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CHAIRPERSON: Good morning. Advocate Sibeko, you are still on your feet?

ADV SIBEKO: Yes Chair, I'm still on my feet, thanks.

CHAIRPERSON: Must we take the position that we took on
5 Friday or on the last time?

ADV SIBEKO: Indeed Chair, I would request that you do.

CHAIRPERSON: Thank you. In the meantime can we get the witness to confirm that he's still under oath?

CAPT (SAN) JORDAN: I do.

10 CHAIRPERSON: Thank you.

ADV SIBEKO: Captain you recall that when we adjourned on Friday last week you were busy with the slides dealing with the summaries of the MODAC reports which formed part of the policies that regulated our position in the National Defence
15 Force. Do you recall that?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: And at the time I had asked you to have regard to the big bundle Jordan-1 which contains the policies and we were, we had at that time just dealt with what was set out at
20 page 406 of that bundle and forward.

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Now you will see that at page 407 there appears summaries of the various reports MODAC-1, 2 and 3, do you confirm that?

25 CAPT (SAN) JORDAN: That is confirmed Chair.

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ADV SIBEKO: Now may I ask you to turn to page 409 of that bundle.

CAPT (SAN) JORDAN: I have page 409 Chairperson.

ADV SIBEKO: Now you will see that page 409 contains the executive summary of MODAC-1 report, do you confirm that?

CAPT (SAN) JORDAN: It is confirmed Chair.

ADV SIBEKO: May I ask you for purposes of the record to read into the record what the executive summary in respect of MODAC-1 provides for?

CAPT (SAN) JORDAN: Chair I read for the record "Executive Summary":

"MODAC-1. The Management of Technology and Armament Acquisition in the Department of Defence. Roles, functions, structure and division of responsibilities of the role-players in the Department of Defence were investigated and a new management structure was proposed. The MODAC-1 report defines the roles of the different parties within the Department of Defence as follows;

1. Role of the Minister of Defence. The ultimate political authority and responsibility for the acquisition function rests with the Minister.

2. Role of the National Defence Force. The National Defence Force is responsible for the determination of armaments requirements as

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5 *derived from and substantiated against the approved four structure and in accordance with policies, programmes and budgets. During the execution of armament acquisition programmes*

10 *the National Defence Force is furthermore responsible for overall project management and to ensure that statutory requirements are satisfied through the acquisition of optimised user systems and for final acceptance of these systems against the stated needs.*

15 *3. Role of the Defence Secretariat. The Defence Secretariat is responsible to ensure that all acquisition activities are executed within national objectives, policies and constraints. The Defence Secretariat is furthermore primarily responsible for high level programming and budgeting and in-year control and auditing of defence expenditure.*

20 *4. Role of ARMSCOR. ARMSCOR is responsible for the following activities:*

25 *a. The professional programme management and contracting of industry during execution of armament acquisition programmes. During the execution thereof ARMSCOR ensures that technical, financial*

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and legal integrity are in accordance with Ministry of Defence requirements.

b. To oversee industrial development in order to support acquisition programmes.

5 *The MODAC-1 report also established a new acquisition management process and approval structure. The model used for structuring the armament acquisition management process allows for sequential phases separated by formalised*

10 *baselines that enhances effective and efficient management. This process systematically translates functional needs stated by the operational user into technical design and manufacturing parameters. This process is*

15 *managed by appointed project teams. A project team is responsible for the execution of a project and for the submission of project milestone documents as prescribed to the approval committees and boards. The approval structure for project*

20 *submissions consists of four levels, the highest level of approval for acquisition is the Armament Acquisition Council under the chairmanship of the Minister of Defence. The second level of approval for acquisition is the Armament Acquisition Steering*

25 *Board under the chairmanship of the Secretary for*

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5 *Defence. This board approves non-cardinal projects and screens cardinal projects. The Armament Acquisition Control Board under the chairmanship of the Chief of Staff Logistics of the SANDF is the third level of control and screens all projects in terms of requirements. These councils and boards consists of senior personnel of the SANDF, Defence Secretariat and ARMSCOR”.*

10 ADV SIBEKO: Now if I ask you to just go back to 409 and try and elicit your comment regarding some of the observations I made, one of them is reference made there to the role of the Defence Secretariat, do you see that?

CAPT (SAN) JORDAN: I see that Chair.

15 ADV SIBEKO: Now is it correct that in the policy documents that we have dealt with previously during the course of your testimony no reference is made to the Defence Secretariat or the role played by the Defence Secretariat in the acquisition process?

20 CAPT (SAN) JORDAN: Chair, if my memory serves correct that is correct.

CHAIRPERSON: I'm sorry Advocate Sibeko, just for my own understanding this MODAC-1, when did it come into operation?

ADV SIBEKO: Chair, if I may ask you to have regard to bundle N, ...

25 CHAIRPERSON: Bundle?

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ADV SIBEKO: N. And if the Chair could turn to, it is page 42, page 42 Chair, that's where you will find the chart with the timelines that the witness used in order to start explaining some of the important events or milestones that have a bearing on the Commission's investigations. You will see Chair that on the left hand column under "VB1000" and "LOG12" there is MODAC-1. Under the column with the years 1995 it is recorded that it is approved by Steering Committee on 10 February 1995 and during the course of the witness's testimony on Friday he alluded to the persons who constituted the Steering Committee in terms of that document and perhaps in order to refresh your memory I would ask you to turn to page 406 of that bundle.

CHAIRPERSON: Page 406?

ADV SIBEKO: Yes. You will see at page 406 it deals with the introduction and the composition of the Steering Committee in the middle of that page. Thank you Chair.

CHAIRPERSON: Just the last question from me, does it mean that at the time the SDPP was being planned and implemented MODAC-1 was the policies that were in force?

ADV SIBEKO: Captain, would you like to answer that question?

CAPT (SAN) JORDAN: Chair, if we look at bundle N page 42 it has the table, one will see that MODAC-1 was approved by the Steering Committee on the 10th of February 1995, so that would mean that when the SDPP's was contemplated that MODAC-1

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would have been relevant.

ADV SIBEKO: Chair, perhaps to come to supplement the response that Captain Jordan has offered it will become apparent during the course of his testimony that the MODAC-1
5 together with MODAC-2 read with the policies, procurement or acquisition policies to which he has given evidence to, and others that to which he will still testify during the course of today, that all of those policies read together are the policies that applied or were applicable during the time of the
10 contemplation and execution of the SDPP's.

Evidence will be led to demonstrate in the fullness of time that the VB1000 policy to which the witness has given evidence about was insufficient insofar as it did not address the acquisition that was contemplated in SDP's and that some
15 augmentation of the policy had to be made in order to deal specifically with the acquisition contemplated in the SDP's, however, that augmentation did not detract from the policy that, or the policies that were applicable at the time, this was meant merely to fill the gap that had not been covered in the policies
20 as they acquired at the time, regard being had that prior to 1994 when the country was in isolation there were no acquisitions that were made from foreign countries because of the United Nations Armaments Embargo at the time and the nature of the very packages that were acquired and the
25 methods used were not provided for in the policies existing at

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the time, so there had to be an augmentation thereof. I'm not certain if that addresses the question that you have asked.

Perhaps Chair as Ms Sello has pointed out to me, if we ask you to perhaps go back to the slides and if we could start at slide 121. As was pointed out by the witness during his testimony this is where the transformation of the acquisition as well as the defence function in the department is investigated for purposes generally of transforming the Department. In slide 122 ,, , Perhaps before slide 122 at the bottom of slide 121 under the last bullet point it is provided there that:

"The work group conducted the investigation in three phases resulting in reports which were approved as Departmental policies".

So, the MODAC reports were intended to be policy and this appears also from the foreword that we read into the record and that appears on page 404 of the big bundle Jordan-1 where in the second last paragraph before the Minister Joe Modise signs at the time the following is expressed:

"I issued an instruction in August 1994 that the acquisition function in the DOD be investigated. A Steering Committee under my chairmanship and a Departmental Project Team were appointed. The project team became known as the MODAC (Ministry of Defence Acquisition) Work Group. The Work

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5 *Group was instructed to investigate and make proposals with respect to the management, execution and structure of the acquisition function in the DOD. The Work Group conducted the investigation in three phases and produced the reports contained in this document. These were presented to the Steering Committee and approved as Departmental policies”.*

10 So the tenet and objective of the evidence presented by this witness is to set out the policies as they applied from the time they were applied prior to the transformation going through the evolution of these, or the metamorphosis of these policies up to the time that they were applied during the acquisition of these Special Defence Packages.

15 CHAIRPERSON: Thank you. Thank you Advocate Sibeko, it does make sense to me now, thank you.

20 ADV SIBEKO: And you would recall Chair when we started with the testimony of this witness we indicated that these policies are the documents against which conduct of the various officials and those implicated persons would be judged. Thank you. Now Captain, as from page 412 of that bundle of documents appears the actual report, would you confirm that?

CAPT (SAN) JORDAN: That is correct Chair.

25 ADV SIBEKO: Now various provisions of this report pertain to the actual acquisition and the structuring and the philosophy of

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acquisition by the South African National Defence Force at the time and for purposes of completeness I would ask you to read some of the important paragraphs contained in this document into the record. Page 414. Now you will see page 414 at paragraph 2 makes provision for the introduction, there are various subparagraphs on that page, can I ask you to read as from paragraph, subparagraphs 2.1 up to 2.5 and we'll close there and take the matter forward.

CAPT (SAN) JORDAN: Chair, I read for the record paragraph 2

10 "Introduction:

2.1 The Constitution makes provision for the creation of a National Defence Force. It requires the National Defence Force to be a balanced, modern and technologically advanced military force.

15 *The National Defence Force will have as its primary task the protection of the country's sovereignty and territorial integrity and the rendering of national support functions as its secondary tasks. These functions include services of preservation of life, health and property, socioeconomic upliftment, the*

20 *provision or maintenance of essential services and the upholding of law and order.*

25 *2.2 The Basic Force Design Guideline for the National Defence Force as approved by the Joint Military Coordinating Council in February 1994 is*

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that there is no immediate military threat to the Republic of South Africa. A general threat independent approach to defence planning is called for. The National Defence Force should thus

5

maintain a balanced and flexible force and doctrine.

2.3 For the National Defence Force to carry out its primary role the availability of armaments is essential. Optimal, modern armaments for the National Defence Force are obtained through a process of armaments acquisition. This document describes the approach to be followed by members of the Department of Defence in the acquisition of armaments. This entails the management of the total spectrum of activities to be carried out by the participating organisations within the defence family to meet the armaments requirements that will ensure that the National Defence Force has the necessary user systems for maintaining a combat ready capability.

10

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2.4 The new Constitution requires the establishment of transparency and accountability by civilian control of the National Defence Force resulting in certain traditional National Defence Force and ARMSCOR functions to be transferred to the Defence Secretariat. The purpose of this

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document is to spell out the process, roles, functions and responsibilities of the participants in acquisition. The structure and the organisational positioning of the role players are not addressed and will be subject of a separate study. Closely related to the armaments acquisition function are activities of technology management, industrial development, international marketing and arms trade control. The management of these functions and the interrelationships between these activities are reviewed”.

ADV SIBEKO: Now if one has regard to the paragraphs that you have read, would it be correct that the approach adopted in this document primarily rests in the Constitution of the Republic of South Africa?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Would you also confirm as you pointed out earlier on that the function of the Defence Secretariat which has been transferred to civilian control within the National Defence Force is now established for the first time within the Department?

CAPT (SAN) JORDAN: Chair in terms of the actual establishment of the Defence Secretariat, that is correct.

ADV SIBEKO: Later on during the course of considering this document we'll set out functions of the Defence Secretariat

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insofar as it is relevant to the acquisition process. Can I then ask you to turn to page, to the next page, you will see at page 415 that the various roles as you have described earlier are provided for, do you confirm that?

5 CAPT (SAN) JORDAN: That is confirmed Chair.

ADV SIBEKO: Now can I ask you to turn to page 416. Provision is made under paragraph 3 of the “Fundamentals of Acquisition Management” and under 3.1 provision is made for the “Fundamental Approach”, may I ask you to read paragraph
10 or subparagraph 3.1.2 into the record please, together with 3.1.3.

CAPT (SAN) JORDAN: Chair, I read into the record paragraph 3.1.2:

15 *“Since the acquisition process consumes national resources the process must take into account the national objectives of job creation, wealth generation, trade balance, countertrade, technology development and industrial establishment. These objectives are often in conflict with acquisition at
20 lowest cost and must therefore be prioritised by acquisition management. Defence technology development is an integral part of the acquisition process. The acquisition process will support industrial development in certain cases while the
25 existing industrial capabilities will in turn determine*

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the acquisition approach”.

Subparagraph 8 “Technology Development”:

5 *“The investment in defence technology requires a capability advantage in selected fields and the option to optimise equipment for local conditions and operational requirements”.*

Subparagraph (b):

10 *“Industrial Development. By building an industrial base through the acquisition of armaments from local industry many of the national objectives are achieved, value is added in the country and thereby the gross national product is expanded”.*

Paragraph 3.1.3:

15 *“The Defence Force is responsible to state its own requirements with regard to armaments and to ensure that this requirement is best satisfied within constraints”.*

20 ADV SIBEKO: Now you have, I ask you to have regard to paragraph 3.1.2 which provides that the acquisition process must take into account certain factors such as objectives of job creation, wealth generation, trade balance and countertrade among others. In your experience was the issue of countertrade a consideration that arose for the first time in the MODAC-1 report?

25 CAPT (SAN) JORDAN: Chair, I would have to refer back to

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some of the policies to make certain of the facts, for now I would be speculating if I said that is correct, I would require to look back into maybe some of the earlier policies to see if it hasn't surfaced there at an earlier point.

5 ADV SIBEKO: Okay, we'll do that during the tea adjournment so you can try and establish that. But it also appears from this policy of this, yes this policy that with regard to the acquisition of armaments the role played by the National Defence Force is that of establishing its requirements, is that correct?

10 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: And this has been the policy even under the VB1000, is that correct?

CAPT (SAN) JORDAN: That is correct Chair.

15 ADV SIBEKO: Now paragraph 3.3 deals with "Policy" on page 417, do you see that? And there it is recorded:

"At present policy regarding acquisition management is governed by separate documentation issued by both the NDF and ARMSCOR. These documents are to be updated and approved or issued by the MOD as MOD policy where ..."

20

We'll pause there. Would you state for the record which policies are referred to in that paragraph?

CAPT (SAN) JORDAN: Chair that would certainly have referred to documents such as the VB1000 and the LOG12 Pamphlet 2
25 and it would also refer to certain ARMSCOR policies such as

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the KB1000.

ADV SIBEKO: And these are policies to which you have given evidence about, is it correct?

CAPT (SAN) JORDAN: That is correct Chair.

5 ADV SIBEKO: Can I then ask you to turn to page 425. Now you will see at page 425 provision is made for Armament Acquisition Management in South Africa. Would I be correct that this part of the MODAC-1 report makes provision for the process of acquisition as it perhaps, they have described it
10 even under the VB1000 policy as well as the LOG12 Pamphlet 2?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Can I for purposes of completeness ask you to read that paragraph 7 in its entirety perhaps yes, up to the end
15 of page 426 so that we can break it down in bits to be able to assimilate it in sound bites.

CAPT (SAN) JORDAN: Chair I read into the record paragraph 7:

20 *“Armament Acquisition Management in South Africa. Aim. The aim of armament acquisition management is to acquire armament effectively and efficiently taking into account the approved Defence strategy and the required operational capabilities derived from the force structure for employment during
25 defence operational tasks. Armament acquisition*

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management is regarded as the activity of planning, budgeting, authorisation, execution and acceptance of armament as supplied by acquisition projects and programmes. Armament acquisition management is presently controlled by a combined National Defence Force and ARMSCOR policy, document VB1000 general policy for the management of the acquisition process of Category 1 Matériel.

The Process.

As indicated in figure 2 technology development and industrial development is closely related to and in support of armament acquisition and is therefore part of the overall acquisition process. The model used for structuring your armament acquisition management process takes into account two fundamental parameters of all armament namely its life cycle and its level of complexity. This model allows for sequential phases separated by formalised baselines that enhances effective and efficient management. The armament acquisition process is divided into two broad categories, the first being the design and development phase and the second being the procurement phase. These phases in turn are subdivided into a number of secondary phases for control purposes. The

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5 *design/development phase consists among other of
planning, concept design, definition and detail
development as applicable, the procurement phase
amongst others consists of contracting, production,
acceptance and distribution as applicable.
Underlying the above phase the process of systems
engineering process, this process systematically
translate functional needs stated by the operational
user into technical design and manufacturing
10 parameters. This eventually results in combat
systems with reliable operational capabilities. The
system engineering process in broad incorporates
the following activities:*

- *Technical baseline management.*
- 15 • *Risk management.*
- *Quality management.*
- *Configuration management.*
- *Design assurance.*
- *Life cycle integrated logistic support.*
- 20 • *Reliability and maintainability management.*
- *Test, evaluation and technical performance.*

*The process described above is managed by
appointed project teams including members of the
National Defence Force and where necessary
25 members from the Defence Secretariat. A project*

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team is responsible for the execution of a project and for the submission of all of project milestone documents as prescribed to the approval committees and boards indicated in the next section. To determine the level of top management involvement in recommendations and approvals, i.e. which committee or board is involved projects are classified either as cardinal or non-cardinal. The criteria for classification include political profile, national strategic interest, inherent risk, cost profile, urgent operational need and impact on existing capability and magnitude.

The Control Function.

Fundamental to sound armament acquisition management is the control function. This control function is executed by parties within the Ministry of Defence in accordance with allocated responsibilities and expertise. Although there is a tendency towards clinical delineation of responsibilities in practice the parties should operate as a synergistic whole in order to optimise control. The primary roles of the parties involved are defined as follows; In Minister of Defence:

- *Armament Acquisition Authority.*
- *Accountability and Responsibility.*

In National Defence Force:

- *Definition and prioritising of armament acquisition needs to Force Design, planning and projects.*
- 5 • *Overall project management of the required defence equipment and associated support requirement like personnel, facilities to provide and (indistinct) the system.*
- 10 • *Operational acceptance of armaments as contracted.*

In Defence Secretariat:

- *For high level policies, programming and budgeting.*
- 15 • *In-year control and auditing of Defence expenditure.*
- *To facilitate acquisition administrative and control aspects.*

In ARMSCOR:

- 20 • *For professional project management and contracting of industry during the execution of armament acquisition programmes.*
- *Ensuring technical, financial and legal integrity during contracting.*
- 25 • *Overseeing of industrial development in*

support of acquisition programmes.

- *The approval structure for the project submissions is detailed in figure 4 below”.*

5 ADV SIBEKO: Now before we deal with figure 4 below there are a few comments I would like to get from you regarding the process that is provided for in this policy. Is it correct to say despite the transformation that is sought to be brought by this policy much of what was provided for in the VB1000 through its
10 development stages was also retained in this policy?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: The various phases as you have described them and the project milestone document were also retained by this policy.

15 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: The classification of projects as cardinal and non-cardinal as provided for in the VB1000 was retained in this document as well?

CAPT (SAN) JORDAN: That is correct Chair.

20 ADV SIBEKO: The control function that was ... Before we deal with the control function the VB1000 contemplated these projects being carried out by various project teams which are composed in the manners that included the Department of Defence as well as ARMSCOR, these are still retained in the
25 MODAC, is that correct?

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CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: The only new kid on the block in terms of this policy would be the Defence Secretariat and the role played by the Defence Secretariat within the acquisition process.

5 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Now the next matter we need to deal with would be the figure 4 which illustrates the control function and the approval structures as was introduced by this document. Turn to page 427.

10 CAPT (SAN) JORDAN: I have page 427 Chair.

ADV SIBEKO: Could you explain just briefly what that figure 4 is?

CAPT (SAN) JORDAN: Chair this figure 4 is a diagram that indicates the management process for the acquisition of
15 matériel and technology. At the highest level it shows the Armaments Acquisition Council under the chairmanship of the Minister. One level lower it has the Armaments Acquisition Steering Board chaired by the Secretary for Defence with some input from the Defence Industry Forum. Below the Armaments
20 Acquisition Steering Board the diagram breaks into two.

On the left hand side it indicates the Defence Research and Development Board under the chairmanship of the Chief Staff Logistics and below that the Defence Research and Development Board Executive Committee for the
25 Technology Management Analysis and its indicating the

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Directorate Technology Development.

On the right hand side of the fork we see the Armaments Acquisition Control Board chaired by the Chief of Staff Logistics with an Armaments Acquisition Control Board Executive Committee from the National Defence Force and ARMSCOR. For the purposes of the Strategic Defence Packages the right hand side of the fork would have been the most important part of the diagram, inclusive of course of the Armaments Acquisition Steering Board and the Armaments Acquisition Council.

ADV SIBEKO: Thank you for that comment Captain. Now paragraphs 7.3.4 to the end of that page make provision for what's important for purposes of this inquiry. Can I ask you to read into the record what was provided for therein?

CAPT (SAN) JORDAN: Chair I read into the record:

"The highest level of approval for acquisition is the Armament Acquisition Council under the chairmanship of the Minister of Defence with his duly appointed nominee. In the latter case all decisions shall be ratified by the Minister. This Council includes the Chief of the National Defence Force, the Defence Secretary and the Executive General Manager of ARMSCOR. The Terms of Reference for this council include:

• Approval of armament Acquisition Policy.

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- Approval of armament acquisition budgets, and;
- Approval of cardinal projects.

5 The second level of approval for acquisition is the
Armament Acquisition Steering Board under the
chairmanship of the Defence Secretary. This board
consists of senior personnel of the National
10 Defence Force, the Defence Secretariat and
ARMSCOR involved in acquisition. This board
approves non-cardinal projects and screens cardinal
projects. The Armament Acquisition Control Board
under the chairmanship of the Chief of Staff
15 Logistics is the third level of control and screens all
projects in terms of requirements. Membership and
Terms of Reference for this board are stated in
document CSL/B/521/3/1/2/36 dated April 1993.
20 Members of the Defence Secretariat shall be part of
the Armaments Acquisition Control Board. The
Armaments Acquisition Control Board Executive
Committee is a support group that ensures the
maintenance of the integrity and process control of
project configuration documentation”.

ADV SIBEKO: Now this policy also makes provision, you
would see latter in the appendices, for the different functions
that are played, that are carried out by each of these approval
25 structures. Can I ask you to turn to page 440 of that bundle.

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CAPT (SAN) JORDAN: I have page 440 Chair.

ADV SIBEKO: You will recall that during the course of your testimony last week you indicated which documents are approved at which level of the controlling functions as provided for in the MODAC policy.

CAPT (SAN) JORDAN: That is correct Chair, I covered the approval levels of the various documents during the course of my testimony last week according to this diagram that's indicated on page 440.

ADV SIBEKO: Now below that diagram there is provision made for the constitution of the various authorities that are relevant to the acquisition process, the first one being the Armament Acquisition Council. Can I ask that you read into the record as from the middle of the page where provision is made for the role of that council together with its composition spanning right up to the functions of that council as provided for at page 441.

CAPT (SAN) JORDAN: Chair, I read into the record:

*"Constitution of the Armaments Acquisition Council.
The role of the Armament Acquisition Council is to act as the highest joint level, level 1 management group on armaments acquisition. This Armament Acquisition Council ensures that armament acquisition is carried out in terms of policies and procedures and oversees the lower level activities.*

Composition.

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5 *Chairperson is the Minister of Defence. From the
Ministry of Defence member is the Deputy Minister
of Defence. From the Secretary of Defence the
member is the Secretary for Defence. From the
National Defence Force the member is the Chief of
the Defence Force. From ARMSCOR the member is
the managing director and the secretarial services
to be supplied by the Secretary of Defence. Note.
Secretarial services will be provided by Chief of
Staff Logistics until the secretariat is sufficiently
10 staffed.*

Functions.

- *To review and approval of the armaments
acquisition master plan on a yearly basis.*
- 15 • *To review and approval of submission regarding
major milestones on cardinal programmes in
terms of figure 1.*
- *The yearly progress reviews on all cardinal
acquisition and technology programmes.*
- 20 • *Review and ratification of the minutes of level
2 Armaments Acquisition Steering Board
meetings.*
- *The review of draft submissions to be made to
the Cabinet on request of Minister of Defence.*
- 25 • *Review and approval of the technology*

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*development master plan on a yearly basis,
and;*

- *A review of the defence industry on a yearly basis”..*

5 ADV SIBEKO: No apropos the function number 2 which is the review and approval of submissions regarding major milestones on cardinal programmes in terms of figure 1 if I ask you to turn to figure 1 at page 440, one of these milestone documents is the Staff Target, is it correct?

10 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: The other document would be the project study, is it correct?

CAPT (SAN) JORDAN: The project study is indicated there, it's correct Chair.

15 ADV SIBEKO: Also indicated there would be the acquisition plan.

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: And if I recall your testimony from last week we indicated that in terms of the VB1000 the Staff Target and the
20 acquisition plans are mandatory documents and it is recorded that these are non-negotiable.

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: And in terms of your evidence also the Staff Target would be the project decision without which a project
25 cannot proceed.

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CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: So in carrying out its functions the Armaments Acquisition Council must review and approve these documents, the Staff Targets among others and the acquisition plan that
5 relates to cardinal programmes.

CAPT (SAN) JORDAN: Chair in terms of figure 1 on page 440 the acquisition plan for cardinal projects would be approved by the Armaments Acquisition Council and similarly the project study report for cardinal projects, however, in terms of the
10 Staff Target, provided that an acquisition master plan is approved by the Armaments Acquisition Council it would, the Armament Acquisition Control Board would be able to approve staff targets.

ADV SIBEKO: Now what would be the consequence of the
15 non-existence or non-approval of these milestone projects in respect of projects which are undertaken by the National Defence Force?

CAPT (SAN) JORDAN: Chair, in terms of the Staff Target if the Staff Target is not approved the project should not exist and in
20 terms of the acquisition plan, and if I can remind the Commission of my testimony in last week, is that the acquisition plan is important because it provides the authority for the expenditure of the major portion of the project budget and that would mean if an acquisition plan did not exist or is
25 not approved, that that major portion of the budget would not

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be able to be expended.

ADV SIBEKO: Going forward we have noted that the chairperson of the Armament Acquisition Council is the Minister of Defence as you read at page 440, you recall that?

5 CAPT (SAN) JORDAN: That is correct Chair.

CHAIRPERSON: I'm sorry Advocate Sibeko before we proceed can I just get some clarification on one issue from the witness. He says that without the approval of the Staff Target the project will not proceed, why?

10 ADV SIBEKO: Do you understand the question?

CAPT (SAN) JORDAN: I understand the question Chair. Chair, the Staff Target is, once it is approved that signifies the project decision, so prior to the approval of the Staff Target the project does not exist, the project only comes into being with the approval of the Staff Target.

15 CHAIRPERSON: Am I right to say that in the absence of the Staff Target then there is no project?

CAPT (SAN) JORDAN: That is correct Chair.

CHAIRPERSON: Thank you.

20 ADV SIBEKO: Can I then ask you to turn to page 442.

CAPT (SAN) JORDAN: I have page 442 Chair.

ADV SIBEKO: Under the heading "Authority" can I ask you to read that into the record?

25 CAPT (SAN) JORDAN: Chair I read for the record "Authority":
"The Minister of Defence has the final authority on

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all acquisition matters and has the right to refer decision on acquisition programmes to Cabinet level”.

5 ADV SIBEKO: So this is a specific provision relating to the chairperson of the Armaments Acquisition Council, is that correct?

CAPT (SAN) JORDAN: That is correct Chair.

10 ADV SIBEKO: Provision is also made for the responsibilities of the secretary, that is someone from the Secretariat, could you read under the heading “Responsibilities” there?

CAPT (SAN) JORDAN: *“The secretary shall be responsible for:*

- *Maintaining records of all proceedings and decisions.*
 - *Liaise with members and ensure that documentation is distributed timeously.*
 - *Distributing minutes of a meeting within 7 working days after the meeting took place”.*
- 15

ADV SIBEKO: Now the next structure, approval structure is the Armament Acquisition Steering Board, do you see that?

20 CAPT (SAN) JORDAN: I see that Chair.

ADV SIBEKO: Perhaps before we deal in detail with that body I want to find out from the Chair if this would be the convenient time for the tea adjournment? I see it's 11h05.

25 CHAIRPERSON: We'll adjourn for about 20 minutes or so. Thank you.

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(Commission adjourns)

(Commission resumes)

CHAIRPERSON: Can the witness confirm that he's still under oath?

5 CAPT (SAN) JORDAN: I do.

CHAIRPERSON: Thank you.

ADV SIBEKO: Captain when we adjourned we were about to deal with the second approval structure as provided for in the MODAC-1 report. This you will find at page 442. Can I ask
10 you to read into the record up to the end of paragraph 4 on the next page?

CAPT (SAN) JORDAN: Chair, I read into the record:

15 *“Constitution – Armament Acquisition Steering Board. The role of the Armament Acquisition Steering Board is to act as a lower joint level, level 2 management forum external to the arms of the service on armaments acquisition. This Armament Acquisition Steering Board ensures that armaments acquisition is carried out in terms of policies and
20 procedures and oversight the lower level activities.*

Composition.

*The Armament Acquisition Steering Board includes chairperson, Secretary for Defence. From the Secretary of Defence a deputy director-general
25 Defence, Policy, Programme and Budgeting and*

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deputy director-general Finance and Admin. From the National Defence Force Chief of Staff Logistics and Chief of Staff Finance. ARMSCOR, managing director plus two general managers. The Secretary, secretarial services is to be supplied by the Director Logistics Policy. Note. Secretarial services will be provided by Chief of Staff Logistics until the secretariat is sufficiently staffed.

Functions.

- To review and approval of all non-cardinal programme submissions in terms of figure 1 and to overview the major research and development activities.
- To screen programme submissions to the Armaments Acquisition Council.
- To review and ratification of the minutes of the Armaments Acquisition Control Board and the Defence Research and Development Board level 3".

ADV SIBEKO: Now if you read into the record what's provided for on paragraph 4 on the functions?

CAPT (SAN) JORDAN: "Functions include:

- Communicate with the defence industry SADIA at the biannual forum with the objective to present the defence industry a broad outline

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as to the acquisition master plan and the technology development master plan.

- *To obtain the views of the defence industry regarding progress in the industry and to discuss international marketing which might require support of the Department of Defence.*
- *Confirm or upgrade project classification at the project study report stage”.*

5

ADV SIBEKO: Thank you. Provision is made for the chairmanship of that forum in the absence of the Secretary of Defence, do you see that?

10

CAPT (SAN) JORDAN: I see that Chair.

ADV SIBEKO: Could you read that also into the record?

15

CAPT (SAN) JORDAN: *“The chairmanship in the absence of the Secretary for Defence. In the absence of the Secretary of Defence the deputy director-general Defence Policy, Programming and Budgeting will act as the chairperson”.*

20

ADV SIBEKO: If you turn to, if you turn the page at page 444 there's provision made for the functions of the Secretariat, the responsibilities there, could you read those into the record please?

25

CAPT (SAN) JORDAN: *“The secretary shall be responsible for:*

- *Maintaining records of all proceedings.*
- *Liaise with members and ensure that*

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documentation is distributed timeously.

- *Responsible for distributing minutes of the meeting within 7 working days after the meeting took place”.*

5 ADV SIBEKO: Just below that is the “Constitution of the Armament Acquisition Control Board”, could you read that into the record up to the end of the functions at page 445.

CAPT (SAN) JORDAN: Chair, I read into the record:

“Constitution – Armament Acquisition Control Board.

10 *Role.*

The role of the Armament Acquisition Control Board is to control the flow of acquisition submissions to level 2 and 1. The Armament Acquisition Control Board review and approve programmes and approve programme amendments on all programmes within the prescribed delegation structure indicated in figure 1.

15

Composition.

Chairperson is the Chief of Staff Logistics. Secretary for Defence, two persons. National Defence Force, five persons. ARMSCOR, two persons.

20

Functions.

- *The review of all staff documents.*
- *Review and approval of programmes amendment*

25

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within the delegation framework.

- *Preview request for tailoring of projects, example a deletion of development phase. Tailoring request would be submitted to the appropriate approval level to ensure programme requests are in terms of the Defence Review”.*

5

ADV SIBEKO: Now that brings to an end the discussion on the approval structures as provided for by the MODAC-1 Policy, is that correct?

10

CAPT (SAN) JORDAN: Chair can I just ask a repeat of that question please?

ADV SIBEKO: I say that brings to an end the discussion as provided for in the MODAC-1 Policy document, is that correct?

15

CAPT (SAN) JORDAN: Correct Sir, Chair.

ADV SIBEKO: Turn to page 447, you will find there, there is MODAC-2 Report, do you see that?

CAPT (SAN) JORDAN: That is correct Chair.

20

ADV SIBEKO: And MODAC-2 among others deals with the Defence Industry Policy. Now if you turn to page 449 the policy as contemplated in that report or policy as we have come to understand is set out. Can I ask you to read into the record paragraphs 1, 2 and 4 on page 449.

25

CAPT (SAN) JORDAN: Chair I read into the record “Introduction”:

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5 *"The National Defence Force is constituted and charged to perform certain functions by the Constitution of the Republic of South Africa 1993 as amended. To enable the National Defence Force to*

10 *execute these functions which include upholding the Constitution, providing for defence of the Republic and ensuring the protection of its inhabitants, Section 227(2). The Constitution requires that the National Defence Force shall be established in such*

15 *a manner that it will provide a balanced, modern and technologically advanced force capable of executing its functions in terms of the Constitution Section 226(4). To the same end it must maintain an appropriate state of preparedness enabling it*

20 *inter alia to protect the sovereignty and territorial integrity of the Republic and to render service in compliance with the international obligations incurred by the State, Section 227(1). To meet these obligations the National Defence Force must*

25 *have access to appropriate technologically advanced armaments and related defence equipment. The existence of a sophisticated domestic defence industry is an important factor in enabling the National Defence Force to maintain the necessary state of preparedness in the most cost*

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5 *effective manner. Not all defence equipment ought
to be manufactured locally but domestic design,
development and manufacturing of certain systems
and products are essential to enable the National
Defence Force to execute its constitutional mandate
cost effectively. In the period of reduced external
threat where a threat independent approach to
defence planning is required the demands made on
the domestic defence industry by the National
10 Defence Force are substantially lower than at their
peak in 1989. Maintaining economies of scale to
recover investment in plant and equipment while
holding down unit costs requires exports by the
industry. In circumstances of diminishing domestic
15 defence expenditure the industry will be encouraged
to apply their defence technology and production
capability to commercial products without losing key
technological capability”.*

ADV SIBEKO: Now would it be correct to summarise what you
20 have read firstly by stating that this policy once again found its
basis in the Constitution that was applicable at the time?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Would I also be correct that the policy
recognises that the National Defence Force in order for it to
25 discharge its constitutional mandate and obligations must have

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access to appropriately, technologically advanced armaments?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: To the extent relevant to the armaments acquired through the SDP how would you comment, what would your comment be with regard to the submarines and planes that were acquired through these packages?

CAPT (SAN) JORDAN: Chair, my comment would be is that the equipment acquired under the SDPP's conforms to these statements in the MODAC-2.

ADV SIBEKO: Right, it is also correct that this policy recognises that the acquisition of the armaments that would enable the National Defence Force to carry out its constitutional mandate would also have to be acquired internationally over and above while recognising the obligation to develop local industry on the armaments.

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: We then go to page 451, which makes, or discusses the Acquisition Policy. Page 451.

CAPT (SAN) JORDAN: I have page 451.

ADV SIBEKO: Can I ask you to read paragraph 2.1.2 into the record which deals with "Acquisition Guidelines"?

CAPT (SAN) JORDAN: Chair, I read into the record "Acquisition Guidelines":

"The acquisition guidelines shall form the basis for defence industry planning. Technology development

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shall be targeted primarily at those areas where self-sufficiency is to be maintained. The acquisition guidelines shall guide acquisition decisions and therefore they shall be included in the value systems for tender evaluation”.

5

ADV SIBEKO: Now is it correct that the provision you have read contemplates these acquisition guidelines being applied as a general policy?

CAPT (SAN) JORDAN: That would be a correct interpretation Chair.

10

ADV SIBEKO: Can I ask you to turn the page to page 452. You would see under paragraph 2.4 provision is made for competitive procurement, do you see that?

CAPT (SAN) JORDAN: I have page 452 Chair.

15

ADV SIBEKO: May I ask you to read paragraphs 2.4.1 up to 2.4.3 into the record.

CAPT (SAN) JORDAN: Chair I read into the record “Open Competition”:

“Fair and open competition shall be used as far as practicable in the procurement of armaments. This shall include the invitation of foreign tenders”.

20

“Tender Adjudication”:

“Adjudication of tenders shall not necessarily be based on the lowest price but on value for money and industrial development goals. As part of the

25

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tender evaluation process the concept of cost evaluation based on life cycle costing (cost of ownership) shall be employed”.

“Competition on Subcontracts”:

5 *“Suppliers of major systems or items shall be required to allow the maximum amount of competition on the subsystem and parts level in an offer, i.e. reduced vertical integration”.*

ADV SIBEKO: Would it be correct Captain to summarise the paragraphs you’ve just read into the record by stating that these are based on the constitutional principle that the acquisition by government entities must be fair, transparent and competitive amongst others?

CAPT (SAN) JORDAN: That is a fair interpretation Chair.

15 ADV SIBEKO: So, this policy that is applicable would apply as a matter of general principle to the acquisition processes embarked upon by the National Defence Force.

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Would you turn the page to page 453. That deals with foreign procurement amongst others at paragraph 2.5, do you see that?

CAPT (SAN) JORDAN: I have paragraph 2.5 Chair.

ADV SIBEKO: Can I ask you to read those two subparagraphs of that paragraph into the record.

25 CAPT (SAN) JORDAN: Chair, I read into the record “Foreign

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Procurement”:

“Foreign logistic support. The logistic support implications of acquiring imported equipment shall be considered in detail”.

5 “Countertrade”:

“The policy in the case of importation of defence equipment and their related items shall be that all contracts with a value of R5 million or more shall be subject to a countertrade and/or offset requirement of at least 60%, shall be increased to a 100% by 1998”.

10

ADV SIBEKO: Now just on that aspect of countertrade is it correct that we now see some value being placed on acquisition contracts from foreign entities that have a specific value put to them?

15

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: With regard to the SDP’s which forms the subject matter of this inquiry are you aware if the contracts that were concluded in respect thereof were subjected to the policy contemplated at 2.5.2?

20

CAPT (SAN) JORDAN: Chair in my understanding the SDPP’s were subjected to countertrade.

ADV SIBEKO: Or at least the offset requirement as provided for therein, is it correct?

25

CAPT (SAN) JORDAN: That is correct Chair.

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ADV SIBEKO: Now paragraph 2.6 provides for transparency and accountability, another aspect contemplated by the Constitution. Could you read that into the record please?

CAPT (SAN) JORDAN: I read into the record Chair
5 “Transparency and Accountability”, point 2.6.1:

*“Major Procurement Programmes. The Defence Policy and any major system procurement (cardinal programmes) that arises from that policy shall be approved by Cabinet. The Joint Committee on
10 Defence shall have an oversight function”.*

Paragraph 2.6.2 “Secrecy Requirements”:

*“Secrecy in respect of acquisition programmes shall pertain only to military capabilities (force levels, technical specifications et cetera) and commercial
15 confidentiality”.*

ADV SIBEKO: Thank you. Now with regard to what is referred to as major system, major procurement programmes, what is your understanding of that concept?

CAPT (SAN) JORDAN: Chair in terms of the SDPP’s they would
20 certainly fall into this bracket.

ADV SIBEKO: These would be what you referred to in your evidence earlier also as cardinal programmes?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: And you would confirm that this provision
25 contemplates the approval of these acquisitions to be that of

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Cabinet?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: In the exercise of its functions it is also contemplated in this policy that the Joint Committee on Defence would have an oversight function over the role played by Cabinet in its approval function.

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Now moving on to paragraph 2.7 which provides for the contracting policy, can I ask you to read that into the record.

CAPT (SAN) JORDAN: *“The Contracting Policy. It shall be the policy to contract at the highest level in the system hierarchy. System suppliers shall be contracted for the development, production and maintenance of defence systems. Only in cases where it is more economical to contract the suppliers of subsystems, components or matériels directly shall this be done. The same applies to commercially available equipment, spares and consumable items. Contracting shall be such that system integrity and the best value for money are obtained”.*

ADV SIBEKO: The Contracting Policy also introduces amongst others the principle that best value for money must be one of the considerations in the acquisition process.

CAPT (SAN) JORDAN: That is correct Chair.

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ADV SIBEKO: This would mean also that it is not necessarily the cheapest item that will be acquired by the Department but one that offers best value for money, am I correct?

CAPT (SAN) JORDAN: That is quite correct Chair.

5 ADV SIBEKO: When you turn the page there is provision made there for the tender adjudication, what is sought to be regulated by that paragraph in your understanding?

CAPT (SAN) JORDAN: Chair what is sought to be, in my understanding what is sought to be regulated here is how
10 tenders are dealt with.

ADV SIBEKO: How were tenders dealt with in terms of the policy preceding the MODAC-1 and 2?

CAPT (SAN) JORDAN: There was a system, a value system against which tenders were evaluated.

15 ADV SIBEKO: Now can I ask you to read paragraph 2.8 into the record.

CAPT (SAN) JORDAN: Chair I read into the record paragraph 2.8 "Tender Adjudication":

20 *"2.8.1. Value Analysis. All tender adjudication for armaments shall be based on a value analysis using an objective value system".*

"The Tender Board":

25 *"The ARMSCOR board of directors shall act as an independent and impartial tender board for the procurement of armaments in terms of the*

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5 *Armaments Development Production Act, Act 57/1968 as amended. This responsibility should be delegated to the ARMSCOR Management Board for smaller contracts, less than R5 million, but the board of directors remains accountable for all tender adjudication”.*

Paragraph 2.9, “Acquisition Support”:

10 *“The programme management and other forms of assistance with the acquisition of equipment shall be given to other government departments, the reconstruction and development programme, the United Nations Organisation and any other party as approved by the Minister of Defence”.*

15 ADV SIBEKO: Now having read the provisions relating to tender adjudication are you able to say if the policy set out therein was in any way different from the policies set out in the VB1000 or LOG12 Pamphlet 2?

CAPT (SAN) JORDAN: Chair in my opinion it is similar.

20 ADV SIBEKO: Now the rest of the MODAC-2 deals with matters that are not necessarily relevant to the issues you are testifying about, is that correct?

CAPT (SAN) JORDAN: That’s correct Chair.

ADV SIBEKO: Again I then ask you to move on to page 462. Perhaps 461, that’s where it starts, you will find MODAC-3.

25 CAPT (SAN) JORDAN: I have page 461 Chair.

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ADV SIBEKO: From my understanding of this document it actually dealt with the investigation into the organisational structure of ARMSCOR, is that correct?

5 CAPT (SAN) JORDAN: That will be organisational structure of the Defence Acquisition Programme Management Organisation, which at the time was ARMSCOR.

ADV SIBEKO: Now its conclusions were not necessarily relevant to the acquisition policies that we are dealing with presently, is that correct?

10 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Now the evidence that you have given during the course of this morning is summarised in the slide presentation that you prepared and which you used to give your evidence during the course of last week, is that correct?

15 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: And the summary appears as from slide 121, is that so?

CAPT (SAN) JORDAN: That is so Chair.

ADV SIBEKO: And this runs up to slide 124.

20 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Now I see that according to the notes you prepared for yourself you had indicated that you would start with the slide on page 42, that is slide 124.

CAPT (SAN) JORDAN: That is correct Chair.

25 ADV SIBEKO: Can I ask you then to continue from slide 124?

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CAPT (SAN) JORDAN: Chair, last week we dealt with the summary of MODAC-1 and 2, the slide that I'm indicating at the moment is a summary of MODAC-3, the organisational structure of the Defence Acquisition Programme Management Organisation. The organisational structure of the Defence Acquisition Programme Management Organisation was investigated, a standard value analysis methodology was used to analyse alternative structures. The MODAC-3 analysis was presented to the Steering Committee on the 31st of May 1996 and the Minister then decided that ARMSCOR should continue to operate as a state-owned entity with statutory powers.

ADV SIBEKO: Now that brings to the conclusion the discussion on the MODAC Policy as we would come to understand them, is that correct?

CAPT (SAN) JORDAN: That's correct Chair.

ADV SIBEKO: The next policy which has evolved in the course of time which makes provision for the Acquisition Policy according to your slides is the DOD Policy Directive Number 4/147. Could you please tell the Commission what this policy was regulating?

CAPT (SAN) JORDAN: Chair this policy directive was effective from the 8th of August 1997. The policy directive indicated that several international defence equipment offers have been presented to the Ministry of Defence and others have been proposed, and indicated in those directives it says:

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5 *“These international defence equipment offers fall outside the scope of existing Acquisition Policy and specific policy for such international defence equipment offers has to be established. The aim of this policy directive is to provide MOD policy guidelines and management procedures for dealing with foreign initiated, international government-to-government defence equipment offers relating to armament acquisition for the SANDF that are to be*

10 *integrated with an interdepartmental coordinating and decision making structure. This policy only addressed the defence equipment offer facet of foreign initiated international government-to-government cooperation proposals. The structure of*

15 *these proposals dictate that the scope of interdepartmental involvement, non-government supported single product proposals are not addressed in this policy. The policy makes provisions for the following aspects of the offer to*

20 *be developed:*

- *The military appreciation is to determine the military strategic advantage. The offer is to be evaluated against the approved Force Design with particular emphasis on critical*
- 25 *performance requirements of the individual*

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equipment elements.

- *(Indistinct) is to be measured against the current main equipment priorities taking care to avoid promotion of defence equipment offers above other SANDF priorities.*

- *The impact of the offer on the approved defence budget and the long term plan is to be established and quantified”.*

The policy directive required the following:

- *Individual equipment elements if the offers are to be evaluated for total life cycle cost.*

- *Establishing a clear distinction between procurement role/flyaway cost and through life operating costs.*

- *Preference should be given to offer characterised by multinational suppliers to avoid single country dependencies being created.*

- *International suppliers with whom endearing relationships have been established are to be pursued.*

- *Individual equipment elements should not unnecessary introduce totally new product inventories and a premium should be placed on the degree of logistic local industry and*

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operational commonality achieved by these offers.

- *Technology transfer is to be included where significant inventory impact is evident.*

5 *The principle that the best interests of the Ministry of Defence is to be the primary consideration. The offer should consequently be based on adequate system specifications that are part of an established operational baseline to do an*
10 *evaluation”.*

And:

“The acquisition strategy is to include or incorporate the following:

- The equipment offers are to address approved
15 Ministry of Defence requirements.
- The Ministry of Defence requirements statement are to at least have been progressed to a functional baseline or beyond.
- The individual equipment elements of an offer
20 are to be comprehensive enough to be evaluated against the corresponding functional baseline, and;
- The individual elements are to be able to be
25 evaluated against competitive offers via application of the same value systems that are

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developed for Ministry of Defence functional requirements.

- Audibility of all decisions are to be ensured.
- Clear technical baselines for each individual equipment element of the offer are to be established prior to contracting.
- Contracting structures are to be evaluated and incorporated in the third order value system developed for the individual equipment elements.
- Optimisation of local industry involvement is to be an objective within the offer.
- Prior to translating an offer into separate standard armament acquisition projects an assessment procedurally incorporating an iterative multi-tier approach was to be followed”.

ADV SIBEKO: Can I ask you to pause there and ask you to turn your attention to that big bundle Jordan-1 at page 473.

CAPT (SAN) JORDAN: I have page 473 Chair.

ADV SIBEKO: Can I ask you to identify the document that appears on that page for the record?

CAPT (SAN) JORDAN: This document “DOD Policy Directive : MOD Policy for dealing with International Defence Equipment Offers in the MOD”. It is DOD Policy Directive Number 4/147

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dated 1997.

ADV SIBEKO: If you turn to the next page 474 there are signatures that appear there, could you identify those signatures for the record please?

5 CAPT (SAN) JORDAN: Chair these would be the signatures of General GL Meiring and I'm not sure but it seems to be the signature of Mr PD Steyn.

ADV SIBEKO: What was, in what capacity was General Meiring acting when he signed that policy?

10 CAPT (SAN) JORDAN: General Meiring at the time was the Chief of the National Defence Force.

ADV SIBEKO: And in what capacity was Mr Steyn acting when he signed that document?

15 CAPT (SAN) JORDAN: Chair, at that time the Secretary for Defence was Mr PD Steyn.

ADV SIBEKO: And there is something written in longhand there:

"Approved in Council of Defence, 8 August 1997".

20 Do you have independent knowledge of the person who may have written there?

CAPT (SAN) JORDAN: Negative Chair.

ADV SIBEKO: There is a signature just below that longhand inscription, are you able to say that the signature that appears below that inscription is similar to that of PD Steyn?

25 CAPT (SAN) JORDAN: Chair that signature seems to be, seems

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to have some similarities but there are also some differences with that signature.

ADV SIBEKO: Provision is also made for J Modise's signature, Chairman of the AAC, correct?

5 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Now the slide presentation relating to this document, would it be correct that it was extracted from what appears as from page 476 of that policy?

10 CAPT (SAN) JORDAN: That is correct Chair, I extracted the slide presentation from the contents of this document.

ADV SIBEKO: Now reading at paragraph 2 of page 476 it's provided there that, it's recorded that:

"These international defence equipment offers fall outside the scope of existing Acquisition Policy".

15 Now to pause there, would it be correct that the VB1000 as it had metamorphosed up to this stage of this policy did not appear to make any specific regulation offers of the sort contemplated in this policy.

20 CAPT (SAN) JORDAN: Chair that is correct, the VB1000 by enlarge dealt with singular type of acquisition programmes.

ADV SIBEKO: So, in terms of this policy a new policy framework that regulated the acquisitions such as those which form the subject matter of the SDP's would have been brought into existence?

25 CAPT (SAN) JORDAN: That is correct Chair.

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ADV SIBEKO: Now at paragraph 3 of that document it makes provision for the aim of this policy guidelines as being the management of procedures for dealing with foreign initiated firstly, international government-to-government defence equipment offers relating to armament acquisition for the SANDF and these acquisitions are to be integrated with an interdepartmental coordinating and decision making structure, can we just try and break this down into, so that we try and understand what the aim of this policy is. Now the first element that we see there are foreign initiated offers, could you explain what is contemplated by that?

CAPT (SAN) JORDAN: Chair, the term "foreign initiated offers" would indicate that the offers were initiated by foreign entities and that the offers were made to the South African Government or the South African Department of Defence.

ADV SIBEKO: Now it is also intended, this policy is also intended to deal with international government-to-government defence equipment offers, what is your understanding of this government-to-government offers?

CAPT (SAN) JORDAN: In terms, Chair in terms of government-to-government offers it would indicate that there would have been some form of government-to-government agreement that underlies these offers and by way of example the offer of the Upholder Class submarines would have been a government-to-government offer to the South African Government.

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ADV SIBEKO: Could you try and explain that a little more when you say the Upholder submarines were an example of a government-to-government offer, how did that come about?

5 CAPT (SAN) JORDAN: Chair, the Upholder submarines were built for the Royal Navy, so the submarines belong to the government, the British Government and they were diesel-electric submarines, the British Government decided that they would no longer pursue diesel-electric submarines and would only pursue nuclear submarines. Consequently the Upholders
10 were up for sale, so it would not have been a contractor, a private contractor marketing these vessels, it was the British Government that wanted these vessels to be marketed.

ADV SIBEKO: And these were then offered to the South African Government or the Department of Defence, is that
15 correct?

CAPT (SAN) JORDAN: That's correct Chair.

ADV SIBEKO: Now that will be an example of a government-to-government offer?

CAPT (SAN) JORDAN: That is correct Chair.

20 ADV SIBEKO: Are you aware of any government-to-government offer that could have been made in the context of the SDP's during your tenure at the SANDF?

CAPT (SAN) JORDAN: Chair, I'm probably not the right individual to comment on that specific subject.

25 ADV SIBEKO: Fair enough. Reference is also made in this

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paragraph that these offers are to be integrated with an interdepartmental coordinating and decision making structure, what does that mean?

5 CAPT (SAN) JORDAN: Chair, that would seem to indicate that multiple government departments would be involved.

ADV SIBEKO: With regard to the SDP's could you tell the Commission which government departments were involved within the contemplation of that paragraph?

10 CAPT (SAN) JORDAN: Chair, with respect to the SDPP's the Department of Defence, Department of Finance, National Treasury, Department of Trade and Industry would have been involved and there was another department that was also involved, I ...

ADV SIBEKO: Could it be Public Enterprises?

15 CAPT (SAN) JORDAN: Yes, Department of Public Enterprises were the fourth department that was involved.

ADV SIBEKO: Do you have any independent knowledge of what role was played by the Department of Trade and Industry in its involvement in these offers?

20 CAPT (SAN) JORDAN: Chair I'm aware that the Department of Trade and Industry was the Department involved with the national industrial participation element of these offers.

ADV SIBEKO: These would be part of the offsets contemplated by the policy, is that correct?

25 CAPT (SAN) JORDAN: That is correct Chair.

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ADV SIBEKO: And would you have independent knowledge of what role was played by the Department of Finance?

CAPT (SAN) JORDAN: Chair the Department of Finance would have been involved in the financial evaluation and the financial, high level financial arrangements pertaining to the SDPP's.

ADV SIBEKO: And the role played by the Department of Public Enterprises, do you have any knowledge thereof?

CAPT (SAN) JORDAN: Chair, I have no direct knowledge of the Department of Public Enterprise's involvement.

ADV SIBEKO: Now that would by enlarge deal with the Acquisition Policy as 4/147, is that correct?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Now having dealt with these various policies up to this time from the VB1000 with its issues LOG12 Pamphlet 2, the MODAC reports 1 and 2 to the extent they are relevant here, as well as this Policy Directive 4/147, are you able to say apart from this new element that is introduced in this policy of dealing with foreign initiated government-to-government offers, if there has been any change in the fundamental generally applicable policies that govern acquisitions?

CAPT (SAN) JORDAN: Chair in terms of the underlying acquisition process, that process with its associated systems engineering process have essentially remained the same over time and is still the same today, however, in terms of the

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approvals of the programmes there has been some change as was indicated during the course of my testimony and it is, seems to be clear from the policies that up to and including VB1000 the policies were aimed at dealing with singular type of programmes. Now with the Strategic Defence Packages a new group of programmes have emerged called the SDPP's, these programmes were seemingly much more complex, financially certainly much more involved, it dealt with multiple government departments across a multiple of countries in multiple disciplines, so clearly the Strategic Defence Packages were going to be significantly more complex than was previously experienced under the older policies.

ADV SIBEKO: Now can I ask you to go to page 478 of the bundle. You will see under paragraph 10 that provision is made for "Multinational Alliances", do you see that?

CAPT (SAN) JORDAN: I have paragraph 10 Chair.

ADV SIBEKO: Now in the first line or first sentence of that paragraph the following is recorded:

"Preference should be given to offers characterised by multinational suppliers to avoid single country dependencies being created".

Further:

"International suppliers with whom endearing relationships have been established are to be pursued".

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Now if we pause there what is meant by “preference being given to offers characterised by multinational suppliers”, and how would you, what example of these would you have with regard to the SDP’s?

5 CAPT (SAN) JORDAN: Chair in essence in simple terms what this means is that it is intended to avoid having all the Defence Force’s eggs in one basket.

ADV SIBEKO: And what examples would you have regarding the SDP Armaments level 1?

10 CAPT (SAN) JORDAN: Well, we see that the ships were acquired from Germany whereas the aircraft were acquired from Sweden, the UK as well as Italy, so it would indicate that the load or the interdependencies were spread across a number of countries as opposed to a single country.

15 ADV SIBEKO: Now can I ask you to turn your attention to paragraph 11, “MOD Foreign Relation Objectives”, do you see that?

CAPT (SAN) JORDAN: I have paragraph 11 Chair.

20 ADV SIBEKO: Can I ask you to read that into the record please.

CAPT (SAN) JORDAN: *“The MOD Foreign Relations Objectives. Notwithstanding the interdepartmental evaluation of offers against foreign policy objectives the Ministry of Defence evaluation against foreign relations objectives is to adhere to the principle that the best*

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interest of the Ministry of Defence is to be the primary consideration”.

ADV SIBEKO: Would it be fair to infer, with having regard to what you read into the record just now that foreign relation objectives came to play a role in terms of this policy in the
5 evaluation of the offers?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: The issue of foreign relation objectives never formed any consideration in terms of the VB1000, what would
10 your reaction thereto be?

CAPT (SAN) JORDAN: Chair, that is correct in my interpretation of the VB1000.

ADV SIBEKO: Now if you turn to page 479 provision is made in paragraph 15 of “MOD Management of Assessment of Offers”,
15 do you see that?

CAPT (SAN) JORDAN: I have paragraph 15 Chair.

ADV SIBEKO: Now the introductory part of that paragraph reads as follows:

*“Prior to translating an offer into separate standard
20 armament acquisition projects an assessment procedure incorporating the following iterative multi-tier approach is to be followed; ...”.*

And that refers to first order, second order and third order. I recall that you explained this during the course of your
25 testimony last week, can I ask you to just refresh our memories

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by stating what that means?

CAPT (SAN) JORDAN: Chair in accordance with this policy the first order relates to “an authorisation to evaluate a defence equipment offer is to be obtained from the Minister of Defence”. With respect to the second order:

5 *“Upon acceptance for the first order evaluation implementation of the recommendation should be via appointment of a representative MOD evaluation team to develop a second order MOD value system*
10 *concurrent with the development of the other national criteria emanating from the interdepartmental forum”.*

With respect to the third order:

15 *“The project teams must develop third order value systems for the individual elements of the offer in accordance with the second order value system and proceed to solicit competitive proposals for evaluation of the best solution of the approved Requirement Statement in accordance with the MOD*
20 *acquisition policy”.*

ADV SIBEKO: Now how does this management of assessment of offers compare with the various phases that you testified about in your testimony earlier on?

CAPT (SAN) JORDAN: Chair, in my opinion the third order value system would align with the value system that we

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normally used under the VB1000. The second order value system and the first order value systems would seem to be new, new provisions.

ADV SIBEKO: Thank you Captain. In your next slide you
5 make reference to something referred to as the "Strategic offers committee (SOFCOM)", what is the SOFCOM?

CAPT (SAN) JORDAN: Chair, the SOFCOM relates to a
committee created which is called the Strategic Offers
Committee. The aim of this Committee is to support the
10 Minister of Defence in the management and execution of the
Department of Defence involvement in the international
government-to-government strategic partnership alliance
proposals in which defence equipment is offered.

ADV SIBEKO: Now Captain the SOFCOM as you have
15 described it, are you aware in terms of which policy it was
created?

CAPT (SAN) JORDAN: Chair, although it is, I was not able to
clearly establish in terms of which policy it was created it
would appear that it was created in terms of the MOD Policy
20 Directive Number 4/147 which we've just shortly ago described.

ADV SIBEKO: Are you able to point to the specific provision
in that policy which contemplates the creation of the SOFCOM?

CAPT (SAN) JORDAN: Chair, not directly.

ADV SIBEKO: So in your view the SOFCOM would be implied
25 and created by the policy to assist in the interdepartmental

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coordination functions contemplated in the policy?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Would the Secretary of Defence at the time be able to address the issue of the creation of SOFCOM in your
5 view?

CAPT (SAN) JORDAN: Chair the Secretary of Defence at the time may be able to, but certainly the Chief of Acquisition at the time should be able to.

ADV SIBEKO: The Chief of Acquisition at the time would have
10 been appointed under the Secretary of Defence, is that correct?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Right, let's deal with the provisions relating to SOFCOM.

CAPT (SAN) JORDAN: Chair, the SOFCOM was established to
15 address specific defence equipment procurement, it indicated the requirement existed for acquisition work groups to be established in support of the SOFCOM. The work groups would be appointed by, in accordance with Department of Defence
20 acquisition process. The SOFCOM was to perform the following functions in support of the Minister of Defence, the Council on Defence and mutual support amongst members of the SOFCOM.

In other words they were responsible for gathering,
sifting and advising of relevant information, interpreting and
25 executing direct instructions from the MOD and the members of

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the Council of Defence, for managing the involvement of appointment DOD and ARMSCOR project team members, coordinating the involvement of nominated state departments on the SOFCOM and supporting work groups, the assuring, the compliance with policy that is generally applicable or specifically promulgated, for regular reporting to the Council on Defence and external fora as directed, and to conduct the second order evaluation of competing offers and submit recommendations to the Council on Defence.

5
10 ADV SIBEKO: Now is it correct Captain that this slide has been extracted from a document that appears in the bundle containing your statement, bundle N?

CAPT (SAN) JORDAN: That is correct Chair, bundle N page 55.

15 ADV SIBEKO: Bundle N. Thank you. Captain, bundle ... At page 55 is part of a document that is Appendix "E" to your statement, is that correct, which appears as from page 53?

CAPT (SAN) JORDAN: That is correct Chair.

20 ADV SIBEKO: Now that document at page 53 appears to be a letter addressed to the Ministry of Defence Acquisition Division Weapons System Directorate dated 7 April 1998, do you see that?

25 CAPT (SAN) JORDAN: Chair, negative. That address Minister of Defence Acquisition Division is the originating address, the date is correct, 7 April 1998. If we turn the page and we look at page 54 there is a distribution list which indicates to whom

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the address, the letter was addressed.

ADV SIBEKO: Thank you. Maybe let's go back to page 53. It refers a person to whom enquires regarding that letter is to be made as Mr Shaik, S Shaik, do you see that?

5 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Who is Mr S Shaik?

CAPT (SAN) JORDAN: Chair this is Mr Shamin Shaik who was the Chief of Acquisition at the time.

10 ADV SIBEKO: Now at the bottom of that letter appears a signature, are you able to identify that signature?

CAPT (SAN) JORDAN: Chair that signature is the signature of Mr Shamin Shaik.

ADV SIBEKO: A title is also provided for under "S Shaik" in brackets there, could you read that for the record please?

15 CAPT (SAN) JORDAN: That title, he signed on behalf of the Secretary for Defence who is a deputy director or he is a director-general.

ADV SIBEKO: That would have been Mr Steyn, is that correct?

20 CAPT (SAN) JORDAN: Chair, at that time I'm not sure whether it was still Mr Steyn or whether it may have been a new Secretary for Defence or acting Secretary for Defence.

ADV SIBEKO: Can I ask you then to read the three paragraphs contained in that letter into the record please.

25 CAPT (SAN) JORDAN: I read into the record Chair

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“International Office Management Committee”:

“The formally convened work group tasked with establishing policy guidelines for dealing with the various international defence equipment offers ...”.

5 The letter reference is CL/DWEAPONS/R/302/6/B dated 6 July 1997. I read again:

10 *“The formally convened work group tasked with establishing policy guidelines for dealing with the various international equipment offers continued functioning as an informally constituted management committee to provide counselling to the Minister regarding the way to treat the packages”.*

It provides yet another reference. Paragraph 2:

15 *“Formal constitution of this management committee has is now being established. Formal representation of the actual addressees on this management committee or alternatively notification of nil requirement to be represented is required. The enclosed Draft Constitution is presently being*

20 *considered by representatives that attended the 1 April 1998 management committee meeting. This document provides guidance regarding the functions to be fulfilled. Written notification of the appointment or otherwise to the coordinator Captain*

25 *(SAND) Dewey at facsimile number by 12h00 on*

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24 April 1998 is requested. Should no representative be appointed this will be interpreted that addressees will accept actions taken by the thus constituted management committee. Signed, S Shaik".

5

ADV SIBEKO: Now if you read ...

CHAIRPERSON: I'm sorry Advocate, let me just find out from the witness this letter is allegedly signed by S Shaik and then underneath S Shaik is written "Secretary for Defence : Director-General", and as I understood your evidence at that time the Mr S Shaik referred to in this letter, he was the Chief of Acquisitions and not the Secretary for Defence.

10

CAPT (SAN) JORDAN: That is correct Chair.

CHAIRPERSON: So, are you saying that he incorrectly described himself as the Secretary for Defence when in actual fact he was the Chief of Acquisitions and somebody else was the Secretary for Defence?

15

CAPT (SAN) JORDAN: Chair, I would not say that. I suspect what has happened here is that he signed on behalf of the Secretary for Defence and in normal military form of writing that should be indicated by the handwritten letters "PP". Now this specific document has probably been scanned a number of times and it may or may not have happened that that manual handwritten "PP" indication has fallen or is not indicated on the scanned copy. What is certain is that he was not the Secretary

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for Defence and that if he had signed this letter he would have signed it on behalf of the Secretary for Defence.

CHAIRPERSON: Maybe just a follow up question. The document which is before me now, will I be correct to say that
5 it does have just "S Shaik : Secretary for Defence", there's no indication on the document or now that he signed this on behalf of the Secretary for Defence?

CAPT (SAN) JORDAN: That is correct Chair.

CHAIRPERSON: Thank you.

10 ADV SIBEKO: Perhaps just to follow up on that question Captain, the functions, the acquisition function in the Department of Defence, in which division did that fall?

CAPT (SAN) JORDAN: Chair the acquisition function for Department of Defence fell under the Acquisition Division which
15 is indicated in the address column of this specific letter.

ADV SIBEKO: And the Acquisition Division, on which part of the DOD was that housed?

CAPT (SAN) JORDAN: If I ... Do I understand the question correctly, where is it housed?

20 ADV SIBEKO: Yes.

CAPT (SAN) JORDAN: The Acquisition Division is housed in the Department of Defence, ARMSCOR Building in Erasmusrand on the 6th Floor Sir.

ADV SIBEKO: Would you have any knowledge as to which
25 official than the DOD would Mr Shaik have been required to

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report as Chief of Acquisition?

CAPT (SAN) JORDAN: Chair, looking at the date of 7 April 1998 I'm not clear whether Mr Shaik at that time was already appointed as the Chief of Acquisition but he was certainly appointed, if not then already, later on, and he would have, he reported to the Secretary for Defence.

ADV SIBEKO: That document seems to suggest at the bottom that it has an enclosure or annexure to it which is "International Offers Management Committee (SOFCOM) Constitution and Rules", do you see that?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: But perhaps before we deal with the constitution of the SOFCOM on page 44 as you pointed out in your evidence the persons to whom the letter is addressed, may I ask you to read those names into the record please?

CAPT (SAN) JORDAN: Chair on this distribution list there is a "For Action" group of addressees which is Chief of Finance : Attention Lieutenant-General BS Raubenheimer, Chief of Logistics : Attention Lieutenant-General PPJ Coetzer, Chief of the Army Lieutenant-General R Otto, Chief of the Air Force Lieutenant-General WH Hecther, Chief of the Navy Vice-Admiral RC Simpson-Anderson, ARMSCOR : Attention Mr HW Esterhuyse, and then the info addressees were the Chief of the South African National Defence Force as well as the Secretary for Defence. The internal addressees were Chief of

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Acquisition, Director Weapons Systems and then there's a file reference.

ADV SIBEKO: Would I be correct to say then that the person to whom this letter was addressed who are listed as being
5 responsible to action the letter who performed the management committee of the SOFCOM [sic]?

CAPT (SAN) JORDAN: Chair, when I look at the diagram on page 57 of the bundle N and then some of the names do appear but that the diagram on page 57 is not one hundred percent
10 consistent with the "For Action" list. I can, I may add that the reason why I say that is, is that the diagram indicated on page 57 seems to be to have added additional names over and above what is listed on the "For Action" list.

ADV SIBEKO: Right, again on page 54 the addressees just
15 "For Information" appears to be amongst others the Secretary for Defence at the time who was a person other than Mr S Shaik.

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: And just for purposes of completeness Mr S
20 Shaik referred to in this document, is that the person also known as Chippy Shaik?

CAPT (SAN) JORDAN: That is correct Chair, Mr S Shaik was commonly known as Mr Chippy Shaik.

ADV SIBEKO: Now if you go to page 55 earlier in your
25 evidence you had described the functions of the SOFCOM when

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I interrupted you and you were about to deal with the chair of the SOFCOM. Perhaps before you do that do you recall or do you have any independent knowledge as to who the chair of the SOFCOM was at the relevant time?

5 CAPT (SAN) JORDAN: Chair, yet again if we look on page 57 of bundle N then we would see there that on the DOD side the name listed is Mr S Shaik and on the ARMSCOR side it would have been Mr H Esterhuyse.

10 ADV SIBEKO: Now is it correct that the document that appears at pages 55 and 56 constitute the Constitution of the SOFCOM?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Now you could then go back to the slide that we're about to read when I interrupted you.

15 CAPT (SAN) JORDAN: Chair, the SOFCOM was the function under the dual chair of the Chief of Acquisition and the General Manager Aero-Maritime and ARMSCOR. The decision of the SOFCOM are valid once confirmed by both the chairpersons. The chair will be manned on a rotational basis.

20 ADV SIBEKO: Now just before you go to the next slide you say "the decisions of the SOFCOM are valid once confirmed by both chairpersons", what happens if one of the chairpersons refuses to confirm?

25 CAPT (SAN) JORDAN: Chair whilst I was not a member of the SOFCOM in general terms when there's a disagreement a

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conflict would have been registered and a method would have had to be found to deal with that conflict. In general terms when conflicts are registered they are generally escalated to the next higher level to resolve the conflict, that's what typically would have happened, however, for the specific purposes of the SOFCOM I must reiterate that I was not a member of the SOFCOM, I was not privy to the internal workings of the SOFCOM, so I don't know how they dealt with issues like that.

10 ADV SIBEKO: Right thank you. And your next slide really deals with what is reflected at page 57 of your bundle.

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Perhaps for purposes of completeness we can read the names that appear there into the record in respect of each of the structures referred to therein.

CAPT (SAN) JORDAN: Chair, what the slide indicates is that the SOFCOM was chaired by Mr S Shaik and Mr Esterhuyse from ARMSCOR and the SOFCOM were made up of members from the arms of the service, the Department of Defence, ARMSCOR, the Department of Finance and the Department of Trade and Industry. From the arms of the service Brigadier General PC De Beer-Venter, Major General CB Lombard and Rear Admiral Junior Grade AN Hall were members.

From the Department of Defence Lieutenant-General BS Raubenheimer, Mr JL Grundling, Rear Admiral Junior Grade

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SJ Verster, Brigadier General J Jooste, Brigadier General P Vivijee, Colonel CC Pfeiffer and Captain (SAN) DC Dewey were members. On the ARMSCOR side it was Mr JS De Jager, Mr CJ Hoffman, Mr KP Hanofee and Mr D Griesel. Department of Finance Mr A Donaldson and a Mr R White was members, and from the Department of Trade and Industry a Mr A Hirsch, Mr V Ponsamy and a Mr V Pillay seems to have been members of the SOFCOM.

ADV SIBEKO: Chair my attention has been drawn to the fact that it's just after 13h00. Would this be a convenient time to take the adjournment?

CHAIRPERSON: We'll adjourn until 14h00.

(Commission adjourns)

(Commission resumes)

CHAIRPERSON: Can the witness confirm that he is still under oath?

CAPT (SAN) JORDAN: I do.

CHAIRPERSON: Thank you.

ADV SIBEKO: Thank you Captain. Just before we go to the next level of the acquisition process will you just go back to the question I put to you earlier regarding the countertrades as to whether these were introduced for the first time with the newer policy in the MODAC, you promised to look that up and provide a response. Have you done that?

CAPT (SAN) JORDAN: Yes Chair, I've done that.

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ADV SIBEKO: Are you now comfortable to respond to that question?

CAPT (SAN) JORDAN: Affirmative Chair.

ADV SIBEKO: Would you, could you please tell the
5 Commission what was the historical fact of the countertrades with regard to the Acquisition Policy going back to the VB1000?

CAPT (SAN) JORDAN: Chair during lunchtime I ran a search through the VB1000 and the VB1000 issued two that was dated 1994, there is a reference to countertrade. If we look at the
10 bundles volume 1 page 220, Chair on page 220 there's at the top of the page paragraph 8.8, the last sentence in the first paragraph reads:

"Countertrade is dealt with as prescribed in KP008".

Now that reference to KP008 would be a reference to an
15 ARMSCOR policy, so it is clear from that statement in the VB1000 dated 1994 that countertrade was on the cards before the MODAC reports.

ADV SIBEKO: Thank you Captain. Now when we adjourned for lunch you were just about to start with the International
20 Offers Negotiating Team, this would appear from the slides just subsequent to the SOFCOM slide, you will find that at slide number 142.

CHAIRPERSON: 1?

ADV SIBEKO: 142. But perhaps we, just before we go there,
25 there is a slide, it says "LIFT Team", what is the significance

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of that slide?

CAPT (SAN) JORDAN: Yes. Chair, in relationship to the SOFCOM, underneath the SOFCOM a number of teams were established and these teams were established with members that evaluated the technical evaluation, the defence participation evaluation and the national industrial participation as well as the financial evaluation and the technical teams were made up from members of the arms of the service and members from ARMSCOR, so there was a team for the LIFT, and on the next slide there was a team for the LUH. Next slide please. And on the next slide one will see that there was a team for the submarines, there was also a Corvette team and then there was a team for the ALFA.

The reason why I haven't included the names on these slides is that I was in my capacity not able to one hundred percent confirm the names of the individuals that participated, henceforth I didn't include them on the slides.

ADV SIBEKO: Now what was the function of each of these teams, what role did they play in the acquisition process?

CAPT (SAN) JORDAN: Chair, these teams were involved in the evaluation of the offers and the evaluation of the offers was done at a technical level, a defence industrial participation level, a national industrial participation level and a financial level.

ADV SIBEKO: Now according to your understanding once the

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different teams had conducted the evaluations of the offers what were they required to do with the outcomes of the evaluations?

5 CAPT (SAN) JORDAN: Chair as indicated before I was not directly involved in these teams, however, in my understanding they were required to make submissions to the SOFCOM.

ADV SIBEKO: So, the results of the evaluations conducted by them of the various offers would be escalated to the SOFCOM according to your understanding?

10 CAPT (SAN) JORDAN: That is my understanding Chair.

ADV SIBEKO: And in making these evaluations these different teams would apply the value systems as provided for in the acquisition policies?

15 CAPT (SAN) JORDAN: The teams would have applied value systems, the technical team would have applied the value system as provided for in the Acquisition Policy.

ADV SIBEKO: And the technical team as you've testified would be made up of ARMSCOR and the arm of service component, is that correct?

20 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Right. Now do you have any knowledge of what happened to the results of these evaluations conducted by each of the teams once they were given to the SOFCOM, what would happen to them?

25 CAPT (SAN) JORDAN: Chair, I have no direct knowledge of the

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activities internally in the SOFCOM.

ADV SIBEKO: Do you have any knowledge if SOFCOM had any decision making powers?

5 CAPT (SAN) JORDAN: Chair with respect to the SOFCOM as I've indicated before I was not a member of the SOFCOM and I could only present to the Commission the document that provided for the Terms of Reference of the SOFCOM.

10 ADV SIBEKO: But the workings of the SOFCOM as I understood your evidence earlier would be contained at least to an extent in what appears as from pages 55 of bundle N.

CAPT (SAN) JORDAN: That is correct Chair, specifically at paragraph 3 of page 55 which indicates the functions of the SOFCOM. And if we look on that page subparagraph (g) of paragraph indicates:

15 *“Conduct the second order evaluation of competing offers and submit the recommendation to the Council on Defence”.*

20 As indicated before that is the part of the constitution and rules of the SOFCOM, however, exactly how the SOFCOM was conducted I'm unable to testify to.

ADV SIBEKO: But it is clear from a reading of that paragraph (g) relating to the functions of the SOFCOM that it does not make decisions, it only makes recommendations.

CAPT (SAN) JORDAN: That would appear to be so Chair.

25 ADV SIBEKO: Thank you. We can then proceed to the next

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process undertaken in the acquisition by the IONT.

CAPT (SAN) JORDAN: Chair, additional to the SOFCOM an International Offers Negotiating Team was appointed, was established, and the Terms of Reference was defined on the
5 25th of January 1999:

*“The task of negotiating an achievable funding arrangement and an affordable package with the preferred suppliers which will result in a final contracting for offered equipment to the SANDF
10 would be the next phase of the international offers strategic initiative. This task would be undertaken by a negotiating team which is led by chief negotiators supported by the Department of Trade and Industry, the Department of Finance, the
15 Department of Defence including ARMSCOR”.*

ADV SIBEKO: Can I ask you to pause for one moment there Captain and ask you to turn to page 58 of that bundle N.

CAPT (SAN) JORDAN: I have page 58 Chair.

ADV SIBEKO: May I ask you to identify that document for the
20 record.

CAPT (SAN) JORDAN: Chair this is a document titled “Terms of Reference of the International Offers Negotiating Team”. It originates from the office of the Deputy President, Union Buildings, Pretoria, it's dated the 25th of January 1999.

25 ADV SIBEKO: According to your recollection who is the

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deputy president of the Republic of South Africa in January 1999?

CAPT (SAN) JORDAN: Chair, if I have it correct it was Mr Thabo Mbeki at the time.

5 ADV SIBEKO: Now if I ask you to turn to page 60 of that document it appears that the document is, or the person who is the author of the document is the Chairman Chief Negotiator. And Mr Jayendra Naidoo, do you know the person?

10 CAPT (SAN) JORDAN: I have met Mr Naidoo on one or two occasions.

ADV SIBEKO: Now on the occasions that you would meet Mr Jayendra Naidoo was he introduced to you and the capacity in which he was acting in the acquisition process was furnished to you?

15 CAPT (SAN) JORDAN: That is correct Chair, he was in fact leading the IONT.

ADV SIBEKO: He was the chairman or chief negotiator of the IONT, is that correct?

CAPT (SAN) JORDAN: That is correct Chair.

20 ADV SIBEKO: Now go back to page 58, this document refers to or appears to be dealing with the Terms of Reference of the International Offers Negotiating Team, it's dated 25 January 1999. Would you read paragraph 1 of that document which appears to provide for the mandate of this
25 team?

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CAPT (SAN) JORDAN: Chair the documents reads as follows:

5 *“Mandate. Cabinet approval of the international offers preferred suppliers on 18 November 1998 refers. The task of negotiating an achievable funding arrangement and an affordable package with the preferred suppliers which will result in final contracting for the offered equipment to the SANDF is the next phase of the international offers strategic initiative. This task will be undertaken by*

10 *a negotiating team which is led by a chief negotiator supported by the Department of Trade and Industry, the Department of Finance and the Department of Defence including ARMSCOR. The negotiating team is to negotiate and conclude an*

15 *affordable set of contracts which satisfactorily combines the technical industrial participation and financial imperatives. The negotiating team (NT) will now commence with the work programme agreed by the Ministers Committee”.*

20 ADV SIBEKO: Now two things appear from that document which I would like to discuss with you, the first is the one appearing on the first line of that paragraph which reads:

“Cabinet approval of the international offers preferred suppliers on 18 November 1998 refers”.

25 Could you speak a little more elaborately on what that refers

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to?

CAPT (SAN) JORDAN: Chair these documents are generally not visible at my level, so I would not be able to comment on that specific Cabinet approval document.

5 ADV SIBEKO: Now in terms of the timeline that you are, in which you set out the various milestones that have a bearing on these proceedings you made reference to these offers, do you recall that?

CAPT (SAN) JORDAN: Yes.

10 ADV SIBEKO: I'm going to ask you to turn to page 48 of bundle N. 42 of bundle N.

CAPT (SAN) JORDAN: I have page 42 Chair.

ADV SIBEKO: Now in page 42 I see you have not made any reference to the offers that may have been approved, is that
15 correct?

CAPT (SAN) JORDAN: Can I request that that be said again?

ADV SIBEKO: I see that on page 42 you have not made any reference to the approval of offers during 1998.

CAPT (SAN) JORDAN: No Chair, I have not made reference on
20 that specific page.

ADV SIBEKO: Now do you have any independent knowledge if the offers were approved during 1998 apart from the reference that is made in the document I referred you to earlier?

CAPT (SAN) JORDAN: Chair as indicated I was not directly
25 involved in it, so I have no direct reference. Any reference

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made at any stage would have related to the mandate of the IONT.

ADV SIBEKO: Right. At, if I may refer you once again to that page 58 reference is made in the last sentence of that paragraph 1 to the effect that:

“The negotiating team will now commence the work programme agreed by the Ministers Committee”.

Do you know who the Ministers Committee members are?

CAPT (SAN) JORDAN: Chair from my understanding if we look at the structure on paragraph 2 it reads:

“The chief negotiator reports to the Ministers Committee and directly to the Deputy President as and when required. The Negotiating Team reports to the Ministers Committee consisting of the Deputy President, the Minister of Defence, Trade and Industry, Finance, Public Enterprises and the Deputy Minister of Defence. The Minister of Defence will chair the Ministers Committee in the absence of the Deputy President. The negotiating team also liaises with a monitoring committee consisting of the DGS, the director-generals of the DTI, the Department of Finance, the Department of Public Enterprises, the Department of Defence including the advisor to the Minister of Defence as depicted in an enclosed organogram”.

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ADV SIBEKO: Alright. The organogram contemplated there, do you know if it is attached to the papers in this bundle?

CAPT (SAN) JORDAN: It is attached on page 62 of the bundle Chair.

5 ADV SIBEKO: Could you explain or try and explain the different levels of accountability there?

CAPT (SAN) JORDAN: Chair, what this diagram would indicate from the bottom up is that the project teams are made up on the technical side of teams consisting of ARMSCOR and DOD
10 members.

ADV SIBEKO: Captain can I interrupt you just briefly there and ask you to go to slide 146 for the benefit of those who do not have the bundle. Now that's slide 146 depicts somewhat what is on page 62, do you confirm that?

15 CAPT (SAN) JORDAN: Chair, that is confirmed that that slide that is shown is a replica of the slide that is included on page 62 of the bundle. What this slide indicates on the bottom right is that the project teams consisting of DOD, that slide indicates the DAPD which means Departmental Acquisition and
20 Procurement, and ARMSCOR members, and they would provide their technical inputs through a project control board which is where the Chief of Acquisition, the CEO of ARMSCOR and the Chief of the Navy and the Chief of the Air Force were present. The technical inputs were then made to the negotiating team
25 and we will see, let me just get that slide up please?

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ADV SIBEKO: Slide 146.

CAPT (SAN) JORDAN: Slide 146. On the bottom you will find a little screen, just to the left, just click that please. There we go. Okay, there were three sets of teams, technical team to the right, industrial participation team in the centre and a finance team on the left, and they made their inputs to the negotiating team who then fed those inputs to an affordability team which made recommendations through a monitoring committee and a ministers committee, however, as I've indicated before I was not a member of this structure, so the inner-workings of this structure I am not in a position to explain, suffice to say that I am able to put on record the Terms of Reference of this IONT.

ADV SIBEKO: While still on that slide Captain I see that on the slide that has been put up for everyone to see there are names of officials who served in the affordability team and that a similar reference is not made just below there whereas in the document on page 62 there are names of the officials who served on these. Would you read these into the record please on the chief negotiator level.

CAPT (SAN) JORDAN: Chair I read into the record, I just need to point out that when producing slides like these it's sometimes not always possible to put all the information on the slide that one would like to, I read from page 62 into the record under the "Chief Negotiator" Mr J Naidoo. Mr R White from the

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Department of Finance. From the Department of Trade and Industry Mr V Pillay and the CEO of ARMSCOR Mr L Swan and the Chief of Acquisition from the DOD Mr S Shaik. Then for the affordability team that consisted of Mr J Naidoo, Mr S Shaik,
5 Mr R White and Mr P Jordaan.

ADV SIBEKO: Alright. When I asked you to put that slide up you were dealing with the structure of the International Offers Negotiating Team as it is provided for in page 58 of the bundle N. Is that correct?

10 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Now the slide, the slides dealing with the workings of the International Offers Negotiating Team have been extracted from this document that appears as from page 58, is that right?

15 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: You may proceed with the slides.

CAPT (SAN) JORDAN: Chair I start on the second line or the second bullet on that slide:

20 *“The negotiating team was to commence with the work programme agreed by the Ministers Committee. The chief negotiator reports to the Ministers Committee and directly to the Deputy President as and when required. The negotiating team reports to the Ministers Committee consisting of the Deputy*
25 *President, the Ministers of Defence, Trade and*

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Industry, Finance, Public Enterprises and the Deputy Minister of Defence”.

Next slide please.

5 *“The Minister of Defence will chair the Ministers Committee in the absence of a deputy president. The negotiating team also liaises with the Monitoring Committee consisting of the director-generals of the Department of Trade and Industry, the Department of Finance, the Department of*

10 *Public Enterprises, the Department of Defence including the advisor to the Ministry of Defence. Upon acceptance of this Terms of Reference by the Ministers Committee the following actions will be initiated;*

- 15
 - *The negotiating team will define the character and schedule of the negotiating process.*
 - *Additional consulting and technical capacity will be identified and appointed”.*

Next slide.

20 *“The team leaders of the negotiating work groups will produce a schedule of tasks and responsibilities for each of the four domains. Initial discussions between the preferred suppliers and the negotiating work groups regarding the negotiating*

25 *process will commence. Technical and preparatory*

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5 *work by the negotiating workshops and the negotiating team will be undertaken. Local industry involvement in the definition of the defence industrial participation and national industrial participation as well as the equipment programmes will have to be progressed under the guidance of the negotiating teams, then negotiations commence”.*

10 ADV SIBEKO: So this body in the acquisition process assumes that the preferred suppliers have been identified and negotiations will commence with them regarding the actual terms of the contracts to be concluded with them, is that right?

CAPT (SAN) JORDAN: That appears to be so Chair.

15 ADV SIBEKO: And to the extent that you are aware this is the progression that took place with regard to the acquisition of the SDP's?

CAPT (SAN) JORDAN: That is my understanding Chair.

20 ADV SIBEKO: Now there is a further policy that regulated acquisitions very close to the process of the SDP's, is that right?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: That Acquisition Policy is known as DODI Acquisition 1/1998, could you just briefly explain what that provided for?

25 CAPT (SAN) JORDAN: Chair, this policy ACQ 1/1998 was

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established or it became effective on the 19th of July 1999. In May ...

ADV SIBEKO: Perhaps before we go into detail with the policy can I ask you to turn to page 520 of Jordan-1.

5 CAPT (SAN) JORDAN: I have page 520 Chair.

ADV SIBEKO: We may have referred to this document while we were identifying the various policy documents during the course of your evidence last week when we were dealing with the timeline at page 42 of your statement bundle, but just for
10 the record could you identify that document?

CAPT (SAN) JORDAN: Chair this is the cover page of the Department of Defence Instruction number ACQ 1/1998, Policy on the Acquisition of Armaments confirmed for execution in the SANDF by General S Nyanda and authorised by the acting
15 Secretary for Defence, a Mr MP Netshianda, the date is 19 July 1999.

ADV SIBEKO: Just as a matter of observation I see that the people giving authority to this policy are once again the Chief of the SA Defence Force and the acting Secretary for Defence
20 at the relevant time in 1999 in the similar manner as the Policy Directive 4/147 was approved, is that correct?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Now the slides you have prepared dealing with these acquisition policy were extracted from the document that
25 appears as from page (indistinct), is that correct?

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CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: They in fact constitute a summary of the Acquisition Policy insofar as it may be relevant to these proceedings, is that right?

5 CAPT (SAN) JORDAN: That (indistinct) Chair.

ADV SIBEKO: You can proceed to deal with the slides.

CAPT (SAN) JORDAN: Okay Chair.

10 *“In May 1996 and in April 1998 the White Paper on Defence and the Defence Review were respectively approved by Parliament. In addition in 1998 LOG12 Pamphlet 2 was augmented by a DODI ACQ 1/1998, Policy on the Acquisition of Armaments that directed the acquisition process in the SANDF in parallel with VB1000. The purpose of this DODI*

15 *was to direct the various divisions with respect to the procedures to be followed regarding the development, promulgation and distribution of departmental policy for implementation at the departmental level”.*

20 Next slide:

“DODI ACQ 1/1998 was approved by the Defence Staff Council on the 2nd of July 1999 and was promulgated jointly on the 19th of July ...”.

As we've just seen or heard:

25 *“... by the Secretary for Defence and the Chief of*

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5 *the SANDF. This instruction had to be implemented
by the divisional heads at the departmental level.
The instruction was to terminate on the
31st of December 2002 by which date it was to be
10 incorporated in a joint management publication.
This ACQ 1/1998 was intended to establish the
Departmental Acquisition and Procurement Division
as the nodal point for the armaments acquisition. It
was intended to provide direction for the
15 management of the total spectrum of acquisition
activities, it was intended to reflect the principles
of transparency and accountability ...”.*

As we've seen them in the MODAC Report:

15 *“... in the DOD as well as in the appointed
acquisition agency. It was also intended to ensure
that armament acquisition activities are executed
within national objectives, policies and constraints,
to provide an audit trail to enable the Secretary for
Defence to fully exercise his responsibility as the
20 accounting officer of the Department. It was
intended to ensure the integrity and traceability of
the decisions in the decision making and
authorisation process by means of baseline
management. It was intended to ensure that
25 armaments acquisition is executed by means of the*

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5 *systems engineering process which could be
tailored for the uniqueness of a specific acquisition
project. It was also intended to ensure that the
entire acquisition process will be based on seeking
best value for money. This policy was to create the
flexibility needed to manage design and
development as interrelated with technology
development, industrial development, production
and marketing in the acquisition of armaments and
it was intended to establish the mandate for the
training of acquisition staff. The armament
acquisition approach was defined in terms of
competitive acquisition, local armaments
acquisition, foreign armaments acquisition,
corporate compliance assurance, armaments
acquisition programmes, contracting and armaments
acquisition principles. ACQ 1/1998 described
armaments acquisition project management based
on the Defence Review Chapter 13 and the
armaments acquisition projects were classified as
cardinal, non-cardinal in order to determine the
level of top management involved in the DOD that is
delegated with powers of recommendation or
approval during the submission of milestone
documentation. The criteria were the same as*

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previously defined under other earlier policies. This document described the recommendation and approval and control structure and process for project submissions in terms of the MODAC-1 report and the Defence Review of 1998 Chapter 13. It further described the three project management forums visa vie the Project Control Board, Project Steering Committee and the Project Control Committee”.

5
10 This slide as we have seen from the MODAC, it replicates what was indicated in the MODAC is what is indicated by the DODI 1//1998 as the approval forums and we will see it replicates exactly what the MODAC reported and earlier recommended.

15 *“In terms of the project management forums the ACQ 1/1998 made provision for a project control board that was constituted for all cardinal projects. The chairman of the Project Control Board would have been the Chief of Acquisitions and the membership of this project control board would be*
20 *limited to the top management of the Departmental Acquisition and Procurement Division, the arms of the service and involved DOD divisions and ARMSCOR. The board’s aim functions and composition and rules were contained in its*
25 *constitution. The Project Steering Committee was*

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5 *the second level of control for armaments acquisition. The chairman of the Project Steering Committee would be the respective DAPD or Acquisition Division arm of service directors and*

10 *involved Department of Defence divisions being represented at the director level and it made provision for ARMSCOR to be represented at general manager level. The committee's aim, functions, composition and rules were also*

15 *contained in this Constitution. At the lower level, the third level of control was a Project Control Committee for armaments acquisition. The chairman of the Project Control Committee would be the respective Departmental Acquisition and Procurement Division senior staff officer with arm of*

20 *service and involved Department of Defence divisions being represented at that level. ARMSCOR should be represented at senior manager level and the committee also had its aims and functions, composition and rules contained in its Constitution".*

25 I must indicate, just go back to one slide please, I must indicate this Project Control Committee did not prove to work too well in the sense that at a one higher level, just go back one slide, this Project Steering Committee in the end turned

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out to be the most often used committee in the sense that it was one higher level than the Project Control Committee, it was done at directors level and in any case the directors of acquisition for the specific arms of the service would need to be involved in understanding what happens at these committees, so in the end, next slide, in the end the Project Control Committee didn't really work and even currently we only primarily use the Project Steering Committee at the next higher level.

5
10 ADV SIBEKO: Can I interrupt you there Captain? And while you have your one finger on that slide can I ask you to have regard to page 42 of bundle N. You recall the timeline set out there with regard to various milestones in the acquisition process that culminates in the SDP's and this Commission eventually. Do you recall your testimony with regard to what you stated in, with regard to that document, there are two lines of significance, the blue line and the green line, do you see that?

CAPT (SAN) JORDAN: That is correct Chair.

20 ADV SIBEKO: If I recall your testimony during the course of last week you indicated that everything that happened to the left of the green line would have been applicable to the acquisition process relating to the SDP's.

CAPT (SAN) JORDAN: That is correct Chair. One will see that
25 the first event that happened after, or to the right of the green

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line was the signing of the SDPP contracts on the 3rd of December 1999.

ADV SIBEKO: Now the DODI Policy 1/1998 in terms of the timeline you say was promulgated or established in January, on the 25th January 1999, is that right?

CAPT (SAN) JORDAN: That is correct however, it became effective on the 19th of July 1999 as indicated in the table.

ADV SIBEKO: Now just below that the chart also discloses that the SDPP contracts were signed on 3 December 1999.

10 CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: Now if one has regard to that timeline would it be fair to conclude that the negotiations were underway at the time that the Policy 1/1998 came into effect?

CAPT (SAN) JORDAN: That is correct Chair.

15 ADV SIBEKO: Would it be fair to conclude also that the provisions of that Acquisition Policy did not impact directly or indirectly in the process relating to the acquisition of the SDP's?

20 CAPT (SAN) JORDAN: Chair I, in my opinion that would be a fair comment in the sense that for this policy to become effective on the 19th of July 1999 it had to be written, it had to be researched and in order to write a policy like that does take some time, so we were in the process of authoring this policy concurrently with the SDPP process which was already running
25 at the time.

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ADV SIBEKO: So the purpose of these slides that deal with this Acquisition Policy is merely to demonstrate the evolution of Acquisition Policy within the DOD up to now?

5 CAPT (SAN) JORDAN: That is correct Chair and one will see later on in my testimony I have moved on to even the current policies to demonstrate that the Department of Defence specifically was quite progressive in its approach to the Acquisition Policy and to demonstrate how it had updated and modernised its policy as time went by and as experience was
10 gained.

ADV SIBEKO: You can proceed with your presentation.

CAPT (SAN) JORDAN: Chair, in terms of this policy it based armaments acquisition on an eight level systems hierarchy and we will see that these systems hierarchy is exactly the same
15 systems hierarchy that I have presented and explained under VB1000 and the earlier policies. It is also based on a systems engineering process which included baseline management, risk management, quality management, configuration management, design development, life cycle integrated logistic support,
20 reliability and maintainability management and test and evaluation and technical performance. The Commission will ...

One slide back please. The Commission will also report ... Next slide, that one. The Commission will also report or not report, sorry, the Commission will also remember that in
25 my earlier testimony when I described the eight level system

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hierarchy under VB1000 and the systems engineering process under VB1000 as well as the systems engineering processes as it's highlighted in the MODAC that those same elements are reflected in all of those policies. Next slide please.

5 *"The policy states the accountability and the responsibility of the Minister of Defence, the Secretary for Defence, the Chief of the SANDF and the Chief of Acquisitions, ARMSCOR as well as the defence related industry".*

10 Yet again it describes that the Minister of Defence is the ultimate political authority and responsible for the acquisition function and the Minister of Defence is responsible for the defence function of a government and is accountable to the President, the Cabinet and Parliament for the management and
15 execution of this function. For the Secretary of Defence it says:

"The Secretary of Defence is responsible for ensuring that all acquisition activities are executed within national objectives, policies and constraints".

20 And we will recall that from the content of the MODAC.

*"The Secretary for Defence is furthermore primarily responsible for the high level programming, budgeting and in-year control and auditing of defence expenditure and also for interdepartmental
25 and political and industrial coordination. It makes*

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5 *provision for the Secretary for Defence as the accounting officer of the DOD and indicates that he will perform such duties and functions as may be necessary for civil control of the defence acquisition function and to enhance parliamentary and ministerial control over SANDF acquisition programmes”.*

With respect to the Chief of the SANDF the ACQ 1/1998 makes provision for the following:

10 *“The Chief of the SANDF through the arms of the service achieves, states and specifies the equipment and services it requires to fulfill its specified obligations, roles, functions and tasks. The arms of service participate in the various acquisition planning and approval forums as the users of the equipment and the services. The Chief of the SANDF through the arms of the service chiefs is furthermore responsible to state their acquisition requirements and provide adequate and appropriate*

15 *resources in terms of manpower, facilities, matériel and finances for execution by the Departmental Acquisition and Procurement Division. They are responsible for staff approved acquisition and*

20 *procurement structures, they are responsible to participate in the formulation of a long term defence*

25

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Requirement Statement, they are responsible to formulate the Staff Target and manage its approval process. They are responsible for validate the Staff Requirement and User Requirement Statement.

5 *They are also responsible to manage Staff Target amendments in conjunction with the Departmental Acquisition and Procurement Division. The responsible staff project teams have to provide required resources in accordance with the service*

10 *level agreement. They are responsible to participate in option and final selection in terms of military preference against an approved military value system. They are furthermore responsible to participate in acquisition approval forums, to*

15 *monitor acquisition progress in terms of compliance with user requirements. They are responsible to participate in operational test and evaluation, they are responsible to participate in qualification and certification processes and to certify the system,*

20 *they are also responsible to participate in the handover process. They are also responsible to accept systems into service. Furthermore responsible to identify and prepare individuals grounded in the military culture and*

25 *corps/squadrons/flotilla specialisation for formal*

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training and application as project officers according to the long term defence requirement statement”.

Now I must point, just go one slide back. I must point out here
5 that this is a mouthful for which the Chief of the National
Defence Force is responsible. That does not mean he as an
individual executes all these tasks, but that his personnel
that’s assigned to him execute those tasks, he just primarily
carries the high level responsibility. Next slide please.

10 *“The Chief of Acquisition and his support staff are
responsible for directing and coordinating all
acquisition and procurement activities between the
arms of the service and ARMSCOR. Departmental
Acquisition and Procurement Division serves as the
15 single nodal point between the DOD and ARMSCOR.
The Chief of Acquisitions is the process leader for
acquisition and procurement of Category 1 and
Category 2 items within the DOD. He is also the
chief policy advisor to the head of the department
20 on acquisition matters and he reports to the
Secretary for Defence. He is responsible to provide
the Department of Defence with an ability to
manage the acquisition of matériel and services in
the most cost effective manner, to direct and
25 coordinate the overall acquisition process and to*

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5 *fulfill the role of tasking authority for the DOD
acquisition services. He is to participate in the
DOD strategic direction process and to act as a
nodal point from the DOD to ARMSCOR for all
acquisition issues. He is responsible to be the
custodian of the long term defence Requirement
Statement and acquisition and technology master
plans. He is responsible to participate in the
formulation of the DOD requirements and to manage
10 the acquisition documentation approval process. He
is also responsible to manage the defence
technology and operational research requirements
base. He is furthermore responsible to establish
and manage the project teams in conjunction with
15 ARMSCOR as required”.*

It goes on with:

20 *“The responsibilities of the Chief of Acquisition are
to generate policy for and participate in attending
evaluation and contracting processes for Category 1
matériel, technology and services in conjunction
with ARMSCOR focusing on performance and
budgeting issues. He is responsible to oversee and
participate in the evaluation and contracting
processes for Category 2 matériel and services
25 which are managed by ARMSCOR and manage the*

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tender and contracting processes for Category 2 matériel and services which are not executed by ARMSCOR. He is responsible for liaison with other government departments and interest groups with regards to acquisition matters. He is also responsible to liaise with foreign ministries of defence with regards to acquisition matters and he is responsible to execute acquisition financial management including financial authority administration. He is furthermore responsible to provide acquisition management information and to manage the Departmental Acquisition and Procurement Division's allocated human resources".

Lastly:

"The Chief of Acquisition is responsible to manage the acquisition business plan, to report to the head of department with regards to acquisition process performance, he is responsible to participate in government-to-government agreements and to direct and oversee countertrade and compliance obligations. He is also responsible to establish policies and procedures with the coordination of the Chief of Personnel for the effective management of the acquisition work force within the Department of Defence including access and education training

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and career development”.

ADV SIBEKO: Now Captain is it correct that on a proper consideration of this policy there seems to be a golden thread that runs through the various acquisition policies we have dealt with up to this point?

CAPT (SAN) JORDAN: That is certainly so Chair.

ADV SIBEKO: The issue relating to the systems engineering is carried through together with the various project teams and the various phases and milestone documents are also contemplated in the policy.

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: And this policy has been carried forward in various other amendments of this document, of the acquisition policies?

CAPT (SAN) JORDAN: Chair that is correct, it has been carried forward and as I've indicated earlier and as one can also see on page 42 of the bundle N it carries through into three further documents which on the left hand of that table towards the bottom of the table we will see the JDP/ACQ 002/2004 Edition 1, I commonly refer to it as the Acquisition Policy Edition 1, there's a 2nd Edition ACQ Number 0005/2003 Edition 2 and then there is an Edition 3 just below it. These documents respectively became effective as we've indicated earlier on the 27th of September 2004 with the Edition 2 which became effective in a new format about two or three months later on

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16 November 2004 and the third and the last issue of this document which is the one that we currently have in use as an updated policy which became effective on the 21st of May 2001.

ADV SIBEKO: 2001?

5 CAPT (SAN) JORDAN: I stand to be corrected Chair.

ADV SIBEKO: 2010.

CAPT (SAN) JORDAN: 21 May 2010.

ADV SIBEKO: Chair you would see, and Commissioner Musi you would see that what the witness is referring to appears in
10 the timeline which is page 42 of the bundle, statement bundle, I beg your pardon. Now Captain could I ask you to go to slide number 174. Now is it correct that slide 174 generally concludes what you would, the exposition on this policy DODI ACQ 1/1998 where you state that the policies will guide the
15 acquisition decisions and will therefore be included in the value systems for tender evaluation?

CAPT (SAN) JORDAN: That is correct Chair.

ADV SIBEKO: What does that mean?

CAPT (SAN) JORDAN: Sir, the interpretation of that is that the
20 acquisition policies would have to be applied and that would be valid and have to be incorporated in the process and therefore also included in the value systems that would be applied at the time.

ADV SIBEKO: Now the next slide is more interesting and
25 relevant to these proceedings, could you deal with that?

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CAPT (SAN) JORDAN: Chair, the slides that I are now about to show is basically a summary of the process at a high level and to show how the policies have progressed.

5

“The department was in transition from using the VB1000 Issue 2 and the Log12 Pamphlet 2 policies through to the Acquisition Policy 1/1998. After approval of MODAC-1 on the 10th of February 1995 it started using the new forums and approval levels proposed in the MODAC-1 report”.

10

And I noted that the first SDPP project documentation was approved by a new forum, the Armaments Acquisition Control Board on the 16th of May 1996.

“Following the investigation performed by the Joint Investigation Team ...”.

15

Excuse me, did you want to ask any additional questions?

ADV SIBEKO: Yes. Do you have independent knowledge as to which project was first approved pursuant to the evolution of these, the acquisition processes as recorded in the third bullet point of that slide?

20

CAPT (SAN) JORDAN: Chair not offhand but I would be able to research it and I just don't have the information ready at hand at the moment.

ADV SIBEKO: You could provide that information with the fullness of time, is that correct?

25

CAPT (SAN) JORDAN: That is correct Chair.

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ADV SIBEKO: Right, you may proceed with the slides.

CAPT (SAN) JORDAN: *“Following the investigation performed by the Joint Investigation Team certain recommendation ...”.*

5 And we refer to Appendix “H” of the bundle, bundle N, it is reflected there:

“... certain recommendations were made for the implementation by the Department of Defence”.

There were some 14 or 15 recommendations.

10 *“During the drafting of the Department of Defence Instruction ACQ 0005/2003 Policy and Procedure on the Acquisition of Armaments, also known as DAP1000 Edition 1, the recommendations made by the Joint Investigation Team were incorporated into*

15 *this Department of Defence Instruction. This Department of Defence Instruction was promulgated in November 2003 but as it was not written in the prescribed format at that time it was approved on condition that the document is resubmitted for*

20 *promulgation in the prescribed format”.*

So, the new format for the promulgated policy made provision for the Ministerial Directive Department of Defence Instruction and Joint Defence Publication, and I’ve listed the three documents there, and it was all combined into one document

25 really and this was approved on the 20th of October 2004. In

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May 2010 the prescribed format for DOD policies changed once again and the update policy was promulgated as Edition 3 Policy, Process and Procedure for the Acquisition of Armaments in the Department of Defence DAP1000.

5 *"It is therefore clear from the comparison that in principle the basic process remained the same throughout the various changes in the policy. Provision was made throughout for required operational capabilities, staff targets which are*
10 *mandatory, staff requirements, project study reports, development plans, acquisition plans which were mandatory and closure report. What changed over time was the approval forums and the levels at which documents were to be approved. The*
15 *approval of project milestones has to be granted by the forums at different levels within the arms of the service and the DOD. Before 1994 the Defence Secretariat did not exist, the prescribed internal SADF and ARMSCOR forums were utilised as part of*
20 *the acquisition process. The Defence Secretariat was established in 1998 to perform a governance role in terms of the acquisition process. This enhanced the civil oversight role. The MODAC policies gave rise to the replacement of the former*
25 *Project Control Board, the Defence Command*

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5 *Council and the Defence Planning Council by the Armaments Acquisition Control Board, the Armaments Acquisition Steering Board and the Armaments Acquisition Council as the highest approval authority. The acquisition and procurement functions were centralised under the Secretary for Defence in the then-Chief of Acquisitions who acted as the nodal point between the DOD and ARMSCOR”.*

10 Now to summarise the changes to the approval forums:

15 *“Since 1998 no major changes were made to approval forums. The following minor changes were made; in 2007 the Minister of Defence ruled that the staff targets for non-cardinal projects should be approved at the AASB (Armaments Acquisition Steering Board) and not the Armaments Acquisition Council level. This amendment to the policy was included in Edition 3”.*

Which is the one that we currently have in force.

20 *“During the Armaments Acquisition Council meeting held on 30 June 2011 the Minister of Defence and Military Veterans ruled that all milestone documentation of cardinal projects must first be recommended by the Chief of the South African National Defence Force before submission to the*

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Armaments Acquisition Council for final approval. The Chief of the South African National Defence Force subsequently instructed that all project study reports and acquisition plans be formally presented at the Military Command Council, the applicable service chief was also required to confirm the requirement in writing. These changes will formally be promulgated as an amendment to the existing policy”.

5
10 We will see there that in summary I've just again showed the recommendation and approval process as we've discussed in some detail as indicated in the VB1000. We can move on to the next slide. Then you can see how it's changed in terms of the MODAC and also the acquisition ACQ 1/1998 approval
15 structure. Next slide please. And currently the approval structure is as indicated on that slide there and one will see that by enlarge it remains the same but now on this slide what has been included, we will see for the first time that the Ministers Committee and the Cabinet Committee or the Cabinet
20 is now included with specific reference to staff targets, project study reports and acquisition plans and that these relate to strategic defence acquisition.

Now previously that was never indicated anywhere on any other slide or any other approval forum, so it brings me
25 back to the statement that by enlarge the acquisition process

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right from the early days to today has in principle remained the same with the same underlying systems engineering process, what has changed is that the approval forums and the levels of approvals have changed over time and I've just demonstrated
5 those over the last few slides.

With the promulgation of the Policy and Procedure for the Acquisition of Armaments Edition 1 in November 2001 this Department of Defence Instruction superseded ACQ 1/1998 and I indicated when we discussed ACQ 1/1998 that it had a
10 determination time, it also superseded VB1000 and LOG12 Pamphlet 2 and this Edition 1 of the Department of Defence Instruction also addressed all the recommendations made by the Joint Investigation Team.

When the Acquisition Policy was recently updated
15 and promulgated as Edition 3 a section was added that addressed extraordinary capital acquisition initiated by Cabinet. In 1998 the acquisition and procurement functions were centralised under the Secretary for Defence in the Departmental Acquisition and Procurement Division with the
20 Chief of the Acquisitions who acted as the nodal point between the Department of Defence and ARMSCOR.

In 2007, this is now much later, this division was restructured as the Defence Matériel Division headed by the Chief of the Defence Matériel Division and comprising of a
25 chief director Defence Acquisition Management on the one side

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and a chief director Governance, Risk AND Compliance and Directorate Technology Development.

In 2008 further structural changes were made in the Defence Matériel Division, these changes per se, however, did not impact acquisition per se, so I did not present the slide of that here, the Ministerial approval of this latest structural change was given in early 2001.

ADV SIBEKO: That's 2011, Captain.

CAPT (SAN) JORDAN: I'm a bit dyslexic today Chair. Chair, in conclusion during this testimony a distinction was drawn between acquisition and procurement, two categories of matériel were defined and the classification of projects was addressed and it was noted that the SDPP's were cardinal projects. The general philosophy contained in the acquisition policies was highlighted and it was pointed out that the acquisition process is inherently a risk management process. It was also pointed out that armament acquisition is executed by means of a systems engineering process which could be tailored for the uniqueness of a specific acquisition project.

The roles of the various parties pertaining to the acquisition was indicated, the acquisition policies relevant to the SDPP's were described in some detail and it was pointed out that the Minister of Defence recognised the need to augment the VB1000 with an additional policy which was promulgated by the Chief of the SANDF and the Secretary for

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Defence. It was also pointed out that the Acquisition Policy was updated over time but that the basic process remained the same throughout, what have changed significantly over time were the approval forums and the project staff or the approval
5 forums for the project staff documentation.

Finally it is important to note that the two mandatory documents in the process is the Staff Target and the Acquisition Plan as the former constitutes the project decision and the latter is required to obtain authority for financial
10 expenditure. Chair, that is the end of my testimony and presentation.

ADV SIBEKO: Captain, is there anything that you need to add that you may have omitted to include in the slide presentation or in any of your evidence that you have adduced before the
15 Commission which may have a bearing on the Terms of Reference that we are dealing with presently?

CAPT (SAN) JORDAN: Chair, right now in terms of the testimony I have no more to add and suffice to say I put together this slide so to try and make it as understandable as
20 possible because it is quite a time consuming and difficult process to understand the first time when one encounters the process. I did the research and I presented it at a specific level which I thought to be most suitable to this Commission and its objectives, it is possible to drill into this process to
25 much greater depth, however, then it would take considerably

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more time and much more specialised knowledge to be able to drill down in those levels because each of those documents that I've described one can describe in even much greater detail but then we would spend many months here explaining the acquisition process and I don't think that would be in the
5 interest of this Commission. The level at which I've explained it, I think it is at the right level and I trust it would be to the satisfaction of the Commission.

10 Lastly the slide that I show there is taking the Commission back to my submarine connection, it just shows some of the conditions under which, or one of the conditions under which a submarine crew has to be able to operate at sea. That is quite a rough sea and they are out there on the deck, on the surface, it is quite dangerous but when practiced they
15 can do the job properly. Thank you Chair.

ADV SIBEKO: Despite the disclaimer that you have put is it correct that you have presented to the best of your ability all the salient features of the acquisition process as set out in the various policy documents?

20 CAPT (SAN) JORDAN: That is correct Sir, Chair, I have put out the features of the process as they are depicted in the various policies and those policies were then provided to the Commission as reference documents.

ADV SIBEKO: Thank you Captain. That is the evidence that
25 we intended to adduce with regard to this witness Chair.

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CHAIRPERSON: Is there anybody who wants to cross-examine the general? I'm sorry, captain. Is there anybody who wants to cross-examine? Anybody who wants to re-examine?

RE-EXAMINATION:

5 DR MADIMA: Just one question Chairman. Captain, you would recall the questions you were asked by the chairperson relating to the signature on, the signature on page 53, there's no need to go back to it, it relates to the signature by Shamir Shaik, by Chippy Shaik, you remember that?

10 CAPT (SAN) JORDAN: I remember that Chair.

DR MADIMA: Now the question is are you in a position to explain the circumstances surrounding that signature? I recall that you attempted to explain to the chairperson but the question I want to ask you is are you in a position to explain
15 the circumstances under which the signature was appended to that letter?

CAPT (SAN) JORDAN: Chair no, I would not be able to explain the circumstances under which that signature was placed there, I would suggest that Mr Shaik would be able to explain the
20 circumstances better than I would be able to try to explain them.

DR MADIMA: You don't know, do you know if that ... Do you know if he signed as Secretary for Defence or on behalf of Secretary of Defence, can you shed light on that, if you cannot,
25 say so.

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CAPT (SAN) JORDAN: Chair, if we look ... Can we go to that specific page?

ADV SIBEKO: Chair, it is page 53 of bundle N.

CAPT (SAN) JORDAN: Chair, if we look at page 53 of bundle N
5 we see that this document, the International Office Management
Committee, the document was signed by Mr Shaik, it reads "S
Shaik : Secretary for Defence : Directorate-General". Now if
we turn the page then we see that in the distribution list here
is a number of action addressees but it also has two info
10 addressees, now when one looks at the two info addressees it
is for the Chief of the SANDF and the second info addressee is
the Secretary for Defence, so the only inference one can make
from this is that he had omitted the notion of "PP" when he
signed here as the Secretary for Defence because it is clear
15 from the distribution list that he had the Secretary for Defence
on the distribution list.

Now if it was his intent to sign as the Secretary for
Defence then he would not have made the Secretary for
Defence as an information addressee. So, that is an inference
20 that one can draw.

CHAIRPERSON: Captain I'm sorry before you move forward,
I think the correct answer that you gave is the earlier answer,
you don't know, you don't know why he did that and he is the
only one who can tell us why he did that because now you are
25 starting to speculate.

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CAPT (SAN) JORDAN: I agree with you Chair.

CHAIRPERSON: He gave you an answer, he doesn't know, Mr Shaik will have to explain why he did that. I think that's a fair answer rather than you know let the witness speculate as to what would have happened on that particular day.

DR MADIMA: I agree Chair.

CHAIRPERSON: You said you've got only one question for him, you've asked him two, do you want to add a third one?

DR MADIMA: It was a follow up to ...

10 CHAIRPERSON: It was a follow up, oh okay fine, I understand.

DR MADIMA: No further questions.

CHAIRPERSON: Captain thanks a lot, you are excused.

CAPT (SAN) JORDAN: Thank you Chair.

15 CHAIRPERSON: Thank you. Advocate Sibeko, are you in a position to tell us who is leading the next witness and who that next witness is going to be?

ADV SIBEKO: Chair I believe from my colleagues Advocate Mphaga and Ms Ramagaga that they intend to lead the evidence of, I believe it's General Hechter who was the head of the Air Force at the time on some aspects that relates to the Air Force and that subsequent thereto the Chief might be called, I'm not quite certain whether that has been confirmed or not, but it would appear that the next witness would be General Hechter.

25 CHAIRPERSON: Thank you. I think we'll adjourn now and

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we'll resume tomorrow morning at 10h00, there was a request that we should start at 10h00 in the morning, people are running around trying to put together some documents, so we'll start at 10h00 instead of 09h30.

5 ADV SIBEKO: Thank you Chair.

(COMMISSION ADJOURNS)