depends on the facts of
20 the case.

4. If the contracts were marked by bribery or other improper conduct, a participant in the corrupt arrangement cannot receive or repaying any of the amounts payable under the contract, this were the conclusions of the opinion which
25 was given by Budlender [SC] it is not findings, that is why he

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prefaces these conclusions with the word "if", so there still have to be an enquiry on the substantial matters, in respect of corruption or any fraud committed.

5 It is also apposite to refer to the brief background before dealing with the factual allegation that he raises. The Commission would note that Mr. Crawford-Browne brought in action in the Western Cape High Court under case number 1135 of 09 during 2009, which was against the President and the Government in the Republic of South Africa wherein *inter alia* 10 he sought an order to appoint an independent constitutional of enquiry within 10 days of the granting of the order.

Before authorization of that of that action on 16 November 2010 he again brought an application to the Constitutional Court against the President and the Republic of 15 South Africa seeking direct access to the court for a purpose of seeking *inter alia* an order that for the President to appoint within 10 days an independent commission of enquiry in terms of his responsibility under Section 84(2)(f) or the Constitution read with the Commissions Act of 1947 to inquire into 20 allegations of irregularities of fraud and corruption in the Arms Deal and report publicly thereon.

I emphasize the word allegations. In support of his Constitutional Court application, Mr. Crawford-Browne had filed a founding affidavit which *inter alia* stated the following; as 25 can be seen from paragraph 5 to 8 of the amended particulars

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of claim, the background factual matrix upon which I rely is replete with evidence and allegations which cry out for proper investigation with a view to bringing those guilty of possible criminal activity to justice in the Criminal Courts of the land. I stress that even if all or some of the allegations are ill-founded their mere existence in the public domain, is sufficient justification for a legally and rationally sound exercise of the applicable Constitutional responsibility, in favor of the appointment of a commission of inquiry.

10 This could serve to clear the names of the persons falsely accused of wrongdoing in relation to the conclusion of the Arms deals. Paragraph 5 to 8 of the amended particulars of claim speaks for themselves. The allegations set out in the letter before the Commission are not new but forms part of the allegations in paragraphs 5 to 8 of the amended particulars of claim which were attached to the Constitutional Court Application as per the annexure. The question to be posed is what has changed, to convince Mr. Crawford-Browne that these allegations do not need any further investigation by the Judicial Commission of inquiry. Is there no longer any necessary for innocent persons to clear their names?

20 The Commission should also note that Section 1 of the Commissions Act 8 of 1947, stipulates that whenever the President has before or after the commencement of this Act appointed a commission for the purpose of investigating and

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matter of public concern, in other words there has to be a matter of public concern for the President to invoke the Provisions of the Commissions Act 8 of 1947, which he has done, so this matter that the Commission has to deal with is a matter of Public concern and not of an individual. The President has appointed this commission with specific terms of reference and declares that the Provisions of the Commissions Act will be applicable. Regulation has been promulgated and directive issued by the Chairperson of the Commission. The Directives have called for interested parties and members of the public to make submissions under oath and 10 submissions including that of the applicant have been received. The allegations made in the letter have been repeated in a submission of the applicant.

15 According to a letter of the applicant, the Commission should only consider his submission and matters raised therein to the exclusion of others and solely on his submissions make the requested recommendations. This is absurd and inconsistent with the reasons and purpose for the establishment of this Commission. The extent of public interest in the appointment of the Commission is set out in paragraphs 9 and 10 of Mr Crawford-Browne's amended particulars of claim which are attached to the Constitutional Court application and I wish to read them into the record. In paragraph 9 of the amended particulars of claim he says, it

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says:

5 *“On 1 December 2008 Archbishop Emeritus Desmond Tutu and former President F W De Klerk jointly wrote an open letter to the first defendant requesting the appointment of a Commission of Inquiry into the Arms Deal, a copy of the request is attached. Evidence of applicants supported this request, amongst them the late Helen Suzman and Mampela Rampele who is the former vice-chancellor of the University of Cape Town. The plaintiff (applicant) also joined in making the request”.*

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Paragraph 10 of this particulars of claim says:

15 *“The said request is that one of many similar requests made since 1999 by all significant opposition political parties with the exception of a newly formed (indistinct), COSATU, the SA Communist Party, non-governmental organisations, civil society groups and churches as well as ordinary citizens, all of whom are in the circumstances reasonably concerned about the effects of possible wrongdoing in the arms deals on the public of society and the impairment of accountability and responsiveness to the needs of the people on the part of those involved in alleged*

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25 *wrongdoing in the deals and those who have alleged*

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covered up the alleged wrongdoings in the deals”.

The applicant is seeking the Commission to grant and entertain his request as per the letter without considerations of all these members of the public that was mentioned, he does not also
5 profess to be acting in the interest or on behalf of the persons and entities he has referred in these paragraphs I've mentioned. Should the Commission ignore the pleas of these persons on civil society and solely make its findings on untested allegations set out in submission of the applicant, the
10 applicant's request is surely not in the public interest and having considered the allegations made in its founding affidavit and the amended particulars of claim it is not *bona fide* and seeks to prejudice the proceedings of the Commission within the meaning of Regulation 16 which provides that:

15 *“No person shall insult, disparage or belittle the chairperson or any member of the Commission or prejudice the proceedings or findings of the Commission”.*

A Commission of Inquiry appointed by the State President and
20 to which the Commissions Act 8/1947 has been made applicable, it's not a quasi-judicial tribunal but a fact-finding body. The Commission has been appointed to enquire into and make recommendations which presupposes that recommendations must be preceded by an investigative inquiry.

25 As I mentioned, the applicant is making far-reaching

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allegations against persons and entities who will be adversely affected if this Commission simply makes recommendations without an inquiry.

In *Van Huyssteen & Others v Minister of Environmental Affairs and Tourism & Others* Farlam J who is at Marikana noted that:

“Experience shows that there is no better way of getting at the truth than a hearing where the witnesses who hold and espouse conflicting views can testify under oath and in public and where they are subject to interrogation”.

Why should we deny these witnesses this opportunity? The applicant is not a litigant but a witness of this Commission, he seems to be confusing his role. It is apposite to refer to a passage from Wigmore quoted with approval *in extenso* in *Attorney-General Transvaal v Kader* by EM Groskopf JA:

“From the point of view of society’s right to our testimony it is to be remembered that the demand comes not from one person or set of persons but from the community as a whole, from justice as an institution and from law and order as indispensable elements of civilised life. The whole life of the community, the regularity and the continuity of its relations depend upon the coming of the witness. Whether the achievements of the past shall be

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preserved, the energy of the person capitalised and the ambitions of the future be realised depends upon whether the daily business of regulating rights and redressing wrongs shall continue without a moment's abatement or shall suffer a fatal cessation. The business of the particular cause is petty and personal but the results that hang upon it are universal. All society potentially is involved in each individual's case because the process itself is one of vitality, each verdict upon each cause and each witness that verdict is a pulse of air in the breathing organs of the community. The vital process of justice must continue unceasingly, a single cessation typifies the frustration of society, a series would involve its dissolution. The pettiness and personality of an individual trial disappear when we reflect that our duty to bear testimony runs not to the parties in that present cause but to the community at large and forever".

20 May I also refer to the excerpts in *Du Preez & Another v The Truth and Reconciliation Commission* 1997 (3) SA 204 where the court correctly stated:

"The court of first instance appears to have approached the matter as if it entailed a judicial proceeding based on the adversarial format".

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As was said by Lord Danning in the passage applied by the court below it is a very special kind of inquiry. It must not be confused with other inquiries which we have had to consider. Remember what it's not, it's not a trial of any one, not anything
5 like it, this approach is powerfully supported by the recent paper, procedures at inquiries, the duty to be fair by Sir Richard Scott, formerly Lord Justice and now Vice-Chancellor of the Supreme Court Law Quarterly Review. This article draws upon his Matrix-Churchill inquiry into the sale of arms to Iraq
10 where he states:

*"In an inquisitorial inquiry there are no litigants, there are simply witnesses who have or may have knowledge of some of the matters under investigation. The witnesses have no case to
15 promote. It is true that they may have an interest in protecting their reputations and an interest in answering as cogently and comprehensively as possible allegations made against them, but they have no case in the adversarial sense. Similarly
20 there is no case against any witnesses. There may be damaging factual evidence given by others which the witness disputes, there may be opinion evidence given by others which disparages the witness. In these events the witness may need an opportunity
25 to give his own evidence in refutation".*

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Scott VC then gives consideration to the six cardinal principles formulated by Lord Justice Salmon in the report of The Royal Commission on Tribunals of Inquiry, the second of the second principle is formulated thus:

5 *“Before any person who is involved in an inquiry is called as a witness he should be informed of any allegations which are made against him and the substance of the evidence in support of them. If the evidence is potentially damaging to those*
10 *affected by it and is relevant to the matters being investigated by the inquiry those affected must be given notice of the evidence and invited to give their responses. If an individual against whom*
15 *damaging evidence has been given is himself invited to give evidence on the matter in question he should unless there is some special reason to the contrary be referred to the damaging evidence and to relevant background documents”.*

The persons implicated by the applicant including Government
20 departments and entities local and overseas have a legitimate expectation to be called to refute allegations made against them. The applicant's application or request has no merit Commissioners and should be refused on the basis of the grounds I've alluded upon.

25 CHAIRPERSON: Thank you. Mr Brown, do you have

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anything to add to what we have already said, particularly relating to, I think it's paragraph 22 of your letter?

MR CRAWFORD-BROWNE: Yes Sir, I do if I may very briefly, the first point made sir is that there was prejudice to the people in South Africa close here yesterday at 12h00. I would
5 dispute that and it has been confirmed to me by members of the media that they were told to leave at 12h00 and I would suggest that as an attempt...

CHAIRPERSON: I am sorry, I have missed your first point
10 about 12h00.

MR CRAWFORD-BROWNE: The point I'm making Sir was that to reply to the issue that there was no prejudice to the people of South Africa in closing the session yesterday at 12h00, I would suggest that it was very much prejudicial to the interest of the
15 people of South Africa to have that session closed. But secondly I would also like to refer to the matter of the transfer of the case in the Cape High Court and the Constitutional Court and that was precisely because a President had just come in at that time that the issues of constitutional in questions should
20 be brought to a Constitutional Court and not to the Regional Court and that is why we transferred the matter in the Cape High Court to the Constitutional Court. Third, I stand by what I have said and written, that the Commission has had almost two years to investigate these issues, these hearings come just
25 shortly before the Commission's mandate expires and the

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credibility and I am sad to say have been impaired both by these delays and the alleged second agenda, and the last point I would like to make sir, is that I have brought these issues in the public interest and in terms of Section 38 of the

5 Constitution. Thank you Sir.

CHAIRPERSON: Thank you.

MR CRAWFORD-BROWNE: Your Honour, as I advised you earlier that I was meant to be at another conference at 10h00, could you please excuse me and I will return at lunchtime.

10 CHAIRPERSON: I think because you started this application in all fairness you should wait, in all fairness you should wait until this matter, this issue is finalised.

MR CRAWFORD-BROWNE: Sure.

15 CHAIRPERSON: My co-commissioner Judge Musi is going to deal with the issues raised by Mr Crawford-Brown.

JUDGE MUSI: In the first place, this application is an indication to this Commission to abandon or disregard in terms of evidence, it's an invitation to this Commission to do what is not mandated to do. In a nutshell it's an invitation to this

20 Commission to abandon its mandate. I don't think this is tenable. I draw attention to recommend to paragraph 22 of the letter and I quote:

"I submit that you immediately and without delay write to the President Zuma recommending to

25 *him:*

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(a) *That the Arms Deal contracts were unconstitutional and illegal right from the inception because the offsets failed the requirements of Section 217(1)".*

5 This is a matter that is subject to investigation, there isn't any conclusive evidence on this point.

(b) *That it is public knowledge confirmed by the Minister of Defence and Veteran Affairs, that the frigates and submarines are inoperable and that almost half of the BAE/SAAB griffins have been placed in long-term storage because South Africa lacks the pilots to fly them, the mechanics to maintain them and even the money to fuel them".*

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These are allegations. Officers of the Defence Force will be called precisely in order for them to clarify these allegations, it can't be a conclusion, it can't be factual, it's simply not true that this is a fact.

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(c) *In terms of 1.6 of the Terms of Reference South Africa has the right to cancel the contract and to cover the monies".*

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That is correct, but you don't cancel a contract on the basis of allegations and submissions, it has to have evidence and the evidence must be tested before you can accept it and before you can make recommendations.

25 (d) *That the foreign loans incurred to finance the*

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5 *Arms deal, contracts were underwritten by German Government Hermes Trade Agency and by the British Government credit guarantee Department. That is a repudiation of South Africa of these contracts and their loans because of bribery and fraud would mean that the financial consequences would fall to the British and German taxpayers and not the South Africans”.*

10 Before we can make any findings and recommendations we have to have evidence supporting these allegations of bribery and fraud and this is precisely what this Commission has (indistinct) to investigate these allegations of bribery and fraud. Before we’ve done that investigation you can’t make any
15 recommendations as suggested by Mr. Terry Crawford-Browne.

(e) That in recovering the monies the South African taxpayers would also recovery the bribes since obviously these were built into the prices of the Arms Deal acquisitions”.

20 Well the writer says it’s obvious, it’s not obvious to me, I still need evidence to substantiate this allegation.

*(f). That the Arms Deal contracting companies should be blacklisted both in South Africa and Internationally in terms of the OECD Convention
25 against bribery of foreign officials”.*

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I don't know that this Commission has got any authority to make that type a conclusion.

(g). That you withdraw the Commission's request for extension of its mandate for additional funding".

5 My view is simply that there is no merit in this application, as it stands for it to be dismissed and I recommend Chairperson that it is exactly that.

CHAIRPERSON: After listening to the arguments put forward by Mr Terry Crawford-Brown, the Evidence Leaders and
10 after looking at our Terms of Reference and the views of my Co-Commissioner Musi JP, I am not inclined to grant the application on this day, Mr Crawford-Brown and therefore his request is rejected.

MR CRAWFORD-BROWNE: Sir may I make a comment?

15 CHAIRPERSON: I think we have disposed of that issue, Mr Crawford-Brown we must now get into the next step of our proceedings. Thank you.

MR CRAWFORD-BROWN: Good.

CHAIRPERSON: Maybe one should turn his attention to the
20 Evidence Leaders, is there any issue that you want to raise before we call the first witness?

ADV SIBEKO: Indeed Chair, there is a matter that we were approached by Mr. Boqwana in terms of which the witness to address the Commission.

25 MR BOQWANA: Chair, for the record my name is Max

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Boqwana, I promise you one thing chair, I'm not going to go be long in TCB at what I am going to say and I have placed on record on previous occasion that I'm here on the instructions of the Thabo Mbeki Foundation representing the former President

5 Thabo Mbeki and the informal cabinet ministers that have been subpoenaed. There have been a number of engagements Chair that indeed we had with the Evidence Leaders in preparation for the commencement of this Commission up until yesterday but Chair there were issues that had to be settled in the

10 background that involved all those represent..., the Minister of Justice. As of now Chair those issues have not been resolved and it's placing us in a invidious position Chair that we are unable to proceed to represent said members including former President Mbeki going forward until such issues are resolved.

15 I'm making this submission Chair because I have already placed ourselves on record so I needed the chair's contravention that we will, we are allowed to withdraw as attorneys of record and what is going to happen in the future Chair the Commission will be advised either by ourselves or the

20 state attorney which is represented by Mr Isaac Chauke who is also present, so it's that Chair we are making that application to withdraw as attorneys of record from proceeding with the Commission as of now until further notice.

CHAIRPERSON: Can I perhaps hear from any one of the

25 Evidence Leaders because apparently you have been engaged

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with Mr. Boqwana for some time?

ADV SIBEKO: Indeed Chair I confirm that we have had engagements with Mr Boqwana in which we represented the former president and members of the Ministerial Committee
5 which was involved in the procurement from the SDP Packages and over that period we confirm his representation of those ministers, and we have no objection in the withdrawal this morning. He had indicated in any event that his appointment was on an interim basis subject to the finalisation of some
10 arrangements that he has committed to.

CHAIRPERSON: I suppose the only thing that we as a Commission can do is to note what Mr. Boqwana has said, but on the question of legal representation I think that is outside our ambit. If I remember the Regulations clearly says that a
15 witness who comes here or who appears before the Commission, if he wants legal representation he will do so and it's on their own cost. Even if the Government wants to make any arrangements about legal representation of some of the other ministers or former ministers or former executive
20 members about their legal representation I think they are free to do so and I think we should leave (indistinct) those arrangements.

MR BOQWANA: Indeed Chair you are quite correct, except Chair, except that it may happen that some of the issues that
25 are raised whilst there's no representation might have to be

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revisited in future if the persons that I'm representing have to appear, but you are quite right Chair that that would be on the Chair and co-commissioners really to deal with this issue but we needed to place it on record Chair so that when some time
5 in the future some of the issues are raised we are not saying why we were not informed of these issues.

CHAIRPERSON: Thank you. Thank you, you are excused, you may (indistinct) may need to revisit some of these issues at a later stage we will deal with them at that stage. Thank
10 you. I suppose we have dealt with some of the issues which we have to deal with prior to starting with the leading of evidence, I was just talking to my co-commissioner trying to find out if we should kick off now or does Evidence Leaders need some few minutes before they can kick off the first witness? If you are
15 ready to call the first witness we can do so, if you need some few moments to prepare yourselves then you should say so.

ADV SIBEKO: Chair, we are ready to proceed with the testimony of Mr Green, or Admiral Green.

CHAIRPERSON: Can the witness then come forward to take
20 the oath?

(Witness is sworn in.)

ADV SIBEKO: Thank you Chair and Commissioner Musi.

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DEPARTMENT OF DEFENCE**SOUTH AFRICAN NAVY****WITNESS NUMBER 1**

5 REAR ADMIRAL ALAN GRAHAM GREEN (Hereinafter referred
to as "R/ADM GREEN"), GIVES EVIDENCE UNDER OATH

EXAMINATION IN CHIEF:

ADV SIBEKO: Chair, placed before you on the bench are two
bundles of documents which are marked bundles A and bundle
10 B which in the course of the testimony of this witness will be
referred to from time to time. A similar bundle has been placed
before the witness and my colleagues on the opposite end of
the bench also have a similar bundle. For purposes of
identification Chair bundle A consists of statements of the
15 witnesses from the Navy that will be called by the Evidence
Leaders to kick off these proceedings, and bundle B contains
firstly the Defence, the White Paper on Defence, secondly the
Defence Review and thirdly the ... Those are the two
documents contained in that bundle, the further documents
20 would be referred to later when the next witness is called.

With your leave Chair I will then start with the
witness. I may just for the record state that during the opening
address by my colleagues yesterday a brief summary of the
testimony to be adduced by Admiral Green was set out and I

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shall not repeat that. With your leave I may then proceed to deal with the evidence of Admiral Green. Admiral Green may you please for the record state your occupation and rank.

R/ADM GREEN: Thank you Chairperson. I'm a retired Naval officer, I served on the Navy Reserve, I'm in a, what we call a reserve call-up capacity serving the chief of the South African National Defence Force, I'll refer to that as the SANDF from now onwards, that's the South African National Defence Force. I was called up to do a feasibility study to enhance our strategic planning process and during that call up the matter arose where I was required to engage with the Commission.

ADV SIBEKO: Now is it correct that during the course of preparation for your testimony before this Commission you prepared a statement which you signed?

R/ADM GREEN: Chairperson that is quite correct, I prepared a statement and I will quote from that statement during my dissertation.

ADV SIBEKO: Might I direct your attention to the documents placed before you, there's a bundle before you, it's bundle A, do you have that in front of you?

R/ADM GREEN: I have the relevant documentation.

ADV SIBEKO: Might I ask you to turn to page 13 of that bundle. Do you have page 13 in front of you?

R/ADM GREEN: Chairperson I have page 13.

ADV SIBEKO: The signature that appears at the bottom there,

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would you confirm that is your signature?

R/ADM GREEN: I can confirm that without any doubt.

ADV SIBEKO: If you turn to the following page, page 14 of that bundle you will see there's a document entitled *Curriculum Vitae*, is that correct?

R/ADM GREEN: Chairperson, that's quote correct.

ADV SIBEKO: You confirm that that is an abbreviated version of your *Curriculum Vitae*?

R/ADM GREEN: I can confirm that, that is a very brief version of my *Curriculum Vitae* and serves the purpose of this Commission.

ADV SIBEKO: Right, it probably would assist the Commission in following your evidence to go back to the earlier years of your career within the Navy and perhaps inform the Commission when you joined the Navy.

R/ADM GREEN: Chairperson I joined the Navy in 1971 and since from 1971 until I handed over my last command at sea I served at sea in various capacities in a number of ships in each of those years, the only time I served ashore was to engage in professional training.

ADV SIBEKO: I see that the third line item on the *Curriculum Vitae* refers to 1996 to 1998 and you say there you served as Naval attaché, a Defence attaché in Paris and on resident in Belgium and Netherlands. What did your functions entail during that stint?

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R/ADM GREEN: During the period 1996 to 1998, a three year period when I was the resident Naval attaché and later became the Defence attaché in France, in Netherlands and in Belgium my role was to improve the military relations with those countries, you'll understand that at that period we had just come out of isolation and were engaged in normalising our relations with those three countries. The other task of any attaché is overt intelligence gathering so that we could share intelligence with those countries and they would share intelligence with us in a totally, totally overt environment.

ADV SIBEKO: The next item relates to the period between 1999 and 2002, it's stated there that you commanded SAS Simonsberg, SA Navy's functional training base in Simonstown. Could you elaborate just briefly on that?

R/ADM GREEN: Chairperson the training establishment and the SAS refers to South African Ship although it be ashore, the functional training base is where all training and the functions of the Navy are conducted and the functions mean the various musterings, whether it be communication or radar attributes, and this span of training covered from the highest order submarine commander to any of the tasks that one engages in, in the Navy in professional terms, this doesn't include the basic training which is done somewhere else, so this is just to indicate that at that stage my focus was on empowerment to take the Navy into the future.

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ADV SIBEKO: In 2002 you were then promoted to rear admiral junior grade, is that correct?

R/ADM GREEN: That's correct.

5 ADV SIBEKO: During that time after you were promoted what did your functions entail?

R/ADM GREEN: After that promotion Chairperson I served on the staff of the general officer commanding of the Joint Training Formation. The Joint Training Formation is the formation that busied itself with further education and training, so institutions like the Military Academy, the Defence College, 10 the War College, the Warrant Officers Training College and other colleges in that bracket were under my direct planning and staff function and the focus during that period was to accredit these training institutions as accredited learning 15 providers in order to provide the learners with qualifications that were recognised in terms of the National Qualification Framework so that being part of transformation that one would then come out with a transportable qualification that was useful in society for those who wish to leave the SANDF on a 20 voluntary basis. It was a full effort in transformation to empower people at that level.

ADV SIBEKO: It says further in your *Curriculum Vitae* that in 2007 you were appointed as Director Military Strategy to Chief of the SANDF. What did that entail?

25 R/ADM GREEN: The task, the primary task of the chief of, or

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the Director of Military Strategy was to ensure that the strategic planning process was in place, that the strategic plan was founded on the guidelines issued by the executive authority and also to ensure that the policies relating to the execution of military strategies were in place and also to improve the level of readiness by having a very sound idea of what the future would be requiring in terms of a force design.

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ADV SIBEKO: In 2010 you were appointed as Chief Military Policy Strategy and Planning, what did that involve?

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R/ADM GREEN: That Chairperson was the next step up in that environment where for the first time we instituted a range of planning instruments to ensure that we would improve our performance in the DOD and here it might just be useful to explain that the DOD is a department unique in terms of having a secretary for defence who is the accounting officer, a director-general and in the SANDF the commander, the chief of the SANDF who commands the SANDF, so therefore the SANDF had a strategic business plan which is a top down planning instrument, for the MTSF that's the period of the administration, and then for each year we'd have an annual performance plan which was based on the guidelines within the strategic plan.

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And every year there would be an additional guideline issued by the Chief of the SANDF in terms of the requirements for force employment because the requirements

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for force employment govern the activities for the year because force employment is based on the forces that have prepared which is then based on the forces that are developed, so that was the one side of that appointment to ensure that the SANDF
5 plans were sound and executable and that they were within budget and the other side of that was then of course to report quarterly and annually to the Parliamentary Oversight Committees being the Portfolio Committee on Defence and the Joint Standing Committee on Defence for those plans and then
10 to take those plans through the audit process to eventually achieve a clean audit.

ADV SIBEKO: Now Admiral, having gone through your CV and having listened to your testimony would it be a fair summation for one to conclude that you are a fairly experienced Naval
15 officer?

R/ADM GREEN: Chairperson if those the words that are being put in my mouth then I'll accept that.

ADV SIBEKO: And to the extent that you have served in the various capacities to which you have alluded to, would that
20 give you a fair idea of how the other arms of service also operate within the SANDF?

R/ADM GREEN: Chairperson, I certainly understand how they operate, how we endeavor to integrate the services, the services being the Army, Air Force and Navy and the Military
25 Health Service, together with the divisions and the divisions

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include the Force Employment Division which is called the Joint Operations Division, the Logistics Division, the Human Resource Division and the Intelligence Division, so in that environment I belonged to the fifth division which was that of corporate staff which provided the direct staff support to the chief of the SANDF, so from a functional aspect and from an employment aspect, but I wouldn't like to testify under oath the activities within those services or divisions, what I can talk about is how they delivered in terms of the SANDF rising to its mandate to have that type of force available to rise to Government commitments and to satisfy the executive authorities' priorities.

ADV SIBEKO: Now you refer in your response to the question I put to you by making reference to the mandate of the SANDF, would you just briefly the Commission what the basis of this mandate is and where it is found?

R/ADM GREEN: Chairperson the mandate of the South African National Defence Force is contained in the Constitution, Section 200(2) that the primary objective of the South African National Defence Force is to defend and protect the Republic, its territorial integrity and its people in accordance with the Constitution and the principles of international law regulating the use of force.

ADV SIBEKO: To the extent that the expression "to defend and protect" is used in the Section you have just alluded to,

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what is your understanding and that of the Department of what that expression means?

R/ADM GREEN: The expression Chairperson “to defend and protect” covers the defence of the territory and to protect the people. To be in the position to do that one then derives a force design that is remotely capable of doing that and when I say remotely capable, that is an indication of any constraint at hand, but one has to go further and look at the Section 227 of the 1993 Interim Constitution where the functions of the SANDF were referred to in the following way:

- *“Service in the defence of the Republic and the protection of its sovereignty and territorial integrity.*
- *Service in compliance with international obligations of the Republic with regard to international bodies and other states.*
- *Service in the preservation of life, health and property.*
- *Service in the provision or maintenance of essential services; and:*
- *Service in upholding law and order in support of the South African Police Service; and:*
- *Service in support to the Department of State, the socio-economic upliftment”*

So, in terms of “defend and protect”, when one prepares for

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that, then you have the capability to engage in what we term
“military operations other than war”, and when I say that may
include peace support missions, not all peace support missions
are without elements of war, so this is why one has to be
5 effective and efficient in terms of preparation for the defending
and protecting so that any other collateral activity is done with
the confidence that the South African National Defence Force
can perform as required by Government.

ADV SIBEKO: Now one understands from your evidence that
10 what you are referring to as the mandate of the SANDF by
reference in your evidence to the provisions of the Constitution
you are referring to the constitutional dispensation that was
ushered in by the 1993 Constitution, is that correct?

R/ADM GREEN: Chairperson that’s correct, and that then
15 follows on from the 1996 Constitution as well.

ADV SIBEKO: What was the position prior thereto before the
democratic dispensation that was ushered in by the
dispensation with regard to the SANDF?

R/ADM GREEN: Well, before the new dispensation the SADF,
20 as it was then called, was at the end of an engagement that led
to eventually the demise of a powerful and effective body when
we talk about the prime mission equipment, that equipment that
was used to engage in operations. So, when the new
dispensation came into place on the 24th of April 1994 the
25 SANDF was established, we were then in a position where we

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integrated, all of us integrated into the SANDF from the SADF and other forces so that there was a fair integration, and the primary balance of the equipment that we had at the time was that from the SADF.

5 A lot of that equipment was at the end of its life cycle, that is the period where that equipment could be used economically and that of course was due to the sanctions that were imposed prior to 1994 and we will hear from ARMSCOR later that their role during the pre-1994 era was largely to gain
10 equipment on a sanction busting type formula. So, this discussion now is about the issue that we identified as early as in the 1970's, in the 1980's, the early 1990's for the requirement to rejuvenate our main equipment, that being the equipment that one would use to defend and protect.

15 And during that period I served in the Navy and therefore I don't have any firsthand ideas about the precise state of the equipment of the South African Air Force, however, I was aware that they would also require rejuvenation because any equipment that's used extensively, and this is very
20 important to understand that when equipment is used extensively it requires extensive maintenance, I think that is a fairly understandable statement, and our equipment had been used extensively both at sea, on the land and in the air and that is why I can say that by the time that we established the
25 SANDF there was a dire need for us to rejuvenate our

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equipment.

ADV SIBEKO: Could you tell the Commission that at the time that you are referring to, there being a dire need to rejuvenate the Navy's equipment in particular, what sort of armaments did the Navy have at the time?

R/ADM GREEN: Chairperson, the situation in the Navy was such that for many years we had large ships and the last of the large ships we had were frigates and I spent many years serving on those ships, so I can testify that when the frigates were then taken out of service due to their age and some other factors, we then were left with only small ships in terms of combatants and we served diligently and with the zeal required to achieve our objectives in these rather small ships, and when I say small let me explain that that's a 400-ton ship compared to a 2 500-ton of the frigates of those days.

So, although we spent many nautical miles at sea and hours and days the challenge there was that the fatigue on a ship's company was remarkable when the weather was rough and we have rather rough seas generally around our coast, although the Cape of Good Hope is known as that, previously it was known as the Cape of Storms because that's how stormy it is around here, so we engaged in upgrade programmes for those frigates as early as the 1970's, some of those upgrades took up to seven years for one ship, President Pretorius to be upgraded was a 7 year process and we only had three frigates

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eventually, so we engaged in an acquisition programme in France to acquire Corvettes and at that stage the Corvette tonnage was 1 200, so it was somewhat smaller than the frigate but yet larger than the strike craft.

5 So, that was an effort to provide a more robust force in terms of numbers because when you have three ships you can only be guaranteed to have one ship ready all the time because the other three would, the other two would be in various stages of maintenance albeit for a short period of two
10 weeks. That project in France was the first victim of the mandatory United Nations embargo in 1977, so that failed, therefore we had to continue with our endeavor to create the capacity of large ships for our Navy and a number of programmes ensued and one of my colleagues will go into the
15 detail of that.

This is merely to illustrate that the requirement for larger vessels in the Navy has come a long way and we can say the same for the submarines because eventually the submarines will also get into the end of their economic life
20 cycle because when the nation that builds those submarines takes them out of service, one then can understand that that would clearly mark the end of that particular vessel's useful and economic life cycle.

We had to stretch it because we didn't have an
25 alternative at the time, so I do understand and I know that the

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Air Force had similar processes in place to rejuvenate their aircraft because a number of them were getting old and numbers were diminishing. For one the maritime patrol aircraft that we used frequently in our maritime operations was the Shackleton and that went out of commission in the Air Force and has not yet been replaced and that's a huge gap in that environment in maritime operations.

ADV SIBEKO: When, if at all, were the frigates that you are referring to in your evidence decommissioned eventually?

10 R/ADM GREEN: Well, the demise of the frigates was exacerbated when the SA's President Kruger was lost at sea because then we were left with two and it was clear that with two vessels you would very rarely have one vessel available all the time, however, we did engage in an upgrade programme but
15 all of that failed and the last frigate was decommissioned in 1985.

ADV SIBEKO: And as we understand it the SADF at the time also had three Daphne class submarines, is that correct?

20 R/ADM GREEN: That's correct Chairperson, we had three Daphne class submarines which were the French submarines that I referred to.

ADV SIBEKO: Could you tell the Commission what happened to the Daphne class submarines?

25 R/ADM GREEN: Well, these submarines Chairperson also suffered the consequence of being used very frequently and the

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5 maintenance of those submarines became quite demanding and some of them were wrought with rather large maintenance challenges, one of them being the compressed air tanks which is fundamental in a submarine of that nature where the submarine would have to virtually be cut to pieces to replace that and that then clearly indicated that those vessels were coming to the end of their useful life cycle as well, and the last submarine was decommissioned towards the end of 2004.

10 ADV SIBEKO: You also referred in your testimony to the vessels known as the strike craft, what were these used for?

15 R/ADM GREEN: The strike craft were the only combatants that we had once the frigates were decommissioned. We had nine strike craft of which at best we could have six at sea at any one time but normally we would have had less than that, and these ships of 400-tons were primarily designed to operate in an environment very much different to that of the South African coastline because these vessels were designed for the Mediterranean which incidentally can also get very rough but not quite as bad as the shores of the East Coast of South Africa, and these ships were also getting to the end of their life cycle in terms of the electronic equipment, the propulsion systems and also the hull because of the demand that's made on the hull when it's underway in very heavy seas, so although there were upgrade programmes engaged in Chairperson these vessels were clearly not suited for the taskings around our

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coast.

The strike craft is still in operation today although in a different configuration, they are now considered to be offshore patrol vessels rather than surface combatants, they no longer carry missiles and they are used extensively for training and force preparation but they still do execute exercises and operations.

ADV SIBEKO: Now having set out that brief expose with regard to the state of the armaments in the Navy and to a very limited extent the need to rejuvenate the equipment by the Air Force I would like to take you to the time just at the inception of the new democracy where the constitutional mandate changes for the SANDF. You will recall that thereafter a couple of policy documents were introduced to Parliament that formed the policy that the Department or the Minister of Defence was to follow with a view to executing the mandate of the Constitution. Can you talk about that?

R/ADM GREEN: Chairperson the first policy document that was derived from that section of the Constitution and of course other bits of the Constitution was the White Paper on Defence that was published in 1996 and once the White Paper had been established as a national policy document the implementation or the operationalisation of that White Paper which was a very robust document took the form of a defensive view where detail would then be promulgated to be able to actually enforce the

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policy.

5 So, the constitutional mandate was then expanded into a White Paper and from there a Defence Review was written and approved in April of 1998 where the operationalisation of that policy document was then promulgated, so those are the policy documents at hand that evolved in a very short period after 1994.

10 ADV SIBEKO: It is correct that during the development of this policy and its formulation you were out of the country, is that correct?

R/ADM GREEN: Chairperson I wasn't part of that, unfortunately one of my colleagues was part and he will provide clarity as to the detail involved there.

15 ADV SIBEKO: But you are familiar with some of the provisions made in the White Paper with regard to what policy would be adopted going forward with regard to the SANDF, is that correct?

20 R/ADM GREEN: Chairperson I'm aware of the policies contained in the White Paper and also the operationalisation as spelt out in the Defence Review of 1998.

ADV SIBEKO: Would you be comfortable with referring to some of the principles that are set out in the White Paper?

25 R/ADM GREEN: Chairperson if I may I'd just like to read what I believe is a very important passage that was written under the hand of the-then Defence Minister Mr Modise:

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5 *"It is therefore no exaggeration to say that this
White Paper is a historic document. For the first
time in our history defence policy is being shaped
by substantial inputs from Parliament, members of
the public, non-governmental organisations and of
course the Department of Defence. For the first
time in our history a White Paper on Defence
reflects the interests of our people and represents a
national consensus on this critical function of
10 Government".*

That's the introduction. Then if I may continue to quote from
Chapter 1 just briefly because ...

ADV SIBEKO: I want to draw your attention to the bundle
marked B just in front of you, the bundle of documents, there's
15 the file in front of you marked B, do you have it?

R/ADM GREEN: I have it and I'll quote from that. In Chapter
1, because this is the important part when we come to a
rationale:

20 *"After two and half decades of isolation South
Africa has been welcomed back into the
international community and has joined a host of
important regional and international bodies. The
country's foreign relations have been transformed
...".*

25 CHAIRPERSON: I'm sorry, we are trying to follow which

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paragraph you are reading.

ADV SIBEKO: I beg your pardon Chair. Might I request you to turn to page 12 of bundle B. Do you have the document in front of you General ..., Admiral, I beg your pardon.

5 R/ADM GREEN: “*After two and a half decades of isolation ...*”.

I’m on page 12, the fourth paragraph:

10 “... South Africa has been welcomed back into the international community and joined a host of important regional and international bodies. The country’s foreign relations have been transformed from an adversarial mode to bilateral and multilateral cooperation. This fundamental shift has been accompanied by a dramatic change in the strategic environment at domestic and regional levels. While the potential for instability and conflict remains the salient fact is that Government is no longer unrepresentative and at war with its own people and neighbouring states in Southern Africa. Government has prioritised the daunting task of addressing poverty and the socio-economic inequalities resulting from the system of apartheid. The reconstruction and development programme stands at the pinnacle of national policy and of course consequently Defence policy. The Government is equally committed to national

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reconciliation and unity, one of the most dramatic illustrations of this commitment is the integration of the former statutory and non-statutory forces in the South African National Defence Force”.

5 ADV SIBEKO: Right. Now you will recall that when this policy was formulated there were various other challenges that Government had to deal with at the time relating to transformation, RDP and so forth. How did the policy with regard to the transformation of the Army, or how was it
10 accommodated in that sense?

R/ADM GREEN: Chairperson if we go to the bundle B and the Chapter 2 which is on page 17 ...

ADV SIBEKO: Like I said I want to draw your attention to page 14. Do you have page 14 in front of you?

15 R/ADM GREEN: Yes, I have page 14 in front of me.

ADV SIBEKO: Your statement takes an extract from there that starts with the last paragraph on the left hand corner which says:

20 *“The Government of National Unity recognises that the greatest threats to South African people are socio-economic problems such as poverty et cetera”.*

Do you see that, do you have page 14 in front of you?

25 R/ADM GREEN: I have page 14 in front of me and I see that paragraph.

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ADV SIBEKO: This is where the extract in your statement is taken from, is that correct?

R/ADM GREEN: That's correct Chairperson.

ADV SIBEKO: (MICROPHONE OFF).

5 R/ADM GREEN: *"The Government of National Unity recognises that the greatest threats to the South African people are socio-economic problems such as poverty, unemployment, poor education, the lack of housing and the absence of adequate social*
10 *services as well as high levels of crime and violence"*.

ADV SIBEKO: That goes on to the end and just before the sub-heading on the next, on the right hand side of that page, is that correct?

15 R/ADM GREEN: That's correct Chairperson. I'll continue:
"Accordingly one of Government's policy priorities is the reconstruction and development programme, the RDP's, the principle long term means of promoting the wellbeing and security of citizens and
20 *thereby the stability of the country. There is consequently a compelling need to reallocate state resources to the RDP. The challenge is to rationalise the SANDF and to contain military spending without undermining the country's core*
25 *defence capability in the short or the long term. As*

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a matter of sound organisational practice any cuts to the Defence budget should be rational and well-planned. The new approach to security does not imply an expanded role for armed forces, the SANDF may be employed in a range of secondary roles as prescribed by law and its primary and essential function is service in defence of South Africa for the protection of its sovereignty and its territorial integrity. The SANDF therefore remains an important security instrument of last resort but is no longer the dominant security institution. The responsibility for ensuring the security of South Africa's people is now shared by many government departments and ultimately vests in Parliament".

15 ADV SIBEKO: Now having read the passage into the record could you just briefly explain how this policy was put into practice?

20 R/ADM GREEN: This policy refers to the fact that the role of the SANDF must be rationalised and that military spending should be contained without undermining the defence of the country's, the country's core defence capability in the long term and in the short term, so to do this the Defence Review addressed the issue by containing itself to develop a core force, a force that could be expanded upon should need be and
25 that need would be based on the threat analysis, it would be

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based on the environmental analysis and it would be based on any commitments that Government might make in terms of the employment of the South African National Defence Force, and that is how the Defence Review then came to be to be able to address that aspect.

ADV SIBEKO: In paragraph 16 of your statement you make reference to the Defence Review, do you see that?

R/ADM GREEN: I see that Chairperson.

ADV SIBEKO: And perhaps just before we deal with the Defence Review earlier in the passage that you read into the record you alluded to the core defence capability, do you recall that?

R/ADM GREEN: I recall referring to the core defence capability.

ADV SIBEKO: Could you briefly explain what that concept entails?

R/ADM GREEN: Chairperson, the concept of a core force is that which is a force that allows you to have your core capabilities at an effective and efficient level, which allows you then to increase that core capability to the capability that will be required should need be in a case of an aggression or of an aggressive action or activity. The core force would also allow one to be in a position to train adequately, to develop doctrine, the doctrine is that which allows us to win the next war, it's a futuristic instrument, doctrine, often confused to be something

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static, and more importantly to fully integrate the SANDF as envisaged by this transformation statement.

Now the transformation statement is about the sense of transformation that covers more than what is deemed
5 to be transformation in some sectors where most certainly it addresses the issue of a balanced demography, but the transformation here one can see is to put the SANDF into a good position for the future by not having a huge force as was the case of the SANDF, but rather to have this core force that
10 could be expanded on, therefore the assumption was made that this transformation would deal with doing our business in a better, more professional and more economical way
Chairperson, it was all encompassing and the intent often is not achieved, but that intent is a very sound intent and when
15 my colleague goes into some of the detail contained in the Defence Review as to what was envisaged to be a way of doing things smarter, to do more with less as is brandied about often, that is the intention because that then allows one to perform within one's budget allocation which is really core to all of
20 this, to do things within budget, but yet to be able to rise to Government's commitments.

So, that core force policy would then rely heavily on a reserve component where the reserve then could be brought into effect from a manpower point of view and in some
25 instances also in military hardware that would be retained at a

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lower state of readiness until required, so that was the core force concept that I've just given a résumé of that's contained in this White Paper.

ADV SIBEKO: According to your recollection Admiral, what
5 was the state of the core defence capability pre-1994 *versus* that post-1994?

R/ADM GREEN: Well, pre-1994 Chairperson the core capability philosophy hadn't been embraced, we had a large and primarily a landward capability and therefore the thinking
10 was for the future and the new dispensation that we would move from that to a core force, but what in fact was the case that the core of that large force is what we were left with, that was then in a state that we could take forward because we noticed that there was nothing in terms of the landward system,
15 that is the Army, that was party to any major acquisition programme, so in the new dispensation of the SANDF that primission [sic] equipment component was reduced to be effective in terms of the lower numbers but to have a state of readiness of lower numbers that at least the percentage of those lower
20 numbers would be reasonably high for employment.

So that may sound confusing, so if I can put it in a different way, if we for example had a 1 000 troop carrying vehicles in the previous dispensation in the core force we'd have 600 or 500 but of those 500 we would ensure that 400 of
25 them were ready to roll, and within the Navy we didn't have

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that luxury because what we had we kept going and in the Air Force as you will hear when the Air Force testifies that their numbers dwindled radically from the end of 1994 or the beginning of 1994 when the SADF disbanded to develop the core force of the future, so what it meant was that we had
5 vastly reduced numbers in our force design at the, when the SANDF was established in 1994.

ADV SIBEKO: Thank you. And the Defence Review Policy which was envisaged in the White Paper also developed what
10 was known as the force design. Can you talk about that briefly?

R/ADM GREEN: (MICROPHONE OFF) design is the component of the SANDF that one uses to employ, to employ forces, whereas the force structure is the component of the SANDF
15 that supports the employment of forces and in my statement and in other statements because it's referred to in the literature that, there was an expression used in that era called the "tooth to tail ratio", however, the previous Chief of the South African National Defence Force deemed that to be a
20 discriminatory term, so today we refer to a "balanced force", we cannot have an employed force without having a supported force, so we understand implicitly that the support component is just as important as the deployable component, therefore no longer using that expression tooth to tail.

25 The issue about the force design of course is that

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the part of the force design that one employs is related to Government's requirements. I think by now it would be clear to all Chairperson that the SANDF doesn't act autonomously, we only employ our forces where directed by Government, so that
5 is how we base our decisions as to what the force design will express, and once again the development of the force design was done through a process that I wasn't party to but one of my colleagues will cover that because it's important that we all understand Chair that the development of a force design is a
10 very thorough process and for the first time that force design was developed in a participative process through the, where this was discussed with the people of South Africa and that's why Parliament could approve that force design in April 1998.

ADV SIBEKO: Now Admiral, the development of this force
15 design post-1993 you would understand was made in a particular context, and the context is this, South Africa was not at war at the time and arguments have been made that there was no need to be preparing an army with the kind of capabilities that eventually would form the subject matter of
20 this inquiry. What is your reaction to that?

R/ADM GREEN: The force design that was developed and prescribed or approved I should say in terms of the Defence Review of 1998 Chair, the option 1 was indicated and there were four options which indicates that a lot of thought went
25 into the process, that discussions could take place to

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determine which of the four options would be the more appropriate and whichever way one looks at it, it's a very modest force design in terms of the size of our country and the possibility of us having to rise to our mandate.

5 Now whether there's a threat or not, as long as there's a mandate for us to have a defence force, a national defence force and the tasking there is clearly defined, then it is the role of that department to indicate how it intends achieving that, and that's what the Department did because
10 when it comes to the execution of that, that would then rely on funding which lies outside the Department, so that funding, and I was very pleased that Ms Ramagaga yesterday indicated that Treasury would cover the funding issue.

 So, my reaction to what was presented as the force
15 design in 1998 is that that's a very modest force design, it forms a core, anything less than that then Chairperson one doesn't have the momentum that, that core to be able to expand should need be, and when we say there's no clear threat I don't believe we should be naïve to understand that the possibility of
20 the threat arising in the medium term is something that we ought to ignore, therefore the need to have a core force, a very modest core force with the capabilities that one cannot expand on overnight, one cannot develop a submarine capability in the short or the medium term, it's a long term programme, we've
25 had experience of that, we knew how long it took us to

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establish our submarine capability, the greatest deterrent in the maritime environment.

To establish a large ship capability that we have with our frigates is something that takes time because it's a developmental process, we have to train people and competencies were lost due to a number of reasons, so one has to establish a platform from which to grow that for the future, and the same as in the Air Force because we know how long, or I have been advised how long it would take to train a fighter pilot.

Now in terms of the landward force, the Army, I understand that it's easier to ramp up the Army than it is to ramp up the Navy or the Air Force in terms of seagoing and airborne capability, so that's just to expand a little bit on my reaction to what the Advocate Sibeko asked me in terms of that force design going into the 1994 SANDF, a White Paper and a Defence Review, because when we express that force design as it is, it must be seen as a core force, without that there would be really no ability whatsoever to defend and protect.

ADV SIBEKO: Might I, having listened to what you just stated now, ask you to turn to page 83 of bundle B. You see that is Chapter 8 of the Force Design Options, do you confirm that?

R/ADM GREEN: Chairperson, I confirm that.

ADV SIBEKO: And the introductory paragraph of that section talks to preparations and developments of the force during

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peace time, is that correct?

R/ADM GREEN: That's quite correct.

ADV SIBEKO: Might I ask you to read paragraph 1 and 2 into the record please.

5 R/ADM GREEN: Chairperson this covers the introduction of the force design options, commencing with:

10 *"During peace time the SANDF must maintain, develop and prepare forces that form the basis of its conventional defence capabilities. It must also employ such forces in the execution of secondary functions as described in the White Paper and the preceding chapters of this report. At all times the SANDF must be ready to act in defence of South Africa in response to various defence*

15 *contingencies. This is reflected in the vision of the Department of Defence which is to ensure in accordance with the Constitution effective defence for a democratic South Africa, enhancing regional, national and global security through balanced,*

20 *modern, affordable and technologically advanced defence capabilities. Accordingly the Department has the following mission; to provide, manage, prepare and employ defence capabilities commensurate with the needs of South Africa as*

25 *regulated by the Constitution, national legislation*

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and parliamentary and executive direction”.

Thank you Chair.

ADV SIBEKO: Now to what extent does the force design also take into account the element of deterrence as envisaged in the
5 White Paper?

R/ADM GREEN: Chairperson, the element of deterrence is related to the defensive posture that we discussed in the Defence Review, and the defensive posture is intended to be a deterrent, if one can defend then one would assume you are a
10 deterrent and the deterrent means that you've got that core force, you've got something that you can be judged by, judged by visibly in terms of ships at sea, aircraft in the air and forces on the ground, so by having a vessel in a harbor one is actually executing the deterrent factor but need not necessarily go to
15 sea, but has to go to sea to be prepared and it has to go to sea to participate in exercises and also to execute operations, but we should never forget the deterrent capability that any armament has by being made visible, and just as much as a deterrent factor is by armament being made visible we must
20 understand that the greatest deterrent factor in the maritime arena is a submarine which is not visible, because when it's not visible one doesn't know where it is and that poses a great threat to any would-be aggressor.

So, the deterrent factor cannot be considered if one
25 doesn't have that core force, those elements that constitute a

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meaningful defence capability, a meaningful force design that can deter.

ADV SIBEKO: Having stated that might I ask you to turn to page 57 of that bundle B, that you will find it deals with the Defence Posture and Doctrine of the SANDF. Page 57, have you got that?

R/ADM GREEN: I've got that.

ADV SIBEKO: Might I ask you to read from paragraphs 9 to 12.5 of the document into the record please.

R/ADM GREEN: Chairperson, those paragraphs discuss deterrence. Paragraph 9:

"As noted above the White Paper requires the maintenance of the defence capability which is sufficiently credible to deter potential aggressors. Deterrence plays a crucial role in preventing armed conflict. The maintenance of this capability should take account of the following;

- A potential aggressor must believe that South Africa has the capacity to apply sufficient force to thwart an active aggression.*
- A potential aggressor should also believe that South Africa has the political will to apply such force if it is compelled to do so.*

The Constitution states that the security services will adhere to international law on armed conflict.

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This includes the Geneva and Hague Conventions and protocols referred to as the International Humanitarian Law which provide inter alia that armed forces may only attack military targets and must refrain from attacking civilians and civilian property. These rules necessarily circumscribe deterrence doctrine. South Africa's approach to deterrence encompasses the following;

- *South Africa will pursue military cooperation with other states in such a way that potential aggressors run the risk of encountering collective military capabilities in response.*
- *Collective capabilities would also deter threats to the region as a whole.*
- *Capabilities to neutralise possible threats should be at a level of readiness commensurate with the lead time for such threats to develop, this should be clearly visible.*

Care must be taken not to open strategic gaps in the capability of the SANDF when reducing force levels. Deterrence will not only be pursued against potential long term aggression through immediate force readiness. Potential aggression in the longer term will also be deterred by maintaining the

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capability for expansion. Even if South Africa is not strong enough to ensure dominance in defensive actions the risk of any potential aggressor should be unacceptably high”.

5 Finally:

“Deterrence should not be counterproductive in that it triggers an arms race. This has implications for doctrine, force design and force levels”.

10 ADV SIBEKO: Now this confirms the testimony that you have adduced earlier, is that correct?

R/ADM GREEN: That’s correct Chairperson.

15 ADV SIBEKO: Now having spoken about the element of the deterrence in the Defence Posture and Doctrine could you tell the Commission what is meant by the Defence Strategic Objectives?

20 R/ADM GREEN: Chairperson, the Defence Strategic Objectives are the objectives which we intend achieving as a DOD and these are consistent with the priorities of Government as well as the medium term strategic framework and these are, bearing in mind that these are Defence Strategic Objectives, and I’ll get to the Military Strategic Objectives:

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- To defend and protect South Africa, its sovereignty, its territorial integrity, its national interests and its people in accordance with the Constitution and the*

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principles of international law regulating use of force.

- *Secondly to contribute to freedom from fear and want, including the promotion of human security both nationally and internationally; and:*

- *Thirdly to contribute to a better life for all for the people of South Africa.*

And then if I can expand that into military strategic objectives so that these are then military objectives that we use when we determine the feasibility of engaging in any military activity they are measured against the following; the first military strategic objective being:

- *Enhancing and maintaining comprehensive defence capabilities.*

One will see that that relates to the first defence strategic objective, secondly:

- *Promoting peace, stability and security in the region and the continent; and:*
- *Supporting the people of South Africa.*

Those are the Defence and the Military Strategic Objectives.

ADV SIBEKO: Now you say further in your statement that the Defence Review indicated that the defence planning can be described as needs driven and cost constrained, what does that mean?

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R/ADM GREEN: Chairperson, the term “needs driven” requires us to understand that issue about the core force, the need was to have a core force and when one determined that core force you had to bear in mind that there are certain cost constraints that one cannot simply assume that you will have a wish list that will be satisfied and that is why this was done in a, what we call a scientific way where we had a decision making tool to empower us to indicate how cost would affect that need. Thank you.

5
10 ADV SIBEKO: Now apropos the acquisition of the packages, could you just explain briefly how the force design influenced the recommendation of the packages that were eventually approved?

R/ADM GREEN: Chairperson, once the force design option 1 had been approved, and that was, the proviso was that it was about the provision of funding, the packages, the SDPP’s, the Strategic Defence Packages were announced to the SANDF in a way where we were clearly then in the position to satisfy certain of the force design requirements. So, this is why, if we understand this defensive view being a public participative process, that throughout that participative process the numbers of the force design were public knowledge and therefore it was understood without any confirmation that that is how packages could possibly have been put together to satisfy that which was expressed in the force design. So, the packages then appeared

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to be a means, the ways to achieve that, that desired outcome of the force design. That is all I can say about how the packages relate to the force design.

ADV SIBEKO: Now when the packages were conceived, and perhaps we could take a step back, as far as you are aware the Navy had a need to replace the equipment that had either aged or had been retired, is that correct?

R/ADM GREEN: That's correct, the frigates had been taken out of service and the submarines were engaged in an upgrade programme and they even that upgrade programme was the last alternative prior to having a rejuvenation programme in place, and I, I know that in the Air Force the same systems existed, but I don't have that detail and my colleague will provide that detail.

ADV SIBEKO: And with particular reference to the Navy there had always been a requirement as you had testified earlier to acquire large vessels, the Corvettes, is it correct?

R/ADM GREEN: Chairperson, that's quite correct. The requirement for large combatants has always been very, very clear in terms of my description of the sea state around our coast and also the distances that we need to travel autonomously.

ADV SIBEKO: And what benefits would be gained by the Navy and perhaps the Republic as such in acquiring these large ships?

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R/ADM GREEN: Chairperson, the benefit of having the equipment that we identified to be the operational capability would be that those ships would then be able to execute the operations that we deemed fit in order to be able to protect our people and defend the integrity and that goes about our maritime resources, it goes about safe shipping in the area, bearing in mind that at that time we had no threat of piracy which is a scourge today, but however, we still have the obligation of ensuring safe passage in our own waters, and once again I must reiterate this because this is the issue that this was the core force that we understood that without that we could never expand to do anything more than just idle along.

With these vessels we then saw clearly how we could expand our profile, act as a deterrent, be that insurance policy that should things go wrong we're there and we mustn't, we must not try and understand that we bought or that we used the package to acquire something that was there to do other things. Those vessels were acquired for the SANDF and in this case the Navy to rise to its mandate and without that mandate there wouldn't have been a need but there it is in the Constitution, and this is why I continuously refer to this aspect Chairperson because that is the crux of the matter. We were able to do what we would have to do in a larger environment than what we were capable of doing with offshore patrol vessels.

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ADV SIBEKO: You refer in your statement to what is, you describe as an insurance policy, could you expand on that a bit?

5 R/ADM GREEN: Chairperson, the expression of the insurance policies is that fact of deterrence that I read out because that is why one then feels you're in a position to say that if we have the deterrent material, something with which we can deter others the aggressors that we're spoken about in those paragraphs, then that's the policy that ensures that we ought to
10 be safe, the security of the country ought to be insured and we all know because most of us probably do have insurance of some or other nature, that that is there in case and if you don't have it then you find yourself in a very insidious position should the need arise. That is why we come to that expression
15 for public understanding to say this is the insurance policy.

ADV SIBEKO: Now I understood your evidence earlier to say that at least around the time that a decision was taken to acquire these packages the SA Navy still had some equipment that it could still use to discharge its mandate and that some of
20 the ships were operational until about 2004. Now why was it important to acquire or at least at that time during 1998, to acquire these capabilities that formed part of the SDPP?

R/ADM GREEN: Chairperson, the acquisition process as we call it, and we know in the Constitution it's referred to as the
25 procurement, that process is really a very, very long and

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convoluted process to ensure primarily that we do the right things within the DOD and that we attempt to gain the right capability, and I use the word capability because that's the role of the SANDF is to define a capability. My colleague will explain the process of taking a capability through to a product, but once we've defined a capability then we go a step further by ensuring the detail of that capability through what we call a staff study and I'm not going to go into that process now, but what I want to make clear to you Sir is that the acquisition process is a long process because once we've defined the capability and we go out through a contracting process which is important to understand that the SANDF hands over the capability to the Secretariat because the Defence Material Division that deals with acquisition lies in the Defence Secretariat who would then use ARMSCOR as the contractor to actually acquire the equipment and then that would be handed back to the SANDF and not quite as simply as I'm saying, at the end of the project when we, the SANDF would put that to use, and that can take 10 years and did in many cases, that entire process, because only once the equipment is delivered to the user, albeit it the Navy or the Air Force, then the finalisation of the doctrine, the training and the operationalisation of maintenance facilities comes into play that we can then use this equipment at the state of readiness that's desired and operate it.

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So, if we had the insight to say well, by 2004 this equipment is going to be redundant and really reached the end of its cycle we can't start in 2004 nor in 2000, we have to start at least 10 years to take a cardinal programme through that process, that is why we start before we run out of the capability.

ADV SIBEKO: So the process takes a very long time. Now ...

R/ADM GREEN: It certainly does Chairperson.

ADV SIBEKO: Now the Special Defence Packages that were acquired which form the subject matter of these proceedings were something that was approved by Parliament, is that correct?

R/ADM GREEN: I believe they were approved by a higher authority, not within my domain, the domain of the SANDF Chairperson.

ADV SIBEKO: But these capabilities formed part of the options that had been presented for approval, is that correct?

R/ADM GREEN: The recognised capabilities that the SANDF required were satisfied by what was being offered in the packages. I'm not sure what the full extent of the packages were, it wasn't part of my business at the time but what we're dealing with now is the package that includes the projects known as WILLS [sic], the submarines, certainly Corvette which is a frigate, Project Nkosi, Gripen, Winchester, The Hawk and Flange being the light utility helicopter, those five projects

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came within that package that we're discussing now and those products satisfied the capability that had been identified as a requirement.

5 ADV SIBEKO: This was designed in the force design option, is that correct?

R/ADM GREEN: Chairperson, in the force design options the numbers were larger in most cases, for instance the submarine figure was four, we only took three. We took less aircraft in terms of the Gripen and then in the case of the light utility
10 helicopter, so that is why I go back to my previous comment about being a modest force design, what the packages offered was an even more modest option to that force design. Nothing in the packages exceeded the force design Chairperson.

ADV SIBEKO: Might I ask you to turn to page 96 of bundle B.
15 You have the document in front of you?

R/ADM GREEN: I have it.

ADV SIBEKO: What does that document inform us?

R/ADM GREEN: Chairperson page 96 of the bundle B is an indication of the SANDF force design alternatives, indicating
20 options 1, 2, 3 and 4. Option 1 was the recommended option.

ADV SIBEKO: Now of the four options which was the higher and the lower?

R/ADM GREEN: The highest option was option 4 if one considers the numbers, however, in terms of cost option 2 was
25 the higher cost and the lowest was option 3. Option 3 was by

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no means a balanced force, I referred to the balanced force, and option 1 is a balanced force less than option 4 which is the only other balanced force in terms of that need in the financial constraint.

5 ADV SIBEKO: Of the recommended capabilities referred to in option 1, was everything obtained through the packages?

R/ADM GREEN: Chairperson, only five of the requirements in option 1 were attained through the packages being within the Air Force, so that is the Air Force in option 1, light fighters,
10 medium fighters and there the figure is less than the 32. Within the transport helicopters lower down, within that there are two types of helicopters, so the 30 light utility helicopters were acquired through the package project known as Flange. On page 97 where we refer to the Navy with the submarines
15 that were acquired were three, and the four frigates were acquired, those are the only acquisition projects that were acquired through the packages.

ADV SIBEKO: At pages 96 to 97 signifies the shopping list that was recommended, pursuant to the various options that
20 had been considered during the course design.

R/ADM GREEN: Chairperson I'm not conversant with the term "shopping list", I stick to the force design.

ADV SIBEKO: So in terms of your evidence not everything that was asked for was acquired, would that be a fair reflection
25 of what your evidence is?

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R/ADM GREEN: Chair, that's a fair reflection.

CHAIRPERSON: I'm sure it's much safer to stick to what you know.

ADV SIBEKO: Paragraph 30 of your statement you make
5 reference to what is described there as the rationale for the SDPP's, would you care to briefly explain what that is?

R/ADM GREEN: Chairperson this rationale for the SDPP's is not the rationale for the force design, this is about the rationale which I have indicated here that this approach by
10 various governments of putting a package together that would satisfy a number of needs would be a rationale that one could understand. When looking at it from a purely military point of view is the means how are we going to acquire this equipment that satisfied our identification of a capability.

15 So, when a package offer was made within the SANDF that is seen as five different projects, the package part of it is handled somewhere else because that wasn't a decision that was made, well even within the acquisition component of the secretariat, so when these packages came down, a top-
20 down approach and the SANDF was in the position to satisfy the need that was the rationale that I tried to explain for the SDP as opposed to having five individual projects that reflected the need to be satisfied.

ADV SIBEKO: So, the need had already been identified before
25 the packages were conceived, is that correct?

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R/ADM GREEN: The need had been identified, the basis on which was the force design, from the force design the required operational capability would be developed and that's the first step in determining the need and the need would then be justified because of what is reflected in option 1 of the force design which was the approved.

ADV SIBEKO: And at the time of that acquisition South Africa had come out of isolation and it was after the process, the public process of both the White Paper and the Defence Review had been undertaken, is that correct?

R/ADM GREEN: Chairperson that's correct. Just to reiterate what I'd said before, we'd been through a number of attempts to acquire a number of these pieces of equipment, these capabilities, and here was an opportunity for us to actually move on in terms of our requirement that had been approved through Parliament and other processes.

ADV SIBEKO: Chair, will this be a convenient time to take the adjournment? There are further topics that I need to take the witness through.

CHAIRPERSON: Okay, we'll adjourn until 14h00.

(Commission adjourns)

(Commission resumes)

R/ADM GREEN: ... because it's about training, it's about keeping the maintenance of the vessel up to date and it's also about the development of doctrine that has to be tested in a

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controlled environment, so starting with that fundamental of utilisation. Then Chair I must go to what we term as the value chain of the DOD because that will give you the understanding of the utilisation philosophy, so when we talk about the value chain of the SANDF it goes about the process in which we achieve our objective which is to employ our forces and this is a generic term because it could be for defending and protecting, it could be in military operations other than war and it could be for collateral purposes, it's all about employing the forces to achieve a certain objective.

So, to achieve that the first value in that value chain is what we call strategic direction and Chair this is what I explained in my post in the SANDF before I retired, I was responsible to provide that strategic direction as to how we would eventually use our forces because to be able to have a force one develops it, so after your strategic direction the process of developing forces would come in, and developing forces covers the procurement process and the activity of developing that capability into a useful component, into a useful capability, into a useful part of a joint force.

Once, and this is part of that extensive process that I explained about procurement, the last part, we bring something into service, that's the development where we do the operational test and the valuation, then that equipment is handed over to the service which could be the Air Force, the

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Navy, the Army, then the Army or the Navy or the Air Force would prepare forces and by that we mean preparing the equipment, ensuring it's maintained, training personnel and also ensuring that the competencies of the people match the requirement of the equipment that must be operated, those forces are then prepared.

Now during the development and the preparation the assets are being utilised, then when it comes to the employment of the forces as I've said before that is determined by our audit commitments of Government and further employment where Government would require us to employ our forces, so if we look at what we can achieve in that environment of employ forces, that is literally out of our hands because if we plan because of the strategic direction process to employ our forces and that requirement doesn't arise, then we won't employ them.

So, when it comes to the employment of forces sometimes we might not utilise an asset as much as we would use it in force preparation because force preparation is the mandate of that service to prepare those forces. Now throughout that process of developing, of preparing and of employing forces the fifth element of our value chain is the support and the support is provided by those divisions that I discussed this morning being your HR, your Logistics, the Intelligence and then that service that actually brings these

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forces together to be able to employ them.

So, if we look at the philosophy a little bit further of utilisation then primarily utilisation depends on where Government orders us to utilise our forces. I've explained
5 about how the forces are prepared and how much time would be required to prepare forces adequately in terms of our doctrine and the development of those forces I believe has been covered in both my explanation of the acquisition process and in the handing over of that capability to that particular service.

10 Now as is the case with any asset, and I've alluded to this when I described the, with the demise of the frigates in the past in the early 1980's where we lost a ship at sea, depending on the number of assets you've got and the requirement to utilise those assets both in the employment and
15 in the preparation phases, that would be done in terms of the maintenance required, so for a ship it would be vastly different to an aircraft and of course it would depend ultimately on the resources where we would discuss the budget.

20 However, the budget isn't the only guiding principle when it comes to the philosophy of utilisation because to have that vessel available, to have that aircraft in the air or to have that submarine available to deploy the maintenance cycle has to be endured and when there's allegations that Advocate Sibeko has referred to or made, then it's not always clear to
25 those who wish to make these allegations how the life cycle

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management of assets is affected, how many of those assets are in a different level of maintenance and you, when I talk about the different levels of maintenance the short term, medium term and long term maintenance, and when we talk
5 about a vessel or a ship or an aircraft being in long term maintenance some may see that as being stuck in a dry dock and nothing happening, or a submarine on the hard, nothing happening, aircraft in a hangar, nothing happening in most cases there's a degree of maintenance going on and also
10 importantly Chairperson is the training of people through a rotational cycle to keep them up to date, not only pilots but the maintenance staff and other support staff as well.

So if we consider these requirements to satisfy Government's audit commitments, the time it takes to train and
15 the maintenance cycle through which assets have to endure, then I believe when my colleagues in both the Air Force and the Navy give some detail of deployments within hours or days at sea, then one will understand that the aspect of utilisation isn't an aspect that you think if you don't see an aircraft flying
20 around all day, that they are being underutilised or when certain statements are made that the aircraft is stuck in hangars that they are being underutilised. They might be in a cycle where they are not being used, but very soon they will come out and others will go in, so that when we have an
25 arsenal of 26 aircraft that we won't have all of those aircraft

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being redundant at the same time because an aircraft's lifespan is based on the hours in the air, that stress on the airframe, and similarly the ships and submarines there's a certain maintenance cycle that has to be endured to ensure that those ships remain efficient and effective and some maintenance programmes take longer than others and there's certain factors that lead to the length of maintenance programmes when it comes to the procurement of spares that have long lead times for delivery, so that's the philosophy without going into the figures and the timings because as I've indicated we're coming here as a team and each one has got a designation in his area of expertise and his functional authority that he holds. Thank you Sir.

ADV SIBEKO: So, from the exposition that you've just deliberated on, would it be fair to summarise what you've said by stating that utilisation of these armaments is not only limited to the air time flown by the aircraft or the sea hours spent by the ships, the different types of ships, would that be a fair summation of that?

R/ADM GREEN: I believe that's a fair reflection of what I've said, just to add to that, that while these vessels are not in the air or on the sea then there is utilisation going on in one form or the other and I've tried to give a philosophy rather than the times, the figures because that will be covered by other colleagues. Thank you.

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ADV SIBEKO: Now you were present in the chamber this morning when a statement prepared by Mr. Terry Crawford-Browne was read, might I just read a paragraph of that document and ask you to comment thereon, it says at
5 paragraph 22 subparagraph (b), and I'll paraphrase this:

*"It is public knowledge confirmed by the Minister of Defence and Veteran Affairs that the frigates and submarines are inoperable and that almost half of the BAE Saab Gripens have been placed in long
10 term storage because South Africa lacks the pilots to fly them, the mechanics to maintain them and even the money to fuel them".*

Could I ask you to comment on that statement? Chair, it is paragraph 22, subparagraph (b).

15 R/ADM GREEN: Chairperson my comment on that is that that is not the way that I understand it. The, if the Minister said that then I'm not aware of the environment in which she made that expression and I'm of the opinion that this would have been a résumé written to indicate a certain shortcoming rather
20 than to understand the, or to express it in a way that I have attempted to express it where we indicate that long term storage is part of a process of utilisation when you have to manage the life cycle of assets in terms of your resources that are available. That's my comment Chairperson.

25 ADV SIBEKO: But from the Navy's perspective is it factually

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correct that the frigates and submarines are inoperable?

R/ADM GREEN: That's incorrect Chairperson, inoperable means they are unable to operate, they certainly can operate and do operate and will operate. There will always be those
5 that are in a maintenance cycle and I think I've clarified that issue.

ADV SIBEKO: Thank you Admiral. Might I then direct your attention to the portion of your statement that deals with the funding profile of the acquisition of assets and ask you to
10 comment on that subject.

R/ADM GREEN: Chairperson, this part of the information that I'm providing, and I've been reminded I'm under oath, so I should read this because I'm not a, what they call a bean counter, I'm not in the financial environment but I can share
15 this because what I'm saying now is intended to provide an overview of the funding profile for the acquisition of military assets and for the purposes of the Commission the SDPP assets. I must emphasise that this does not include the allocation of funds, nor the control of funds but merely the
20 concept of the flow of funds, how funds are controlled and allocated is another issue.

The general Defence account is part of a budget vote and the DOD conducts its business as stipulated in the annual performance plan. I alluded to the annual performance
25 plan Chairperson when I introduced my profile last, when I was

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5 serving, when I was a regular of the SANDF. The GDA covers three priorities in terms of the expenditure profile, that's the general defence account, so this is to give, Chairperson this is to give you an understanding of how the available money is used for the utilisation aspect that I've covered.

10 Firstly we have to pay our personnel salaries, that's the first priority. The second priority are honouring of contracts and those are the day to day contracts that we have in place to run the SANDF from a fuel contract, food contract to photostat contracts, not personnel contracts, they have been covered. What is left over out of the general Defence account is discretionary funding for operating the DOD, this includes in terms of priorities first of all out of that that's left, the priority there is to rise to Government's audit commitments Chairperson and to be able to do that one must prepare forces and then for 15 the employment of forces fortunately sometimes we get a remuneration from an entity in terms of *ad hoc* activities that we engage in, so that is merely to indicate that out of the general Defence account the operating funds are really 20 restricted and this will influence the utilisation, that life cycle management.

25 So, in other words the way that I'm expressing it is saying that we utilise our assets in the life cycle management in terms of the funding that's available and if this is perceived to be underutilisation by some, then so be it. Within the GDA

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funds are divided into folio 1 and folio 2 and the GDA folio 1 funds are those funds that have to be spent within the financial year, otherwise they are forfeited and returned to Treasury.

5 In the general Defence account folio 2 funds may be rolled over to the next year and they need not necessarily be returned to Treasury. An example of folio 2 funds would be a vessel that the maintenance would cut across two years, the maintenance of the vessel that would be over a two year period because that's operating, because the next thing I'll get on to
10 is the special Defence account, so to ensure that the maintenance in operating can flow over two years funds are allocated in our folio 2 section of the GDA where we can roll it over and don't have to give it back, but that of course is subject to a number of approvals within the financial
15 environment and that's why I'm saying those control measures are there and I'm not going to expand on it.

The special Defence account supports the funding of acquisition projects, it is structured in such a manner that funds can be rolled over for a number of years and not return
20 to Treasury because acquisition projects take a number of years to complete and I alluded to that earlier on. In the case of the SDPP's a ring-fenced allocation was made through the Defence vote for the financial years for which the SDP contracts were to run. Ring-fenced, meaning that they cannot,
25 those funds Sir couldn't be used for anything else and that was

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controlled by the Treasury and audited by the Auditor-General who incidentally audits all of these accounts, the GDA, the SDA and the ring-fenced SDP funds.

5 For the execution of the SDP contracts funding from the SDA was required to cover certain project costs such as administration costs for project offices as opposed to the actual cost of acquisition of the hardware. Chairperson this is just to indicate that even although we got funding specifically designated for the packages, funding had to come out of the
10 SDA's to cover some of the administration type funds that's required to run the project. So, that ring-fenced money was spent on the hardware, not on project operating funds.

These accounts, the GDA, the SDA and the SDP ring-fenced accounts were appropriated through the Defence
15 vote and reflected in terms of the medium term expenditure framework, the medium term expenditure framework is that part of the appropriation that indicates to us what the defence vote gives for a financial year and the two following years as an estimation, the medium term expenditure framework covers a
20 three year period but the only amount that is actually useful is the year for which it's designated, the two outer years are merely an indication of what one could expect and our experience is that every year that changes, generally to our detriment.

25 The MTEF is the instrument indicating the

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expenditure framework for the execution of the medium term strategic framework of Government, so the MTSF is that plan that I spoke about over a five year period determined by the priorities of Government in that administration and the MTEF
5 which is published every year through the Defence vote, that appropriation allows us to execute year by year in each of those five years. The MTEF expresses the funds that are available as indicated in the vote as well as the two ensuing years.

10 The ensuing years are an indication of what may be expected to appear in the vote for those years, the vote is an annual appropriation and before the funds reflected in the MTEF for the ensuing years would, therefore would not necessarily be what is ultimately reflected for that actual
15 allocation for those years.

So, once again this has an effect on the utilisation because utilisation may be planned in terms of a certain funding profile and if that funding profile is less than anticipated then one would then argue that you would have to
20 reduce your utilisation cycle. This indicates that planning in accordance with the MTEF has to be reviewed every year depending on that allocation.

The distribution of DOD funding within programmes, and by programmes I mean like the Maritime Defence
25 Programme, landward, air-ward is based on historic data as

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well as inputs made by an evaluation committee that deals with defence planning and budgeting and that committee has not during my year in the SANDF been in the position to take funds from one environment and put them into another environment because there's generally not enough to take away from one and give to another, one has to plan within your allocated budget. Therefore Chairperson that utilisation is planned on what we are allocated. Thank you.

ADV SIBEKO: Now Admiral just to summarise your evidence that has been adduced today with regard to the SDPP's, they would sum up, and please correct me if I'm wrong, as follows; with the coming into operation of the new constitutional dispensation the country came out of isolation and through a public process that was largely participatory and participated the outside world became aware of the need of the national, of the South African National Defence Force, is that correct?

R/ADM GREEN: That's correct.

ADV SIBEKO: And at the time of the Defence Review or firstly during the process of the White Paper which was followed by the Defence Review the need of the different arms of services was also identified, is that correct?

R/ADM GREEN: That's correct Chairperson.

ADV SIBEKO: The identification of these needs and the policy documents that informed the acquisition, is it correct to say that the other conflicting interests such as the RDP obligations

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that Government looked into were also considered and the exercise then was informed by a balancing act between competing interests on the obligations of Government?

R/ADM GREEN: Chairperson that is correct, but I need to
5 reiterate that that is a process beyond the DOD, that is a government decision. I must make it very clear that the role of the DOD is to present the requirements, the decision as to how much funds were allocated, one environment into another, that is done at the national level.

10 ADV SIBEKO: But would you agree that the obligation to balance the competing interests was a matter that was identified in the White Paper?

R/ADM GREEN: I agree to that.

15 ADV SIBEKO: Now once the need had been identified these packages were found to be necessary to rejuvenate amongst other things the Navy and the Air Force, is it correct?

R/ADM GREEN: That's correct.

20 ADV SIBEKO: This was necessitated by the mandate on the SANDF as described and provided for in the Constitution, would you agree?

R/ADM GREEN: I agree Chairperson.

ADV SIBEKO: It is these needs that subsequently informed the decision to acquire the packages.

R/ADM GREEN: I agree.

25 ADV SIBEKO: The packages so acquired in terms of the

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SDPP's as you have recently testified are utilised in accordance with the mandate and budgetary requirements of the Department of Defence, is that correct?

R/ADM GREEN: That's correct Chairperson.

5 ADV SIBEKO: Is there anything else you would like to testify to with regard to the issues I have raised which I may not have raised with you?

R/ADM GREEN: Chairperson I'd just like to once again advise you Sir that the detail that you may expect from me will be
10 provided by my colleague and I'm sure that they will do that in a handsome way. Thank you Sir.

ADV SIBEKO: Just before you conclude there is one matter I would like to raise with you which comes out of the submissions or it's one of the submissions that has been
15 received by the Commission and this matter is extracted from a supplementary submission that was made by Mr. Terry Crawford-Browne to this Commission in which he refers to certain statements that he alleges were attributable to you in your capacity as head of Strategy during November 2008, 2012
20 in Parliament and the statement attributed to you includes the following matters that it is alleged you have stated; firstly that there are four frigates, three submarines, seven aircraft which are functionally useless.

(b), That the Air Force did not have sufficient Funds
25 even to keep the BAE Hawk and BAE Saab Gripen aircraft in

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the air and (c); that it is public knowledge that the three submarines were not being used because they required repairs after various serious mishaps, the suggestion being that the wrong engines were fitted into the frigates and will have to be replaced at huge expense. Now are you aware or did you at any stage make such utterances?

R/ADM GREEN: Chairperson I'm not aware that I made any statement like that, I would have to consult the transcripts to ensure that what is being reflected there is the truth, I can say very confidently that it's not my style to make statements of that nature, particularly if the date is reflected as the 28th of November which was on the evening tide of my 42 year career in the SANDF that I've served loyally, to make such damning and irrational statements, so if I'd be allowed those transcripts, because I'm not sure if it says I was in Parliament, I'm not a parliamentarian and nor do I attend any parliamentary function, what I do attend and what I do present the annual performance plan or the annual report is to the Oversight Committee being the Portfolio Committee on Defence where I present the facts in a very positive way as they are reflected in that report.

So, if you'd allow me Chairman then I would need to consult with my counsel to find out where that information comes from and how it could be validated and proven that I would have made utterances in such a derogatory manner Sir.

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ADV SIBEKO: Thank you. Admiral, the Commission is not in possession of the record of those proceedings but we'll endeavor to obtain them, but having said that what do you make of a statement amongst others that the four frigates, the
5 three submarines and aircraft or certain aircraft are functionally useless, just as a matter of fact?

R/ADM GREEN: Chairperson as a matter of fact the four frigates, the three submarines and all the aircraft that were acquired through the SDPP's are functional and as I've said
10 before there may be some who are functional at different levels of functionality. In the Navy we express the level of utilisation of our vessels in levels of functionality where we have a basic level and a seagoing level and operational and a fully-functional and in the Air Force we express this as states of
15 readiness and that's why I found it very odd that I would have ever said anything like that, it's not my language and it's not something that I would be party to, so I would make it very clear that these vessels, the submarines, also vessels and the aircraft are functional in various states of maintenance.

ADV SIBEKO: What do you make of the fact or the allegation
20 that the Air Force did not have sufficient funds even to keep the BAE Hawk and BAE Saab Gripen Aircraft in the air?

R/ADM GREEN: I would like to refer to the section of the annual report of 2011/2012 where in terms of fighter aircraft,
25 because in the annual report we report on the programme, so

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within the Air Defence Programme one would find the Gripens and the Hawks under the heading of "Fighter Aircraft" and there we will see that the performance to plan was far in excess of what was planned and the reason for the overachievement is given in that document, I don't have it with me but I can certainly provide the reference to that and the reason why the overachievement was attained, so it's very difficult for me to understand that we couldn't even keep them in the air when we in fact overachieved our planned target.

5
10 ADV SIBEKO: Could you please give the full reference to the annual report that you are referring to for record purposes?

R/ADM GREEN: Chair, "The Annual Report of the South African National Defence Force for the Financial Year 2011/12". It's a public document and it should be available.

15 ADV SIBEKO: Now lastly what do you make of the allegations that it is, or it was public knowledge that there are, that the three submarines were not being used because they required repairs after various serious mishaps, the suggestion being that the wrong engines were fitted into the frigates and will have to be replaced at huge expense.

20 R/ADM GREEN: Chairperson once again that statement is not very clear to me, I understand the difference between a submarine and a frigate, so if there are three submarines that have got the wording there in terms of not being able to function I don't believe that's true, but how the reference then
25

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to the wrong engines fitted to the frigate would relate to a submarine I don't understand, so this gives me the concern that that statement isn't a logical statement, but it's certainly not the case that a wrong engine could be fitted into either a submarine or a frigate, the fitting of an engine is for that engine and no other engine otherwise a huge amount of other modifications would have to be done and I know that there is no engine other than the engine that the frigate was supplied with that it was fitted and during repairs if that is going to happen then that may or may not happen, depending on how a particular engine will have to be repaired, so that particular statement seems to be mixing submarines and frigates but the truth of the matter is that there are two submarines that have been operational, actually two on the same day were at sea and I've explained within a cycle we've used four frigates, so it's also reflected in the very same annual report, so these statements certainly would require some interrogation and validation in their damning form.

ADV SIBEKO: Thank you Admiral. Chair, Commissioner Musi, that is the evidence of this witness.

MR CRAWFORD-BROWNE: Mr. Chairman may I comment please?

CHAIRPERSON: For record purposes can you tell us your name?

MR CRAWFORD-BROWNE: Yes, I'm Terry Crawford-Browne.

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Thank you Mr Chair. The reference to Admiral Green's report to Parliamentary Committee is given in the submission, the supplementary submission I made.

CHAIRPERSON: Just hold on Mr. Crawford-Browne.

5 MR CRAWFORD-BROWNE: Yes.

CHAIRPERSON: What are you doing, do you want to cross-examine or what do you want to do because I don't think at this stage of the proceedings I'm going to allow anybody just to make a statement, unless if you stand up in order to cross-examine the witness, otherwise I would ask you to keep your
10 comments until at a later stage.

MR CRAWFORD-BROWNE: Chair, for the benefit of the Commission I would like to make a point of clarification regarding Admiral Green's report to Parliament in November
15 last year and the reference to that is given in my supplementary submission of December last year and it's ...

CHAIRPERSON: Just hold there. Let me try and find out from the Evidence Leaders, I thought the procedure is that once a witness has testified that witness can be subjected to
20 cross-examination and if necessary to re-examination by the witness's legal representative. I thought that is the procedure as laid out in the Regulations. I'm not quite sure if what Mr. Terry Crawford-Browne wants to do is part and parcel of what we are supposed to be doing at this stage.

25 My view seems to be that if at all Mr. Terry

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Crawford-Browne wants to comment he can do so at a later stage when he gives evidence or when he makes submissions at the end of the formal tendering of evidence by witnesses, unless if my understanding of the procedure is incorrect.

5 ADV SIBEKO: Mr Chair, my understanding of the procedures as set out in the Regulations coincide with yours and it is not apparent at this stage that Mr. Terry Crawford-Browne wants to apply for an opportunity to be allowed to cross-examine this witness or whether he simply want to make a comment which is
10 not contemplated in the Regulations.

CHAIRPERSON: Before you make your comments Mr. Crawford-Browne I'm sure you were listening what I said and what Advocate Sibeko said. What do you want to do now, where does it fall?

15 MR CRAWFORD-BROWN: Sir, I wish to refer the Commission to the reference since Admiral Green disputes that he made such a report to Parliament's Committee, I wish to refer the Commission to the reference so that they can check that. As regards cross-examination I'm here to represent myself
20 because my advocate was unable to be here because of other business, so when it comes to an application for cross-examination I will leave that in the hands of my lawyer rather than myself.

CHAIRPERSON: May we in that case just refer your
25 application for cross-examination to the time when your

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advocate will be available, but then I think even at that time even the application from your counsel will have to fit in with our arrangements because we have certain arrangements, certain witnesses have been subpoenaed, when your counsel
5 makes that application I'll have to keep that in mind. As I understand you, you do not intend cross-examining because you are waiting for your counsel who will come at the later stage to make an application to cross-examine. Is that my understanding of what you are saying?

10 MR CRAWFORD-BROWNE: That is fine, yes Sir.

CHAIRPERSON: Besides that is there any other person who would want to cross-examine the witness? Admiral, thanks a lot for the evidence that you gave, I'm sure it will go a long way in helping us to understand exactly what happened in this
15 Package and how the equipment is being utilised. Thanks a lot.

ADV SIBEKO: I beg your pardon Chair, I'm not certain if the legal representatives of the Department of Defence would like to clarify any of the matters that the admiral has testified to
20 during his testimony in which event our colleagues led by Cooper [SC] would be entitled to re-examine.

CHAIRPERSON: I'm sorry, that is what I should have done before I thanked the witness.

ADV COOPER: The position is I would like to clarify one
25 or two small points of detail with the admiral with your

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permission.

QUESTIONS OF CLARIFICATION:

ADV COOPER: Admiral Green, in the course of giving your evidence to the Commission you explained that in your view the equipment that you had acquired through the SDPP package was modest when seen in the light of the need, the need to rejuvenate and the need to upgrade and I want just to ask you to expand in a very general way in regard to that particular observation, but the area in which I am going to ask you to amplify your answer, and I don't want to trespass on anything that Admiral Higgs will be saying, the area in which I would ask you to amplify is in regard to South Africa's maritime jurisdiction and in that regard I'm asking you to speak to that area of the seas over which South Africa is recognised to exercise a sovereign jurisdiction and also over that area of the seas in which the economic interests of South Africa are generally recognised in international law.

Now in regard to that maritime jurisdiction I would like you to give the Commission some idea of the size of the maritime waters over which South Africa has a special jurisdiction both to serve and to protect.

R/ADM GREEN: Chairperson, the maritime jurisdiction is huge. In relative terms the maritime area is three times that of the landed area, therefore one would, although I won't say generally but for those of us that understand that business, the

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importance to have a deterrent, when you have to defend an area like that in terms of your economic interests because that area talks to the 12 mile limit, the national waters and then to the 200 nautical mile economic zone, the extended economic zone within which we find our resources, our marine resources.

5 So, bearing in mind that that would then be a huge area my utterance about a modest core force refers to the practicality of really covering that area with four frigates and three submarines. Now what makes it achievable and is the fact that the submarine is the greatest deterrent in the maritime environment and that's where I refer back to the balanced forced, that that balance between the frigate and the submarine and the frigate, that it can have a meaningful time at sea in that expansive area is important because in the options we would have seen that in some options there were no Naval component and if you don't have a submarine then how many extra frigates would you require to provide a deterrent that you can protect and defend in a defensive posture?

10 So that is why I referred to the modest, the modest force design and the, my counsel has asked me to focus on that maritime environment, so that is the reason why, the vast coverage that's required and therefore to do it with four frigates and three submarines is considered to be modest.

ADV COOPER: Thank you Mr Chairman.

25 CHAIRPERSON: Admiral, again thank you, you are now

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finally excused.

R/ADM GREEN: Thank you Chairperson.

ADV LEBALA: Chairperson, it's our turn, myself and Advocate Ngobese. Up to so far you and the co-commissioner appreciate
5 the fact that the four of us sitting here are a team leading the Department of Defence witnesses including our other two colleagues Ms Ramagaga and Mphaga [SC] and Mr Sbusiso Zondi. Our colleagues are done with Admiral Green, it's our
10 turn now to lead Admiral Higgs and we are ready. Permit me to say we would like to utilise this time of the day to lay a foundation in our leading of the testimony of Admiral Higgs. I do not know whether you would prefer an adjournment, we are in your hands, but be advised that we are ready to start leading that evidence.

15 CHAIRPERSON: Maybe let's take a 10 minutes' adjournment and when we come back then we'll start with that witness. Thank you.

ADV LEBALA: Thank you Chair.

(Commission adjourns)

20 **(Commission resumes)**

CHAIRPERSON: Advocate Lebala.

ADV LEBALA: Am I audible? Thank you Chair and Commissioner Musi. At the outset permit me to advise how we intend dealing with the testimony of Admiral Higgs and the
25 challenge that has been created by bundles. At this stage I

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would like to deal with hygiene issues, how to tie the bundles. We have a bundle of Admiral Higgs, it's an exclusive bundle that has been generously prepared by Miles Carter and Advocate Cooper [SC]'s team and that bundle has been placed
5 before you. Permit me to call this bundle Admiral Higgs' bundle, and that bundle consists of two volumes, volume 1 and volume 2. You will see that volume 1 starts on page 1 and ends up on page 210 and volume 2 starts on page 211 and ends up on page 779. Now at this stage permit me to pause and ask
10 whether are the commissioners with us.

Whilst your lining your ducks in a row we are alive to the fact that when the testimony of Admiral Green was being led a bundle which is called an ongoing bundle that from now on we'd be relying on, and particularly after the testimony of
15 Admiral Higgs and Admiral Schoultz has been presented to you but for the sake of expediting the proceedings we felt it convenient because we've been doing our preparations relying on the bundle that has been prepared by Cooper [SC] and Mr Carter. Now that bundle is in their possession too. For the
20 sake of completeness permit me to hand this bundle to you if need be Chair and Commissioner Musi.

CHAIRPERSON: (MICROPHONE OFF).

ADV LEBALA: Indeed, that's the one Chair, hence we say that we will be called Admiral Higgs' exclusive bundle, it means you
25 are parting ways with the earlier bundle that was being used

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when Admiral Green was being led and ...

CHAIRPERSON: (MICROPHONE OFF).

ADV LEBALA: Yes, it's a continuation of the self-same index, you will see that Volume 2 starts from page 211 to page 779.

5 CHAIRPERSON: (MICROPHONE OFF).

ADV LEBALA: Indeed Chair.

CHAIRPERSON: (MICROPHONE OFF).

ADV LEBALA: Indeed Chair. And permit me to call both volumes Admiral Higgs' bundle just for the purpose of this time
10 of leading of Admiral Higgs' testimony. For instance the earlier bundle that has been prepared that was being utilised when the testimony of Admiral Green was being led will be the future reliable bundle upon which the testimony would be anchoring on the hill from time to time, but for the purpose of
15 this proceedings and testimony at this stage permit us to rely on Admiral Higgs's bundle. I suppose we are on the same hymn sheet together with Commissioner Musi. Is that a nod Chair?

And there's going to be legislation that we are
20 going to refer to. Now I'm tossing you around, please go back and recapitulate, you are going to rely on the volume of legislation, volume 1 and 2 that has been handed to you earlier on with the five bundles whilst Admiral Green was being led. On legislation you will still rely on the earlier part of the five
25 bundles because we'll be relying on legislation and referring

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you to that legislation time and again, that's volume 1 and 2 that relates to legislation. I see ...

CHAIRPERSON: (MICROPHONE OFF).

5 ADV LEBALA: It will be probably tomorrow because I would like, would just like to shoot and start with the introductory part of his testimony.

CHAIRPERSON: (MICROPHONE OFF).

10 ADV LEBALA: Thank you Chair. Now the self-same bundles we assure you that our colleagues acting for the Department of Defence team are placed in possession thereof, I see Mr Cooper is nodding to confirm. Now we are ready to proceed Chair. Admiral Higgs is already before you.

CHAIRPERSON: Can you swear him in?

(Witness is sworn in.)

15

WITNESS NUMBER 2 : REAR ADMIRAL ROBERT WILLIAM HIGGS (Hereinafter referred to as "R/ADM HIGGS"), GIVES EVIDENCE UNDER OATH

EXAMINATION IN CHIEF:

20 ADV LEBALA: Admiral Higgs I've been advised that if you could please speak away from the microphone, not into it, because it makes an echoing sound. Admiral Higgs you have prepared a sworn statement, is that correct?

R/ADM HIGGS: (MICROPHONE OFF).

25 ADV LEBALA: Chair you will bear with me because I need to

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apprise Admiral Higgs how we are going to go on in eliciting his testimony before the Commission. Admiral Higgs, when I have finished putting a question I'm going to switch on the mic and you switch it on, I switch it off, we'll be rotating like that.

5 Is that understandable? Thank you Sir. You did confirm that you have made a sworn statement, is that correct?

R/ADM HIGGS: (MICROPHONE OFF).

ADV LEBALA: Now I'm going to refer you to page 1 of the sworn statement and it will be page 1 of the index and
10 paginated papers. Are you on page 1? Now let's start with paragraph 1. In paragraph 1 you state that you are a rear admiral and employed by the South African National Defence Force. Let's pause there. Would you like to explain to the Commissioner what's a rear admiral?

15 R/ADM HIGGS: Mr Chairman it is a two-star admiral, that is the same as a major-general in the Army or the Air Force and it is the same as a, equivalent standing as a chief director in the rest of the civil service, it's largely an internationally accepted rank Sir.

20 ADV LEBALA: Now in that case what's the difference between a rear admiral and an admiral?

R/ADM HIGGS: There are four different grades of admirals, there's a one-star, in our Navy is a rear admiral junior grade, there's a two-star, he's a rear admiral, there's a three-star who
25 is vice-admiral, our navy chief is a vice admiral, Admiral

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Modibi, and a four-star is a full admiral. The Chief of the National Defence Force, if he was a naval officer would be a full admiral and as such they are all referred to by their title "admiral".

5 ADV LEBALA: Now let's proceed from the self-same paragraph where I paused you and you further state that you served as the Chief of Naval Staff at Naval Headquarters Pretoria. Would you kindly explain to the Commission what does this function entail of Chief of Naval Staff?

10 R/ADM HIGGS: Mr Chairman, the Chief of Naval Staff is on the direct personal staff of the Chief of the South African Navy, I sit on a number of councils, the Naval Executive Command Council, the Naval Command Council and the Naval Staff Council and participate fully in that. In addition I give advice
15 on a number of a specific naval issues and I have a unique responsibility with regard to the regular force people in the Navy, the reserve force people in the Navy, civilians in the Navy, the logistics world, the legal dimensions of the Navy, public relations and a few other miscellaneous and sometimes
20 quite awkward issues Sir.

ADV LEBALA: At this stage let me direct you to paragraph 3 of your statement and let me take the liberty to read it to you:

"I've been asked to provide evidence within my knowledge that may be relevant to the rationale for the Strategic Defence Procurement Package (SDPP

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and the utilisation of the equipment acquired in terms of the SDPP”.

You went further to say, you go further to say:

“In this statement I deal with the strategic utilisation of that equipment”.

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Three things come out of this paragraph; firstly you're going to talk about the knowledge of the rationale for the SDPP and then the utilisation of the equipment and the strategic utilisation of that equipment. Do you want to explain why is it three-pronged?

10

R/ADM HIGGS: Mr Chair, the first point with regard to the rationalisation or the rationale for the Strategic Defence Procurement Package, through my experiences as a naval officer about 17 years ago I played an active role in the Defence Review process and I'm able to testify to my role in that and my understanding of that, and in particular I believe that I can give some very good insights into, particularly into the strategic rationale, that is the strategic utilisation of that equipment as a continuum of the thought process which was initiated with the White Paper and the Defence Review, so it was almost the entire full spectrum of what was originally envisaged with regard to that. With regard to the tactical utilisation my colleague and the operational utilisation my colleague Admiral Schoultz as flag officer Fleet will be handling that in detail Mr Chairperson.

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ADV LEBALA: Thank you Admiral Higgs. At this stage I would like us to look at your *Curriculum Vitae*, Annexure "RWH1", that starts from page 9 to page 11 of the index and paginated papers volume 1. Are you on page 9? Now the first paragraph
5 relates to your birth date, I don't think it's that essential. Of significance is the date on which you joined the Navy in that paragraph, to be specific just so that we should expedite your testimony under this circumstance, when did you join the Navy?

R/ADM HIGGS: Mr Chairperson I joined the Navy
10 (MICROPHONE OFF).

ADV LEBALA: Now we are told that you joined the Navy as a midshipman, do you want to simplify that to the Commission?

R/ADM HIGGS: (MICROPHONE OFF).

ADV LEBALA: I note on the self-same paragraph the next line
15 that you were the best midshipman of the year.

R/ADM HIGGS: That is correct, I was fortunate to be awarded the Heinrich Trophy for the Best Midshipman of the Year in 1976.

ADV LEBALA: On the self-same paragraph we see that you
20 obtained a B.Mil B.Sc. and you are also recognised as a top naval student for your group.

R/ADM HIGGS: Mr Chairman that was at the Military Academy in Saldanha, it was part of the University of Stellenbosch and I focused in Mathematics, Physics and Nautical Science.

ADV LEBALA: Now do you want to explain, and the relevancy
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of this is going to come out as you keep on testifying. What does B.Mil B.Sc. entail?

R/ADM HIGGS: Mr Chairman a B.Mil is a Bachelor of Military, it's a military bachelor's degree and the B.Sc. in particular indicated that the choice of military sciences. In those days there was a BA also allowing you to study along the arts and a B.Com to go into the commercial line, and I specifically chose the sciences because it was more apt to a career as a combat officer or as an unrestricted line officer in the South African Navy.

ADV LEBALA: Admiral Higgs, noting that your CV is not paragraphed permit me to call the next paragraph, paragraph 2, I'm not going to spend time on it, there's no interest in the diving skill background, but what fascinates me in line with the relevance of your testimony is when you started your first command. Just explain to the Commission about your first command.

R/ADM HIGGS: In the Navy to have command at sea is very important, I was very fortunate as a young lieutenant to command the SAS Fleur, a torpedo recovery and diving vessel. I did that for a year and it was a wonderful experience, it allowed me to gain confidence which you only gain once you serve at sea command.

ADV LEBALA: I note that on the self-same paragraph you also became the officer instructor.

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R/ADM HIGGS: That is correct Mr Chairman, I was an officer instructor or a divisional officer at Naval College, I was sent to Gordon's Bay to go and instruct a group of young midshipmen who were being put through their paces to also prepare them for a career in the Navy, it was a huge honour to do that and in fact at that stage we focused on teaching them professionalism and we were in fact ahead of our time in preparing for the new South Africa and a lot of the stuff which we researched and taught then came to a head when we actually participated in the Defence Review in 1996 and 1997.

ADV LEBALA: Let's proceed to the next paragraph. Permit me to call it paragraph 3. There we are going to what starts to be matters of weight in line with the SDPP packages and the relevance is going to come a little bit later, your command of the submarine, would you kindly briefly take the Commission through it?

R/ADM HIGGS: (MICROPHONE OFF) in my life to command a Daphne class, a French-built submarine, the SAS Johanna Van der Merwe which was later renamed SAS Assegai and that submarine today serves as a museum in Simonstown and it's open to the public. That was a wonderful experience for me, it was operating in a highly sophisticated technologically tight environment but the biggest thing for me was operating in very close confines with the submarines ships company, the whole thing about interpersonal relationships, being a part of the

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team and trying to build a team together in those circumstances is actually probably one of my major highlights in my life.

ADV LEBALA: On the self-same paragraph towards the end your leanings as a pedagogue, a teacher also comes out, in 5 1993 you are appointed as a teacher. Let's pause there, remember I've jumped the other areas of your leadership and the command of further submarines, I just want to expedite because the relevancy of this is going to come handy later. Your background there once again as a pedagogue, a teacher 10 surfaces in 1993. Please take the Commission through that.

R/ADM HIGGS: Thank you Mr Chairman. I served as the teacher for a group of potential submarine officers commanding, we had two South Africans on course and two 15 foreigners on course and it was also a very, very important exercise for me in doing our best possible to actually train up a new generation for the South African Navy and for another navy.

And what was particularly important there is to make sure that they are able to inspire confidence in their 20 ships company, if the ship, if the submarine ships company doesn't have confidence in who leads them they will walk off that submarine, a submarine is a volunteer environment, if people feel unsafe they won't be there, so it's very, very important that you've got to ensure that you achieve a specific 25 level with regard to submarine OC training.

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ADV LEBALA: Next paragraph that we will qualify as paragraph 4 relates to your going to the United States to do the Naval Command and Staff Course. Its relevancy will come at a later stage, just take the Commission through that quickly.

5 R/ADM HIGGS: Mr Chairman I was very fortunate to be selected straight after our elections in 1994 to represent the South African Navy at the Naval Command College Course at the prestigious United States Naval War College in Newport, Rhode Island. We had a wonderful time there, I was on course
10 with officers, senior officers from 35 other navies, together with 200 Americans and it was very, very worthwhile, for us coming out of isolation to that other extreme was one of the most remarkable experience which one could imagine.

And what was also particularly pertinent apart from
15 the academic studies that we did there was the huge network which we built up with regard to other navy leaders throughout the world today and if one thinks of where those 35 other people are spread across the world through the internet *et cetera*, one often maintains contact with them and it's a very,
20 very reassuring thing and it allows one to actually speak with reasonable authority with regards to what is happening internationally in navies.

ADV LEBALA: On the self-same paragraph you also became a winner of a Naval War College international prize, do you want
25 to take the Commission through that?

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R/ADM HIGGS: Mr Chairman I was very fortunate, at that stage I think not many people understood our continent and I put a lot of effort into a paper because I think there was lots of ignorance in the world and in particular with regards to the United States concerning our continent and I wrote a paper which won the top international award, which was called "A Role for the United States in a Strategy to Support the Reconstruction and Development of Sub-Saharan Africa", it was not an official position but it was just my idea, talking about how navies can play a significant role in actually bringing hope, stability and interface and confidence to the entire continent.

ADV LEBALA: The publication of the paper is not that essential but it has been published, am I right?

R/ADM HIGGS: (MICROPHONE OFF).

ADV LEBALA: Let's go to page 10. Your leanings as a scholar and erudite learner comes in there, you obtained your Master's degree, just explain that, in International Relations.

R/ADM HIGGS: (MICROPHONE OFF) because of their participation and their passing of the War College Programme, however, the international offices, because a lot of them struggled with the English did not qualify for that programme, so the way you actually capitalised on what you've learned at the War College was to go to a local Catholic University and that is what I did and I did everything necessary there at the

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Catholic University called Salve Regina and that's together with what I was accredited with at the US Naval War College that gave me a Master's degree in International Relations.

ADV LEBALA: Now the importance of that background is now leading us to what's where, the importance of your testimony is going to become handy. You became a captain during the self-same period in 1996 and something significant happened and permit me to read the relevancy of this portion to the Commission, that's line number 1, 2, 3, 4:

10 *"He served as a director of Naval Force Planning and then as the director of Naval Strategy. During these appointments he represented the Chief of the Navy on the Defence Review process".*

Now do you want to comment briefly about that? Remember we are going to delve into the rudiments of your role there, just to give the Commission a background of your take on why you were requested to serve on the Defence Review process, just briefly.

R/ADM HIGGS: At that stage in early 1996 I was appointed to Pretoria for the first time and I came up here and I think possibly given my naval career in Simonstown and also the international exposure which I had had at the national security level on all dimensions of security, on the jointness and on the combined set of operations, I think those were probably the reasons why the Chief of the Navy at that stage decided it

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would be appropriate for me to participate and to represent him in that very, very important process.

ADV LEBALA: Let's be precise with names, who was the Chief of the Navy as at that stage?

5 R/ADM HIGGS: Mr Chairman, the Chief of the Navy at that stage was Vice-Admiral Robert Claude Simpson Anderson.

ADV LEBALA: In the self-same paragraph you served as a team leader for the Develop Policy Work Group in Support of the Chief of Policy and the Plans of the Department of Defence.

10 Are we still in 1996?

R/ADM HIGGS: That is correct Mr Chairman. I served under Mr Baker Ishmael and participated in that specific process in 1996 and through to 1997 and I was very fortunate to actually sit and do a lot of his staff work to support him but at the same time to learn a lot from his perspectives, particularly with regard to civil military relations and how we were moving in South Africa.

15 ADV LEBALA: And the significance of this background and part of your formidable CV will become relevant as that period 20 1996 plays a significant role in relation to your testimony. Let's go to the next paragraph on page 10, you are being appointed to Washington DC and becoming a Naval attaché, let's start here, explain what is a Naval attaché.

R/ADM HIGGS: Mr Chairman a Naval attaché is somebody who 25 represents your navy and your country in a foreign country. In

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my particular case I was in Washington, I served under Ambassador Franklin Sonn and Ambassador Sheila Sisulu. As such we went there as staff officers from our independent services, I served in a defence office with an army and an air
5 force and a naval officer together, the three of us served together and we conducted regular attaché duties from overt intelligence gathering to exchange of information to furthering staff coordination and commitment between the two militaries and of course we also participated fully in supporting the
10 ambassador with regard to her initiatives.

I was very, very fortunate at that stage in the relationships between the United States and South Africa, probably the centre of everybody's thinking in Washington then was President Mandela and he came to the United States often,
15 and in addition to that the focus of a lot of the American military activity was on a developmental agenda, it was how can we engage in Africa, how can we get things going and of course at that stage having recently participated in the Defence Review a lot of the stuff which we learned in the Defence
20 Review we told the international community in Washington and *de facto* at that stage Washington was the centre of the military of the globe and so it was a very good time, just ironically, fortunately, I left there nine months before 911 and handed over to Admiral Christian who then had to go through this
25 radical change in American thinking, it's been most tragic.

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ADV LEBALA: Thank you. The relevancy of all this detail is still going to come out as you testify. There was something which puts a further feather on your cap, you were elected as the chairperson, as a chairman of the Naval Attaché Association in Washington for 2000, a first for a South African Naval officer. This association comprised Chair, I'm reading the paragraph which is the second paragraph:

"This association comprised of more than 100 officers ranging from mid-rank to three-star admirals. In addition to his regular attaché duties Rear Admiral Higgs was designated as a South African representative for the development of the Pentagon sponsored African Centre for Strategic Studies from early 1999 where he interfaced with senior military leadership from the African continent as well as the United States and France".

Now I know that you could testify at this stage about the relevancy of this part of your *Curriculum Vitae*, particularly in relation to strategic utilisation but let's pause here, I just wanted to draw the Commission's attention to your formidable CV and your background. Now you're back in Pretoria, already we start to see that there was a time when you were out of the country. The next paragraph when you returned to Pretoria from Washington in 2001, how long have you been out of the country?

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R/ADM HIGGS: Mr Chairman Sir I had been out of the country for three years, which at that stage was the normal tour for an attaché.

ADV LEBALA: Let's go to the next paragraph. In 2003 you were appointed as SSO Navy Public Relations where you were responsible for the South African Navy Communication Strategy whilst the Navy became to receive its frigates from the Strategic Defence Package:

'In December 2004 he was awarded the National BOA Communications Award from Dr Essop Pahad, the minister in the Presidency'.

I note that you could stop here and demonstrate the connection between you and the frigates but is there something that you would like to mention in passing Admirable Higgs?

R/ADM HIGGS: Yes please Mr Chairman. I think the relevance of that is that the principles which we used in the Defence Review, the transparency, the engaging everybody, the going out and listening to everybody and talking to everybody was the fundamental point of departure we used in our communication strategy and I'll testify to this later Sir, but the reality is we're proud of what we've got and we showed the people of South Africa and the world in all dimensions and it was good.

ADV LEBALA: Next paragraph, another feather on your cap, your appointment as director of Maritime Warfare and your

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promotion to rear admiral in 2005. Do you want to comment about that?

R/ADM HIGGS: Mr Chairman that is a major highlight to be promoted to rear admiral, to one-star was a major highlight in
5 my entire career, I had been a captain with a very strong CV for almost 10 years and in the past people had got promotion a little bit quicker but I felt very strong and I felt most humbled particularly with the honour which had been bestowed on me by our country.

10 ADV LEBALA: I note that there's also mention on the self-same paragraph of your leadership in the Project Millennium, which is going to be relevant to the testimony. Do you want to mention something in passing about that?

R/ADM HIGGS: Thank you very much Mr Chairman. Sir, if I
15 may indulge myself and just ask you, at the moment we're focusing on frigates and submarines and it's good and we must do this and we must get to the bottom of this and clear it up so that we can go on, but the reality for South Africa to become a great nation and for Africa to find African solutions we've got
20 to work out a way with the military here to underpin all our foreign policy initiatives in a much more realistic way and Sir, in fact I shared this concept with Dr Kader Asmal about just a year or two before he died because he came to me and he said: "Admiral Higgs, what is this about you wanting to purchase
25 aircraft carriers?" and I said: "No Minister", I said: "Sir, if you

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just close your eyes and think of a big ship and on that ship think of the Union Buildings with all diplomacy, with a South African national flag and with all SADC's flags there, think of Waterkloof Air Force Base with a bunch of helicopters which are able to go in and rescue South Africans or other Africans of burning embassies, pull them back safely, think of 1 Military Hospital with 80 beds where we can treat South Africans or friends of South Africa anywhere off the continent, a few 100 of our troops highly trained, fit, able to go in, achieve an objective and come out quickly, with a big dock to allow us to take heavy stuff from the sea into places where there are poor ports, good ports, no ports, going in, achieving things, pulling out old tanks which you'd wanted removed, pushing in graders and all those things and then you open your eyes and say Sir, this is what we're looking for", that's Project Millennium Sir and that's what we've got to get to in the future, but at this stage there's a total impasse on everything because of where we are today, that's why you will see the Navy so committed to actually getting to the bottom of what we're doing and to support you in every way we can Sir.

ADV LEBALA: Let's proceed to the next paragraph. In April 2007 you were appointed as the Chief of Fleet Staffing Simonstown, just explain what does that entail.

R/ADM HIGGS: Thank you Sir. The Chief of Fleet Staff is the second in command of a fleet, it's a one-star appointment and

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he reports to Flag Officer Fleet who is the two-star who commands South Africa's fleet in Simonstown. Admiral Schoultz, the next witness, is currently Flag Officer Fleet, so the chief of the fleet staff integrates things in the fleet and reports directly to Flag Officer Fleet.

ADV LEBALA: Now Simonstown is where our frigates and our submarines, one would say take refuge and are parked, permit me to use a township language, we say it's parked there, is that where they are parked?

R/ADM HIGGS: In fact as Admiral Green indicated we're not used to that language, we don't park, but they are alongside and they're based in Simonstown, Simonstown is the heart of the Navy, even though Durban is very, very important to us and of growing importance also Sir.

ADV LEBALA: On the self-same paragraph you will note that 1 March 2008 a further cap on your, a further feather on your cap, you are appointed as flag officer and promoted to rear admiral. During this appointment you commanded the fleet of South Africa, you were responsible for more than 6 000 people and control and operating budget of R700 million. You were privileged to oversee the new South African Navy including its new (indistinct) class frigates and Heroine, that's the next page on page 11 Chair and Commissioner Musi, and Heroine Class 209 submarines, exercising with the Brazilian, British, Chinese, French, German, Indian, Russians, US and many other

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navies. Now already we know that you have rubbed shoulder with the frigates and the submarines. Do you want to comment about that?

R/ADM HIGGS: Sir, I think there can be fewer appointments
5 in the world which can be as fulfilling and challenging than that, to command South Africa's fleet and I'm sure Admiral Schoultz is certainly enjoying it and thriving on the huge challenges and in helping to make South Africa great with this, that was a huge privilege to have had that appointment.

10 ADV LEBALA: Next paragraph, in 2011 you took over the responsibilities of Chief of Naval Staff at Naval Headquarters in Pretoria, what does that entail?

R/ADM HIGGS: Mr Chairman Sir that's exactly what I explained, that's my current appointment at the moment which
15 is a two-star appointment up in Pretoria, but it is not a command appointment, Flag Officer Fleet is a command appointment, this is a staff appointment where you advise the Chief of the Navy Sir.

ADV LEBALA: The next paragraph talks about your family life
20 and church. What amazes me, I hope this applies to you, you are a church warden, I hope it accredits you before the chairperson and the Commission.

R/ADM HIGGS: Sir, I'm a born and bred Anglican and that's just who I am and I believe I should do my duty there and we're
25 very close to Bishop Joe Seoka and to the former Archbishop

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Jonga Nkulu, we're very close with him also with our Simonstown linkage and we believe that the church and the Navy must be very close together.

ADV LEBALA: So you are a man of a religious disposition?

5 R/ADM HIGGS: I've been brought up a practicing Christian, my father was ordained as a non-stipendiary priest by Jonga Nkulu when he was 73 years old, which is our family.

ADV LEBALA: Whatever that means Admiral Schoultz. Let's proceed to the next paragraph. The next paragraph talks about
10 your awards, merits and medals. How many are they, just to simplify things.

R/ADM HIGGS: I think there are 12 there Sir.

ADV LEBALA: Now do they cover the period pre-1994 and post-1994?

15 R/ADM HIGGS: They do, there are a few of them pre-1994 and probably most of them are post-1994.

ADV LEBALA: You have served South Africa before 1994 and after 1994.

R/ADM HIGGS: That is correct Sir, this is my 38th year in the
20 Navy from 1976.

ADV LEBALA: For the sake of completeness do you want to specify those that were awarded to you before 1994 and those that were awarded to you after 1994 and the relevance of this testimony is still going to come out when you start to testify.

25 R/ADM HIGGS: Certainly Mr Chairman. The Southern Cross

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Medal, that I received in 2000. The Military Merit Medal I received in 1984. The Pro Patria Medal in the late 1980's. The Southern African Medal in the late 1980's, the UNITAS Medal, which is probably the most important symbolic medal which everybody in 1994 was awarded, that symbolised and heralded where we were moving to. A General Service Medal recent, my bronze medal, that was pre-1994. The silver medal, that's 20 Years' Service, that is post-1994, my 30 Year Good Service Medal post 1994, United States Legion of Merit, officer class medal, that was in 2000. The Brazilian Naval Order of Merit decoration, that was last year, and the Brazilian Medalje Merito Thamadare is about three years ago.

ADV LEBALA: Thank you Admiral Higgs. Chair, I note that it's 15h55, I would like us to utilise whatever minute we have, I'm just about to go into the rudiments of Admiral Higgs's testimony which will start with what he says in his statement page 1 paragraph 6 that relates to his role in the Defence Review Process. I'm in your hands, if you want us to utilise this remaining three, four, five minutes, but in my vocab which is limited, and with due deference to the proceedings this is an appropriate time to adjourn.

CHAIRPERSON: Maybe this might be an appropriate moment to adjourn because you are going to start on a completely new topic. Can you, can we proceed again tomorrow morning at 09h30?

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ADV LEBALA: Thank you Chair.

CHAIRPERSON: Admiral, we will see you again tomorrow at 09h30, you will continue with your testimony tomorrow morning.

Thank you.

5 R/ADM HIGGS: Thank you very much Sir.

CHAIRPERSON: We'll adjourn, thank you.

(COMMISSION ADJOURNS)