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CHAIRPERSON: Good morning. I suppose Advocate Lebala you are the one who is supposed to start as I understood from what I was told this morning.

5 ADV LEBALA: Chairperson, Commissioner Musi, without discounting the fact that my colleagues from the DoD and ARMSCOR might like to say something I'll defer to you if need be, but certainly we have to start.

CHAIRPERSON: Thank you.

10 ADV SOLOMON: Chair, Commissioner Musi, from ... Just to tell the Commission, when we last adjourned I think it was the 4th of October there was a question of declassification of documents ...

CHAIRPERSON: I'm sorry, can you just pick up your voice a little bit?

15 ADV SOLOMON: Certainly. When we adjourned on the last occasion there was an issue that arose concerning declassification of documents. I can inform the Commission that the processes were put in place which were foreshadowed to arrive at the declassification of the Department of Defence
20 documents, I don't think insofar as Mr Vermeulen is concerned there were any ARMSCOR documents that required any further declassification but we understand that that process has been completed, so insofar as the Commission needs to have
25 reference to any of the documents they are available and I'm sure my learned and good friend Advocate Lebala SC will deal

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with them. Thank you.

CHAIRPERSON: Thank you.

ADV LEBALA: Chair, Commissioner Musi, I don't know whether it's appropriate for the DoD team to say anything in the light of what my colleague Solomon SC has said, if need
5 be, and I still defer to you.

ADV CANE: Thank you Mr Commissioner, Mr President and Commissioner, there is no difficulty as I understand it, with the Department of Defence documentation, that which was placed
10 before the department for declassification has been declassified and so it should be up before the proceedings this morning, we leave it entirely within the Evidence Leaders' hands as to which of those documents they now wish to place before the Commission as far as they consider them to be
15 relevant to the inquiry. Thank you.

CHAIRPERSON: Thanks a lot, thank you. Advocate Lebala.

ADV LEBALA: Chair, Commissioner Musi, with those certainties given at this stage let us just appraise you of how we intend dealing with the testimony of Mr Vermeulen. The
20 classified documentation is in a bundle, fortunately or unfortunately we have them, I know that I'm approbating and reprobating, fortunately we have those documents, unfortunately they still have to be indexed and paginated. As you can imagine it's a very involved process with certainties as
25 you can imagine some of the detail involved in this

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documentation, you will see when we take you through it, it remains sensitive, albeit respect has been accorded to this Commission that it is available and be appraised that it has always been available, you will understand when Mr Vermeulen
5 testifies as to why this caution had to be exercised. All that I understood the witness was trying to do and with fairness to the ARMSCOR team they wanted the Commission to direct that let this documents be opened given their nature, you will appreciate it when we go deeper into the testimony Chair,
10 Commissioner Musi.

Secondly we thought that we shouldn't wait for those documents to be indexed and paginated, that process could take place whilst the testimony is going on. The testimony is also going to be underpinned on slides. Now part
15 of the essential critical parts of those documentation which paragraph 1.7 of Mr Vermeulen's statement alleges were very sensitive and classified would be presented through slides. Now you will see that you will be provided with all the necessary documentation information including the sensitivities
20 pertaining to those documentations. Now with that background we are ready to proceed.

Now if you appreciate, I see Chairperson I assure you that, and with the duty that we have as evidence leaders that I think also involves the representatives of ARMSCOR and
25 the DoD we have an obligation not to withhold any detail or

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information from your good selves and we assure you that we are not going to do that and we assure you that this witness is not going to do that. You will appreciate as this witness's testimony goes into the rudiments of those documents when we
5 deal with them but there is nothing which is going to be withheld, except that by the time we refer to the slides I'm certain that that bundle would have been indexed and paginated, that's all that we are saying at this stage Chair, Commissioner Musi.

10 CHAIRPERSON: Can we get the witness now to be sworn in?

ADV LEBALA: Thank you Chair.

CHAIRPERSON: Thank you.

(Witness is sworn in.)

15 ADV LEBALA: Chair, Commissioner Musi, my colleague Mr Ngobese reminds me that I ought to have put the following on record, the completion of the last phase of the declassification occurred this morning, hence, hence we mentioned to you that unfortunately the bundle that we have
20 provided to you, it's not indexed and paginated and we beg for your indulgence and understanding in this regard. In all fairness at this stage we've learnt to appreciate the processes involved in declassification, they are not free from difficulties and challenges Chair, Commissioner Musi, but we pride
25 ourselves to say that goes, we have those documentation, they

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are in front of us. Thank you Chair. Is Mr Vermeulen sworn in
Chair? Oh thank you, I'm reminded that he's sworn in. Mr
Vermeulen let's start here to assist the Commission, I'm just
going to remind you of what you testified in the previous week
5 before we adjourned just to assist the commissioners and the
audience and our colleagues as to where we were. You'll
remember you mentioned that you're a programme manager and
you testified that in that process you worked with project
engineers, is that correct?

10 MR VERMEULEN: Yes Chair, that is correct.

ADV LEBALA: Now I'm going to try and curtail that which
has to refresh us but short of saying that the programme
manager according to your testimony makes that project, that
process of the programme to happen, am I right?

15 MR VERMEULEN: That's correct Chair. Shall I elaborate
once again on the role briefly of the programme manager
Chair?

ADV LEBALA: Well if you want to add to that which you
didn't add, please proceed because there should be an
20 understanding of what a programme does, but just refresh the
commissioners once again Mr Vermeulen.

MR VERMEULEN: Chair, the role of the programme manager
in broad terms is the programme manager, they've got a
programme manager for any project, he's responsible for the
25 acquisition process through the various phases of the

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acquisition, culminating in production, qualification and handover to the client at level 5 and level 5 as was described previously addresses a product system. All the essential elements that are required to be acquired through contract fall
5 within the ambit of the programme manager's responsibility.

ADV LEBALA: And the project engineer looks at the technical side of the project, am I right?

MR VERMEULEN: Chair when the integrated project team is formed there are a number of specialists that are appointed. In
10 the case of Navy projects the Navy has always reserved the right to appoint a project engineer, he basically forms part of the project executive and he's responsible for all, for all matters technical, for instance engineering changes always have to be approved by the Navy project engineer. I think I'm
15 correct in saying that the Navy projects are unique in this aspect.

Apart from the project engineer it needs to be emphasised there are a number of specialists that are appointed to a project, depending on the nature of the project
20 in the case of Project Wills we would have had an ILS manager appointed, we would have a combat suite manager appointed, a platform manager, basically all the engineering disciplines, all the engineering disciplines would be addressed by specialists.

ADV LEBALA: You have just mentioned that the
25 programme manager and the project engineer form part of the

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project executive, but am I right also to piggy-back on what you have said by saying the programme manager ordinarily ideally comes from ARMSCOR?

MR VERMEULEN: Chair if I may be allowed just to make a
5 correction to that statement, the project executive consists of the ARMSCOR programme manager and the project officer, the project engineer is then appointed from the Naval Engineering Service in Simonstown, but essentially the project executive forms those two officials, the project officer being responsible
10 for the level 6, for the user system and the programme manager at level 5 for the product system which ultimately has to interface and integrate into the Navy's user system.

ADV LEBALA: Thank you. Assist me here, am I right to say that the programme manager will come from ARMSCOR's
15 side and the project engineer will come from the DoD, in this instance the Navy?

MR VERMEULEN: The appointed programme manager will be from ARMSCOR and the project officer or project engineer will come from the Navy.

20 ADV LEBALA: You also testified that you were part of the Integrated Project Team, is that correct?

MR VERMEULEN: That is correct Chair.

ADV LEBALA: Now of significance you testified that you are testifying standing before the Commission with your cap on
25 to tell the Commission about the life cycle that started with the

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conception up until the last phase of the production of the submarines, am I right?

MR VERMEULEN: That is correct Chair, I became involved in the project and I was appointed as the programme manager at the outset when there was a requirement that the Navy had identified after having compiled a Naval Staff Target, it was after this that I became appointed as the programme manager to Wills.

ADV LEBALA: I know that the commissioners have heard a lot about the term "Staff Target" but now before I shoot and part ways with the term Staff Target because it's going to come time and again please simplify in your own words what does it mean, use your own words, don't be technical, don't be mechanical about it, please simplify it.

MR VERMEULEN: Sir, essentially the Naval Staff Target is the first formal document that is produced by the Navy which initiates the process of the project, this Naval Staff Target is then made available to ARMSCOR and we start becoming familiar with the requirements of the Navy at this stage. The Naval Staff Target is a high level document, it eventually progresses towards a Naval Staff Requirement which consists of functional user requirement as well as a logistic user requirement. In a nutshell the NSR is a far more detailed document than the Naval Staff Target which can be seen as a high level document Chair.

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ADV LEBALA: What's the difference between the Staff Target and the Naval Staff Requirement, use your own words.

MR VERMEULEN: Essentially the Naval Staff Requirement is a fair more detailed document, the Naval Staff Target
5 addresses concepts and provides an overview of the Navy's requirements.

ADV LEBALA: Now I want us to proceed to go back to your statement and you will remember that when we got halted we took you through paragraph 1.7 that created the controversy
10 that made us to be where we are, we have resolved that controversy, but I'm tempted to ask you do you want to comment about paragraph 1.7 before we leave it because it's very critical for you to bring clarity. Remember we've been told that those documentation has become available, but I
15 would like you to comment if need be, if you want to, about paragraph 1.7 as to what you intended to convey to the Commission.

MR VERMEULEN: Chair, with respect to paragraph 1.7 my main concern was as has been pointed out most of the
20 documents, in fact virtually all of the documents relating to my statement are DoD, essentially Navy documents, I do not have the authorisation to release these documents, it was for this reason that they were initially, that I didn't provide the authorisation, notwithstanding the fact that they were on the
25 memory stick provided to the Commission, from my position

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personally I'm not in a position to do that. And secondly there is an issue regarding the bids, the offers received from contractors, there is a reluctance normally for us to provide details but especially pertaining to the losers because it could
5 be an embarrassment to the losers if it is shown publicly how badly they fared, in this case it wasn't necessarily the case but nevertheless we do have an obligation, a commercial-in-confidence obligation and as a reputable acquisition agent we try and honour this obligation, however, we've relooked at
10 these issues and to a large extent, in fact we've totally sanitised these documents now and we are quite prepared at the discretion of the Commission to reveal the names of those losers if need be. We do not see that as being germane to the outcome of my statement Mr Chair.

15 ADV LEBALA: Now let's be specific, and I'm confident that the commissioners would not raise their eyebrows when I take you back to paragraph 1.7. Please look at it. Let's look at line number 1 to 3, 4. I would like to start from "Reasons" but for us to appreciate reasons let's recapitulate and go back
20 to where the paragraph starts, I beg your pardon Mr Vermeulen and I would like to read it to you. Commissioner Musi, Chairperson, we are on page 2 of Mr Vermeulen's statement, I beg your pardon, paragraph 1.7 page 2

25 *"Where possible ARMSCOR has declassified documents and has made such documents available*

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5 *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 ...”.*

Let’s pause there. Just explain to the Commission, we know that these documents have become available but explain to the Commission how critical, if it is, and essential, maintenance of these good diplomatic relationships, in relation to what you are saying here is.

10 MR VERMEULEN: Chair, speaking specifically with regard to this project I don’t think there are significant issues that could be an embarrassment to the contractors that were involved in this exercise, it happened a long time ago, I think we’ve passed that, coupled to that I know that a lot of information is already in the public domain regarding the winner as well as the associated losers in this project, so I don’t think in terms of this project specifically there’s anything detrimental in revealing information concerning the offers in relation to my testament.

20 ADV LEBALA: With that self-assurance let’s proceed:
 “... and ensuring South Africa’s compliance with contractual obligations on a number of levels namely country-to-country level, ...”.

25 MR VERMEULEN: Again Chair I don’t think that we will be

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flouting any of those circumstances in revealing the limited information that I have at my disposal.

ADV LEBALA: With that self-assurance let's complete:

5 *"... a defence industrial level as well as on an individual bidder level".*

MR VERMEULEN: I think the same can apply Chair.

ADV LEBALA: There's no need for us to go to paragraph 1.8, 1.9, 1.10 but before we part ways with 1.10 I would like to draw your attention to line number 3 and 4 and permit me to
10 read paragraph 1.10 to you. Page 2 Commissioner Musi, Chairperson, paragraph 1.10:

15 *"Where reference is made in this statement to 'processes undertaken and/or documents prepared over which other parties exercise control and which fall outside of ARMSCOR's responsibility I am only able to give high level information on such processes or documents".*

We know that you have assured us that there are no longer boundaries and constraints but what were you intimating there?

20 MR VERMEULEN: Chair, what is meant in this statement is I'll be referring to certain documents which were part of the process. In this case I was not involved with the outcome or the drawing up of these documents, I make reference to them, I'm not a hundred percent knowledgeable regarding the
25 background information contained in these documents and

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that's what this goes about, I feel I would be speculating in certain cases if I had to try and gage why certain documents were written and essentially I refer to these documents and I'll take extracts out of them in some cases, but there are also
5 inherent content within these documents that I couldn't comment on.

ADV LEBALA: Thank you Mr Vermeulen. I would like us to look at page 2 of your statements, now we are going into the elements and rudiments of your testimony. Before we even
10 look at paragraph 2.1 you remember you testified and reminded us, this was the testimony that was given to us by the naval officers that the earlier submarines that were used by the South African Navy were Daphne Class submarines bought from France, am I right?

15 MR VERMEULEN: That is correct Chair.

ADV LEBALA: And during the process leading to the SDPP's those submarines were outdated and part of their mechanisms and engines and parts have become obsolete.

MR VERMEULEN: That is a correct summation of the
20 situation, the submarines were procured in the early 1970's as far as I can recollect and at this stage in the mid-1990's the submarines were facing block obsolescence and becoming extremely expensive to maintain as the Navy colleagues testified at length.

25 ADV LEBALA: Now this background will assist the

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Commission to appreciate your testimony from here why you are standing before the Commission with your cap on to assist the Commission to appreciate the process that ended up with you bringing this product, the submarine back to South Africa, 5 the submarine acquisition now. Let's look at paragraph 2.1 of your statement, you will see that the paragraph is headed ... Page 2 Commissioner Musi, Chairperson. "The SDPP in Relation to the Submarine Background", paragraph 2.1:

10 *"My involvement with submarine acquisition process commenced in 1996 at the time that the South African Navy learnt that the existing second-hand Upholder Class submarines belonging to the British Royal Navy were for sale".*

Now in simple terms what is this statement saying, simplify it.

15 MR VERMEULEN: From my understanding Chair in 1996 the Navy was approached by the UK Ministry of Defence with the information that the Upholder submarines which were at that stage no longer in service by the Royal Navy, were up for sale and apart from South Africa they approached a number of other 20 countries as well, one of them being Canada. So, it was basically an unsolicited approach informing the Navy that Upholder Class second-hand submarines were available for sale.

ADV LEBALA: As at that stage where were you in your 25 capacity and employment?

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MR VERMEULEN: At that stage I was based in Simonstown, I've always been based in Simonstown since from the outset of my career with ARMSCOR and I was approached by my divisional manager who informed me that I was going to be appointed as a programme manager at that stage for the Upholder Class Submarine Project.

ADV LEBALA: Now let's read further, paragraph 2.1 line number 4:

"The Integrated Project Team (IPT) comprising of the South African Navy and ARMSCOR representatives was established in 1996 after the South African Navy became aware of the availability of the Upholder Class submarines".

You've explained what the Integrated Project Team is. In relation to the Upholder Class submarines what did you play, what role did you play in the Integrated Project Team?

MR VERMEULEN: Once the Integrated Project Team had been established we immediately started engaging with the UK MoD, we started having technical discussions with them in order to ascertain the viability of acquiring the Upholder Class submarines in terms of a suitable replacement for our Daphne submarines.

ADV LEBALA: Now you see, I would like the Commission to appreciate why we start here and I think this is an appropriate time to tell you what the critics are saying and it's

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most unfortunate that we have to start at this stage, we know that the Upholder Submarines which were of a British make, it's in 1996 before the SDPP's are in place. The South African Navy learns about the availability of this Upholder submarines, we know that the Daphne Class submarines were old, but the critics there come in and say we should have taken those British Upholder submarines instead of going for this expensive SDPP programme where we ended spending billions to acquire submarines. Would you like to comment about that?

5
10 MR VERMEULEN: Yes Chair, one can understand the criticism being levelled in this regard considering that the Upholder Class submarines were newly built and they were hardly used, however, there's some very substantial facts that have to be taken into account which will actually show that it was, if I may use the term "a blessing in disguise" that we never acquired these submarines. Firstly the Upholder Class submarines were designed in the late 1970's, so in the mid-1990's they were actually in a very similar situation ...

15
20 CHAIRPERSON: I'm sorry, can you just repeat that, I missed some words there.

MR VERMEULEN: Chair, what I said was one can understand the criticism being levelled in this regard considering that the Upholder's were hardly used, they were relatively new, however, there are a number of factors that need to be taken into account which actually show that these, it was actually

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very advantageous to the Navy that we never acquired these submarines and if I could just elaborate on some of those reasons; firstly the Upholder Class submarines were designed in the late 1970's, so by the time we were considering them as
5 a viable option they were essentially old submarines even though they had hardly been used, they had been placed in a state of preservation by the UK MoD and a lot of the equipment had been stripped out.

Another very important factor is the physical size of
10 the Upholder Class submarine, the Upholder's were approximately two and a half times the size of a Daphne submarine, this would have had a big impact on the dockyard , on the facilities in the dockyard in terms of accommodating, there would have been a huge compatibility problem with these
15 submarines, there were another number of issues as well. The actual price which we find when we out on RFI was in fact not cheaper than a number of the new submarines that were available, albeit at RFI they were budgetary prices to our surprise we learned that they were not that cheap, and I think
20 in hindsight it can be stated that the Upholder Class submarines eventually were bought by the Canadian Navy and to the best of my knowledge they've never actually been entered into service and according to what I have read the Canadians are in the process of acquiring new submarines, so
25 one could surmise that this was an act of fruitless expenditure

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on the part of the Canadians in procuring these submarines
Chair.

ADV LEBALA: I beg your pardon Chairperson and
Commissioner Musi, I was conferring with my colleague
5 Advocate Ngobese. Now these reservations that you are
talking about, were they reservations of the Integrated Project
Team or were they reservations the South African Navy?

MR VERMEULEN: Chair, I can only talk about the Integrated
Project Team which as you are aware consists of senior
10 submariners, so there weren't ... Our Navy colleagues within
the IPT certainly held these reservations. One must bear in
mind that prior to the SDPP's the Navy was desperate to
replace the ageing Daphne submarines, so they were willing to
look at whatever options were out there at our disposal in order
15 for the Navy to continue in maintaining their submarine
capability.

ADV LEBALA: Now given what you have just told us you
seem be clued what was the reservations, if any, of the Navy.

MR VERMEULEN: I'm sure given, if the Navy had a choice,
20 and I can't talk for the Navy, I can only surmise that given the
background I've sketched and I'm sure these problems were
well-known to the Navy apart from the IPT, they would have
much preferred going for a new acquisition project in order to
ensure a low risk third year life cycle for a new product.

25 ADV LEBALA: This might sound unfair to you Mr

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Vermeulen but let the record reflect that the naval officers were here and for reasons unbeknown to us they never told us about the reservations and your importance as a programme manager during that time given the role that the project manager plays would assist the Commission to appreciate why when there was an alternative which apparently was less costly, that the critics says could have benefited the country was not considered.

MR VERMEULEN: Chair once again I can't comment on the Navy's approach towards Upholder's. We must bear in mind that we never got the opportunity to fully evaluate the Upholder's, the UK MoD during the process, the RFO process they removed the Upholder's from the bid because they sold them off to Canada, so we didn't subject the Upholder's to a full evaluation, we never had that opportunity. I still, however, stand by the statement that I've made, I think they're concrete observations and I believe that the Upholder's would have presented huge challenges to the Navy if we had gone ahead and procured them as a single source bid as was the original intention before the SDPP's

ADV LEBALA: Were you aware of the reservations of the South African National Defence Force if there were any as at that stage?

MR VERMEULEN: Chair, I can only talk about reservations which I had learned from members of the project team and

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again I reiterate that the project team consisted of senior submariners, the project officer, we also had a very senior project engineer who was most concerned about the Upholder's from a support ..., it would ultimately have been his responsibility, the project engineer, to support these submarines during the life cycle and he was extremely concerned about acquiring the Upholder submarines, it would have presented a huge challenge to the fleet I believe, and this was borne out by members of the project team as well.

5
10 ADV LEBALA: Now let's proceed, at the bottom of page 2 paragraph 2.1, I'm reading further:

"I was a member of the Integrated Project Team in my capacity as the ARMSCOR programme manager. The Integrated ...".

15 We are on page 3 Commissioner Musi, Chairperson:

"The Integrated Project Team engaged the UK Ministry of Defence (UK MoD) to investigate the feasibility of procuring these vessels as a suitable replacement for the Daphne Class submarines which had reached the end of their designed operational life cycle".

20
2.2:

"On 19th August 1996 the South African Navy produced a combined Staff Target, Staff Requirement and interim project study report. This

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document is specified as confidential”.

Now you could be rest assured that this document the naval officers talked about, thus you don't have to agonise about it.

2.3:

5 *“Subsequently the approval of the White Paper ...”.*

Now this transition is very important and this background is very important in line with where we are going, now we are going through a transition, we are parting ways with the old, the Daphne Class submarines are old, we didn't take advantage
10 of acquiring the Upholder submarines for the reasons that you have explained, here comes the transition now, 2.3:

*“Subsequently the approval of the White Paper on Defence in May 1996 the submarine acquisition became part of the overall SDPP. This implied that
15 the IPT (Integrated Project Team) was to evaluate new acquisition diesel-electric submarines”.*

Let's pause there. Were you still playing a significant role as at that stage?

MR VERMEULEN: Yes, I was very much a part of the IPT at
20 this stage Chair.

ADV LEBALA: Is it the self-same Integrated Project Team that was supposed to acquire the British Upholder submarines?

MR VERMEULEN: Not entirely Chair, there had been one or two changes, for instance the project engineer had been
25 replaced, a new project engineer had been appointed at this

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time.

ADV LEBALA: By the way it has become common cause to the commissioners and all and sundry that when the South African Defence Force services, arms of services acquire or go
5 into process programmes they are called projects, am I right?

MR VERMEULEN: That is correct Chair.

ADV LEBALA: This project is called Project Wills?

MR VERMEULEN: This project is being designated as Project Wills, correct.

10 ADV LEBALA: Paragraph 2.4 is common cause, the commissioners have heard that in South Africa we use diesel-electric submarines, we don't use nuclear submarines, am I right?

MR VERMEULEN: That is correct Chair.

15 ADV LEBALA: Do you want to elaborate why?

MR VERMEULEN: Chair there are essentially two types of submarines, a conventional submarine which is a diesel-electric submarine, and then of course there are nuclear submarines which are generally used by the superpower
20 nations.

ADV LEBALA: This has been explained to the Commission, thanks for refreshing the commissioners, Paragraph 3, "The Selection Process", 3.1 page 3:

25 *"Consequently a request for information document was released on 23rd September 1997 and six*

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submarine related responses were subsequently received from the following foreign suppliers:

3.1.1 The United Kingdom MoD Ready-built/Second-hand Upholder Class submarines.

5 *3.2.2 DCN International (France).*

3.1.3 Rubin Engineering Bureau (Russia).

3.1.4 German Submarine Consortium”.

That we are going to hear a lot about, the GSC:

3.1.5 Fincantieri (Italy)”.

10 That we’ll still hear about if need be, we will, I want to be careful, cautiously, I shouldn’t say “if need be” because we are told that we can open up those details:

3.1.6 Celsius Kockums (Sweden)”.

Now all these are ship building yards, am I right?

15 MR VERMEULEN: Yes Chair, with the exception of the UK MoD all of the listed suppliers here were shipyards.

ADV LEBALA: Now the story of requests for information, I would like you if you can, remember during your introductory remarks the previous week before we got halted you did explain
20 to the Commission what a Request for Information is, do you remember?

MR VERMEULEN: Yes Chair, a Request for Information is essentially designed to obtain a market survey, to initiate a market survey, it’s the first step towards going into an
25 adjudication process. Essentially you go out on RFI, you get

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budgetary related information, non-binding information if I could put it that way, just to give the client and the end-user an idea of a cost timeframe and specification of contemporary submarines that are out there in the market. We would then use this information to build up a more detailed specification and ultimately this detailed specification would form part of an RFO process which is a far more formal process in that you solicit binding formal offers against an RFO as opposed to budgetary information from an RFI.

5
10 ADV LEBALA: Okay let's just confine ourselves to the RFI, would I be right to say, and please correct me, it is actually the first step in the direction of engaging with likely to be contractors who have to build the submarine, am I right?

MR VERMEULEN: Chair, that's an accurate description yes.

15 ADV LEBALA: That's where you invite them and you go all out to look at those who are capable, those who are known in the industry and you say the South African Defence Force, the South African Navy would like to have submarines, you are invited, is that how the process gets to be done?

20 MR VERMEULEN: Essentially that's how the process is done, yes Chair.

ADV LEBALA: 3.2, an extract of the RFI document dated 23rd September 1997 is attached hereto marked as Annexure "RMV2", it's very important for us to take the commissioners here because they've got to appreciate who prepares and

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compiles the RFI and how does it get measured. Now the commissioner's attention is directed to pages 22 to 28 of your statement. Pages 22 to 28 of your statement. Commissioners, we would like to start on page 22 Annexure "RMV2". I would appreciate if the commissioners could draw my attention as to whether they are at page 22? Thank you. You will see Commissioners to your right I'm going to request the witness to identify this document, look to your right at the top, which document is it?

10 MR VERMEULEN: It is an ARMSCOR document Chair.

ADV LEBALA: Now look at the address, who has it been addressed to, look at the country.

MR VERMEULEN: In this specific case this was addressed to the Federal Foreign Office of Germany.

15 ADV LEBALA: You are right. Look at the date.

MR VERMEULEN: The date was the 23rd of September 1997.

ADV LEBALA: Now let's read the contents of the document for the sake of expedience, the topic is "Strategic Defence Alliance":

20 *"Attached please find the copy of a letter from the Minister of Defence stating that the requirements for a response to be listed defence hardware ...".*

Let's pause here. Are we being told that the Minister of Defence prepared this document?

25 MR VERMEULEN: Chair, one has to bear in mind that this

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was part of the SDP process and was being handled as a package, this is not the normal process that would be followed with an RFI, however, because of the strategic importance the Minister of Defence himself wrote a letter requesting ARMSCOR
5 to go out on RFI and this was handled at the chairman-level of ARMSCOR, so this was a special case.

ADV LEBALA: Now with that in mind is it telling us that the Minister of Defence prepared the RFI?

MR VERMEULEN: The Minister of Defence merely listed a
10 number of countries which were to be approached towards the possibility of acquiring product systems for the SDPP's.

ADV LEBALA: Who prepared the RFI?

MR VERMEULEN: The RFI itself was prepared and released by ARMSCOR through the chairman's office of ARMSCOR.

15 ADV LEBALA: Who compiled the RFI?

MR VERMEULEN: To the best of my knowledge the RFI was prepared by the chairman.

ADV LEBALA: Who is an employee of ARMSCOR?

MR VERMEULEN: That is so Chair.

20 ADV LEBALA: Commissioners, without wasting time I'm just going to take you from page 23 to 28, you will see that the content is the same. Next page, please identify the country, page 23, next page 23, please identify the country.

MR VERMEULEN: Chair in this case this was addressed to
25 the Embassy of Spain.

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ADV LEBALA: Page 24, please identify the country.

MR VERMEULEN: This was forth the Embassy of Italy.

ADV LEBALA: Page 25?

MR VERMEULEN: It's the UK Ministry of Defence.

5 ADV LEBALA: Page 26.

MR VERMEULEN: This specific letter was addressed to the High Commission of Canada.

ADV LEBALA: Now let's pause there, 26. Did you receive a response from the Canadians?

10 MR VERMEULEN: With respect to Project Wills, no, we did not.

ADV LEBALA: Why was this addressed to the Canadians?

MR VERMEULEN: Chair you must bear in mind that this was an all-embracing letter which covered all of the product systems that were embraced within the SDPP's, not only
15 submarines, it addressed all the other elements as well.

ADV LEBALA: If I may ask for my own curiosity, I suppose it will assist the commissioners, were the Canadians also manufacturing submarines?

20 MR VERMEULEN: No Chair, the Canadians have never manufactured submarines, so that is one of the reasons why they were also considering the Upholder Class submarine.

ADV LEBALA: Now why does the minister send an invitation to a country that does not manufacture submarines,
25 if you could respond?

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MR VERMEULEN: Certainly Chair. The reason why Canada was approached is because they were to consider other projects other than submarines within the SDPP's and not submarines specifically.

5 ADV LEBALA: Please give the Commission an example if you can.

MR VERMEULEN: Chair unfortunately I can't, I'm not quite sure exactly what the Canadians offered, I was only involved with the submarine acquisition, so unfortunately I'm not in a
10 position to answer that question.

ADV LEBALA: Fair enough. Page 27, please identify the country.

MR VERMEULEN: In this case the country is the Royal Swedish Embassy.

15 ADV LEBALA: Do the Swedish manufacture submarines?

MR VERMEULEN: Yes Chair, they do.

ADV LEBALA: Page 28.

MR VERMEULEN: In this case Chair it was the French Embassy and the French do produce submarines.

20 ADV LEBALA: Now that's why we started with history, the Daphne submarines that were earlier used by the South African Navy were manufactured by the French, am I right?

MR VERMEULEN: That is correct Chair.

ADV LEBALA: Page 4 paragraph 3.3, you testified about
25 the value system if you'll remember during the previous week

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during your introductory outline of your testimony, do you remember?

MR VERMEULEN: Yes Chair, I do remember.

ADV LEBALA: Now we are on page 4 paragraph 3.3:

5 *“On the 14th October 1997 a value system for the evaluation of the RFI responses for Project Wills was prepared by the South African Navy. This document is classified as confidential”.*

MR VERMEULEN: Yes Chair, this refers to the value system
10 that was prepared for the RFI.

ADV LEBALA: Now for the sake of completeness and to assure the commissioners that you are not shortchanging them I would like to draw attention to page 30, page 30 of the Vermeulen bundle Chairperson and Commissioner Musi. For
15 the sake of expediency I would like you to identify the document at the top, it’s a document of which cooperation?

MR VERMEULEN: This was an ARMSCOR document Chair, this formed part of the documents, the attachments that were distributed with the RFI.

20 ADV LEBALA: Now below that please read, below that “Identification”.

MR VERMEULEN: *“Request for Information – Appendix ‘A’”.*

ADV LEBALA: To your right is a reference number and a date, please read everything that you see there for the record.

25 MR VERMEULEN: The reference number was REF1/97/1047

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and the closing date for the RFI's was 23h00 on
31 October 1997.

ADV LEBALA: Now this relates to the eight,
approximately eight letters that went to different countries
5 inviting them, the RFI is an invitation where you engaged and
this informs them that the closing date is the
31st October 1997.

MR VERMEULEN: Yes this date applied to, in fact I think if
I'm not mistaken there were about 17 countries if I remember
10 from Mr Griesel's statement and it applied to every one of
those countries.

ADV LEBALA: Thank you. In other words this is just a
selection of very few of them?

MR VERMEULEN: The RFI was sent out to all the potential
15 countries that could supply product systems within the SDPP
packages.

ADV LEBALA: So they invited, I actually, I like to
simplify concepts, the invite was sent to more than a number of
countries that we see as depicted by these six, eight letters,
20 am I right?

MR VERMEULEN: Yes, as I recall from Mr Griesel's
statement there were approximately in the order of 17
countries.

ADV LEBALA: Just to demonstrate to the Commission the
25 openness of this RFI, that it was not confidential, I would like

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you to look at page 32. I beg your pardon Chairperson, page 32 to page 34. Now we'll take, let's take two examples, the content is the same, the commissioners will note that, I was trying to expedite your testimony because we still have to go to its nitty-gritties. Page 32, just identify this letter at the top.

5

MR VERMEULEN: This was a letter from the Ministry of Defence that accompanied the RFI's.

ADV LEBALA: Now the Ministry of Defence of which country?

10

MR VERMEULEN: Of South Africa.

ADV LEBALA: Identify the date.

MR VERMEULEN: The date on this letter was the 23rd of September 1997.

ADV LEBALA: This letter is addressed to which country?

15

MR VERMEULEN: In this specific case the letter was addressed to Canada.

ADV LEBALA: Okay, now the content of the letter, I would like you to read paragraph 1.

20

MR VERMEULEN: *"In response to presentations made and proposals received on a strategic defence alliance herewith a response to such and an overview of the way forward".*

ADV LEBALA: Paragraph 2.

25

MR VERMEULEN: *"Numerous products have been offered to the Ministry of Defence for consideration in*

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response to the SANDF equipment requirements”.

ADV LEBALA: Paragraph 3.

MR VERMEULEN: “We are, as you are aware, wanting to
procure a number of key products in our
5 government-to-government procurement
arrangement”.

ADV LEBALA: Let me read paragraph 4 for the sake of
emphasis. I beg your pardon, below paragraph 3:

10 “The full product range comprises of the following;
Corvette’s, including the maritime (indistinct)
helicopter”.

Below that:

“Light utility helicopters”.

Below that:

15 “Main battle tanks”.

Below that:

“Submarines”.

To which you are testifying to. Below that:

“Light fighter aircraft”.

20 Let’s go to page 33. Please read at the top.

MR VERMEULEN: “The technical details of the hardware
element requirements are available through
ARMSCOR”.

ADV LEBALA: Please proceed to read.

25 MR VERMEULEN: “Please tender for all or some of the RB

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elements as listed above on a combined and individual basis”.

ADV LEBALA: By the way this is still an invite isn't it, we are still at the RFI stage.

5 MR VERMEULEN: It is still at the RFI stage, correct.

ADV LEBALA: Paragraph 4 I will read for expedience:

“In order to ensure that decision making can be effected on a sound basis the following aspects are highlighted for your consideration and response per project and/or hardware element”.

10

Column [sic] 4.1, please read.

MR VERMEULEN: Paragraph 4.1 reads:

“Substantive information is required in order to evaluate the offers and concepts provided”.

15 ADV LEBALA: I'm reading 4.2:

“Functional performance parameters must be presented in line with the stated requirements”.

Please proceed to 4.3.

MR VERMEULEN: *“Life cycle costing broken down into constituent elements must be presented in line with the stated requirements”.*

20

ADV LEBALA: Paragraph 4.4 is very critical:

“Financial consideration per hardware element”.

Does this ring a bell into where we are going into, what we are going into, does it ring a bell, does it make sense to you?

25

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MR VERMEULEN: Yes Chair it does, I just want to remind you that at RFI stage the price elements that are provided in RFI are budgetary only. They're indicative prices.

5 ADV LEBALA: But the cost and the price element is always primary according to your understanding, am I right or wrong? I've got to be careful not to testify, I'm asking you this question, I don't have to suggest questions to you unless it's obvious.

10 MR VERMEULEN: Chair, certainly the pricing is always of paramount importance.

ADV LEBALA: 4.5, please read.

MR VERMEULEN: *"Cash flow requirement before financing considered per element".*

15 ADV LEBALA: Financing comes again, I'll read the next one 4.6:

"Financing options, conditions and prescripts per project and/or hardware element".

4.7, please read.

20 MR VERMEULEN: 4.7 reads:
"A statement of compliance with the requirements of the Industrial Participation Policy in support of the government's national objectives including the Defence Industrial Participation Programmes".

25 ADV LEBALA: Does this make sense to you in relation to what we are going into?

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MR VERMEULEN: Yes Chair, very much. As we know the NIP and the DIP aspects were an important category and consideration.

ADV LEBALA: Now we know that you might be having
5 limitations but at this stage prepare the Commission as to which part between the NIP and DIP will you be able just, if you can, testify about?

MR VERMEULEN: Okay Chair, my speciality is certainly not industrial offset, whether it be national or defence, I think it's
10 safe to say, however, that there is a distinct difference between the two, the Defence Industrial Participation as the name implies refers to defence applications only whereas the National Industrial offsets are, as the name implies, on a national basis other than defence.

ADV LEBALA: So you will be able to a limited extent, but
15 to a great extent or ... I've got to be careful not to ask an evaluative question, be able to talk about NIP or DIP.

MR VERMEULEN: Chair, at a later stage in my testament I'll be giving some concrete examples of where directive, and if I
20 could just draw distinction between DIP and directive and hopefully my DIP colleagues will be satisfied with my explanation, ...

ADV LEBALA: Don't agonise, we'll get there. So, you will be talking about examples.

MR VERMEULEN: I will be talking about certain direct DIP
25

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applications relevant to Project Wills during the course of my statement.

ADV LEBALA: I'll read 4.8:

5

"Kindly indicate whether a pricing preference is applicable for a combination of hardware elements and present such in addition to the individual hardware elements as requested".

Please turn to page 34 and read 4.9.

MR VERMEULEN: Chair 4.9 reads:

10

"Please note that there is a strong incentive for the participating governments and industries to consider the suspension of repayments on interest or capital, or both, until the year 2001".

15

ADV LEBALA: You've just told us that the Industrial Participation is not your expertise and we know that we are at the RFI stage but does this make sense about what we are going to testify, go into?

MR VERMEULEN: Certainly Chair, this forms the springboard for what follows next.

20

ADV LEBALA: Paragraph 5 is obvious, paragraph 6 is obvious. For the sake of completeness read paragraph 6.

MR VERMEULEN: Paragraph 6 reads:

25

"In consideration of the above the status of the individual projects and the time available to prepare for these proposals and presentations, kindly note

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that the response is required in the typical Request for Information format”.

ADV LEBALA: And paragraph 7:

“Please accept our thanks for your support in these activities”.

5

Now whose signature do you see below?

MR VERMEULEN: The signature was the the-then Minister of Defence Mr J Modise.

ADV LEBALA: Now for the sake of completeness I would like us to look at, we'll just identify the countries because you will see that the content of the letter on page 35, 36, 37, 38, 39, 40, 41 is the same, can you see?

10

MR VERMEULEN: Yes Chair, they are identical.

15

ADV LEBALA: May the record reflect, do you agree that the content of the letter is the same?

MR VERMEULEN: The content is the same, yes.

ADV LEBALA: What is different is the form in the terms of the addressee, in page 35 who is the letter addressed to?

20

MR VERMEULEN: On this particular page it is addressed to the Swedish Embassy.

ADV LEBALA: Page 36?

MR VERMEULEN: Page 36 is addressed to the Republic of Brazil.

25

ADV LEBALA: Let's pause there. Do the Brazilians manufacture submarines?

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MR VERMEULEN: Chair yes, the Brazilians do in fact manufacture under license their own, some of their own submarines but to the best of my knowledge they've never exported a submarine product.

5 ADV LEBALA: Page 37.

MR VERMEULEN: In this case it's addressed to the Ambassador of Italy.

ADV LEBALA: Page 38.

MR VERMEULEN: The Federal Republic of Germany.

10 ADV LEBALA: Page 39?

MR VERMEULEN: Page 39 is to the British High Commission.

ADV LEBALA: Page 40.

MR VERMEULEN: Page 40 is addressed to the Embassy of Spain.

15 ADV LEBALA: Page 41?

MR VERMEULEN: It's the Embassy of France.

ADV LEBALA: Now these letters, their significance is going to come up as we go deeper into your testimony. Now shall we proceed to read on where we left, we were on page 4,
20 paragraph 3.4. I beg your pardon Commissioners, page 4 paragraph 3.4:

*"An evaluation of the RFI was done on
18th November 1997 utilising the RFI value system".*

Now let's pause there. You explained what's the value system,
25 now use your simple words, what's the relationship between the

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RFI and the RFI value system? Use your own words, simplify it.

MR VERMEULEN: Essentially the RFI value system provides a structured approach to the project team to guide them in assessing the outcome of the bids.

ADV LEBALA: Thank you. So, even the invites must be measured against something, is that what you are saying?

MR VERMEULEN: Chair generally speaking invites in an RFI are not measured in a value system per se, only in terms of, in broad terms whether they meet the requirements of the Navy's Naval Staff Target and Naval Staff Requirement.

ADV LEBALA: Now the value system in this context was just intended to see whether they meet the requirements of the Staff Target.

MR VERMEULEN: Exactly that Chair.

ADV LEBALA: We are reading on:

"The results of the RFI evaluation are contained in a SA Navy report dated 18 November 1997. This report was compiled by the appointed SA Navy project officer at the time and was approved by the designated Chief of Naval Staff Plans at that time. This document is classified as Secret".

Is it secret?

MR VERMEULEN: It is no longer secret Chair, it's been declassified.

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ADV LEBALA: Now let's pause, what was your role at this stage, we know that you are a programme manager but what was your role throughout this phase of the RFI stage?

5 MR VERMEULEN: My role in terms of the evaluation of the offers in response to the RFI were similar in respect of the evaluation of the offers in respect to RFO, we assisted in evaluating the offers in terms of the RFI in order to determine whether these would be viable products to be considered in the next phase in the adjudication of the RFO, so essentially here
10 it was, we were looking, it was a gate to see whether these offers would be suitable for further consideration in an RFO phase.

ADV LEBALA: Is it a role which is played by all members of the Integrated Project Team?

15 MR VERMEULEN: Yes, the IPT is involved in this process.

ADV LEBALA: Now let's read paragraph 3.5:

"After the evaluation of the received RFI responses ..."

20 That is where we see whether they measure with the Staff Target requirement, am I right?

MR VERMEULEN: That is correct Chair.

ADV LEBALA: *"After the evaluation of the received RFI responses the list was shortened and a Request for Offer (RFO) was distributed in February 1998 to
25 foreign suppliers for the following submarine types;*

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...”.

Now let's pause there. In simple terms you did try to explain the distinctive difference between RFI and RFO, you remember?

5 MR VERMEULEN: Yes, I do Chair.

ADV LEBALA: Quickly run through it.

MR VERMEULEN: Essentially the difference is the RFO is designed to accommodate an adjudication process whereas the RFI is a broad-brush evaluation to see whether the products
10 would be viable for further consideration at a detailed level for contracting.

ADV LEBALA: Now what's the other distinctive difference, if any, in terms of the binding effect?

MR VERMEULEN: In the case of an RFI all information
15 provided is non-binding, it's budgetary, you cannot hold the contractor contractually to any of the information provided in the RFI, this can only be accomplished during the RFO where the bids are on a contractual basis far more relevant than the RFI. As I said earlier the RFI is more a marketing server than
20 an adjudication process.

ADV LEBALA: Now with the RFO we are talking of commitments, am I right?

MR VERMEULEN: That's correct Chair.

ADV LEBALA: Now we were, it appears that from 3.5
25 commitments arose and here are the following submarine types,

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it means those are, after looking at the RFI's there was a selection to see whether the products offered meets the Staff Requirements or Staff Target and after that this was the shortlisting that we could consider leading to the commitment.

5 “3.5.1 Ready-built / Second-hand Upholder Class Submarines – UK MoD”.

Why are we still having them at this stage because it appears from your testimony historically we parted ways with them, we didn't want them because you said that they were second-hand, they were not worth it and it appears that they were not even going to satisfy the requirements of the South African Navy?

10 MR VERMEULEN: Chair the process is such that even though I've expressed reservations about the Upholder's, you can't merely discount them, you have to go through a formal process and you at least have to subject them to a value system to allow them the opportunity to be scored and we were prepared to do this, the situation, however, never arose because the submarines were sold off before an offer was received. The British notified ARMSCOR that they were pulling out of the offers, they wouldn't be furnishing us with a bid because they had sold off the submarines at that stage to Canada.

20 ADV LEBALA: “3.5.2 Scorpene Submarine – DCNI”.

Just refresh us, which country is that?

25 MR VERMEULEN: Yes Chair, the Scorpene Submarine is manufactured by the French Company DCN International, it's a

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famous shipyard in France.

ADV LEBALA: "3.5.3 S1600 Sauro Submarines –
Fincantieri".

5 Which country is that, and there's a reason I'm asking about
the countries because we wrote, the Minister wrote letters to
countries, the RFI invited countries.

MR VERMEULEN: Chair the S1600 is manufactured by
Fincantieri, which is an Italian shipyard.

10 ADV LEBALA: "3.5.4 Class 209 Type 1400 Mod
Submarines – GSC".

That has become a common cause.

MR VERMEULEN: Yes Chair, the German Submarine
Consortium as the name applies is, originates in Germany.

15 ADV LEBALA: "3.5.5 Type 192 Gotland Submarines –
Celsius Kockums".

MR VERMEULEN: Chair Celsius Kockums is a Swedish-based
shipyard.

ADV LEBALA: We've been sailing smoothly. Here comes
a criticism before we ...

20 CHAIRPERSON: I'm sorry, I missed 3.5.2, from which
country is that submarine?

JUDGE MUSI: A French.

MR VERMEULEN: Chair, in 3.5.2 the Scorpene Submarines
are from France, DCN International is a French shipyard.

25 ADV LEBALA: There's an aspect that I have to deal with

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my colleagues reminds me as we were preparing when we were reading what the critics were saying, look at page 3 paragraph 3.1, particularly paragraph 3.1.3. Reference is being made to Rubin Engineering Bureau, Russia. Would you like to explain
5 why we haven't seen any letter addressed to the Russians?

MR VERMEULEN: Chair, I'm not sure why our chairman or the Minister of Defence did not include Russia in the first place on the list, I couldn't answer that, I have no idea.

ADV LEBALA: Did you get any response from the
10 Russians?

MR VERMEULEN: Yes we did, we got a response from the Russians albeit it a very flimsy response, we received a brochure, we didn't even receive any pricing, it was very scanty information Chair.

15 ADV LEBALA: But you were as at that stage, you were still the programme manager?

MR VERMEULEN: That is correct.

ADV LEBALA: Being part of the Integrated Project Team.

MR VERMEULEN: Yes Chair, I was.

20 ADV LEBALA: Paragraph 3.5.1, 3.5.5, in simple terms what does it mean? You've got to appreciate 3.5, 3.5.1 to 3.5.5, use your own words, what does it mean?

MR VERMEULEN: 3.5.1 to 3.5.5 lists the submarines that were on offer at that time.

25 ADV LEBALA: Now these are where we could start

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considering or the South African Navy and ARMSCOR could start considering commitments, am I right?

MR VERMEULEN: Yes Chair, these would have been formal offers received from these respective shipyards.

5 ADV LEBALA: Paragraph 3.6:

“A three month response period was allocated in respect of the RFO’s and during this time the UK MoD informed the South African Navy that they were selling off their Upholder Class submarines to
10 *Canada and would therefore not be bidding in the RFO process”.*

Now is that how the British extricated themselves?

MR VERMEULEN: That’s correct Chair, and this ended their involvement in this process.

15 ADV LEBALA: How many were we left with in as far as this commitments or the RFO is concerned?

MR VERMEULEN: We were left with four new-built submarines to consider.

ADV LEBALA: 3.7, ...

20 CHAIRPERSON: I’m sorry Advocate Lebala maybe before you go to 3.7 may we just take a tea break for 15 to 20 minutes and we’ll come back, we’ll deal with 3.7 at that stage.

ADV LEBALA: Thank you Chair.

CHAIRPERSON: Thank you. We’ll adjourn.

25 **(Commission adjourns)**

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(Commission resumes)

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

MR VERMEULEN: I do.

5 CHAIRPERSON: Thank you.

ADV LEBALA: Mr Vermeulen, thank you Chair, thank you Commissioner Musi. Before we adjourned we took you through the testimony signifying that at one stage only four main players remained for the consideration of request for offers, is that correct?

MR VERMEULEN: That's correct Chair.

ADV LEBALA: And you explained to the Commission the reason is attributed to the fact that the British UK Ministry of Defence in as far as the Upholder Class submarines are concerned pulled out because they sold those Upholder's to the Canadians.

MR VERMEULEN: That's what occurred, yes.

ADV LEBALA: We are proceeding on paragraph 3.7 of your statement and may I read it to the Commission:

20 *"I was appointed programme manager ...".*

That has become common cause:

"... for the acquisition of the submarine at the time. In this capacity I compiled the request for offers document which was then submitted together with associated annexures".

25

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Let's pause there. You compiled the RFO document, what does that mean?

MR VERMEULEN: Essentially we have a standard format for RFO's which gets tailored or customised towards the unique
5 needs of a project, in other words the RFO would include an overview of the submarine product system and what has to be included in the responses in the RFO. There are a number of standard paragraphs that we draw in relating to a vast area of
10 issues such as international trafficking of arms, standard financing terms and conditions, we pull in our standard contracting policy A-Standard20. One of the unique annexures to this RFO would have been the submarine requirement specification, we also pull into the RFO all the DIP terms and conditions, all this information is made available to the
15 offerers.

ADV LEBALA: Now would I be right to say that it appears that the RFO in splintered documentation was in place and you went to take the different parts and compiled it?

MR VERMEULEN: That is correct Chair, I would assemble the
20 document, the RFO, take into account all the specialist areas within ARMSCOR from our Legal Services Division, from our Quality Division, our standard terms and conditions and we would compile that into a document, into the RFO itself. Once this is complete I would then submit this document to my
25 Procurement Secretariat for distribution.

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ADV LEBALA: Ideally is that how it's done or are there other players that are entitled to compile the RFO?

MR VERMEULEN: The other players provide me with the impetus, it's generally the programme manager's responsibility to assemble the document or compile the document, obviously drawing on the expertise from various divisions within ARMSCOR, for instance our DIP division. I wouldn't attempt to try and put terms conditions of the RFO, I would rely on my DIP colleagues to provide me with a detailed document which spells out the requirements for DIP as an example.

ADV LEBALA: What are your limitations when you prepare the RFO?

MR VERMEULEN: My limitations in terms of the RFO would be unique to the submarine product system itself and not all the underlying terms and conditions that go with it, that's where I rely on ARMSCOR as a whole to support me in establishing the document.

ADV LEBALA: Now to unpack it how many members of the Integrated Project Team prepared the RFO or compiled the RFO with you?

MR VERMEULEN: The RFO is not normally compiled by the Integrated Project Team, however, they obviously provide inputs, for instance one of the important annexures to the RFO is the Submarine Requirement Specification. Now this document was written by the appointed Navy project engineer,

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so I would rely on the Navy to give me the essential functional specification that has to accompany the RFO. So essentially to answer your question the involvement from the project team went mainly around the functional requirement specification, that forms the backbone of the RFO.

ADV LEBALA: Now the Submarine Requirement Specification in simple terms, what are you referring to when you talk to it?

MR VERMEULEN: Chair, the procedure is when you go out on RFO you prepare what we call a functional specification and that is traceable to the Naval Staff Requirement and Naval Staff Target because if you recall that was the Navy's original requirement at a concept level. Having received the RFI's, the information from RFI's the project team then becomes more knowledgeable in terms of contemporary submarines that are out there in the market and in so doing you will draw out a more detailed specification now which is known as a functional specification.

To take that a step further that would go out with the RFO and you would instruct the bidders to respond to that functional specification in two ways, they'd first have to draw up a statement of compliance where they give you a degree of how they will comply to that functional specification and then you would also request from them to provide you with a technical specification, so we are going down to the next level

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of detail, so each of the bidders would in response to that functional specification contained in the RFO, they would prepare a technical specification, what we know as a build-specification or product specification, all these terms imply the same thing.

We would then evaluate these and the response that's contained in these technical specifications we would adjudicate in the value system which I'm sure we'll be talking about in some time, but essentially then the contractors would respond with a more detailed specification and when you do an ultimate selection of the preferred bidder you would through a negotiation phase, you would fine-tune that specification to the mutual satisfaction of both parties.

ADV LEBALA: Well, you have almost touched on where we are going to and I suppose when we start to be clinical with that process of negotiations leading into the production of the submarine it will become clear, I mean the production of the submarine product. Now we are still on paragraph 3.7, now explain to the Commission that the compilation of the RFO document that you do with the assistance of the specialist within the IPT team where necessary, how does it relate to the role that you play in as far as associated annexures is concerned? Now remember you compile and according to you, and I would like you to appreciate my question, you say:

"In this capacity I compiled the RFO document

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which was then submitted together with associated annexures”.

Now it seems that the RFO compiled and associated annexures just explain that relationship and how you play a role in
5 relation to associated annexures.

MR VERMEULEN: Yes Chair. One example in this regard is in the RFO, the body of the document, I would have given an overview of the scope of supply, in other words that would have included the four submarines, the ILS component, you would
10 give a breakdown at a high level of what the product system has to comprise. Now the annexure would take that a step further when it came to the submarines and the ILS requirement, it would provide further detail, so immediately you would have to read the overview of what’s required in the
15 scope of supply which is in the body of the RFO and following up your, then take your annexure, the functional specification and read exactly what they have to bid against in terms of this Submarine Functional Requirements.

So, the body of the RFO is a guide and it’s
20 basically got to achieve two purposes, the RFO must assist in structuring responses that are cohesive, in other words that make it easier from the client’s point of view to evaluate, you want to try and give the necessary guidelines to ensure that the bidders, and a lot of these are foreign shipyards, in this
25 case they all were, that they understand your requirements and

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they can come back, for instance you will give them guidelines of how to do the price breakdown to make it easier from an evaluation point of view, so the first objective of the RFO is to, or aim of the RFO is to ensure that you get a cohesive
5 response from the bidders and the second one is to give the bidders an indication of the level of detail you need because ultimately with the preferred supplier you need to establish what I call a contract baseline and I will be describing in some detail what a contract baseline is all about. So essentially you
10 want to achieve those two objectives to get a structured approach back from the contractors and sufficient information so that you can have the shortest possible negotiation phase with the preferred supplier as possible.

ADV LEBALA: I'm going to make you summarise what you
15 have said when I refer you to the actual RFO that you compiled which is Annexure "RMV3" on page 43 starting on page 42 to 43 but before we go there I would like to complete what you say in paragraph 3.7 that after you have compiled the RFO document together with the associated annexures, we'll demonstrate that
20 by showing the Commission the RFO document and its associated annexures. Why does it have to be submitted to the ARMSCOR Procurement Secretariat for approval?

MR VERMEULEN: The ARMSCOR Secretariat, Procurement
Secretariat is in fact, forms part of the State Tender Board, so
25 they have to fulfill that role, it's a regulatory body, the

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programme manager cannot go directly on an RFO to any bidder, you have to work through the Procurement Secretariat.

ADV LEBALA: Now this process is intended to achieve transparency and accountability, am I right?

5 MR VERMEULEN: It does that Chair and it also achieves a measure of control, for instance the Procurement Secretariat, he will make sure that he's got a complete pack of documents, he will allocate a response time to the hour for these bids to be furnished to ARMSCOR, they don't get supplied directly to the
10 programme manager, they go back to the Procurement Secretariat, if there's any queries that a bidder may have in preparing his offer he doesn't approach the programme manager, he will approach the Procurement Secretariat who in turn will approach the programme manager for clarification and
15 this clarification information doesn't just go back to this specific bidder who asked the question, it goes to all the bidders, the idea being to give a fair distribution of information to all the bidders. So, in effect it's a regulatory body.

ADV LEBALA: I note on the self-same paragraph 3.7 you
20 say that:

"It gets submitted to the Procurement Secretariat of ARMSCOR for approval and distribution to the identified shipyards".

Give me an example where it might not be approved. Just think
25 of an instance where it might not be approved.

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MR VERMEULEN: The Procurement Secretariat will make sure that all the necessary terms and conditions are contained in the RFO, either in the main body or by annexure before it goes out. If there's a shortage of information they will
5 approach the programme manager for clarification or expansion.

ADV LEBALA: Now one example that I'm picking up is it might not be approved if there's shortage of information, am I right?

10 MR VERMEULEN: Yes, it won't be released, it won't be released to the shipyards unless the Procurement Secretariat is satisfied with the contents.

ADV LEBALA: Can you think of other instances?

MR VERMEULEN: Not offhand Chair.

15 ADV LEBALA: Where it is common cause is that this one was approved and it was sent to the shipyards.

MR VERMEULEN: That did occur.

ADV LEBALA: Now let's deal with what you are talking about, we know that you compiled the RFO document together
20 with the associated annexures, now let's look at this document, let's go to on paragraph 3.8 you say, page 4 Commissioners:

"An extract from a copy of the RFO document dated 2nd March 1998 is attached hereto marked Annexure 'RMV3'."

25 I would like you to demonstrate to the commissioners what you

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are talking to when you say you compiled the RFO together with the associated annexures, let's start on page 42, "RMV3". Let's establish whether the commissioners are with us? I see they are nodding. Please identify this document. I see that
5 it's headed, just read the heading of the document.

MR VERMEULEN: The top heading reads "The Armaments Corporation of South Africa Limited".

ADV LEBALA: Just below that?

MR VERMEULEN: Below that is the abbreviation "ARMSCOR"
10 and then the request for final offer. Below that is an offer number, this is a unique number that applies to this specific tender. The "EMAR" would be an nomenclature for our specific division which was then Naval Maritime Division at that time. Below that is a closing time and date when the offers have to
15 come in, as soon as the offers arrive at the tender box of the Procurement Secretariat each page gets stamped and it gets assembled for distribution to the programme manager thereafter.

ADV LEBALA: Let's look at the bottom, I see there's a
20 column there at the bottom, bottom, just above "Restricted", are you with me?

MR VERMEULEN: Yes, I am.

ADV LEBALA: There's a date there, please put it for the
record and explain to the Commission if you could respond
25 what does the date signify?

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MR VERMEULEN: Okay Chair, in this small table at the bottom of the page the document number refers to the file number, that would be the programme manager or the project file number, the document issue number just from a configuration management point of view, the page issue number, the date that this document was approved and the number of pages in the document.

ADV LEBALA: Thank you. Let's go to page 43 looking at the meat of the RFO document. Are you able to remember, we want to bring clarity to the Commission to appreciate the compilation together with the annexures. Now I would like you to look at page 43, the headings "List of Contents". Section 1, what heading does it signify?

MR VERMEULEN: Section 1 is an introduction, it consists of an overview, the request for final offer, a preamble towards that and it also gives the structure of the RFO.

ADV LEBALA: Section 2?

MR VERMEULEN: Section 2 is titled "General Solicitation, Instructions and Conditions".

ADV LEBALA: You don't have to read.

MR VERMEULEN: Okay.

ADV LEBALA: You don't have to read Mr Vermeulen, you don't have to read everything on section 2 but let's pause there, is this what you compiled or is this part of the annexures?

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MR VERMEULEN: Chair, this would be part of the main body and it would be compiled by myself using inputs from the various organisations and documentation, for instance if you look at 2.9 as an example I state there:

5 “Contractual conditions applicable to contractors”.

Now here ARMSCOR will invoke its, it's got a standard contracting terms and conditions document, it's known as A-Standard 20, we would, that would form part of the RFO. There are a lot of standard conditions here, for instance
10 confidentiality, affirmative procurement at that stage, those were standard conditions that were invoked, I wouldn't have compiled those, they were available through my organisation and I would have made sure that they accompanied and formed part of the RFO.

15 ADV LEBALA: I see below is Appendix “2A” column “Form of Offer”, just read below that.

MR VERMEULEN: In Appendix “2B” I had a format for the pricing of the offers. Again this was to try and get, to structure the offers to provide a uniform approach towards their
20 bids.

ADV LEBALA: Please look at page 44. Read Section 3 for the record, only the topic.

MR VERMEULEN: Section 3 is “Technical Requirements and Conditions”.

25 ADV LEBALA: Do you want to take one or two items

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under that and comment?

MR VERMEULEN: Certainly. As an example if you look at 3.8 "Technology Transfer", this would have been done in consultation with the DIP division of ARMSCOR.

5 ADV LEBALA: Why is that so?

MR VERMEULEN: Because there would be certain conditions in there that were outside my speciality area and I would draw on the specialists in the DIP division to advise and provide me with those inputs.

10 ADV LEBALA: Still on page 44 read Section 4, Section 5 and Section 6.

MR VERMEULEN: Section 4 is "Industrial Participation Requirements and Conditions". Essentially that was a document in itself which was provided in total by the DIP
15 division.

ADV LEBALA: Was it also compiled by yourself?

MR VERMEULEN: No, that would not have been compiled by me.

ADV LEBALA: How does it end up coming to be part of
20 this RFO document?

MR VERMEULEN: The RFO document can be seen as a vehicle for providing the bidders with a comprehensive account of all the information that they need to respond to in their respective formal offers.

25 ADV LEBALA: Now at this stage please guide me if need

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be, this is a question in the form of a statement, I've got to avoid testifying, we know that you are a programme manager and you are technical, am I right?

MR VERMEULEN: That's correct Chair.

5 ADV LEBALA: You have nothing to do with finances and industrial participation, isn't it?

MR VERMEULEN: That is correct. That is why we draw on the specialists within these divisions, for instance in Section 5 the "Financing Requirements" to provide me with details
10 regarding the financial plan, who the contractors must communicate with and the general requirements.

ADV LEBALA: And what does the format of the offer entail, simplify to the commissioners?

MR VERMEULEN: As you can imagine Chair each of these
15 offers would require volumes of information to be given to ARMSCOR, so in order to try and simplify the process we would give the contractors guidelines as to what information to put in various sections because once we get these offers back from the Procurement Secretariat we then have to make sure they go
20 to the appropriate organisations for consideration. For instance you would have a section allocated towards DIP, now that volume would go directly to the DIP division for consideration, the technical requirements, the technical specifications, there would be a volume for that, that would
25 stay with the IPT, that would be our job to adjudicate and

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evaluate.

ADV LEBALA: Are you informing the Commission that as at this stage you could be talking of silos of teams, there's a technical team and other teams, is that correct?

5 MR VERMEULEN: That is correct Chair.

ADV LEBALA: Now with this background are you able to tell the Commission as to which part were you able to compile and which part were you not able to compile, in relation to this where are the annexures that you are referring to in your
10 statement?

MR VERMEULEN: Chair, unfortunately my statement does not include every one of the annexures, the information that I've placed in as an annexure here is information that I had available at the time.

15 ADV LEBALA: Now are you able to demonstrate to the Commission if you look at page 43 up to page ... I beg your pardon Commissioners. Up to page 77 as to where the annexures could be, if you are able to.

MR VERMEULEN: Annexures, if we look on page 46 the
20 Annexure "2A", the form of the offer, ...

ADV LEBALA: Let's pause, let the commissioners go to page 46 please. I note that they are on page 46, you may proceed.

MR VERMEULEN: Okay, those specific appendices were
25 available and they form part of this document, the form of the

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offer, the format for the pricing and the format for the statement of compliance.

ADV LEBALA: Let me see whether the commissioners did follow where you are referring them to. Commissioners, it's
5 under paragraph 1.3 under Section 2 "General Solicitation, Instructions and Conditions", Appendix "2A, 2B, 2C". I am envisaging a response Chairperson and Commissioner Musi as to whether have you identified what is referenced to annexures. If you look at paragraph 1.3 headed "Structure of the RFO"
10 under that says:

"The RFO consists of five sections, Section 1 'Introduction, ...'".

The witness is referring to Section 2 headed "General Solicitation, Instructions and Conditions", he's referring to
15 Appendix "2A" "Form of Offer", Appendix "2B" "Format for the Pricing of the Submarines and all Associated Deliverables" and Appendix "2C" "Format for the Statements of Compliance". I suppose the Commissioners have identified that? If the Commissioners are affirming, the response is affirmative, then
20 we will proceed to the next leg of leading this witness. Thank you, I see the chairperson is nodding. Are there any other annexures that you could refer to, if any Mr Vermeulen?

MR VERMEULEN: I can't think of any right now Chair, I don't think there are.

25 ADV LEBALA: Page 5 paragraph 3.9, now what has

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5 become clear you have compiled the RFO, you've explained the limitations that there are silos, there's a finance team that assists you, there's an Industrial Participation Team that assists you, now the RFO is compiled. Paragraph 3.9 on page 5:

"The RFO comprised of a number of annexures including the Defence Industrial Participation (DIP) requirements and a Submarine Requirement Specification ..."

10 Which you explained at length:

"... which were approved on 10th February 1998 by the designated Chief of Naval Staff Plans at that time"

15 Why was it supposed to be approved by the Chief of Naval Staff Plans?

MR VERMEULEN: That was the prerogative the Navy used, I'm not quite sure exactly why they chose to get CNS Plans to approve the document. I think what's important is the specification was drawn up by our project engineer, from the IPT side that has significant relevance.

ADV LEBALA: Certainly the project engineer would be coming from the?

MR VERMEULEN: Just to reiterate, the project engineer is appointed, he's a Navy official, he normally resides in the organisation which is today known as the Naval Engineering

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Service, he was a civilian working for the Navy at that time.

ADV LEBALA: There are project engineers who are uniformed members, am I right?

MR VERMEULEN: You are right Chair.

5 ADV LEBALA: Now still on paragraph 5 the last sentence:

“This document is classified as restricted”.

Is this still applicable?

MR VERMEULEN: No Chair, as a result of the instructions obtained on the 4th of October it's no longer restricted.

10 ADV LEBALA: Paragraph 3.10:

“Apart from contractual and formatting requirements the main body of the RFO address the terms and conditions applicable to technical requirements, industrial participation and financing”.

15 You've demonstrated that, am I right?

MR VERMEULEN: Yes Chair.

ADV LEBALA: Now let's complete for the Commission, because the Commissioners have to appreciate where we are going now, we are done with invites, now you have committed
20 its offer stage, you have committed, and something is unfolding with regard to having to commit to one of the bidders, these considerations play a significant role in line with even seeking to achieve this uniformity that you are talking about that the RFO seeks to achieve. Now let's look at the technical
25 requirements, please go to page 58 and 74 of Annexure

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“RMV3”, page 58 Commissioners. You took the Commission through the introductions in the section, this section deals about the technical requirements and conditions, it starts on page 58 and it ends up on page 74. Is that correct?

5 MR VERMEULEN: That’s correct Chair.

ADV LEBALA: Then there is the Industrial Participation which starts on page ... Here we have to explain to the Commission something significant is applicable, we can’t identify the industrial participation, explain to the Commission why, in this document.

MR VERMEULEN: Sorry Chair, could you repeat that question?

ADV LEBALA: We took the Commission through the, remember in the introduction of the RFO there were sections that we took them through, you explained that there are silos that advise you because you’re a technical person, you’re a programme manager, you don’t know ... No, actually I shouldn’t say you know nothing about finance, your finance skill is probably tacit, limited, industrial participation needs expertise and there are teams that advise you on that, that’s what you testified, am I right?

MR VERMEULEN: That’s correct Chair. In the response to Section 4 as a whole this would be provided to our DIP division for adjudication and evaluation.

25 ADV LEBALA: Now in this document, the RFO, Industrial

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Participation, this document that you have attached, we can't see it anywhere, that's all that I'm saying. Do you want to explain to the Commission why?

MR VERMEULEN: Yes Chair, the simple reason is I could not
5 find a copy of this document in our archives to include in this document, it's possible that my DIP colleagues will have a copy of this document available when they testify. I can't vouch for that however.

ADV LEBALA: Is it confidential and classified?

10 MR VERMEULEN: No Chair, I don't think it has any sensitivity whatsoever.

ADV LEBALA: Are you able to make it available to the Commission with the rider that you have just qualified that it's an area of expertise according to you and your DIP colleagues
15 would come and talk to it ?

MR VERMEULEN: I'm convinced that when the opportunity arises my DIP colleagues will expand on these requirements in some detail.

ADV LEBALA: Let's look at page 75. We have to take the
20 Commission into its confidence, in our confidence. Still financing on its own, it's an area where you need experts to come and assist you when you compile the RFO, am I right?

MR VERMEULEN: Yes Chair you are correct, both in terms of compiling the RFO and as well of course in the adjudication
25 thereof.

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ADV LEBALA: But what is remarkable is that on page 75 the financial requirement is available, look at page 75 to 76. Am I making sense?

MR VERMEULEN: Yes, it is available. As I explained earlier
5 on the RFO is a vehicle, it's a document, it's essentially, if I can put it this way it's a catch-all, it provides all the requirements, technical, financial, legal, all the requirements are contained within one document that goes to industry. This is a much simpler process than breaking it down into a number
10 of RFO's for speciality areas, so that's why it finds its way into its own section within the overall RFO.

ADV LEBALA: At this stage of your testimony does anything turn around DIP, industrial participation and financing?

15 MR VERMEULEN: Could you repeat that question please?

ADV LEBALA: I would like you to appreciate the question, if I lose you I'm in trouble because I've got to make it a point that you bring your testimony before the Commission. Remember you've testified about your role in compiling the
20 RFO, you've demonstrated that it has got sections, we note that one section of Industrial Participation cannot be located here, because it's an expertise area we also note that the finances and expertise area but the finance is here. Now I'm asking that at this stage put your cap on as a programme
25 manager, given what a programme manager does, does

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anything turn around the industrial participation and finance requirements?

MR VERMEULEN: Chair, I think the explanation here is you will notice in Section 4 it refers to the requirements and conditions for submarines. I anticipate that that was quite a comprehensive document, quite a bulky document and that's why it would have been a separate attachment whereas if you look at the financing requirements it could be summarised in the space of a few pages and I think that would explain why the DIP, the body of the DIP requirements is not included here.

ADV LEBALA: Just to complete this area of your testimony if I may ask would it be feasible for you to make this document available or you would rather leave it to the DIP experts to come and talk to it?

MR VERMEULEN: Chair, I think it would be a lot more practical if I left it to my DIP colleagues. I'm not sure exactly what that, the contents of that document include, so it would make sense having an expert answer that question and provide this Commission with the details thereof.

ADV LEBALA: Okay, let's complete to assist you to take the Commission into your confidence. Does anything that you are testifying about, remember on the life cycle of the submarine product from the RFI up until we produce it where we are going, the RFI, RFO negotiations, specifications, tests and the final product returning it to South Africa, is there

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anything as far as that testimony is concerned that turns on industrial participation and finance requirements?

MR VERMEULEN: Chair, the whole system engineering process and acquisition process of the submarine product system is not reliant on DIP conditions, you can do without DIP conditions in its entirety to arrive at a qualified submarine product.

ADV LEBALA: Finance requirements?

MR VERMEULEN: The finance requirements obviously was a framework for payments. This does play a role in that you will see later on when I discuss the negotiation phase, within the constraints of the financial requirements the annual draw-downs that were contained in the finance requirements, we had to make our milestone payments, our contractual milestone payments synchronise and align with the overall frame, financing framework, so there, there is a relationship if, and I think it will become clearer Chair when I walk you through the process or the philosophy behind the contractual payment milestones.

But if I can put it another way we had financial restrictions on an annual basis as a result of the financing arrangements and we had to make our contractual payment milestones, the milestone events that took place during the production phase relevant to that financial framework.

ADV LEBALA: I would like us to complete paragraph 3.11

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to 3.13, you have testified to them but let's just put them on record. Page 5 paragraph 3.11 Commissioners:

5 *"The main function of the request for offers was to provide potential bidders with the required instructions and guidelines so as to solicit offers which are all to the same standard and format and include the same level of information so as to:*

 3.11.1 *Facilitate a cohesive comparison process and;*

10 3.1.2 *Obtain the requisite level of detail for the establishment of a contract baseline".*

Now simplify 3.11.1 "cohesive comparison process".

MR VERMEULEN: Chair, in order to respond fully to an RFO of this magnitude a comprehensive amount of documentation has to be provided with the offers, there were volumes of information. We try as much as possible to guide the bidders to provide a uniform approach towards their responses, and that's what I mean by cohesive response, to make it easier for the project team to evaluate we try and steer the contractors to provide information for comparative purposes.

ADV LEBALA: 3.11.2, it's very critical because the contract baseline, it's the foundation of what we'll be talking to when you are going to the milestones and negotiation process when you are overseas negotiating to bring this project back, the product back, when you are overseas negotiating to bring

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the submarine back. Simplify “contract baseline”, I think you should give examples on it so that it should stick on the commissioners. Commissioners are lawyers but I would like you to unpack it for them.

5 MR VERMEULEN: In the context of this project Commissioner the contract baseline involves a number of documents, the main one is the Supply Terms Agreement or the contract, the actual terms and conditions. The contract baseline, having done the evaluation you would select a preferred bidder as a result of
10 the value system adjudication and then you would start a negotiation phase with that contract based on the information that’s included in this offer and one of the documents stemming, coming out of that exercise would be the Supply Terms Agreement where both parties mutually agree to the
15 terms and conditions.

Another example is, I mentioned it earlier on, is the product specification, if you recall we would submit a functional specification in our RFO, the bidders respond with a very detailed technical specification. Once that’s agreed to by
20 both parties during the negotiation phase that forms part of the contract baseline, so you’ve got the Supply Terms Agreement, you have the technical specification, you would have all the contractual payment milestones which I will elaborate on at a later stage, those form part of the contractual baseline.

25 A very important element of a contract baseline

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would be the production schedule, you would have to agree on the production schedule within the framework of the production phase and these would have, this would have to entail all the activities that take place as well as all the deliverables, that
5 you would have to agree on, so those are the main elements of the contract baseline and once that's established that's a departure point for the remaining period of the contract.

Any change to that contract baseline would have to be done formally, albeit an engineering change or a contract
10 amendment, it would have to be done formally, you would have to trace this back to the original contract baseline through the life period of the production phase.

ADV LEBALA: Now simply put when you talk of contract baseline you are talking of a set of documents during the
15 submarine life cycle on its way to it being a product that form a basis of a contract and it controls the relationship, am I right?

MR VERMEULEN: Yes, that is correct Chair.

ADV LEBALA: 3.12, it has become common cause:

*"It should be noted that unlike an RFI (Request for
20 Invites) [sic] offer submitted in response to an RFO are formal and binding".*

3.13 page 5 Commissioners:

"Offers for submarines were received from the following foreign suppliers; ...".

25 Page 6, now why are they four now, do you want to refresh us?

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MR VERMEULEN: Yes Chair, if you recall the RFO approached five suppliers. At that stage the Upholders were still in consideration. The Upholder and the UK MoD didn't respond, therefore it left us with the four listed in this table.

5 ADV LEBALA: Now we are going into, I think you have laid the foundation for this when you remained with four:

“Initially we invited many because we wanted to affirm ...”.

And I'm using this cautiously as “we”, I hope I'm not associating myself with you or the Navy, I'm just using this term with a view just to assist me to collect my thoughts when I lead your evidence. The, initially the invite was made to several ship builders and countries and the RFO where selection would be made where it's binding and commitments reduced itself to four, we are at this stage now.

Now we are going to a very critical part of your testimony, you have already laid a foundation for it, the technical evaluation. Now we know that you are testifying with your cap on as a programme manager, the technical, you have testified that you have nothing to do with finance, he doesn't even know finance, you have nothing to do with industrial participation. Now you are starting to inform the Commission about a very important aspect, what did you do with these four chosen offers. 3.14:

25 *“The technical evaluation followed shortly thereafter*

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over the period of 18 to 20 May”.

Now what is technical evaluation? Don't go deep with it, just summarise it because I think you have dealt with it in your introduction.

5 MR VERMEULEN: Chair, essentially this is where the value system comes in. A technical value system is compiled. What's very important is this value system has to be approved and it is lodged with the Procurement Secretariat before the bids are received to ensure that any possibility of tampering is taken
10 out of it, is not possible, so the value system is an approved document submitted to the Procurement Secretariat in this case prior to the receipt of the offers.

And essentially you will see later on the value system addresses three overarching categories, it addresses
15 the responses to the RFO, it addresses the ILS deliverables and it addresses the product system, the submarine itself, the performance of the submarine. So, there are three overarching categories that are addressed in the value system.

ADV LEBALA: Now it has become clear at this stage that
20 the process starts with, I know I should go back, I'll start where we started the RFI, where we invite. Now the RFI has got its value system, am I right?

MR VERMEULEN: Yes, the RFI had a value system.

ADV LEBALA: The RFO so identified strong bidders, one
25 has to be chosen from them, we are at an offer stage where you

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have to make commitment, it has got its value system too.

MR VERMEULEN: Yes, the RFO value system is far more relevant because this is a value system that's used to do the adjudication where you actually make a decision regarding the preferred supplier unlike the RFI value system which merely serves to eliminate bidders that don't show the potential to go to the next phase.

ADV LEBALA: It's become clear one value system eliminates, one value system assists in making a decision, is that correct?

MR VERMEULEN: Yes, you could term it like that Chair.

ADV LEBALA: Now we are looking at where we have to make a decision out of these four. 3.15,

"The technical evaluation ..."

That is where you have to make a decision to choose amongst these four:

"... was done using the RFO value system ..."

That system that assists in making that decision.

"... prepared on the 26th March 1998 by Mr Gregory Muynk who was the appointed SA Navy Project Engineer at that time"

Let's pause there. What's the role of the IPT in as far as the preparation of this RFO value system that assist in choosing and making a decision amongst these four?

MR VERMEULEN: Chair, the process followed in compiling a

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value system of this nature is, the IPT obviously cannot do this on its own, we would solicit help from the Navy, in this case the submarine flotilla provided us with an abundance of support, we had a number of very experienced submariners who acted as a user specialist who guided us regarding the functional characteristics to consider and also the relative comparison of these parameters, weighing them off against each other.

We had a mixed bag of people that assisted us in compiling this value system, you would have logistic specialists, combat suite specialists, platform and of course operators, so that's the team that you use to come up with the value system. The project engineer, it was his duty to coordinate this process on behalf of the project executive.

ADV LEBALA: Now at the beginning of 3.15 there is mention of the technical evaluation of the offers. Let's understand. Is there the industrial participation evaluation of the offers, is there a financial evaluation of the offers?

MR VERMEULEN: No Chair, with respect to this specific value system it only addressed the technical requirements.

ADV LEBALA: What do the technical requirements entail?

MR VERMEULEN: The three major categories are the technical requirements that were contained within this RFO value system, the one was the submarine product itself, the performance of the submarine, the other category was the ILS

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elements, integrated logistic support elements and the third one was the actual responses to the RFO, how well did the offerers respond, did they provide a comprehensive statement of compliance for instance, did they provide a comprehensive specification.

5

ADV LEBALA: Chairperson I note that it's 13h00.

CHAIRPERSON: We'll adjourn until 14h00. Thank you.

(Commission adjourns)

(Commission resumes)

10 CHAIRPERSON: Thank you. Can the witness confirm that he's still under oath?

MR VERMEULEN: I do.

ADV LEBALA: Mr Vermeulen, before the break for lunch you identified the importance of the distinction between the RFI value system and the RFO value system, do you remember?

15

MR VERMEULEN: Yes Chair, I remember.

ADV LEBALA: We know the following now, just to confirm that the RFI value system is intended to eliminate, the RFO value system assists in the adjudication process to make a decision, am I right?

20

MR VERMEULEN: That's correct Chair.

ADV LEBALA: You also confirm that at the RFO stage you play a significant role on the technical side, is that correct?

MR VERMEULEN: That is correct Chair. The IPT as a whole played a significant role in the scoring process within the value

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system, myself included.

ADV LEBALA: At this stage just break down the teams that were within the IPT.

MR VERMEULEN: Chair, with respect to the IPT itself we had
5 the project executive which is the project officer who is the
team leader and myself. The project executive is essentially
responsible for the day-to-day running of the project. We then
have a Navy project engineer who I've mentioned before, his
main role is to, he is a gateway or interface into the Navy user
10 system for the project. Then you have a number of specialists
allocated to the project both from ARMSCOR as well as from
the Navy, we had an ILS manager from ARMSCOR and you'd
have a logistics officer from the Navy.

We had a combat suite manager from ARMSCOR and
15 we had a number of very experienced warrant officers who were
technical specialists, we were fortunate enough to have them
assigned to our project. And then over and above the project
team, and of course we had a quality assurance representative
on our project as well from ARMSCOR, then over and above the
20 project team through various phases of the project including
the evaluation of the bidders we would get additional members
from the Navy to bolster our team, for instance during the value
system evaluation we got some very experienced submariners
to come and assist us in applying our minds to evaluating the
25 products on offer and also during the production phase we had

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always solicited the services of the Navy to assist us in whatever phase of the project we encountered.

JUDGE MUSI: Can I get clarity on one thing before you proceed, I'm sorry Mr Lebala. I've heard about a project officer from the Navy, is that the same person as the project executive you are talking about?

MR VERMEULEN: Chair, the project officer is the team leader assigned to an Integrated Project Team and the project officer together with the ARMSCOR programme manager form the project executive, so those two individuals make up the project executive, they are responsible for the day-to-day running of the project and they also have their respective and distinct roles as well to play and if I could elaborate the project officer is essentially responsible for Level 6, the user system, whereas the programme manager works at Level 5, the product system.

JUDGE MUSI: Just to dispel any doubt in my mind, so the project officer and the programme manager, those constitute the project executive?

MR VERMEULEN: That is correct Chair.

JUDGE MUSI: Thank you, thank you Mr Lebala.

ADV LEBALA: Thank you Commissioner Musi. At this stage we also know that you have also played a significant role in the design and build of SAS Drakensberg and the modernisation of the Daphne Class submarines, am I right?

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MR VERMEULEN: I did play a role on that, I was a member of a large project team that worked on the SAS Drakensberg and with the modernisation programmes on the original submarines, yes.

5 ADV LEBALA: Of course at that stage as a programme manager and being part of the Integrated Project Team you were also bringing some, albeit limited, some expertise isn't it?

MR VERMEULEN: Yes I think I can say that Chair, I had worked on a number of Navy projects even before I joined
10 ARMSCOR, so I had some experience to bring to the table, yes.

ADV LEBALA: Now before we went on a break you informed the Commission after we read paragraph 3.15 that you participated in the technical evaluation of the offers using the RFO value system. Now does the technical evaluation involve
15 what one qualify as a military value, am I right?

MR VERMEULEN: The technical evaluation builds up on the military value, the military value is essentially the scoring, the technical performance and when you bring the price into consideration it becomes a military value.

20 ADV LEBALA: Now what do we look at specifically when we look at the technical evaluation and the military value?

MR VERMEULEN: Chair with respect to the technical evaluation there are three overarching categories that are broken down into smaller elements, the three are, just to
25 reiterate, the response to the RFO itself, the ILS elements, and

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I'll give some examples of that for the Committee, and then of course the submarine product itself, so those are the three categories, and there are a number of parameters, most of the parameters are allocated towards the submarine product itself.

5 That doesn't necessarily mean, however, that it carries the most significant weighting, but we'll address that. Perhaps if it suits the Commission I can give some examples of those?

ADV LEBALA: We will get there. Actually I would like the Commission to appreciate where we are going, this is a jigsaw puzzle that's starting to fit I suppose from the RFI stage to where we are where we are committing by making decisions choosing the four because the RFO assist as to who is being chosen between these four shortlisted bidders that we see on page 6 at the top, am I right?

15 MR VERMEULEN: That's correct Chair.

ADV LEBALA: Now at that stage does the Integrated Project Team talk to industrial participation?

MR VERMEULEN: No, they don't Chair. In fact what we also invoked in the team is we don't discuss the prices either. We try and keep the project team's mind clear of all other aspects. With respect to DIP and financing we worked in silos, we were told to focus on the military value and we didn't cross-pollinate at all.

ADV LEBALA: Now am I right to say that as at that stage of the RFO value system were you working in silos or it was

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only the technical evaluation team that was focusing on the military value?

MR VERMEULEN: That's correct Chair.

ADV LEBALA: Now you've explained that there are three
5 important components, we are going to refer the Commission to the relevant documentation to make them appreciate that at that stage are being considered, you said it's the RFO response, do you remember?

MR VERMEULEN: That's correct.

10 ADV LEBALA: Now in simple terms what does the RFO response mean?

MR VERMEULEN: Essentially we allocated some weighting to the RFO responses, in the RFO we called for the offerers to provide us for instance with engineering management plans
15 which would describe to us and give us insight in exactly how that specific shipyard or the shipyards would be running the project technically, what sort of teams that they would allocate from their shipyards to work together with the Integrated Project Team. An important criteria is how they'd respond to
20 acceptance tests, the magnitude of acceptance tests that they would include in the offer, we asked them to provide us with details there, also the price breakdown but bear in mind not the price itself, just the price breakdown, we wanted to gage their responses to our guidelines in providing us with a price
25 breakdown, so that's typically what we would consider in the

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RFO response, how their contractors had applied their minds in responding to our RFO.

ADV LEBALA: And you also look at the submarine product requirements.

5 MR VERMEULEN: Yes Chair that is correct, and these formed, this was probably the biggest evaluation of all because it inherently requires a lot of parameters and attributes that we considered. Here you will consider the actual characteristics of the submarine, I'd give you a few examples if I may, the
10 displacement of the submarine, its tonnage, the speed capability, the endurance, the dive depth, the indiscretion ratio, the manoeuvring of the submarine, the habitability of the submarine, all of these things come into the actual submarine product performance, it's a viability capability and also very
15 importantly its potential to fit into the user system, how compatible is it with the user system.

You will remember earlier on I mentioned the Upholder's would have presented a huge challenge to the Navy in terms of compatibility with the user system, so that was
20 obviously something that we considered and in a case like that if the Upholder's were still in the race they obviously would have fared badly in that specific parameter, so essentially those are the three elements, some examples of them.

ADV LEBALA: I think you are too technical here but we
25 will demonstrate to the commissioners what do you mean when

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you refer them to an annexure that would simplify this, remember you are laying a foundation to make them appreciate what were you doing when you are saying you were part of the technical evaluation team looking at the military value of these competitors. Now the last consideration is called the Integrated Logistics System, remember in your introduction, in the introduction of your testimony I requested you to just simplify it in such a manner that if the commissioners don't get it we are going to lose them and they are going to lose us, do you remember? I don't want you to be long, just refresh them what you said about the Integrated Logistics System.

MR VERMEULEN: Chair, the Integrated Logistics System is very much an inherent part of the submarine product system, without a comprehensive integrated logistic support you will not be able to run these submarines for very long, they'll basically stand alongside and never go to sea. Some examples of elements that form part of the Integrated Logistic Support consists of the following; all the technical manuals, your training, your spare parts, these are typically elements which form part of the Integrated Logistics Support element.

You will also look at design characteristics that are inherent in the design of the submarine which impacts on logistics, some examples of that would be what care has been taken for example to provide a technician with accessibility when he carries out repairs to a piece of equipment, does the

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equipment have withdrawal rates that it can remove to insert his diagnostic test equipment. So if you look at the design aspects in terms of supportability as well, not just its fighting capability but its support capability as well.

5 You will have typically part of ILS computerised maintenance system where the user onboard the submarine can go onto a computer, he can get an instruction, a maintenance instruction card and it will be hyperlinked on the computer to a number of pictures, photographs, images and to a technical
10 manual, and all of this and many more forms part of the Integrated Logistics Support Element.

ADV LEBALA: We will simplify it to the commissioners by way of examples which are in the bundle. I think at this stage Commissioners I beg your pardon, I don't know why I failed
15 these important procedural steps. The bundle that brought matters to a head the previous week has been made available to you, I'm told that a copy is in front of you, we might be taking you to some of the essential components of it during the testimony of Mr Vermeulen. It completes the picture of what
20 made us to stall the previous week, it's a document on the side marked "Declassified Documents – Robert Vermeulen", and I would appreciate if you were to draw my attention by nodding that you are in possession of the document. I see the chairperson is nodding, I don't see Commissioner Musi nodding.
25 nodding. We will ... I beg your pardon Commissioner Musi, I

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note you would like to say something I suppose?

JUDGE MUSI: No, I'm just saying the document is in front of me.

5 ADV LEBALA: Thank you Commissioner Musi and
Chairperson. We'll be referring to this document by its
qualified mentioning "Declassified Documents - Robert
Vermeulen", each time we say "Declassified Documents -
Robert Vermeulen" we'll be referring to this bundle.
Commissioners, there is another bundle, that bundle relates to
10 copies of what the critics are saying. Remember our testimony
would be empty without mentioning what the critics are saying.
I beg leave to hand two copies of the bundle to yourself, the
ARMSCOR team has been very helpful in assisting us to
prepare this document.

15 The submissions come from the extract taken from
the submissions of Andrew Feinstein and Paul Holden and you
will note that part of the critics that we'll be putting to this
witness in as far as the submarine are concerned, now here you
have to appreciate Commissioners that this witness is talking
20 to nothing but the submarine production, so those critics that
address criticism in as far as the acquisition process of the
submarine, the value systems of the submarine, what was
considered when these four bidders were being looked at is
referred to here and we beg leave to hand it to you. We will be
25 referring you only to specifics in as far as the submarine

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product is concerned. There is a portion in that criticism document as submissions that deals with the Hawk's and the Gripen's, that's not our area, that's Project Ukhozi that's been dealt with by our colleagues Advocate Mphaga and Ms
5 Ramagaga. There's also a portion in the criticism that goes to the Corvette's and the frigates. My colleague Ngobese and myself deal with it, we'll deal with that aspect when we, a witness who is dealing with the Corvette's comes to testify.

Now might we mention the following, and I debated
10 this with my colleague Ngobese, we are not being disrespectful to the critics if we don't mention by name, there's a reason why. We've been trying to track as to whether for instance could Mr Feinstein and Holden, Mr Holden claim exclusively to be the real initiators and authors of this criticism, hence we
15 put it generally as critics will say. Now we're just being cautious but what we say is what the critics would be saying, for instance we don't know whether that could be coming for instance, permit me to use this example, from Mr Gavin Woods or from Ms Patricia De Lille, those witnesses I suppose will
20 come and testify to it if need be, and this is just by way of example Commissioners, we know that there are other authors that could have been the ones who are responsible initially for this criticism, so we want the record to reflect that we are not discounting the importance of the criticism levelled by these
25 two writers but when we just mention generally what the critics

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are saying we recognise that there are other critics who might be sharing the same criticism. Thank you Mr Chair, we proceed.

Let's look at page 6 paragraph 3.15. Now we are going into a critical stage where we want to simplify what Mr Dawie Griesel testified about. You remember Mr Dawie Griesel, you were present here if I'm not mistaken, testifying about the three tiers that were introduced by a policy called MOD 4/147?

10 MR VERMEULEN: I do remember that Chair.

ADV LEBALA: Now let's read what you see in paragraph 3.15 line number 3, we've already done with the first part of the three lines where we know that technical evaluation of the offers was done using the RFO value system, we know what the RFO value system means now as against the RFI value system, I think that has landed with the commissioners. Now let's continue.

20 *"The value system was approved on 12 May 1998 by Mr Shamin Shaik, Chief of Acquisition, Rear Admiral Anthony Howell Director Naval Acquisition and Vice Admiral Robert Simpson Anderson, Chief of the SA Navy".*

Now let's pause there and ask the following question; are you aware of the role that has been played by Mr Shamin Shaik at this stage?

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MR VERMEULEN: Yes Chair, at this stage Mr Shaik had been appointed as Chief of Acquisitions of a newly formed division under the Ministry of Defence known as the Defence Acquisition and Procurement Division, DAPD, which fell under Mr Shaik.

5 Mr Shaik headed up that division, he had a number of directors reporting to him from the Navy, Air Force and Army respectively.

ADV LEBALA: Now we know at this stage that the focus of the Integrated Project Team related to the technical
10 evaluation of the four offers, we know that there are four, only four are remaining and they were only focusing on the military value, am I right?

MR VERMEULEN: Yes Chair, that is correct.

ADV LEBALA: Now Mr Dawie Griesel told us that MOD
15 Policy 4/147 introduced a three-tier process, do you remember, you said you remember, I beg your pardon, I think I've got to get my act together, you did mention that you remember that testimony, am I right?

MR VERMEULEN: I do remember that testimony Chair.

20 ADV LEBALA: Chairperson, Commissioner Musi, for you to appreciate this testimony, because it's very critical, we would like to project the testimony of this witness by way of a slide so that this witness should simplify the three-tier system and make you appreciate where the Integrated Project Team
25 played a significant role. Now you will appreciate this if you

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remember that we are left with four, only four competitors. Now we are in the process of gravitating to choose one, this witness will demonstrate to you the process that was followed but what intervened that process and how the MOD Policy 4/147 played a significant role. At this stage we are inviting you to come and join us so that it should be projected on the screen.

(Recording machine switched off.)

ADV LEBALA: Chair, Commissioner Musi, to simplify the testimony from now on this will be qualified as slide number 8, the next slide will be number 9, the slide before that will be number 7. Now in line with your testimony, remember we've laid the foundation that we are going to address MOD Policy 4/147 that Mr Dawie Griesel educated us about and its significance in relation to the role that the Technical Evaluation Team played in as far as the RFO value system to weigh the offers of these four remaining bidders. Now if you were to simplify this document before us let's start here, do you remember that Mr Dawie Griesel told us that this policy introduced three tiers, three layers, am I right?

MR VERMEULEN: That's correct Chair.

ADV LEBALA: Now for the sake of laying a foundation at the top the document is "Project Wills Evaluation Process".

MR VERMEULEN: That's correct Chair.

ADV LEBALA: That relates exclusively to the project dealing with submarines.

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MR VERMEULEN: That's correct.

ADV LEBALA: Not Corvette's, not frigates, am I right?

MR VERMEULEN: Yes Chair, only the submarines.

ADV LEBALA: I would like you to simplify these three
5 tiers to the commissioners and do you think you will do it
better by taking them from bottom-up or up-bottom, if you say
bottom-up explain, if you say up-bottom, explain.

MR VERMEULEN: Yes Chair, I think it would make sense if I
just start at the bottom, at the lower tier because essentially
10 the middle tier and upper tier doesn't come into play until the
lower tiers finished their work. Essentially you will see here in
the lower tier I've got two steps, I could start at the very
bottom. The IPT as a whole was involved with the application
of the value system insofar as the scoring implementation and
15 the determination of the pre-normalised results, i.e. the
technical performance, the basic results if you can put it that
way, that's what the IPT as a whole was involved with.

ADV LEBALA: Now are you telling the commissioners that
at this stage with these three layers introduced by Policy 4/147
20 the only space in which the technical evaluation of the offers
using the RFO value system where your team claimed was only
at the lower tier number three, the bottom one?

MR VERMEULEN: That's correct Chair, that's the only tier
that we were involved with.

25 ADV LEBALA: Were there other teams in that lower tier?

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MR VERMEULEN: Yes Chair there were, a similar process was followed in each of the individual SDP Packages.

ADV LEBALA: Now let's talk about the teams other than your team, we know that your team was looking at the technical evaluation, looking at the military value, that one could simplify as focusing on these three important components that we still have to tell the Commission about or simplify it for the Commission, the RFO, the integrated logistic system and the product requirements. Am I right?

5
10 MR VERMEULEN: That is correct Chair.

ADV LEBALA: Now were there other teams that were looking at the finances, financial option or industrial participation in that lower tier?

MR VERMEULEN: Yes Chair, there were. The slide here represents the military value but coupled with that there was a similar team that addressed the industrial participation, at that stage, if I'm correct, in saying there were two IP teams, there was a Defence Industrial Participation Team and an Industrial, a National Industrial Participation Team, and then there was also a financial team as well addressing the financial arrangements.

20
25 ADV LEBALA: Now we know the following; your team was playing in that space, your team was playing only in that space where the lower tier or tier three, and there was another team in another silo looking at the industrial participation which is

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divided into DIP and NIP, and then there was a team which was looking at the financial options .

MR VERMEULEN: That is correct.

5 ADV LEBALA: Now our focus is to look at what you were doing, what your team was doing, that is not Finance, not industrial participation, am I right?

MR VERMEULEN: That's correct Chair.

10 ADV LEBALA: Explain to the Commission what this policy did, what changes did this policy effect with regard to your role as a member of the Integrated Project Team?

15 MR VERMEULEN: If I understand you correctly Chair are you saying I must make a comparison to a normal process ARMSCOR would follow as opposed to the SDPP process? Normally Chair we wouldn't have these tiers, the project team would do a value system, the results of that value system, the value system report would then be forwarded under a submission to an ARMSCOR board of directors authorisation committee for approval. In other words our recommendation would go to ARMSCOR's BOD.

20 ADV LEBALA: Now you are saying to the Commission in the space in which you play a role in the lower tier, tier three, as a member of the Integrated Project Team you do your assignment looking at the military value considering its three important components, not looking at finance, not looking at
25 industrial participation and after doing that you would take the

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scores to a different body, isn't it?

MR VERMEULEN: That's correct, that is how it occurred.

ADV LEBALA: Which body is it?

MR VERMEULEN: Chair, the project team as a whole was
5 involved in doing the basic scoring of the value system. The
results of that value system were then compiled into an RFO
evaluation report, this report was written by the project officer
for the submarine project and it was moderated by the Director
Naval Acquisition, both of whom had been seconded at that
10 stage to the DAPD division.

ADV LEBALA: Now what happened which was not
supposed to happen? Remember we want to demonstrate to the
Commission that MOD 4/147 introduced some changes. From
your testimony you were just focused on your tier, tier three,
15 that's where you end, you evaluate, you look at the military
value, you look at these three important components, the ILS,
Integrated Logistics System, you look at the product,
submarine of the submarine, you look at the RFO, now
something happened here according to your testimony that
20 ought not have happened. Explain to the Commission.

CHAIRPERSON: I'm sorry Advocate Lebala just before we
come to that I heard him referring to DAPD, I'm not quite sure
what DAPD is. Can you just explain to us exactly what DAPD
means?

25 ADV LEBALA: I apologise Commissioners, actually I was

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going to direct him to DAPD because from here he's going to tell you what happened that brings DAPD in, I think he's going there Commissioner. You heard the Commissioner's concern and it's very important, please simplify it for them.

5 MR VERMEULEN: Chair, DAPD stands for Defence Acquisition and Procurement Division, it was a newly formed organisation which fell under the Ministry of Defence and it involved itself with all matters relating to acquisition and procurement within the SANDF.

10 ADV LEBALA: Who was heading it?

MR VERMEULEN: DAPD was headed by Chief of Acquisition Mr Shaik.

ADV LEBALA: Now I know I'm taking you backward, what did the Integrated Project Team do at that level where they are confined, what did they do?

15 MR VERMEULEN: Chair if I could get back to, in answering that, in your previous question you asked what the differences were, perhaps if I could elaborate on that. Essentially before and after SDPP's the procedure would have been, the result of the value system, there wouldn't have been three tiers for a start and also the result of the value system would have been put into a submission by the programme manager to our board of directors for authorisation with a recommendation for the appointment of a preferred supplier, that would be the next step, so there wouldn't have been the need to normalise results

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because the normalisation of results comes into the middle tier, you will notice that there's a formula there which states best value is equal to the Military Value Index plus the industrial participation index, plus financial index. Now to get those
5 three indices equitable you've got to normalise those results so that you can add them together, that wouldn't normally take place.

ADV LEBALA: Now before we even go to the second tier I just want us to part ways with the last tier, the third tier where
10 you played a role. Now what has become clear is there was not supposed to be three tiers ideally before the MOD 4/147, that has become clear.

MR VERMEULEN: Yes, whether it was supposed to be or not I can't say but it certainly did change once that organisation
15 was instituted.

ADV LEBALA: What happened ideally or the way you testified is that after the Integrated Project Team has done its exercise of giving the points in relation to the RFO value system the programme manager would take those results to the
20 board of directors, am I right?

MR VERMEULEN: Under normal circumstances that would be the approach, yes.

ADV LEBALA: Explain to the Commission what happened, and I would like you to introduce the second, middle tier.

25 MR VERMEULEN: In the case of Project Wills the project

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team did basic scoring, the project officer then compiled a report which was moderated by his superior Director (Indistinct) of Acquisition, and that report had a recommendation with the Military Value Index in it. That
5 recommendation was then forwarded to the SOFCOM at the middle tier or level two-tier.

ADV LEBALA: The distinction that appears here is that SOFCOM received the results.

MR VERMEULEN: That's correct Chair.

10 ADV LEBALA: Did SOFCOM prepare the results?

MR VERMEULEN: SOFCOM made ... What SOFCOM did was did a calculation after having received the three respective indices, the military value, the IP Index and the financial index. When it received those three it determined the best value.

15 ADV LEBALA: Now let me understand, I'm going to take you backward, did SOFCOM prepare the results?

MR VERMEULEN: Yes, SOFCOM would have prepared the results and the outcome of the lower tier values and they would have made a recommendation to the next level.

20 ADV LEBALA: But by the time SOFCOM received the report I thought that from your testimony the Integrated Project Team has already made the results?

MR VERMEULEN: No Chair, at the IPT level we determined the basic results and then there was an RFO evaluation report
25 with a recommendation in which they had the military value

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results in, so yes, they did and that was submitted to the SOFCOM for inclusion into their overall formula.

CHAIRPERSON: Sorry Advocate Lebala, just for my own understanding as far as SOFCOM is concerned were they making any determination of any result or their function ...
5 Thank you. Were they working out any results or was their function simply to consolidate the results which comes from integrated project teams, were they making those calculations or was their function simply to consolidate the results that they
10 have already received from the project teams?

MR VERMEULEN: Chair, to the best of my knowledge they performed a consolidation role. They grouped the three indices and they consolidated them for recommendation to the next level.

15 ADV LEBALA: To be specific, following up on the chair's question, we now know that the Integrated Project Team determined the basic results and they were sent to the moderator who took them to SOFCOM.

MR VERMEULEN: That's correct.

20 ADV LEBALA: What did the moderator do before they went to SOFCOM?

MR VERMEULEN: From what I understand after having read this evaluation report the basic results were normalised, the pricing was brought into the formula and a military value was
25 determined.

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ADV LEBALA: What is the last part, the military value was?

MR VERMEULEN: The resulting military value which arose from the outcome of that report was then forwarded to the
5 SOFCOM.

ADV LEBALA: Now this intermediate moderation took the basic results of the Integrated Project Team, normalised those results, am I right?

MR VERMEULEN: You are right Chair.

10 ADV LEBALA: Simplify normalised.

MR VERMEULEN: Normalised is the procedure used to equate the values so that they could be added together with the other indices. You couldn't take the basic value and add it to the IP Index and to the financial index, you had to convert it
15 into a Military Value Index so that it could be added, it would be compatible in that simple addition that you see there, they had to fulfill that process before you could add the three together.

ADV LEBALA: By the way this has got nothing to do with
20 the Integrated Project Team, it is done its spade work because it has given the basic results.

MR VERMEULEN: That's correct Chair.

ADV LEBALA: Let's look further what this moderation did, it dealt with the pricing of the formula?

25 MR VERMEULEN: Chair, I would like to state I was not part

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of that process that was carried out in that RFO evaluation report, it was done independently and I would be speculating if I have to say exactly how the evaluation report arrived at a result. I wasn't involved with that process.

5 ADV LEBALA: And it also addressed the result military value?

MR VERMEULEN: Yes it did, it made a recommendation as to which of the four bidders had achieved the best Military Value Index.

10 ADV LEBALA: Now remember we are looking at the stage before it goes to SOFCOM.

MR VERMEULEN: I remember, yes.

ADV LEBALA: You told us that ideally, please correct me, I try to simplify things for myself, I'm not that technical, ideally
15 there wouldn't have been three tiers.

MR VERMEULEN: Yes, normally you wouldn't have to consider the other indices and therefore it would negate the need to have to convert and normalise the results.

ADV LEBALA: Now we know that the basic results of the
20 Integrated Project Team, there was a moderating team that looked at these three aspects that we looked at, remember we are not yet at SOFCOM, but what does SOFCOM stand for?

MR VERMEULEN: I'm not sure Chair.

ADV LEBALA: It doesn't matter, don't worry, the
25 commissioners have heard about it, the Strategic Offers

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Committee, they've heard a lot about it, Strategic Offers Committee. Now at this stage we know of three players. You have played at the lower tier, third tier now we know that there's a middle party that moderates before SOFCOM comes
5 in, that has become clear.

MR VERMEULEN: In the case of Project Wills that is how it was applied, yes Chair.

ADV LEBALA: This middle party, is it tampering with the basic results that the Integrated Project Team has prepared?

10 MR VERMEULEN: Not to my knowledge Chair.

ADV LEBALA: What does it do to those results?

MR VERMEULEN: The SOFCOM at the middle tier merely consolidates the outcome of the results arrived at by the lower tier organisations.

15 ADV LEBALA: We are not yet at SOFCOM, we are at this moderating team. You mentioned, is it Mr Howell if I'm not mistaken, you've already mentioned the name of Mr Howell?

MR VERMEULEN: Yes Chair, it was in fact Admiral Howell who was Director Naval of Acquisition, he did the moderation in
20 that evaluation report, correct.

ADV LEBALA: You also mentioned another name?

MR VERMEULEN: The other person who wrote the report itself was the project officer, I think he was a commander then, it was Commander Reed.

25 ADV LEBALA: Commander who?

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MR VERMEULEN: Commander Reed. He could have been a captain at that stage, I'm not sure whether he was or not.

ADV LEBALA: Now there are two names that come in and from now on we'll start associating these two names with that, let me call it a team, between SOFCOM and the Integrated Project Team, that's a team of Mr Howell and we know that Mr Howell moderates, we know that Commander Reed is a project officer, now what does Mr Howell moderate?

MR VERMEULEN: Having seen the document for the first time recently Admiral Howell signed the document as a moderator. His actual role I wouldn't be able to tell you, I think he would be the only one who could possibly convey that information to the Commission.

ADV LEBALA: Now you keep on saying that as you have seen the document now lately, now that you are telling the Commission that you have seen the document tell us what he moderates that which was a basic result of the Integrated Project Team.

MR VERMEULEN: Okay, the basic result contained the scores, the four scores, and these were then normalised, the process in which the values, the percentages of the scores are divided by the price, the one who scores the highest in that ratio receives a point score of 100 and the others receive a percentage against that winning score. I know Mr Griesel described this in some detail during his statement.

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ADV LEBALA: Now that's what the moderator and Commander Reed did before they presented the basic results that the Integrated Project Team prepared before SOFCOM received it.

5 MR VERMEULEN: That is the role that they would have carried out, yes.

ADV LEBALA: The way I understand, now we are going to SOFCOM, what has become clear is that ... If I may ask, was the Integrated Project Team better qualified to give these basic
10 results?

MR VERMEULEN: Sorry Chair, better qualified in relation to what?

ADV LEBALA: The tier in which they belonged, the function which they discharged in that lower level and the
15 space in which they operated.

MR VERMEULEN: I wouldn't be able to comment on whether they were better qualified or not.

ADV LEBALA: But I thought that that's what you told the Commission that there the Integrated Project Team was looking
20 at the military value.

MR VERMEULEN: Yes, the Integrated Project Team worked within the confines of the military value and they produced a basic score, the technical performance within the constraints of the value system.

25 ADV LEBALA: And we also know that we are dealing with the

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RFO value system, when we have to make a decision we are no longer trying eliminate, we have to make a decision, am I right?

MR VERMEULEN: That's correct, they've got to motivate the preferred supplier in that report.

5 ADV LEBALA: Now that's where I'm asking you a question, this basic decision that the Integrated Project Team made, were they better qualified to make it before it even went to the moderator?

MR VERMEULEN: I don't know on what basis I'd make a
10 comparison to say that they would be better qualified Chair.

CHAIRPERSON: I'm sorry Advocate Lebala maybe let me just follow up on that question. Am I right to say the Integrated Project Team consists of specialist in their various fields?

15 MR VERMEULEN: Yes Chair, it does.

CHAIRPERSON: Consists of specialist in various fields unlike SOFCOM?

MR VERMEULEN: Yes Chair, it consists of specialists including the project officer, the programme manager and the
20 specialist assigned to the team.

CHAIRPERSON: Thank you.

ADV LEBALA: Now this, let's call it the moderator level, would be better qualified to moderate?

MR VERMEULEN: Perhaps to try and answer that question,
25 it's a difficult one to answer, you'd have to look at the

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background of the individuals involved and those two gentlemen that I mentioned were both very experienced submariners in their own right, both of them had commanded submarines in the past, so they certainly weren't strangers to submarines.

5 ADV LEBALA: At the middle tier where SOFCOM level is how many teams played a role?

MR VERMEULEN: Chair I'm not sure exactly what the SOFCOM team comprised of, I think that was dealt with by Mr Griesel in some detail, I'm not that familiar with the workings
10 of the SOFCOM team as I was only involved in the lower tier.

ADV LEBALA: We know the following, at the lower tier where the Integrated Project Team played a significant role where it was focusing on the military value underpinned on these three important components, the product of the
15 submarine, the RFO, Request for Offer responses, whether they need and satisfy the letter and test of the Staff Requirement and the integrated logistic systems, the spare parts, whether you know the submarine would still function. We know that your team, the technical team played a significant role but you
20 also told us that there were other teams playing there like the Finance Team and the Industrial Participation Team, am I right?

MR VERMEULEN: That's quite correct Chair.

ADV LEBALA: Let's push it higher. We know that there's
25 a moderating team that looked at the basic results prepared by

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the Integrated Project Team that I thought you would say it was better qualified to come with the results that it had, now we know that those results were taken to this important playing team of Mr Howell and Commander Reed. Now we are looking
5 at the stage where it is being pushed higher to the second tier, how many teams are in the second tier, do you have an idea?

MR VERMEULEN: No Chair, I do not know the composition of the SOFCOM team.

ADV LEBALA: I think my colleague understands where I'm
10 going. Do you know whether the moderating team, let me call it the moderating team of Mr Howell and Commander Reed, did they moderate the scores of the Industrial Participation Team? Remember, I beg your pardon, before I confuse you, we are at the lower level. What has become clear, and I think if this
15 thing lands then we'll speedily go up without a problem. We know at the lower level your team, the Industrial ..., the Integrated Project Team, was focusing on only the technical value, the military value, you had to know whether this submarine would satisfy certain requirements and I'm going to
20 take you to "RMV4" that deals with that aspect, but we also know that there was the Industrial Participation Team and there was also the Finance Team, I'm right isn't it?

MR VERMEULEN: Yes, you are right Chair.

ADV LEBALA: Now do you know whether the moderating
25 team moderated the results of the Industrial Participation

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Team?

MR VERMEULEN: Chair, the moderating team consisting of Captain Reed and Admiral Howell were involved only in the moderation of the technical performance of the submarine, not
5 in IP and not in financing.

ADV LEBALA: Now let's look at the middle tier, did the middle tier consider the technical aspect, the industrial participation aspect and the finance option aspect?

MR VERMEULEN: Yes Chair, the middle tier considered all
10 three so as to arrive at a best value which had components represented by those three indices.

ADV LEBALA: Now in that middle tier there's only one player, that's SOFCOM, am I right?

MR VERMEULEN: Yes, there's one organisation involved in
15 the middle tier and that's SOFCOM.

ADV LEBALA: Now where does it leave the moderating team?

MR VERMEULEN: At that stage Chair, the moderating team had done their work, they had made a recommendation
20 regarding the Military Value Index which had been accepted presumably by the SOFCOM, so their role had been completed at that stage.

ADV LEBALA: Are you aware of any formula that was being used by your team that could differ from the best value
25 formula that was used by SOFCOM?

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MR VERMEULEN: Chair, the IPT did apply the formula at their level, they merely arrived at the basic scores which I will show you in a slide once given the opportunity. They didn't attempt to try and apply normalised scores so as to attain a
5 Military Value Index, they merely adduced the scores as they were.

ADV LEBALA: Am I correct to say at the middle tier that we call the second level where SOFCOM plays a role the most important thing is the formula, am I right?

10 MR VERMEULEN: That's right, they apply the formula to the three indices.

ADV LEBALA: And this formula is informed by two things, let's go back, it's informed by the basic results that you have given and what the report of the moderating team, am I right?

15 MR VERMEULEN: Yes that's correct, the basic results of the technical performance would have been converted into a Military Value Index and that would have been furnished to SOFCOM.

ADV LEBALA: I know I could have asked you this
20 question because I have to clear and complete now this second tier, I want to go to the, I've got to go to the upper tier, are you able to tell us whether, and I know that you might have responded to this question, the moderating team, when they provided SOFCOM with the report did they interfere with the
25 scores that the industrial, the Integrated Project Team

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presented?

MR VERMEULEN: It would be conjecture for me to comment on that, I'm not sure exactly what they did with those results, I can only assume that they didn't interfere with them, that they
5 merely used those as a basic input to arriving at a Military Value Index.

ADV LEBALA: Now we know the following now, that before this three-tier system was introduced by MOD Policy 4/147, by the way it was introduced during or about
10 2 July 1997, am I right?

MR VERMEULEN: It sounds right Chair.

ADV LEBALA: It's a note that I've made during the testimony of Mr Dawie Griesel, I could be right. Well, if we're incorrect then let's talk about approximate, I think it was
15 around July 1997, do you vouch for me?

MR VERMEULEN: I don't have the information at hand unfortunately Chair.

ADV LEBALA: Before we even ask this question let's look at what you say in paragraph 3.15, page 6 paragraph 3.15, I
20 would like to repeat what you say in line number 3:

"The value system was approved on 12 May 1998 by Mr Shamin Shaik, Chief of Acquisition".

Now let's pause there. Where did Mr Shaik play a role between the tiers that we've talked about?

25 MR VERMEULEN: Chair, there are two different

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considerations here, the first was an approval of the value system and the second one where, which is shown in this slide is the actual consolidation of the outcome of the results of the value system, so going back in time Mr Shaik approved the actual value system which would subsequently be used to drive out a result.

ADV LEBALA: Now but that still begs my question, thanks for that clarity, where does it play a role in these tiers that we have talked about?

MR VERMEULEN: The outcome of the value system is directly related to the structure of the value system which was approved.

ADV LEBALA: But that still begs my question, let me be specific, does Mr Shaik play a role in the lower tier?

MR VERMEULEN: If that implies that the approval of the value system is a lower tier activity then yes, you can see it as that.

ADV LEBALA: Does Mr Shaik play a role in the moderating role played by Mr Reed and Admiral Howell?

MR VERMEULEN: Not to my knowledge Chair.

ADV LEBALA: Does Mr Shaik play a role at SOFCOM level?

MR VERMEULEN: Yes, Mr Shaik does play a role at SOFCOM level.

ADV LEBALA: Now can we go higher, who made up the

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upper level?

MR VERMEULEN: I'm not sure exactly who makes up the upper level, I presume that that consists of cabinet members.

5 ADV LEBALA: I see that it's mentioned, upper level it's mentioned as strategic considerations.

MR VERMEULEN: Yes, that is how Mr Griesel described it. It had nothing to do with the specific value systems, I presume, I can only make an assumption that strategic considerations applies to country-to-country commitments or discussions.

10 ADV LEBALA: Now with this clarity I'm, I think I'm content it has landed on the Commissioner, the role that the Integrated Project Team plays where they cut off, where the middle tier comes in, where the upper tier comes in, I think Mr Griesel has been very clear that at the upper level it's the
15 cabinet where the politicians, permit me, or executive authority decides and say for strategic considerations we'll link with this country to position South Africa, am I right?

MR VERMEULEN: I would assume so Chair.

20 ADV LEBALA: Now what has become clear also is that it appears that at different levels there are different players.

MR VERMEULEN: Yes, that is correct Chair.

ADV LEBALA: Now looking at paragraph 3.15, I'm going to ask you a rhetoric question that answers itself, you will appreciate it when we go to the next level of your testimony,
25 are you able to tell the role and the space in which Mr Shaik

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plays in as far as these three tiers are concerned?

MR VERMEULEN: Chair I'm not sure if I can add any more than what I've already commented on regarding to Mr Shaik's role. He's main role that he played here was at middle tier
5 level, the SOFCOM level where he consolidated the outcome of the lower tier results.

ADV LEBALA: Looking at 3.15 again, between these three levels are you able to tell where Rear Admiral Anthony Howell played a role?

10 MR VERMEULEN: Admiral Howell played a role in the establishment, the compilation of a value system and also moderating the scores, the evaluation report as well.

ADV LEBALA: What tier is it?

MR VERMEULEN: That's at the lower tier.

15 ADV LEBALA: But I thought that at the lower tier, please help me, unless you say he was part of the Integrated Project Team?

MR VERMEULEN: No, there isn't a distinction Chair if you look at the lower tier and you have the Integrated Project Team
20 and the results, the outcome of the value system was then passed on to Admiral Howell who moderated those scores to arrive at a Military Value Index.

ADV LEBALA: I see. So it means you are saying that the moderating team was Commander Reed and Admiral Howell, it's
25 at the lower tier?

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MR VERMEULEN: That is at the lower tier, correct.

ADV LEBALA: As you can imagine the reason why I'm asking this question, I thought that at the lower tier it is the technical side, that's your team that weighs the military value, there's another silo that looks at financial options and there is another silo that looks at industrial participation.

5

MR VERMEULEN: That was not necessarily the case with respect to Project Wills Chair.

ADV LEBALA: Now Vice Admiral Robert Simpson Anderson on the three tiers, where does he play a role?

10

MR VERMEULEN: The Chief of the Navy played a role in terms of approving the value system.

ADV LEBALA: Now before we go to the other part of your testimony having simplified this for us, because I was confused at one time, I thought that I would understand it better when we start, I thought that we start upper tomorrow and I realise that it's easier when you start lower-upper, am I right?

15

MR VERMEULEN: Yes Chair, I think the logical approach would be to start at lower level because the upper levels are basically idle until they get the results that are obtained at the lower levels.

20

ADV LEBALA: Now we are parting ways with what we see on your slides with this final question, it is a parting shot question. You testified that ideally there wouldn't have been three tiers, am I right?

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MR VERMEULEN: Chair, not necessarily ideally. I stated that there was a deviation to our normal processes in developing these three tiers. I merely pointed out that this digressed from our normal procedures.

5 ADV LEBALA: Okay. Please tell us what would have happened if there were no three tiers?

MR VERMEULEN: Chair, if there were no three tiers the IPT would evaluate the scores of the value system, the basic scores and the outcome of which would have been forwarded
10 with the recommendation to the board of directors of ARMSCOR in order to obtain authorisation to start a negotiation process with the preferred supplier.

ADV LEBALA: Are you able to answer this question because it sounds unfair, do you know why this three-tier
15 system was introduced with a view, here comes the question, bearing in mind that id... Practically, let me not say ideally, from what you are saying I've got to use words measurably and cautiously, practically your team, the Integrated Project Team after it has evaluated then it's assignment, those basic scores
20 have to go to the board of directors of ARMSCOR, that's what you are saying?

MR VERMEULEN: Yes, under normal circumstances that would have been the case, however, these tiers were created to deal with the other indices that came into play in the
25 adjudication process and that's what motivated the SOFCOM in

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generating the next tiers.

ADV LEBALA: Are you able to tell us why the board of the directors of ARMSCOR don't appear anywhere here, it's an unfair question I know, if you are able to comment, please
5 comment. It must not mean they don't play a role, but what we see as far as these three tiers, let's look at what we see, looking at this document Project Wills evaluation process we see nothing that tells us about the board of directors of ARMSCOR, would you like to explain why?

10 MR VERMEULEN: Yes Chair, you certainly don't see the board of directors featuring there per se, I couldn't tell you why the deviation took place.

ADV LEBALA: Irrespective of these three tiers being in place are you able to tell us whether someone at the board of
15 directors of ARMSCOR still played a role?

MR VERMEULEN: In terms of the SOFCOM process according to my understanding the board of directors didn't play a role. In that regard.

ADV LEBALA: Thank you. Let's look at paragraph 3 ...

20 CHAIRPERSON: Advocate Lebala (indistinct) before you go to paragraph 3.

ADV LEBALA: Thank you Chair, are we adjourning for the day or only for ...

CHAIRPERSON: I think we do adjourn now, we'll come back
25 tomorrow.

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ADV LEBALA:

Thank you Chair.

(COMMISSION ADJOURNS)