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CHAIRPERSON: Thank you. Good morning. Advocate Lebala.

ADV LEBALA: Good morning Chairperson and Commissioner Musi. This morning we are dealing with the testimony of Mr Rob Vermeulen, and he's standing before you.

CHAIRPERSON: Can he take the oath?

**(Witness is sworn in.)**

CHAIRPERSON: Thank you.

ADV LEBALA: There's a bundle before you that I would like us to qualify as Vermeulen's Bundle. Before I even traverse it I've got to confirm that you are in possession of it. Noting that you are nodding I would like you to look at the first page of the index of the bundle. You will see that the bundle traverses 85 pages, statement from page 1 to 19 and there are five annexures. Now we will be taking you through the bundle as composed by the statement and the annexures and we are ready to proceed.

**WITNESS NUMBER 2 : MR ROBERT VERMEULEN (Hereinafter referred to as "MR VERMEULEN"), GIVES EVIDENCE UNDER OATH**

**EXAMINATION IN CHIEF:**

ADV LEBALA: Mr Vermeulen, you remember yesterday before we parted ways I advised the Commission that you are a member of the Integrated Project Team and you are going to

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talk to the importance of the process that leads to the production of this product, the submarine, do you remember?

MR VERMEULEN: Yes Chair, I remember.

ADV LEBALA: Now we are starting to define the process, we'll be taking the Commission through the stages of your role as a member of the Integrated Project Team, what happened leading to bringing this submarine back to South Africa. Let's look at your statement. You have prepared a sworn statement, is that correct?

10 MR VERMEULEN: I have Chair.

ADV LEBALA: Now let's look at page 1, let's look at page 1 of your statement, that is page 1 of the bundle Chair, Commissioner Musi, I would like us to start at paragraph 1.1:

15 *"I'm an adult male and I'm presently employed by Armaments Corporation of South Africa SO Ltd. ARMSCOR, as a programme manager of the ARMSCOR Naval Systems Division".*

Let's pause there. Explain to the Commission what's a programme manager in relation to the task that I mentioned to the Commission yesterday and this morning that you would be doing, part of the Integrated Project Team leading to the production of this product, the submarine and bring it back to South Africa.

25 MR VERMEULEN: Yes Chair. Chair, the Integrated Project Team consists of a number of specialists appointed depending

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upon the nature of the product and the project team, the Integrated Project Team is made up of both ARMSCOR as well as in my case naval personnel, and the project team is headed by a project executive. The project executive comprises the  
5 nominated DOD project officer, in this case a Navy project officer, as well as an appointed ARMSCOR programme manager which in the case of Project Wills, the submarine project, was myself.

ADV LEBALA: Now you have mentioned some important  
10 terms that are going to be surfacing time and again, the project executive, but at this stage I just want you to explain what is a programme manager.

MR VERMEULEN: Chair, a programme manager is appointed  
15 to both cardinal and non-cardinal projects, irrespective of the size of the project or the acquisition. The programme manager's prime responsibility is a number of responsibilities, the most salient of which is being to manage the acquisition process in terms of ARMSCOR's portfolio and ultimately to deliver a product system to the client.

ADV LEBALA: Now you have mentioned two concepts that  
20 we know that the commissioners have heard about, but for the sake of expedience and to appreciate your testimony I would like you to simply it in your own terms, remind them what's a cardinal project and what's a non-cardinal project.

MR VERMEULEN: Chair, to the best of my knowledge a  
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cardinal project is a project which exceeds a financial value of R80 million, it could be a R100 million, it's one of the two, I'm not hundred percent sure, and moreover it is also a project that has a significant political portfolio, this is what actually makes it cardinal project.

ADV LEBALA: Does that qualify the relationship between the SDPP's and the definition cardinal project?

MR VERMEULEN: Yes Chair, the SDPP's would definitely fall into the category of cardinal projects in their own right.

10 ADV LEBALA: Now you have mentioned that a programme manager manages the acquisition process, is that correct?

MR VERMEULEN: Yes Chair, that is correct.

15 ADV LEBALA: Now we will come back to this, we have laid the foundation that you are testifying your cap on as a programme manager who managed the acquisition process and as part of the Integrated Project Team, is that correct?

MR VERMEULEN: That is correct Chair.

20 ADV LEBALA: There is another term that comes time and again, it's called the Joint Project Team. Just explain to the Commission what's the difference between the Joint Project Team and the Integrated Project Team, if there is any.

25 MR VERMEULEN: Yes Chair, in fact there is no difference. Just some background on the terminology. The Integrated Project Team is generic to a term used by ARMSCOR and the Navy to explain the combined project team consisting of the

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various bodies. With respect to Project Hotel we actually used the phrase Client Project Team and on Project Sitron which will be addressed later the Joint Project Team was used but both of them implied an Integrated Project Team, so yes, they are the same thing.

ADV LEBALA: Now I don't want us to lose the Commission, you've mentioned two projects. Let's go back. The Commission is very educated about the fact that the Department of Defence operates on projects, that's common cause. Now you mentioned two projects, Project Hotel and Project Sitron, just explain to them how did they relate if there's any relationship.

MR VERMEULEN: Chair, I think you mean Project Wills as opposed to Project Hotel?

ADV LEBALA: Thank you Mr Vermeulen. Now the project that pertains to the submarines, what was it called by the way, refresh us?

MR VERMEULEN: The submarine acquisition project was designated as Project Wills.

ADV LEBALA: Now as you are standing before the Commission your focus is only going to be on Project Wills, am I right?

MR VERMEULEN: Yes Chair, that is correct. I was only involved in the acquisition for Project Wills.

ADV LEBALA: Let's go back to your statement paragraph

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1.2:

*“A copy of my Curriculum Vitae is attached hereto marked as Annexure ‘RMV1’”.*

Now I would like you to look at page 20 and 21 of your bundle,  
5 please go to page 20 and 21, I hope the Commissioners are  
also going to page 20 and 21. I wouldn't like us to spend time  
on your *Curriculum Vitae* because it's not about it but it's about  
your testimony as to how you helped in the production in  
delivery of this product, the submarine, but let's start on page  
10 20, I hope the commissioners are with us? I see Commissioner  
Musi is nodding, I see you are nodding Chair. Alright. Let's  
start with "Education and Qualifications". You have a National  
Diploma Electrical Engineering Light Current". Now just  
simplify light current.

15 MR VERMEULEN: Yes Chair, light current means electronics.  
It's just a formal term used by the institute.

ADV LEBALA: And we see you also have a certificate in  
Systems Engineering. In relation to your testimony to date  
draw the relationship between Systems Engineering if you can,  
20 and you testifying and the Project Wills.

MR VERMEULEN: Yes Chair, I obtained Honours level  
certificate in Systems Engineering from the University of  
Pretoria. This particular course that is offered by the  
University is tailored towards the acquisition process adopted  
25 by ARMSCOR.

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ADV LEBALA: What does it entail?

MR VERMEULEN: Basically Systems Engineering can be described as a logical process used to ensure that an orderly sequence is followed in the evolution of the system from the point where a requirement is identified through planning, design, construction, incremental qualification and ultimate deployment and operation by an end-user in the intended operational environment. That in a nutshell is system engineering in a basic form.

5  
10 ADV LEBALA: Now let me understand to simplify it, system engineering is a process leading to the production of a qualified product?

MR VERMEULEN: Yes Chair, that is correct.

ADV LEBALA: Now let's go to your work experience, we see that you were based in Simonstown where you worked as a technical at the Naval Dockyard. Now in respect to that how did you join the Navy, were you a naval officer in uniform or were you a civilian?

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20 MR VERMEULEN: Chair, when I obtained my qualifications I joined the Navy or I began working for the Navy as a civilian. At that stage, and the Navy still has a large contingent of civilian technical personnel working for them in various categories, specifically in the Navy Dockyard which is now run by ARMSCOR, and also there is a Naval Engineering Service  
25 which was at that time known as the Naval Engineering Bureau,

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and yes, they employ a number of civilians in those organisations.

ADV LEBALA: Now what's the relationship between you being a technical in the Naval Dockyard and what you would be  
5 testifying about, if you can?

MR VERMEULEN: I began work in the dockyard at the end of 1976. At that stage the dockyard was heavily involved in refit work on their ships, it's not the same dockyard that we know of today, it had a very strong technical capacity and they  
10 outsourced very little work at that stage, so we were heavily involved in refit related work and modernisation programmes on the existing assets that the Navy had.

ADV LEBALA: Now we know that you joined the Navy, that has become clear, you worked at the dockyard. Now you  
15 mentioned something that the uniformed naval officers talked about, about refitting work. In your own terms simplify, just to refresh the commissioners, "refit work".

MR VERMEULEN: A refit is essentially a planned maintenance activity, a very significant maintenance activity  
20 which is done depending on the operational profile of the vessel every so many years and it involves a major overhaul of equipment, in some cases a modernisation of obsolete equipment, so it's a major activity that takes place during the lifecycle of a vessel. You might find a vessel goes through  
25 typically three refits in its life cycle, sometimes more.

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ADV LEBALA: Now let's be specific because this is very significant in line with the evidence and the testimony the commissioners have heard from the uniformed naval officers. Tell us which ships, if any, which submarines, if any, did you participate in doing the refit work?

MR VERMEULEN: Chair, I was only involved in the time that I was working in the dockyard, I was involved in the refit of a vessel called SAS Pretorius, it was a Leander-class Type 12 frigate, they have long since been, they have in fact, they are no longer in the service of the Navy for some time now, they were old vessels.

ADV LEBALA: Now let's talk about specifics. What did you do to this frigate?

MR VERMEULEN: There was a number of activities taking place, one that I can recall was the replacement of the surveillance radar, there was an upgrade to the electronic warfare equipment, there were a number of modernisations on the for instance automatic voltage regulators, it was a major overhaul, it was a refurbishment and modernisation programme of the Leander-class frigates that was underway.

ADV LEBALA: I see, let's go back to page 20, your *Curriculum Vitae*. You mentioned that you also carried out maintenance, diagnostic related work as well as equipment modification, is it part of the refit work?

MR VERMEULEN: Yes Chair, it is part of that.

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ADV LEBALA: We also note that you provided training to trainee technicians. Now are you an engineer, are you a technician or are you an electrician?

MR VERMEULEN: I'm neither of the three, I'm qualified as  
5 what was then a technologist, I did a high national diploma course in Engineering, it was the highest non-graduate course that was available at that stage, so yes, I was in a position to train technicians, and as I said earlier on Chair, the dockyard at that stage had a large capacity of staff and they had a very  
10 strong training programme that was underway, so I was asked to participate and for approximately 12 months I trained technicians on the use of digital techniques and instrumentation at that time.

ADV LEBALA: We note that you were still based in  
15 Simonstown when you did the Control Industrial Technician with the Naval Engineering Bureau. Yes, I note that you mentioned something about the Naval Engineering Bureau, just simplify it for us in this web of the Navy which has got many layers, the Naval Engineering Bureau.

MR VERMEULEN: Yes. Chair, the Naval Engineering Bureau  
20 is an organisation comprising mainly of civilians, it used to be run by a manager, a civilian manager, it is now, however, run by a uniformed officer, and as I said the Naval Engineering Service is what it was known at that stage as a Naval  
25 Engineering Bureau was involved in project related work and

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because of their technical capacity a lot of that work was done in-house, unlike today where unfortunately they have to outsource a lot of those activities, they had a strong technical capacity, we would typically compile our own specifications, do  
5 a concept as well as a detail design and then transfer the remaining part of the work to a shipyard and then following that we would oversee the work that the shipyard was doing, so it was very much an in-house activity with outsourcing done on a very limited scale.

10 ADV LEBALA: Now Control Industrial Technician, explain it.

MR VERMEULEN: These were the categories, you must remember this is a public service organisation and I happened to slot, that was the term, the position that I occupied.

15 ADV LEBALA: You are qualifying that below, let's read:

*"I worked on several Navy projects ..."*

Let's pause there. Was that the beginning of your lifespan in projects?

20 MR VERMEULEN: Correct Chair, I began working on projects after leaving the dockyard, that's the first time that I had started working on projects.

ADV LEBALA: I see you qualified, the most notable of which was the design and built of the SAS Drakensberg, let's pause there. What was happening to the SAS Drakensberg,  
25 was it part of the refit or it was a completely different process?

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MR VERMEULEN: Chair, the SAS Drakensberg was an entirely new project, the Navy had an old auxiliary vessel called the SAS Tafelberg which was nearing the end of its lifecycle and they had a need for a new auxiliary vessel, so a  
5 new concept design was initiated for the SAS Drakensberg, it was known as Project Energy, it was approximately, I stand to be corrected, a four year project and as I said earlier the concept design was carried out by the Naval Engineering Bureau within the various engineering disciplines that resided  
10 in that organisation.

ADV LEBALA: Now we know that you started with projects as at that stage but what was your role in this project?

MR VERMEULEN: In this specific project Chair my role was to draw up specifications on the electronic equipment, I did all  
15 the navigation systems if I recall, I did compartment layouts, consul layouts, I worked on the general arrangement of the topside of the vessel, so it was quite widespread. Also in the integration aspects, the interfacing of the various equipment and assisting with the drawing up of what we call interface  
20 control documents at that stage.

ADV LEBALA: And I note that you also worked in the modernisation of the Daphne Class submarines, the commissioners have heard a lot about the Daphne Class submarines, we'll be taking them back to the Daphne Class  
25 submarines just to refresh them. Am I right to say that the

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earlier submarines that we had that became obsolete, remember you are going to talk to submarines, the earlier submarines that we had were called Daphne submarines?

MR VERMEULEN: That's quite correct Chair, the Daphne submarines were the first submarines the SA Navy ever had introduced into service, so obviously when they acquired the Daphne submarines they had to develop a whole submarine capability and if I recall correctly this was in the early 1970's in which the Daphne's were delivered.

5  
10 ADV LEBALA: Okay. Well, I'm going to ask a rhetoric question, a question that answers itself, that was before the SDPP's, am I right?

MR VERMEULEN: Yes Chair, that is quite correct. The SDPP's in terms of the Daphne's were required so as to replace the Daphne's which were ageing at that stage, they had basically come to the end of their life cycle as my Navy colleagues had explained previously.

ADV LEBALA: Just to refresh the commissioners yes, they did mention about obsolescence, that the Daphne submarines were old, there were no longer parts, is that the reason why you had to engage in the project of modernising them?

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25 MR VERMEULEN: Yes Chair that is quite correct, during the life cycle of these vessels, in the case of the Navy as I think we are all aware, it wasn't easy to replace these products, so

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they had to make the best of what they had at their disposal and during the life of the Daphne's a number of upgrade projects have had to take place, mainly modernisation so as to manage the obsolescence problems that were occurring at that stage.

ADV LEBALA: Now we took you from the 1970's to the end of 1980's, 1989, now we are in the 1990's, this very significant period. In as far as your testimony today is concerned you start to join ARMSCOR in 1990, is that correct?

10 MR VERMEULEN: Yes Chair, that is when I joined ARMSCOR.

ADV LEBALA: When you joined ARMSCOR in 1990 according to your CV you've been involved with Navy related acquisition projects throughout your career in ARMSCOR in the capacity as a programme manager. Now when you started with ARMSCOR you started as a programme manager?

MR VERMEULEN: Chair to begin with I was not a programme manager, I joined a project which had a large technical team, I was a member of that technical team which was responsible for the technical integrity of the project, I wasn't the programme manager per se. My involvement there, if I may carry on, involved ... I set up an Interface Control Workgroup integrating the various subsystems of this particular project and I also addressed the electromagnetic interference control as well, those were my main areas in the initial months or in the first year of working at ARMSCOR. Thereafter I became a

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programme manager on some small, comparatively small projects.

ADV LEBALA: What is significant is that when you joined ARMSCOR you dealt with acquisition related projects.

5 MR VERMEULEN: That is quite correct Chair. From the outset in my career with ARMSCOR I've been involved with acquisition projects.

ADV LEBALA: Let's look at page 21, the remaining two points dealing with your CV. You state at the top that:

10 *"During this period I've been based in Simonstown with exception of a seven year period".*

We know that you are in ARMSCOR now?

MR VERMEULEN: Yes.

15 ADV LEBALA: Yes. You are based in Simonstown throughout your life, it has been explained why Simonstown is very critical because that's where the Navy bases are. Now you've been there:

20 *"... with the exception of a seven year period, 2000-2007 during which time I was deployed in Germany as a programme manager for the submarine acquisition project".*

Now we are stealing line with where you started in acquisition, we are going on, now you are at the SDPP's according to this, am I right?

25 MR VERMEULEN: Yes Chair, that is quite correct.

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ADV LEBALA: Next point:

*“Following the completion of activities at the German shipyards I returned to ARMSCOR Simonstown office where I’m currently based. I’m presently involved with the programme management of replacement hydrographic survey vessel project”.*

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Yes, the uniformed naval officers told us about this. Just refresh the commissioners, don’t overwhelm them, they’ve heard about it, just refresh us what is it about.

10 MR VERMEULEN: Yes Chair. Chair, the Navy currently has hydrographic survey vessel that is approximately 42 years old, that is the oldest vessel in the Navy’s infantry at the moment and this particular project that I’m now busy with is in the definition phase and it’s a replacement hydrographic survey vessel, the replacement for the current vessel which is known as SAS Protea.

15

ADV LEBALA: Now just refresh us, by the way what’s the distinctive function of this vessel, what does it do in simple terms, refresh us?

20 MR VERMEULEN: Chair the Navy has an obligation as I’m sure they told you, to carry out nautical surveys within the coastal waters of Southern Africa, they have to do this on a regular basis and this ship will be required so that they can fulfill these responsibilities further.

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25 ADV LEBALA: Now we are going back to your statement

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having laid the foundation about your role in acquisition when you joined ARMSCOR. We also know that you have been involved in projects even before you joined ARMSCOR, and now we are coming to the real process of acquisition. Now am I  
5 right to say you are standing before the Commission to assist the Commission to appreciate the process that took place from the beginning up until we brought the submarines to South Africa?

MR VERMEULEN: That is correct Chair.

10 ADV LEBALA: Now let's go to page, let's go to page 1 of your statement, paragraph 1.3:

*"I was employed by ARMSCOR before, during and after the Strategic Defence Packages Procurement acquisition, hereinafter referred to as the SDPP, ...".*  
15

Now let's unpack this, "I was employed by ARMSCOR before" as a what in relation to the SDPP's?

MR VERMEULEN: Chair as I explained when I walked you through my CV, when I joined ARMSCOR in 1990 I was involved  
20 in various acquisition projects prior to Project Wills occurring.

ADV LEBALA: Let's go to the second part, "during". Remember the first part is: "I was employed by ARMSCOR before the SDPP's", second part you were employed by ARMSCOR during. I know you talked to it, do you want to add  
25 or do you just want to simplify it to appreciate the last portion

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that is on the statement?

MR VERMEULEN: Chair, during the course of the testimony I will report that a particular project came about, a possible acquisition of a ready-built vessel, the Navy was desperate to  
5 acquire new vessels so as to replace the ageing Daphne's. When this news came about I was appointed as the programme manager for Project Wills within my division.

ADV LEBALA: Now "after", that is currently.

MR VERMEULEN: After the completion of Project Wills Chair  
10 I returned to Simonstown and I'm currently engaged in the hydrographic survey vessel project which I spoke of earlier.

ADV LEBALA: Let's go to paragraph 1.5, you have already told the Commission why you are before, but for the sake of completeness let's read it:

15 *"I've been asked to provide evidence within my knowledge that may be relevant to the rationale relating to the submarine acquisition for the SDPP".*

You have already laid the foundation about that, now here comes the nub, this acquisition process and the rationale of  
20 the, of acquiring this submarine in as far as your role is concerned will be looked at in this context, firstly the adjudication process, is that correct?

MR VERMEULEN: Yes Chair, that is correct, I was involved in the adjudication process.

25 ADV LEBALA: Explain to the Commission what do you

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mean when you say you were involved in the adjudication process. I know we are going to delve into the elements of that adjudication process, at this stage let the commissioners appreciate where you are taking them to.

5 MR VERMEULEN: In the case, in the context of Project Wills  
Chair the adjudication, it could be stated that this process  
started with the generation of a Request for Information, an  
RFI generated by the SA Navy, followed by a Request for  
Information being distributed to appropriate industry for  
10 submarines, after having received the RFI's just briefly these  
were then shortlisted and then an RFO was prepared which is  
obviously far more significant to the RFI process which is  
essentially an information gathering exercise, and the RFO was  
released with the necessary documentation which I think we  
15 will describe later on. Having received responses to these  
RFO's the adjudication of these RFO's will take place, which  
essentially would be the selection process of a preferred  
supplier.

ADV LEBALA: I see on the same sentence, we read  
20 further, you have just been qualifying the adjudication process  
but this sentence goes further to say:

*"The adjudication process insofar as concerning the  
scoring of the technical value system ..."*

Let's pause there. The commissioners are going to hear a lot  
25 about the technical value system, at this stage just simplify it

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for them because you are going to give them the nuts and bolts of it, just simplify, I don't know what you could say, just don't complicate it like a technician or an engineer or, what would you say if I ask you what you are talking about?

5 MR VERMEULEN: Chair, the basic process for the scoring that I referred to here which as the Commissioner, as has been pointed out, I'll go into much greater depth at a later stage, basically the scoring is done in objective fashion, you try and remove all subjectivity so that you achieve basically a force  
10 decision making process and I'll elaborate on that expression I've just used at a later stage but in a nutshell the adjudication process is a mechanism used to arrive at an objective solution to a preferred supplier.

ADV LEBALA: Now am I right to say that when you look  
15 at the value system you are weighing something, putting parameters objectively?

MR VERMEULEN: Yes Chair, that is correct. A value system which I'm sure we will be going to shortly, essentially the process there would be to sit, where ARMSCOR would work  
20 together with the user, user specialists would be appointed from the appropriate divisions within the Navy, in this case the submarine flotilla which was in existence then, the submarine flotilla would be asked to provide experienced user specialists to participate in the exercise with the Integrated Project Team  
25 and their role would be to help in assisting in defining the

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parameters that could be used at a later stage to evaluate offers. That would be the one side of it and I'm going to elaborate during the course of my testimony on the comprehensiveness of these parameters that were used and then coupled to that you would designate a priority or weighting to these parameters in relative comparison with all the other parameters. Let me try and word that better.

Essentially you would take one parameter and you would measure it against all the other parameters that you've identified and you would continue doing this to arrive at the relative importance of each of these items. The idea is to build up a foundation which will later assist you in driving out a force decision making process as objectively as possible.

ADV LEBALA: Now you are talking about a force decision, simplify it. I know you put it in the context of the "forced making decision process", what's a force decision?

MR VERMEULEN: Chair the term "force decision making process" applies to a result which is automatically generated by the mechanisms within the value system. In other words as you, when you receive the various offers and you evaluate the information contained within those offers the project team together with the user specialists will allocate scores to these various parameters on a defined scale of say 1 to 5, and what the value system does then is because you've predetermined the priorities or weights of these parameters it will

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automatically keep track of the scores so that by the time you finished this exercise and you populated all the parameters with results from the bidders the outcome will be automatically generated.

5 ADV LEBALA: Now let me understand. We are at a stage where we are looking at a mince of evaluating in an objective manner, we look at parameters, we weigh, we give scores, sometimes the scores are inescapable, it's what you are expected to come out with, is it correct?

10 MR VERMEULEN: If I understand you correctly Chair you will get the information, sometimes it is obvious, sometimes it needs debate, and which is a very important point. When we evaluate these parameters in terms of the responses received it often requires rigorous debate within the project team and  
15 the evaluation team, so we try and get a broad based disciplined, a broad base of personnel involved in the value system. What I mean by that is that you would have technical personnel, you would have operational personnel, user specialists, you would have logistics personnel who would all  
20 join in the debate and eventually you would have to come to a conclusion, consensus would have to be obtained and you would enter that score into the value system, so it would require rigorous debate and it was a lengthy procedure which was followed over the course of time.

25 ADV LEBALA: But when this evaluations are being looked

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at, that is applying the value system, the teams are involved in the background isn't it?

MR VERMEULEN: Yes, as you build up the scores Chair you rely on the evaluation team to be continuously involved and you  
5 build up until you eventually arrive at the force decision.

ADV LEBALA: The commissioners will appreciate the importance of this concept because if we have it right by the time we get there we'll be sailing smoothly in dealing with the value systems. Now let's go and read further, now after the  
10 technical value system, we'll come to the technical side of the value system, you ... Let's go back. You participated in as far as the acquisition process is concerned, it was the adjudication process, it involved scoring of the technical value system and you also participated in negotiation phase, is that correct?

MR VERMEULEN: Yes Chair, one the preferred supplier had been announced the negotiation phase followed immediately afterwards and I played a leading role in that exercise in terms of the product system.

ADV LEBALA: Mr Griesel told us about the negotiating  
20 teams, were you part of the negotiating teams?

MR VERMEULEN: Yes Chair, there were two tiers of negotiation, I was part of the lower tier, specifically with reference to the submarine military value.

ADV LEBALA: Now Mr Griesel told us about, if I'm not  
25 mistaken there was a higher team called the IONT,

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International Offers Negotiating Team and the other team that deals with the supply terms, are you referring to the IONT or the team dealing with the supply terms?

MR VERMEULEN: No Chair, I'm referring to the team that  
5 was involved with the supply terms and I have a slide which I'd like to show which will clarify that perhaps better later on, but yes, in answer to your question I was only involved in the negotiations involving the supply terms which referenced the submarine product system.

10 ADV LEBALA: Thank you. And the last part it's what we told the commissioners about that ... Let's read the part of your statement:

*"The overseeing of the production of the submarines".*

15 Now in simple terms what does that mean?

MR VERMEULEN: Essentially once we had finished the negotiations and completed all the necessary documentation including the supply terms, following the announcement by Cabinet that contracts had been signed, within a short space of  
20 time thereafter a project team, the project team or certain members of the IPT were transferred to the shipyards in Germany to oversee the production of the three submarines.

ADV LEBALA: Now we are going to another aspect that the commissioners have to know about before we go to this  
25 foundation that you have laid, but let's satisfy ourselves as to

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whether we understand what you are saying. You are saying in as far as the rationale of the acquisition of the submarines is concerned the process starts with the RFI, you summarised it, you will explain what do you mean, it goes to the RFO and then comes the adjudication process where we look at the weighing and the scoring to give scores as to whether this entity qualifies or not and this negotiations up until we produce the product, that's what you are saying.

MR VERMEULEN: That is correct Chair.

ADV LEBALA: Then comes the next paragraph that will qualify your testimony, it's very critical that we should spend time on it, paragraph 1.6, may I take the liberty to read it to you:

*"Supporting documentation identified in the statement is referenced according to the number on the documentation already supplied to the Arms Procurement Commission of South Africa on a memory stick during July 2012. Documents marked as 'Confidential' or 'Secret' contain references to classified information which have been so classified by either the Department of Defence or ARMSCOR".*

That's common cause, let's not spend time there. The next page 2, paragraph 1.7 Commissioners, and we are starting to scratch where it itches Commissioners, the witness will have to explain something very critical before he explains his

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testimony:

5                   *“Where possible ARMSCOR has declassified documents and has made such documents available to the Commission, however, some documents cannot be declassified and thus made available to the Commission for various reasons including maintaining good diplomatic relations between South Africa and other countries and ensuring South Africa’s compliance with contractual obligations on*  
10                   *a number of levels, namely a country-to-country level, a defence industry level as well as an on an individual bidder level”.*

15                   There’s a theme coming out from this paragraph, are you shortchanging the Commission and depriving the Commission some information Mr Vermeulen?

MR VERMEULEN:   Chair that is certainly not my intention. What I’m merely doing here is holding back certain information mainly of a technical nature which would compromise both the Navy in fact as well as defence industry. If I could give some  
20                   examples you will notice later on in my testimony that I’ll show certain parameters in the value system such as the maximum dive depth of a submarine. Now that information cannot be tabled at this forum for the simple reason that it would compromise our Navy’s fighting capability and also from a  
25                   commercial aspect we would be revealing a product’s

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characteristics that is also used by other navies, for instance in the Type 209 submarine, they've sold this submarine to various other foreign navies and I don't think either the shipyard or those navies would be favourable of us releasing  
5 such information at this forum, and if I could just add that I don't believe that it's relevant to the outcome of the findings of this Commission to reveal information of that nature.

ADV LEBALA: I see the chairperson and the commissioner are conferring. Let's pause.

10 CHAIRPERSON: Advocate Lebala maybe let me just find out from the witness, I see he's mentioned quite a long list of documents which in his opinion or in ARMSCOR's opinion the Commission is not entitled to see. I think that we must be provided with an entire list of the documents that they claim  
15 that we cannot see and we will make a decision from there whether they are entitled not to reveal the contents of those documents in public or not. I do not think that it's their prerogative to decide whether we are going to see that or not. If it's only he (indistinct) to say that he does not believe that it  
20 will advance the cause of the Commission by revealing that information to us, I think that is a call that must be made by the Commission and not by ARMSCOR. It's a call that must be made by the Commission and not by ARMSCOR. I think even before we pass this point I will be much more comfortable if I  
25 know exactly what they say that we are not entitled to see and

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if some reasons can be advanced why they are of the view that we cannot see that information.

ADV LEBALA: Chair, remarkably the statement of Mr Griesel has the same tone but he managed to testify. Perhaps  
5 the way to deal with it, and I'm in your hands and I trust your discretion together with that of Commissioner Musi, is to ask as to whether irrespective of this challenge will this witness's testimony be helpful. This witness could be directed to produce this documentation and I'm certain that he will guide  
10 the Commission that some of this documentation has been brought before the Commission by Mr Griesel.

Now with that I assure you that I have satisfied myself that to an extent to which this witness will guide the Commission, assist in as far as the things of what he is going  
15 to testify about is concerned and to bring that testimony before the Commission. You could be rest assured Chair, Commissioner Musi, I am satisfied that he will. Now when we get to where there are constraints perhaps we could pause, see whether can he give us more and if I'm not mistaken he has  
20 already said that where he can he will be able to provide this detail but of main concern is to go back to 1.7, could he go back to 1.7. Listen to what he says in line number 4, he says:

25 *“... including good diplomatic relations between South Africa and other countries and ensuring South Africa's compliance with contractual obligations on*

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*a number of levels namely a country-to-country level, a defence industry level as well as on an individual bidder level”.*

Now what does this mean, what comes out of the wash is the probability that we might even have to go, if need be Chair, and I assure you there might not be need, we might have to go into *in camera* hearing if need be. Perhaps this witness could deal with it this way, if you permit me I need to direct one or two questions towards him, if you permit me Chair, Commissioner Musi?

CHAIRPERSON: Advocate Lebala, can I suggest that we adjourn and I see Advocate Solomon is sitting there, and discuss this matter with him. I am a bit disturbed by the statements that certain information is going to be withheld from us for whatever reason. That statement disturbs me if I'm being told that there are, there is information which is going to be withheld from us and we are being told upfront even before he you know is halfway with his testimony.

ADV LEBALA: Chair, ...

CHAIRPERSON: Shouldn't you perhaps discuss it with Advocate Solomon during the tea break and when we come back from, I see it's already 11h20, then we can try and see how best can we deal with this issue.

ADV LEBALA: Certainly Chair, thanks for that refreshing suggestion that might provide a solution, but I assure you that

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this is same paragraph that we inserted in Mr Griesel's statement that he gave it to you. Now I think I did confer with Mr Solomon's team about this and they acknowledge the following is before you, either we do it now or we do it after  
5 tea. I'm going to give over to him to shed light and bring fresh awareness that this does not even create a serious obstacle in as far as getting the testimony of this witness in the context of what he is here to tell you about.

Remember I gave you the themes of what he is  
10 going to tell you about, he will give you the technical value. If it's sanitised he'll have to explain why it's sanitised and I'm confident that if they have to give these documents for the benefit of the Commission they will, hence I say we might even have to go into *in camera* hearing, but let me not overwhelm  
15 you Chair and Commissioner Musi, the break would be appropriate but I think at this stage I would like Mr Solomon to guide you too, and you will appreciate when Mr Solomon guide you as to why these paragraphs are inserted, but before I give over to Mr Solomon or we go on a break I assure you that I  
20 would not shortchange this Commission, I would not even allow any witness to shortchange this Commission not with the attacks that this Commission is failing with what this Commission is put on the spot, I wouldn't permit it and I know that you wouldn't permit it Chair and Commissioner Musi, and  
25 ...

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CHAIRPERSON: But in that case let's adjourn and then come back after 20 minutes. I hope during the tea break you are in a position to discuss this issue with your colleague and from there advise us on how best can we deal with this issue.

5 ADV LEBALA: Thank you Chair.

CHAIRPERSON: We'll adjourn.

**(Commission adjourns)**

**(Commission resumes)**

CHAIRPERSON: May I ask the witness to confirm that he is  
10 still under oath?

MR VERMEULEN: I do.

CHAIRPERSON: Thank you. Advocate Lebala.

ADV LEBALA: Chairperson, Commissioner Musi, we are at  
the stage where we want to remove those worrying lines from  
15 your foreheads, but permit us to start here procedurally, and  
you will appreciate it when Ms Sello addresses you because of  
this prevailing uneasiness that has come to the benefit of the  
Commission, there's a new development that I'm going to give  
over to Ms Sello to explain to you before this witness proceeds  
20 and Mr Solomon will also address you but at this stage I'm  
handing over to Ms Sello just to take you through about this  
essential procedural step, unless there are questions I'm giving  
over to Ms Sello Chairperson, Commissioner Musi, with your  
permission.

25 ADV SELLO: Thank you Chairman and Commissioner

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Musi and thank you Mr Lebala. Chair, before the adjournment it came to light that the statement made and the witness's statement regarding confidentiality of certain documents had also been made in Mr Griesel's statement who finished  
5 testifying yesterday. This aspect of the statement was not dealt with Mr Griesel.

During the lunch adjournment I took the liberty of checking the statement and indeed Commissioners a similar statement appears and in the circumstances I beg leave to  
10 recall Mr Dawie Griesel as a witness to speak to these paragraphs, to confirm or deny or however he deems fit to deal with these aspects for the benefit of the Commission so that at the end of his testimony there is absolute clarity regarding his statement, his testimony, its value and the applicability of the  
15 contents of this statement. Against that background Commissioners I would beg leave to recall Mr Griesel to deal purely with this aspect of his evidence.

CHAIRPERSON: I'm sorry, let me first hear from Advocate Solomon before we call that witness.

20 ADV SOLOMON: Sorry Chair, is this in relation to the recalling of Mr Griesel?

CHAIRPERSON: That's right.

ADV SOLOMON: Yes. No, we've got no objection. I can, and I'm sure Mr Griesel will assure the Commission that no  
25 documents falling within the category described by Ms Sello

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were held back by Mr Griesel but he can confirm that himself.

CHAIRPERSON: Thank you. Maybe if you can just excuse us for a minute, then maybe let's call Mr Griesel.

5 ADV SELLO: With your leave Chair, I call Mr Dawie Griesel to the stand.

CHAIRPERSON: Can you ask the witness to take the oath.  
**(Witness is sworn in.)**

CHAIRPERSON: Thank you.

10 ADV SELLO: Thank you Chair.

**WITNESS NUMBER 1 (RECALLED) : MR DAWIE GRIESEL  
(Hereinafter referred to as "MR GRIESEL"), GIVES EVIDENCE  
UNDER OATH**

**EXAMINATION IN CHIEF:**

15 ADV SELLO: Mr Griesel firstly, first and foremost let me thank you for availing yourself at such short notice to assist the Commission with regard to these issues. Can I just confirm one thing, do you have your 35-page statement that you submitted to this Commission before you?

20 MR GRIESEL: I do Chair.

ADV SELLO: Thank you. I would like to refer you to page 2 thereof and in particular paragraphs 1.9 and 1.10 and I would request you to read both paragraphs into the record.

25 MR GRIESEL: Chairperson, I'm referring to page 2 of my statement, paragraph 1.9 reads:

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5           *“Where possible ARMSCOR has declassified documents and has made such documents available to the Commission, however, some documents cannot be declassified and thus made available to*

10           *the Commission for various reasons, including maintaining good diplomatic relations between South Africa and other countries and ensuring South Africa’s compliance with contractual obligations on a number of levels (namely a country-to-country level, a defence industry level, as well as on individual bidder level. Furthermore in instances where declassification is not possible regard must be given to the fact that a decision to declassify certain documents cannot be taken by ARMSCOR*

15           *alone but must include consultation and collaboration with the appropriate party”.*

Paragraph 1.10 reads:

20           *“Where reference is made in this statement to process undertaken and/or documents prepared over which other parties exercise control and which fall outside of ARMSCOR’s responsibility I’m only able to give high level information on such processes and/or documents. Although I made mention of these processes and/or documents for purposes of*

25           *giving as complete an account of the procurement*

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*process as possible I can either expand on, or make any documents available in this regard for the reasons explained in paragraph 1.9 above”.*

ADV SELLO: Thank you Mr Griesel. Please clarify for  
5 this Commission, you have testified over the course of three  
days, you have made available certain documentation in  
support of your testimony, is there any evidence you have been  
unable to provide to this Commission that is within your  
personal knowledge on the basis of what is stated in paragraph  
10 1.9 and paragraph 1.10?

MR GRIESEL: Commissioner, I can categorically state  
that no information was withheld from the Commission which  
would normally have fallen under the auspices of these  
paragraphs.

15 ADV SELLO: In respect of what’s contained in 1.9 you  
state in the last sentence:

*“Although I made mention of these processes and/or  
documents for purposes of giving as complete an  
account of the procurement processes possible I  
20 can neither expand nor make documents available in  
this regard for the reasons explained in paragraph  
1.9”.*

I want to find out from you the processes that you testified on,  
did you fail to expand on any such processes because of the  
25 statements made in paragraph 1.9?

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MR GRIESEL: Chairperson, I can confirm that I did not.

ADV SELLO: Just to make sure we are clear Mr Griesel, are there any documents that you withheld from this Commission for any reason whatsoever?

5 MR GRIESEL: I can confirm Chair that I have not withheld any documents from this Commission and if the Commission would allow I would be willing to expunge these paragraphs from my statement.

ADV SELLO: Thank you Mr Griesel. Commissioners, in  
10 the light of the witness's response and his willingness to expunge these paragraphs from his statement I make application that paragraphs 1.9 and 1.10 be struck out of Mr Griesel's statement.

CHAIRPERSON: Mr Griesel just for my own understanding,  
15 am I to understand you to be saying that these two paragraphs 1.9 and 1.10 had no impact whatsoever on the evidence that you have given?

MR GRIESEL: Chair, I can confirm that that is so. These  
20 two paragraphs are standard disclaimers which would appear in all of the submissions and it had no bearing whatsoever on the testimony that I presented to this Commission.

CHAIRPERSON: Am I to understand you to be saying that there is no documents that you could have given to us which you did not because of paragraph 1.9 and 10.10?

25 MR GRIESEL: Chair, I can categorically state that I did

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not withhold any documents from the Commission, I've made available everything that had any bearing on my testimony and that nothing was withheld as a result of these paragraphs in my statement.

5 CHAIRPERSON: Thank you. Advocate Sello, your application is granted and therefore paragraph 1.9 and 1.10 of the witness's statements are expunged from his statement.

ADV SELLO: I'm indebted to the Commission. Commissioners, that is the clarification we sought from this  
10 witness, I have no further questions.

CHAIRPERSON: Thank you. Mr Giesel thanks a lot, you are excused and I think we should, I should personally thank you also for availing yourself on such a short notice. Thank you, it's over to you thank you. Advocate Lebala?

15 ADV LEBALA: Chairperson, Commissioner Musi, we are still engaged at this stage with procedural issues that came in the light of the selfsame paragraph which is the subject of your address currently. At this stage before we soldier on from our side we'd like to give over to Solomon SC, and you would  
20 appreciate why we are inclined to do that. If you permit us at this stage allow us to request Solomon SC. to address you.

ADV SOLOMON: Thank you Chair and Commissioner Musi. Chair from ARMSCOR's perspective it has adopted the approach that all documentation must be made available to the  
25 Commission. I just want to place on record that I think already

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last year or prior to that a memory stick containing about 35 000 individual documents was made available to the Secretariat on an unconditional basis. The documentation specifically referred to in Mr Rob Vermeulen's statement are documents I understand that would have been contained on that memory stick. The disclaimer that is standardised in all the witness statements as Mr Griesel has testified was to deal with issues of confidentiality, in the first instance that would apply on a country-to-country level, a defence industry level as well as on an individual bidder level and to maintain the highest levels of cooperation and free and open communication between organisations such as ARMSCOR and international suppliers and government.

We understood from the evidence that had previously been given by Colonel Schoultz, Admiral Schoultz when it came to documentation I can refer the Commission to page 419 to line 16 to 420 line 19 being led by my learned and good friend Mr Lebala SC. that insofar the DOD was concerned there were certain matters that remained of a confidential nature, that had not been declassified, and that brought us to the second basis contained in the statements of the various witnesses namely documents that had been classified by the Department of Defence, not by ARMSCOR which was not within ARMSCOR's purview to declassify.

So, essentially there are two broad categories, the

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one I had mentioned relating to the contractual obligations and the confidentiality that attached to country-to-country agreements and then the second category was documents that were in the possession of ARMSCOR but were in fact classified as secret of confidential, perhaps restricted in the hands of the DOD. ARMSCOR's position is to do all in its power to attempt to place both of those documents, classes of documents before the Commission in respect of Mr Vermeulen in particular but in respect of the other witnesses in general, and if the need arises to bring any portion or more than that, the entire document into the realm of perhaps a closed session or confidentiality, that can be addressed at the appropriate time.

What I have suggested with my learned friend Mr Lebala is that we take the document that have been redacted, I think there are only two or perhaps one in Mr Vermeulen's statement, and have them unredacted so that a clean copy be placed before the Commission and then perhaps the argument can ensue as to why portions of those documents have been blacked out. I'm assured by Mr Vermeulen that the technical information that he has sought to keep confidential would not impact upon the task which the Commission is presently engaged in but obviously it's something for the Commission itself to determine.

Insofar as DOD classified documents are concerned, which have been referred to by Mr Vermeulen we would provide

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the Secretariat with a list of those documents so that they could perhaps attend to the declassification process, we would also ourselves attempt independently to obtain the declassification of those documents in the hands of the Department of Defence. That is a process that may take some time, I understand perhaps Mr Vermeulen is best placed to answer it but I understood from him it's something that could be done by perhaps Monday or Tuesday next week.

We will also attempt to address these problems that may occur in the other witnesses that fall under the ARMSCOR banner so that similar problems don't occur. So Chair, really that's in essence what our submissions are. Thank you.

CHAIRPERSON: Advocate Lebala.

ADV LEBALA: I beg your pardon Chair, let me get some guidance from my colleague. Just a second.

NOTE: Caucus.

ADV LEBALA: Chairperson, Commissioner Musi, Solomon SC. has clarified what appeared to have been an obfuscation of issues that would have undoubtedly delayed the hearing. We are in your hands, but what has come out clearly is that ARMSCOR has to start a process of going to obtain the declassification of such documentation and they committed themselves that they will. I would like to place it on record that we are still ready to proceed with this witness and I would like to highlight what Solomon SC. has said.

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He says if such documentation become available the technical information that this witness would like to black out will be blacked out but this won't impact on the task that you have to decide, the task at hand, and that's come forth here and I'm confident that Solomon SC. could account to what he's talking about and you are able to act in appreciation of that accountability. Now with that in mind we are ready to proceed, but if it's appropriate that we need to go back to the drawing board, retreat and come on a different day which is akin to saying let's line our ducks in a row, we are also willing to. Now as far as we are concerned our on our part whatever delay is going to be occasioned it should not be attributed to our team, once again we are ready to proceed.

CHAIRPERSON: I think in all fairness one needs to give the ARMSCOR's legal team an opportunity of trying to do what needs to be done and then secondly in that process if at all there are any of DOD documents which are classified which this witness might require in order to give evidence I would request Advocate Lebala and your team to try and assist them in order to get the DOD to declassify those documents, if they can't declassify them, then try and get a way in which we can deal with those documents because whether they are classified or declassified or not we would want to have access to them. So, in other words if at all DOD is of the view that they cannot be dealt with in public they must say so and from there we'll have

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to try and devise a manner in which we can deal with those documents.

Two; I think I heard Advocate Solomon saying that probably the witness would need a few days up to Tuesday or so in order to do what he needs to do and I think in these  
5 circumstances it would only be appropriate that we adjourn and give ARMSCOR the opportunity to do what needs to be done and we'll have to reconvene on a later date. I think according to our plan we are not supposed to sit next week, so that will  
10 give ARMSCOR enough time to do what needs to be done and in those circumstances I think we need to adjourn and I think we'll come back on the 14<sup>th</sup>, I think that would be Monday the 14<sup>th</sup>.

JUDGE MUSI: 14<sup>th</sup>.

CHAIRPERSON: That will be Monday the 14<sup>th</sup>. I think that  
15 will give ARMSCOR enough time to do what needs to be done and also it will give Advocate Lebala, your legal team, to do what needs to be done if it it's necessary with the DOD. So, in that case we'll then adjourn until the 14<sup>th</sup> of October. Thank  
20 you.

**(COMMISSION ADJOURNS)**