

29 OCTOBER 2013

PHASE 1

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

MR SMITH: I do.

CHAIRPERSON: Thank you.

5 ADV LEBALA: Thank you Chairperson, Commissioner Musi, we are ready to proceed. Mr Smith, let's refresh ourselves to assist the Commission to appreciate where we are going by looking at where we come from, let's summarise what you said yesterday with a view to bring a better picture as to
10 what you testified to yesterday. Let's start here, it had become clear that when we talk about the frigates we talk of a programme that consists of distinct parts, you started by telling us that you would look at the platform, the combat suite and the Maritime Helicopter, is that correct?

15 MR SMITH: That's correct Chair.

ADV LEBALA: And we know that in as far as the frigates are concerned the philosophy was to get a platform overseas but the combat suite was a localised affair, it means we would have to look at local industry to produce it, isn't it?

20 MR SMITH: That's correct Chair.

ADV LEBALA: At one time or the other you testified that when the SDPP's unfolded during 1996 and 1997 it became evident that the capability to integrate the complete vessel and more particularly with a model combat suite, now bearing in
25 mind that the combat suite was produced locally, it was noted

29 OCTOBER 2013

PHASE 1

at that stage that there was no sufficient capacity in the local industry and to that extent and as a result the contracting model was changed to a single main contractor responsible for the complete vessel, do you remember?

5 MR SMITH: I remember Chair.

ADV LEBALA: Now with that background then let's go to what you testified to, particularly with regard to the formula that left us confused where we were going up and down that I qualified as a very tedious part of your testimony. I would like
10 you to look at page 16 of the Declassified bundle, Chair, Commissioner Musi, page 16. Chair, Commissioner Musi, we are referring to the paragraph 8 graphic representation of the Military Evaluation Process. Now you will remember that when we adjourned we were almost done explaining how this graph
15 helped us to come to the figure of merit, that is the Military Value, do you remember?

MR SMITH: I remember Chair.

ADV LEBALA: Now we also agreed that the Military Value refers to the technical value which has got nothing to do with
20 financial options and industrial participation isn't it?

MR SMITH: That's correct Chair.

ADV LEBALA: And it became precise that in as far as the space in which you operated as a programme manager being part of the Integrated Project Team you were only interested on
25 the issues that pertain to the Military Value, that is the

29 OCTOBER 2013

PHASE 1

technical side of the frigates, am I right?

MR SMITH: That's correct Chair.

ADV LEBALA: Now I think at this stage it would be appropriate just to look at the team that formed part of that Integrated Project Team, please go to page 3, I know that I referred the commissioners to page 16, I would like them to recapitulate and go back to page 3 of the Declassified bundle, page 3 Commissioners of the Declassified bundle. Now look at paragraph 2 thereof dealing with the Evaluation Team and may I take the liberty to read it to you:

"The Corvette Military Evaluation Team consisted of the following expert Naval officers (indistinct) seconded from ARMSCOR to assist the South African Navy:

- a. *Captain Kamerman (Chairperson).*
- b. *Captain Visser.*
- c. *Commander K Watson".*

Let's pause there. Commander Watson, are you aware that are we talking to the same Naval officer who has become an admiral or he is a different person?

MR SMITH: It's the same person Chair.

ADV LEBALA: Thank you. Well, the significance of this question will emerge as the Commission progresses.

- d. *Commander Phil Mather.*
- e. *Lieutenant Commander Scheepers.*

29 OCTOBER 2013

PHASE 1

f. *Lieutenant Commander Edgin Fowler.*

g. *Mr B Smith.*

That's your name isn't it?

MR SMITH: That's correct Chair.

5 ADV LEBALA: And there's a reference there to "Costing Aspects", please explain to the Commission what it denotes.

MR SMITH: Chair, the document that we are looking at, at the moment is the Evaluation Report which is on page, part of, it starts on page 1, this is the Evaluation Team and in terms
10 of the Evaluation my primary responsibility at this stage, and just to remember that this is the Request for Information process that we are looking at, so at this stage my primary tasking was to extract the costing aspects from the information that was provided in response to the RFI.

15 ADV LEBALA: Please simplify it.

MR SMITH: Chair, the costing aspects are the full acquisition cost for the, in this case the ship platform.

ADV LEBALA: And:

h. *Mr F Nortjé.*

20 You did testify in your statement and before the Commission that at one time post-November 1998 you handed over to Mr Nortjé, is that correct?

MR SMITH: That's correct Chair.

ADV LEBALA: Well, let's refer to the qualification next to
25 him: "Combat Suite Integration Aspects". He's coming to

29 OCTOBER 2013

PHASE 1

testify but just to complete the picture for the Commission, what does this refer to, "Combat Suite Integration Aspects"?

MR SMITH: Chair, just to clarify maybe on two points; firstly one needs to note this the Evaluation Team, this is not
5 the Integrated Project Team, this is the Evaluation Team that was put together for evaluating RFI. In terms of Mr Frits Nortjé, and if I might just pause there for a moment, this evaluation had to do with the ship platform element, so Mr Frits Nortjé in participating in this Evaluation Team was looking at the combat
10 suite integration aspects but from a platform point of view at this point in terms of the evaluation.

ADV LEBALA: And then:

i. Mr Erasmus (Logistics Expert).

Now how many members of this Evaluation Team were members
15 of the Integrated Project Team?

MR SMITH: Chair, all the members are, all the names bar two, (b) Captain Visser was not part of the Integrated Project Team, as I said earlier this is a subset of the Project Team. Just to note as well that all of these are engineers bar,
20 except for Mr, or Captain Kamerman, the rest are all engineers just for your information.

ADV LEBALA: And now be specific in responding to the question, thanks for this detail, how many members of the Evaluation Team were members of the Integrated Project Team?

25 MR SMITH: There are nine here, eight of whom are

29 OCTOBER 2013

PHASE 1

part of the project team, were part of the Integrated Project Team.

ADV LEBALA: Now what has become clear before the Commission also is that when we look at the first step in the acquisition process to get the successful contractor or bidder or contestant the first stage is to send out the RFI's, is that correct?

MR SMITH: Chair, in terms of the SDPP process, that was the process that was put in place, is to first go out on RFI and then once you got to your shortlist you go out then subsequently on RFO to your shortlist, that was the process for the SDPP. Maybe I should just note, it doesn't, in the normal case if you have got a complete specification which is up to date it doesn't mean that you need to go out on RFI, this was the SDPP process, because the decision was made to go out on RFI and then RFO.

ADV LEBALA: Thanks for this detail, let's confine ourselves with what we have before the Commission and it was refreshing when the commissioners at one time reminded us that we could leave them confused. Now I would like us to carry them with us because we are going to the most critical part of your testimony where we have to punch in the scores. I'm certain that this Commission is interested in how come that the German Frigate Consortium ended being the successful bidder contestant, supplier for the GFC Meko A200, I missed

29 OCTOBER 2013

PHASE 1

other competitors. Now let's go back. We've confirmed that it starts with the RFI which has got a value system, you remember?

MR SMITH: Yes Chair.

5 ADV LEBALA: And we took you through the value system where you even read an important paragraph. I think for the sake of completeness, we've got to carry the commissioners with us. Please go to page 13 of the Declassified bundle, just to refresh the Commissioners page 12 is the Value System of
10 the RFI, page 13 shows how it was approved because it has to be approved, the responsible authority approves it and who compiled it, more significantly the Naval Commander Admiral Simpson Anderson who also approved it. Now the paragraph which is significant is the approval under the column where
15 Admiral Simpson Anderson signed which informs us that:

*"This document is authorised for issue as the Military Value System for the evaluation of international offers for the Patrol Corvette Vessel Element as solicited by the Minister of Defence on
20 the 23rd September 1997".*

Now we know that we took the Commission through the Request for Information, the letters written by the Minister to different countries, you remember?

MR SMITH: I do Chair.

25 ADV LEBALA: And then we got to the methodology that I

29 OCTOBER 2013

PHASE 1

think was quite tedious. Now page 16 of the Declassified bundle. Now let's look at what we discovered when we took you through page 16, we discovered the following; that, and in all fairness to you when Mr Vermeulen was testifying to the submarine acquisition process we never spent time on the RFI Value System of the submarine acquisition process. Now if I may ask at this stage, we know that you are a designer of submarines, we know that you are a Naval officer, we know your role as a programme manager, would you say that the submarine acquisition process goes through the same phase or programme in as far as the evaluation of the RFI's is concerned? Now bearing in mind that we could not get Mr Vermeulen to get to that as there was no detail and information in that regard, we did seek it from him, it was not available.

Now I assure you that in as far as the RFI Valuation processes, including the formulas of the submarines are concerned we did not go into them, hence my question, would you say what we went through in as far as the RFI Valuation System of the frigates are concerned is applicable in as far as the RFI Valuation System of the submarines is concerned?

MR SMITH: Chair, that's a bit of a difficult question to answer, not being intimately involved in the submarine programme. I think there is a difference which is quite evident that the Corvette Programme had this two-stage process of evaluation, a critical performance filter and then a relative

29 OCTOBER 2013

PHASE 1

performance filter during the RFI and in fact also during the RFO process and I am not, I don't feel in a position to say that it was the same process that was followed by the submarines, I would doubt it though because this process that the Corvette's followed is in itself evident here, is already quite a mature evaluation process because it's based on the five years of history of the project to date and the submarines did not have that advantage if you will, of having a long period leading up to this point, so I would not want to comment on what process the submarines followed in terms of their evaluation specifically with regards to the RFI as advocate has said it wasn't discussed here during Mr Vermeulen's evidence.

ADV LEBALA: Thank you for the detail. I do not want you to comment about the submarine RFI Valuation System, but what is significant, you are able to speak with authority that the two-pronged approach that we see in as far as the RFI Valuation of the Corvette's/frigates is concerned is different, you seem to be comparing it to something, am I right?

MR SMITH: Chair, I ... Maybe this will clarify it. The RFI, outcome of the RFI was essentially a shortlisted, a shortlist of companies that one would approach and you went through a process of determining that shortlist. Then the RFO is in fact when the formal and rigid evaluation took place in terms of evaluation, so yes, I'll leave it at that, I don't feel in a position to comment further on the submarine programme.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Okay, let's come back and thanks for this detail. Maybe I should ask you a precise question, let me be fair, are you able to tell the Commission as to whether, and with hindsight we could have short-changed the Commission.
5 We know that there were limitations in as far as the testimony of Mr Vermeulen is concerned with regard to the RFI Valuation System of the submarines, we've already known that we never delved deeper the way we are delving deeper in as far as your testimony is concerned, but are you able to tell the
10 Commission, yes or no, whether the same processes, the phase or the programme of the RFI Valuation in as far as the frigates are concerned is the same as in the case of the submarines, yes or no, or you do not know?

MR SMITH: I do not know.

15 ADV LEBALA: Let's soldier on. We spent a lot of time Commissioners, page 16 paragraph 8 headed "Graphic Representation of the Military Evaluation Process", that is the Declassified bundle of the witness. We spent a lot of time on this graph with a view to explain and simplify what is on page
20 15 paragraph 4(a), (b), paragraph 5, 6, 7, 8, you remember that isn't it?

MR SMITH: Yes Chair.

ADV LEBALA: Now what came out of reference to this paragraph and graph is that we noted some misnomers, some
25 queer things, permit me to say this, that the price refers to

29 OCTOBER 2013

PHASE 1

budget although it's non-binding but price plays a role at this stage, you remember?

MR SMITH: Yes, I remember Chair in as far as the aim of this value system was at this stage for the Navy to obtain a military value.

ADV LEBALA: And we also looked at the technical parameters, you gave an example by referring to characteristics, speed, turning cycle as to what technical parameters could be looked into as far as looking at the RFI Value System of the frigate is concerned, do you remember that?

MR SMITH: I remember Chair.

ADV LEBALA: Then we noted that after that has been done we gravitate to the critical performance filter, you remember that?

MR SMITH: I do Chair.

ADV LEBALA: And we spent some time on the critical performance filter and you tried to simplify for us by saying at this stage we look at the criteria of critical requirements, do you remember?

MR SMITH: Yes Chair.

ADV LEBALA: And you mentioned that when you look at the critical performance filter, looking at the criteria of critical requirements we focus on Part 1 of the analysis of going towards finding the military value, am I right?

29 OCTOBER 2013

PHASE 1

MR SMITH: That's correct Chair.

ADV LEBALA: You referred the Commission to page 1, to page 31 of the Declassified bundle, you remember?

MR SMITH: I do Chair.

5 ADV LEBALA: Now just to create a picture to the Commission so that it should appreciate what we are doing, let's look at page 18 of the Declassified bundle, page 18 to the left which is Appendix "A", the characteristics are sea-keeping, can you see?

10 MR SMITH: I can Chair.

ADV LEBALA: I hope the Commissioners are with us. Under that (indistinct) and "Stability", can you see it?

MR SMITH: I can Chair.

15 ADV LEBALA: I can't see that which has been covered by the Defence Intelligence stamp but let's go to page, next page 19 Deputy Chair and Commissioner Musi, "Speed", I can't see under "Speed", it's covered by the Declassified Intelligence stamp. We see "Vessel Integration", can you see?

MR SMITH: I can Chair.

20 ADV LEBALA: Page 20, "Design Maturity", I can't see whether is it "Standards", is it "Standards" covered in that stamp, but let's simplify it to get going and look at what we can see. Please go to page 21, "Growth Margins", can you see that?

25 MR SMITH: I can Chair.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Page 22, "Vulnerability".

MR SMITH: Yes Chair.

ADV LEBALA: Page 23 "Damage Control", page 24 "Underwater Signatures", page 25 "Above-Water Signatures".

5 Page 26 "Surface Warfare Combat Suite", page 27 "Surface (indistinct) Combat Suite". Page 28: "Commander, Control and Communication and Compartments". Page 28 "Helicopter Operating", there is also "Engineering", "Logistic Engineering", Supply, Support", page 30 "Propulsion Systems". Now it goes
10 on and on and the reason why I'm taking the Commission through this, I would like the Commission to appreciate something at this stage before we go to the scores.

When Mr Vermeulen testified when there was a critical analysis, now we are going to the RFO's now, the
15 reason why we are starting here, is it true that yesterday you testified that in as far as the RFI Value System of the Corvette/frigates is concerned it does not differ from the RFO Value System?

MR SMITH: Chair, when we do get to the RFO Value
20 System, if I recall correctly there were the, when we get to that detail it will indicate there were some minor typographical errors that were corrected in this value system which is the RFI Value System we're looking at, at the moment, which essentially was exactly the same that was applied during the
25 RFO.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Thanks for the detail, now let me understand. Do you agree with precision that the RFI Value System of the Corvette's is no different from the RFO Value System of the Corvette's? [sic].

5 MR SMITH: Essentially it's the same value system that was used.

ADV LEBALA: Thank you. Now let's refresh ourselves and I want to refresh the commissioners to appreciate this Part 1 because if they lose it they are not going to appreciate the
10 pricing and the scores and the cost why we chose the German Frigate Consortium against Bazán Spain, against Sweden, against Denmark and for them to appreciate I think let's clarify this. You remember during the testimony of Mr Vermeulen when he told us about the Military Value, the technical
15 valuation of the submarines in as far as the RFO's are concerned he said that his team had nothing to do with the finance options, had nothing to do with the industrial participation, the same as your team, you remember?

MR SMITH: I remember Chair.

20 ADV LEBALA: Which confirms what I kept, this confirms what I kept on referring to at the initial stage of your testimony that that team that we denoted, the Evaluation Team, members of which form part of the Integrated Project Team, in as far as they are part of the technical team their focus is just only on
25 the technical side, no finances, no industrial participation

29 OCTOBER 2013

PHASE 1

elements, that's correct?

MR SMITH: That's correct, Chair.

ADV LEBALA: Now Mr Vermeulen also told us the same thing now, fairly speaking I would have to do a comparison in
5 as far as the RFO Value System is concerned, reminding ourselves what Mr Vermeulen told us. Now the advantage that we have is that you have told us that the RFI Value System is not that distinctly different from the RFO Value System in as far as the frigates are concerned. Now what we are going to do
10 is we remind ourselves what Mr Vermeulen told us with his cap on as a member of the technical team that concentrated on the Military Value in as far as the RFO Value System is concerned. He told us that they looked at three elements, the RFO requirements that goes to the engineering, you remember?

15 MR SMITH: I remember Chair.

ADV LEBALA: He told us that they look at the Integrated Logistics Systems support that constitute almost 67.9% elements, you remember?

MR SMITH: I remember Chair.

20 ADV LEBALA: And he said they looked at the submarine product, do you remember?

MR SMITH: I remember Chair.

ADV LEBALA: Now what do you look at when you look at the frigates?

25 MR SMITH: The frigates you could, where they were

29 OCTOBER 2013

PHASE 1

looking at possibly three groups, the frigate under Part 2 was looking at, I think about 12 different groups, we've broken it down into 12 groups to assist the subdivision. 12 groups, so yes, that's the difference, so you will find there is a lot more
5 detail here in the Corvette Project in terms of valuation.

ADV LEBALA: Now let's go back to Mr Vermeulen's analogy. The examples that you gave to the Commission that I took you through from page 18 to page 30, will you say they look at the RFO requirements which go to the engineering side
10 or they look at the integrated logistic support requirements or do they look at the frigate product? Do you understand my question?

MR SMITH: I'm not sure I fully understand but apart what was referred to here as page 18 to 31 as titled as Part 1
15 is the critical performance filter, not the evaluation per se or the relative performance criteria which follows. This is the critical performance filter and these are the sort of, in a sense go, no-go type criteria.

ADV LEBALA: Mr Smith come back, come back, come
20 back, you are losing me and I'm not going to allow you to because I'm in trouble if I'm not going to give evidence before the Commission. Come back, please come back. Answer my questions. These examples, let's start on page 18, sea-keeping, trim and stability, speed, vessel integration, design
25 maturity, I gave examples, do they relate to integrated logistics

29 OCTOBER 2013

PHASE 1

requirements or do they relate to the frigate product or do they relate to the RFO Engineering and bear in mind what you conceded, you conceded that the RFI Value System is the same as the RFO Value System in as far as the frigates are concerned. Now I directed you to the RFO Value System of the submarines with a view to try and simplify because with the submarines, and I think it has become clear, I think it has landed before the Commission that in submarines you are talking about the different product from the frigates, it has become clear that with the frigates we talk of component parts, we talk of platform, we talk of the combat suite and you talk of the Maritime Helicopter, that has become clear.

Now I'm just trying to appreciate that analogy to assist the Commission to appreciate when we go to the scores. Now let's look at as to whether in Part 1 page 18 to 30, can you bring these examples, design maturity, speed, vessel integration closer to whether do they fall under engineering, integrated logistic requirements or the frigate product itself, yes or no? I know we are still going to deal with Part 2, at the moment we have started with Part 1 and there is a reason why we start with Part 1 because when you look at page 16 paragraph 8, the "Graphic Representation of the Military Evaluation Process" we are at the critical performance filter which focuses on Part 1, that's why we took the Commission from page 18 to page 32, answer my question.

29 OCTOBER 2013

PHASE 1

MR SMITH: Thank you Chair, if I can just, we're looking at the critical performance filter which starts on page 18 for the RFI and you will, the various headings there are covered. The examples that were mentioned to me that come
5 from the submarine programme were integrated logistic support which you will find addressed on page 29 in terms of the critical performance, shorter for the Corvette's, those three elements there which is referred to as on the left hand side as the Ram Engineering, Logistic Engineering, Supply, Support are
10 all categories of ILS, they are all part of ILS.

Further, if you go on further in the document under "Critical Performance Filter" you will find for instance on page 31 we're still talking now about critical performance filter of course, you will see the "Timescale Aspect". Now that typically
15 deals with aspects of management as referred to probably in the submarine programme as the RFO-type aspects.

The rest of these characteristics all deal with what is probably being referred to under the submarine programme as product-type characteristics, in other words sea-keeping has
20 to do with the ship, trim and stability *et cetera*, maybe not so much on page 20 has to do, there is an element mentioned there, "Characteristic: Design Maturity", that's a sort of a more engineering, you will see "Standards and Quality" has to do with engineering and so forth, but one must be cautious about
25 trying to equate what is done under the Corvette programme

29 OCTOBER 2013

PHASE 1

with the submarine programme, these are two different projects that have got a different history, so it's not a direct correlation in terms of the terminology used and the value systems. Thank you, Chair.

5 ADV LEBALA: Well that aspect, I think it has landed on the commissioners, that's why the commissioners appreciated our struggle from the beginning where we had to try and show them that they should not confuse the submarines and the frigates, I think that aspect has landed, but what has become
10 clear is the following; page 20 relates to the engineering aspects according to your testimony, page 29 relates to the ILS, Integrated Logistic Support element, page 31 relates to the RFO-type, that is the engineering aspect, is that correct?

MR SMITH: That's correct by way of example Chair, for
15 the critical performance criteria, performance filter.

ADV LEBALA: And we also know that all these elements had weight attached to them, weight, that is parameters attached to them, am I right?

MR SMITH: That's correct Chair.

20 ADV LEBALA: Now remember, let's go back to page 16 Commissioners, page 16 paragraph 8, the "Graphic Presentation of the Military Evaluation Process which assists us to arrive at this military value, this technical value, the Figure of Merit where your team focused on, that excludes
25 finance options and the industrial participation is two-pronged,

29 OCTOBER 2013

PHASE 1

it starts with the critical performance filter, we've demonstrated to the Commission that the critical performance feature and element fuses the engineering, fuses the Integrated Logistics Systems and fuses request for offers or engineering aspects together, that's why you see it on page 31, page 20 and page 29, is that correct?

MR SMITH: That's correct Chair. Can I just correct what I said earlier for a moment there Chair, the question, I think the comment or the question was made about the critical performance filter elements being weighted, but you will see that the critical performance elements are not weighted, they, it's basically a requirement that has to be met. The weighting only appears in Part 2 which is the valuation part of it, so I just wanted to make that clear that there is no weighting on the critical performance filter, that's a go, no-go type of situation, and in response to the question yes, it's correct as stated.

ADV LEBALA: Thank you. I think for the sake of completeness, and this is very important, thanks for correcting me. I'm not saying they are weighted, are there weights associated with them? I'm not saying they are weighted, are there parameters associated with the critical performance elements that we see from page 18 to page 31, are there weights and parameters associated with them?

MR SMITH: No Chair.

ADV LEBALA: Thank you. Now let's go to the second

29 OCTOBER 2013

PHASE 1

prong but before we go to the second prong explain to the Commission if you look at the critical performance filter there's an "(indistinct)", what does that mean?

MR SMITH: Chair, basically it means that if a response
5 is put through that critical performance filter and it should fail the criteria stated there or not meet that criteria then it fails, it does not progress further to evaluation.

ADV LEBALA: Thank you. Then we go to the second prong, the "Relative Performance Evaluation". Is it correct to
10 say here we deal with weighting and scaling?

MR SMITH: That's correct Chair.

ADV LEBALA: In actual fact in all fairness to you, and I stand corrected again, yesterday it's on record, you mentioned that with the critical performance filter is a criteria for critical
15 requirements, it has got nothing to do with the weighting and the parameters.

MR SMITH: That's correct Chair.

ADV LEBALA: Now we know that with the second prong the relative performance evaluation, we look at the weighting
20 and the scaling and here there is an evaluation with the total score, am I right?

MR SMITH: That's correct Chair.

ADV LEBALA: That's why we talk about the 12 groups, isn't it?

25 MR SMITH: That's correct Chair.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: And that's where you took the Commission yesterday from page 32 to page 42 isn't it?

MR SMITH: That's correct Chair.

ADV LEBALA: Now let's simplify it for the Commission,
5 the Commission now understands, I'm confident, the critical performance filter, that I just has to, it's a criteria to do with critical requirements, they've seen examples and there you are not bothered about weights and parameters. Now we are going to where we bother about weight and parameters. Let's look at
10 examples, let's look at group 1 on page 33. It's "Un-replenished Operating Deployment Period", just under that "Speed" also comes, "Maneuverab...", oh my goodness, maneu..., it has to do with manoeuvre, please spell it for the record, I'm struggling to spell it.

15 MR SMITH: It's pronounced maneuverability, I won't spell it Chair, it's a long word. Do you want me to spell it, M-A...

ADV LEBALA: No, no, what I meant is pronounce it, I beg your pardon for the record.

20 MR SMITH: It's pronounced maneuverability.

ADV LEBALA: Now we can see that if you look at this page, it's characteristic description, weight criteria, method and/or scale of assessment, is that correct?

MR SMITH: That's correct Chair.

25 ADV LEBALA: That's where we give the weights and the

29 OCTOBER 2013

PHASE 1

parameters isn't it?

MR SMITH: That's correct Chair.

ADV LEBALA: Now what characteristics are we talking to
when we talk of "Un-replenished Operating Deployment, Speed,
5 Maneuverability", are we talking about the engineering, are we
talking about the frigate product or are we talking about the
integrated logistic system?

MR SMITH: We're talking about at (indistinct), the
examples mentioned here in front of you Chair, that's to do
10 with the product.

ADV LEBALA: I'm not going to take you through the 12
groups, let's just look at group 2 on page 34, "Design Maturity"
comes again, we saw it on the first ... Let me complete the
sentence for the record, we saw it on the critical performance
15 filter, you remember?

MR SMITH: I do Chair.

ADV LEBALA: We see it again and under that I can see it
has to do with design integration capability, standards, quality,
layout and growth, growth what, assistance?

20 MR SMITH: Growth potential Chair.

ADV LEBALA: I see Commissioner Musi reads it
differently.

JUDGE MUSI: Isn't it "margins"?

MR SMITH: Sorry Chair I stand corrected, the heading
25 is "Growth Potential", the block below reads apparently "Growth

29 OCTOBER 2013

PHASE 1

Margins”.

ADV LEBALA: Now what are we referring to, are we referring to integrated logistic support systems, is it the frigate product, is it the engineering?

5 MR SMITH: Well, I don't want to make a clear-cut distinction whether it's one or the other but this covers both the product as well as the engineering, these examples on this page Chair.

ADV LEBALA: Now let's pause here. What has become
10 clear in as far as the frigates are concerned they are not separated, we've seen that in as far as the critical performance filter is concerned, you would have a page where you could deal with engineering elements, next page you could deal with the product and the next page you could deal with the
15 Integrated Logistics Systems, here we see that on the same page you could deal with Integrated Logistics Systems, you could deal with the engineering aspects, you could also deal with the product, am I right?

MR SMITH: Chair, if you will just bear with me a
20 moment I suspect that it's the same headings that have been used under both the critical performance filter as well as the evaluation in Part 2 and that appears to be exactly the same headings. It's exactly the same headings, the same would apply for both.

25 ADV LEBALA: Well, thank you, thanks for that

29 OCTOBER 2013

PHASE 1

observation and it's quite exciting that it comes from you, it's very important, you will understand why its relevancy comes in. Now what does "Weight" mean, before look at page 32 or 33, there is a column "Weight", characteristic description "Weight".

5 What does "Weight" mean?

MR SMITH: Chair, I'm looking under these characteristics, these weights for instance on page 33 that you are looking at, at the moment, on page 33 which is sea-keeping, the weight is under that characteristics the relative
10 weight of each of these items, if we can take for instance "Un-replenished Operating Deployment Period" has a weight of 1 within this group, and you will see "Speed" has been broken down further into sub-elements or sub-parameters, "Maximum Speed", "Maximum Speed on Calm Water", "Diesel Engines" and
15 "Maximum Sustained Speed in the Sea-way" and those have been given individual weights, so all these weights are the relative weight of each of these items within the group "Sea-Keeping" and "Mobility" and if you look at page 32 that overall group has been assigned a weight of 18.

20 ADV LEBALA: Thanks for the clarity, and this completes the picture, for instance if you go back to page 31 dealing with the critical performance filters you don't have a weight there, you are only dealing with criteria and critical requirements, am I right?

25 MR SMITH: That's correct Chair.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Now that completes the picture. Now we know that with the critical performance filter, you look at the criteria and the critical requirements and with the relative performance evaluation you look at the weight, the scale and the parameters, is that correct?
5

MR SMITH: That's correct Chair.

ADV LEBALA: Let's go back to page 16. We know that the weight is out of 18, why do we see below the relative performance evaluation score out of 10?

10 MR SMITH: I'm not sure Chair, I think it's possibly a mistake on that figure.

ADV LEBALA: Now let's look at what we know, it's a two-pronged approach, we look at the criteria and the critical elements, we also look at the weight and scale and parameters and then we gravitate towards the outcome that we are looking for, the military value, am I right?
15

MR SMITH: That's correct Chair.

ADV LEBALA: Now we have satisfied ourselves, we've repeated it time and again that with the military value we are not bothered about finance options, we are not bothered about industrial participation, we are bothered about the technical value of the frigates isn't it?
20

MR SMITH: That's correct Chair.

ADV LEBALA: Now let's conclude before we go to the scores and the weights. It has become clear, we haven't gone
25

29 OCTOBER 2013

PHASE 1

to the RFO Value System but it has become clear that the RFI Military Value System is as equally involved as the RFO Value System in as far as the frigates are concerned.

MR SMITH: That's correct Chair.

5 ADV LEBALA: This is so and we've seen it because in as far as the frigates are concerned we don't only eliminate, remember Mr Vermeulen told us with the submarines we eliminate, he never told us about the second leg where we want to achieve the relative figure of merit, that is the military
10 value. Do you remember?

MR SMITH: I remember Chair.

ADV LEBALA: So, two things have come out when we look at the RFI Value System, before we even go to the RFO we eliminate and achieve a relative figure of merit for the military
15 value as depicted on page 16 by the graph, is that right?

MR SMITH: That's right Chair.

ADV LEBALA: And we concluded yesterday by reading paragraphs 5, 6 and 7 to clarify these aspects. Now let's go to the scores now, I'm happy that the commissioners should be
20 appreciating why we had to take them through what we went through. Go to page 43 of the bundle, Declassified bundle page 43. At this stage we know that the Request for Information went to eight countries, am I right?

MR SMITH: If I recall from yesterday yes Chair, it's
25 correct.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Now on page 43 read it for the record, start with Appendix "B".

MR SMITH: Appendix "B", the title is "The Critical Performance Filter Result".

5 ADV LEBALA: This is the result of the depiction on page 16, "The Graphic Representation of the Military Evaluation Process", we know that the RFI is two-pronged, it started a critical performance filter. Before we go to the relative performance evaluation that has become clear, am I right?

10 MR SMITH: That's correct.

ADV LEBALA: Now at this stage we concentrate on the results of the first prong, the critical performance filter where we look at the criteria and the critical requirements. Now turn to page 44, page 44.

15 MR SMITH: I've got 44. I have 44 Chair.

ADV LEBALA: Here are the results now, the journey that we started where we twisted and turned starts leading us to where we wanted to arrive at so that the Commission should appreciate who got what, who qualified, who was disqualified, who ought not have gone past the first stage of the graphic analogy. Now please read for the record the heading of this page.

20 MR SMITH: The heading of this page Chair has the "SA Navy Patrol Corvette Military Value System Part 1: Critical Performance Filter Overall Compliance Matrix".

25

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Now I'm going to simplify it for you just so that we should get going. There are six shipyards, am I right?

MR SMITH: No Chair, there are five shipyards.

ADV LEBALA: Actually you are correct because just for
5 the sake of completeness the German Frigate Consortium apparently is presenting two designs isn't it?

MR SMITH: That's correct Chair.

ADV LEBALA: So, we are talking of five shipyards but the heading, just to complete it for the Commission and for the
10 record because someone might be reading the record, read what follows after "Characteristics" in relation to the names of the shipyards and the country, start with the first one.

MR SMITH: France, DCN Lafayette.

ADV LEBALA: Now that's a shipbuilder from France, am I
15 right?

MR SMITH: The shipbuilder is DCNI of France.

ADV LEBALA: Next?

MR SMITH: Germany, GFC Meko 200.

ADV LEBALA: Next.

MR SMITH: Germany, GFC Meko A200.
20

ADV LEBALA: For the sake of completeness just clarify to the Commission what is happening, why is Germany coming twice?

MR SMITH: The reason why Germany is coming twice
25 is because two different designs were put through this process,

29 OCTOBER 2013

PHASE 1

the 200, Meko 200 as well as the Meko A200.

ADV LEBALA: Next.

MR SMITH: Italy, Fincantieri, Falco.

ADV LEBALA: Next.

5 MR SMITH: Spain, Bazán, 590 Bravo.

ADV LEBALA: And complete it.

MR SMITH: UK, GEC Marine F3000.

ADV LEBALA: Now for the sake of completeness and the
record Italy, the Fincantieri Falco, is it a shipbuilder from
10 Italy?

MR SMITH: The shipbuilder is actually Fincantieri, the
particular design is the Falcon.

ADV LEBALA: And I suppose Bazán is a shipbuilder from
Spain?

15 MR SMITH: Bazán is a shipbuilder from Spain, that's
correct.

ADV LEBALA: And explain the GEC Marine for the record.

MR SMITH: The GEC Marine is the company,
shipbuilder, in fact the shipbuilder is Yarrow, but it's part of
20 the GEC Marine Group.

ADV LEBALA: Now just to complete the record how many
shipbuilders and designs are we looking at before us? We
know that you qualify them as five but we need to look at them
holistically, all of them, am I right?

25 MR SMITH: That is correct Chair, there are six

29 OCTOBER 2013

PHASE 1

different designs that, on this table that have been looked at.

ADV LEBALA: So we'll be looking at six designs isn't it?

MR SMITH: That's correct Chair.

5 ADV LEBALA: Now to refresh ourselves we are focusing
on the frigate product, am I right?

MR SMITH: That's right Chair, we are focusing on the
platform of the frigates.

10 ADV LEBALA: Now you will see just to expedite, page 16
I think simplifies it for us Commissioners, please go back to
page 16, you will appreciate what is happening on page 44.
Commissioners, you will remember that the witness told us the
following and please complete it Mr Smith, you remember that
you explained why after "Critical Performance Filter" there's a
stroke ".../Fail".

15 MR SMITH: I do Chair.

ADV LEBALA: Now you will see that this on page 44 here
are passes and fails, am I right?

MR SMITH: That's correct Chair.

20 ADV LEBALA: What do you think the passes and fails on
page 44 tells us in relation to what you told us about the fail
on page 16?

25 MR SMITH: The summary on page 44 of the RFI, a
Critical Performance Filter", the compliance matrix indicates
for different characteristics. You will most, a lot of passes and
there are also fails for the various designs.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Now let's quickly simplify it. For instance France have got three fails, am I right? You could look at them quickly.

MR SMITH: That's correct Chair.

5 ADV LEBALA: The German GFC Meko 200, that is one of the designs of Germany, has got two fails, isn't it?

MR SMITH: That's correct Chair.

ADV LEBALA: The German designed Meko A200 has got two fails, am I right?

10 MR SMITH: That's right Chair.

ADV LEBALA: The Italy Fincantieri has got 15 fails, you could confirm that?

MR SMITH: That would appear to be correct Chair.

ADV LEBALA: And Spain, Bazán has got two fails.

15 MR SMITH: That's correct Chair.

ADV LEBALA: And UK GEC Marine has got four fails.

MR SMITH: That's correct Chair.

ADV LEBALA: Let's conclude, under the heading of the Critical Performance Filter Overall Compliance Matrix there's a tie between Spain – Bazán, Germany GFC Meko A200 and Germany GFC Meko 200.

MR SMITH: Chair, I would like to, if we can just define tie, do you mean the number of fails?

25 ADV LEBALA: I'm looking at the number of fails against the number of passes.

29 OCTOBER 2013

PHASE 1

MR SMITH: Purely based on arithmetic number of fails there's ..., that would appear so Chair.

ADV LEBALA: And look at the bottom, you will see at the bottom, let's start with France, it's accepted at the bottom, it has got three fails, am I right?

5 MR SMITH: It's correct Chair.

ADV LEBALA: Commissioners, we are still on page 44, you will see Germany GFC Meko 200 is accepted, it has got two fails, isn't it?

10 MR SMITH: It appears so Chair.

ADV LEBALA: And there is the German GFC Meko A200, it has got two fails, it is accepted?

MR SMITH: That is correct Chair.

ADV LEBALA: Italy, Fincantieri has got 15 fails, it's rejected.

15 MR SMITH: That's correct Chair.

ADV LEBALA: And the Spain – Bazán has got two fails, it's accepted?

MR SMITH: That's correct Chair.

20 ADV LEBALA: And the UK Marine has got four fails, it's accepted?

MR SMITH: That is correct Chair.

ADV LEBALA: Now what does this mean in relation to Fincantieri of Italy going back to the graphic design on page 16? To refresh you, you told us that it says "Critical

25

29 OCTOBER 2013

PHASE 1

Performance Filter/Fail” and we see that Italy has got 15 fails and it’s rejected. If you look at page 16 the “Critical Performance Filter/Fail”, can you see?

MR SMITH: I do Chair. Sorry, I do.

5 ADV LEBALA: Now I would like you for the record to reconcile what that graphic design says by going to page 44 in relation to Fincantieri with 15 fails and rejected, what does that mean?

10 MR SMITH: Chair, we will have to look at the evaluation report to see what that means.

ADV LEBALA: Now let’s conclude there, thanks, we’ll go to the evaluation report. What we have, please let me know whether you agree with me, we know that there are weights that could be attached, or actually we are not dealing with weights
15 here, we are dealing with criteria and circumstances, we are dealing with criteria. I beg your pardon, “Criteria and Critical Requirements”, I think we know that isn’t it?

MR SMITH: That’s correct Chair.

20 ADV LEBALA: But in as far as this is concerned we know that there is a tie in the number of fails, there could be, remember we are not scaling, we are not weighing, we are not comparing parameters isn’t it?

MR SMITH: That’s correct Chair.

25 ADV LEBALA: So, the fails of Germany GFC Meko and the fails of Germany GFC Meko A200 and the fails of Spain –

29 OCTOBER 2013

PHASE 1

Bazán are similar, am I right? There are two each.

MR SMITH: Arithmetically just on the number of fails that's correct, but you can't equate, the characteristics are different characteristics, I just want to point that out that in terms of arithmetic number of fails that's correct.

ADV LEBALA: I agree, I think those technicalities, we will probably get them when we go to the evaluation report. What comes out clearly for the sake of the Commission, it doesn't matter whether it's important or less important is the following; Germany GFC Meko has got two fails, Germany GFC Meko A200 has got two fails, Bazán Spain has got two fails, there is a tie in as far as their failures are concerned, am I right, not discounting the fact that there could be different characteristics I agree, I agree that there could be different characteristics, but I also agree in line what you say, in line with what you say and what you said, you said at this stage you are looking at the criteria and the critical requirements, remember?

MR SMITH: That's correct Chair.

ADV LEBALA: Now if I were to say the following, tell you whether you agree or not because I've got to simplify and there's a reason why we do this. At this stage Germany, Germany, Spain are tied and then follows, permit me to say this, and then follow France and UK and Italy is number last, isn't it?

29 OCTOBER 2013

PHASE 1

MR SMITH: Chair, we will have to refer to the report but in terms of just arithmetic fails that's correct.

ADV LEBALA: Before I even go back to complete this picture I just want to tell the Commission whether you agree
5 with this analogy and it's going to start to carry weight when you go to the evaluation report. Do you agree if I were to say the following, bearing in mind that at this stage I agree we are not dealing with weights, we are not dealing with scales, we are not dealing with parameters, we are only dealing with
10 criteria and critical requirements but when you look at the criteria and the critical requirements it appears that there is a tie amongst three shipbuilders because they get two fails, and then there is one with 15 fails and there's one with four fails and there's one with three fails, do you agree?

15 MR SMITH: You could interpret it that way yes Chair, that's correct.

ADV LEBALA: Now let's look at the interpretation, mathematically do you agree that then it means that Germany GFC Meko 200, Germany GFC Meko A200, Spain – Bazán are
20 number one because they are tied, do you agree mathematically, forgetting the requirements, that I agree, I think it has landed that we are not even at that stage, do you agree, yes or no?

MR SMITH: Based on the number of just the arithmetic
25 adding of fails in little blocks there, yes Chair.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Then follows France with three fails, is that correct?

MR SMITH: It would appear so Chair.

ADV LEBALA: Then follows UK GEC Marine with four
5 fails, isn't it?

MR SMITH: It would appear so Chair.

ADV LEBALA: Then follows Italy, Fincantieri with 15 fails and it's written "Rejected".

MR SMITH: That is correct Chair.

10 ADV LEBALA: Now remember I wanted you to comment about the paragraph why rejected in as far as Italy is concerned and could you or you couldn't? Remember on page 44 I asked you to comment on "Rejected Fincantieri Italy", could you or you couldn't? You could look at page 44 at the
15 bottom under "Italy" it says: "Rejected. All are accepted", and remember I asked you to comment as to what does that "Rejected" depict.

MR SMITH: Yes Chair, and I mentioned best go to the report, just noting once again of course what we're quoting
20 from here is a document which was compiled by the DoD, so we'll have to go and look at their report to see how they summarised the rejection in words for the Italian response.

ADV LEBALA: Before we even go there I would like you to go to page 15 of the self-same bundle Commissioners, page
25 15, we could find an answer in paragraph (a) dealing with the

29 OCTOBER 2013

PHASE 1

first prong, remember it's two-pronged, "Critical Performance Filter" first prong, "Relative Military Performance Evaluation" second prong. Now let's read what they say on page 15 on the first prong paragraph 4(a) Part 1, "Critical Performance Filter",
5 may I read it for the record?

"This is a list of the critical minimum performance criteria specified in the ship platform requirements in specification to which the offer was compiled in order to be eligible for further evaluation".

10 Now this criteria is very important, am I right?

MR SMITH: That's correct Chair.

ADV LEBALA: It does not matter whether it's at the RFI stage or at the RFO stage, it plays a significant role isn't it?

MR SMITH: It does Chair.

15 ADV LEBALA: And we have demonstrated if you look at page 16 that it assists us in getting to compute the military value, isn't it?

MR SMITH: That's correct Chair.

ADV LEBALA: Now we have to qualify what reject means
20 because this is very important, we have to know what two wrongs mean, two failures mean against 15 failures, against four failures, against three failures, hence we are reading this part. Now let's read further:

*"This part of the value system is used as a filter for
25 further evaluation. Any proposal failing to comply*

29 OCTOBER 2013

PHASE 1

5 *with each of the critical performance requirements
will be deemed to be military unacceptable to the
South African Navy and shall be discarded from
further evaluation unless at the discretion of the
chairman of the Naval Evaluation Team there are
good grounds in favour of the SA Navy to continue
to Part 2”.*

MR SMITH: That’s correct.

10 ADV LEBALA: Now having read this what does “reject”
means on page 44?

MR SMITH: “Reject” means that as already stated
there:

*“Any proposal failing to be military unacceptable to
the Navy will be discarded ...”.*

15 And that’s rejected:

*“... from further evaluation if at the discretion of the
chairman of the Naval Evaluation Teams there are
not good grounds in favour of the Navy to continue
to Part 2”.*

20 There are probably elsewhere in the report, and we’re not
dealing with the report here but in the report it will give more
explanation of that.

ADV LEBALA: Now what does that mean, it means
Fincantieri is military unacceptable isn’t it?

25 MR SMITH: I guess that that word “rejected” means

29 OCTOBER 2013

PHASE 1

exactly that, that it was considered to be military unacceptable to the Navy.

ADV LEBALA: What we know is at this stage Italy Fincantieri is unacceptable in as far as the RFI Value System is concerned
5 before we even progress to the second prong, am I right?

MR SMITH: That's correct Chair.

ADV LEBALA: Chair, I think this is teatime; we'll go to the second prong after tea.

CHAIRPERSON: We'll adjourn for about 20 to 30 minutes,
10 thank you.

(Commission adjourns)

(Commission resumes)

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

15 MR SMITH: I do.

CHAIRPERSON: Thank you.

ADV LEBALA: Thank you Chair, Commissioner Musi. Let's complete paragraph 4(a) on page 15 before we go back to the scores. At this stage would you agree with me that
20 paragraph 15, I mean paragraph 4(a) on page 15, what you have read up to so far tells us that we are evaluating although no relative scores are being achieved.

MR SMITH: That's correct Chair.

ADV LEBALA: And we have noted that it appears that
25 Fincantieri is military unacceptable?

29 OCTOBER 2013

PHASE 1

MR SMITH: It would appear so Chairperson.

ADV LEBALA: And we know that it could only pass this stage to the second prong that we've seen on page 16 deals with Relative Performance Evaluation if and only the chairperson of the Naval Evaluation Team finds that there are good grounds in favour to allow it to go to Part 2.

MR SMITH: That is correct Chair.

ADV LEBALA: Now let's complete what we read, we will go from the sentence starting with "Sufficient ...":

10 *"Sufficient supporting data as prescribed in the ship platform requirement specification shall be provided by the proposer to enable the validation of the critical performances. Should insufficient data be provided to enable a value judgment on any of the critical criteria that criterion shall be judged to have not been met. The Critical Performance Filter is shown at Appendix 'A'. As the evaluation is absolute in nature no relative score is achieved in Part 1".*

20 I think that has become clear.

MR SMITH: Yes Chair, and when we get to the report you will in fact find there were one or two designs that didn't even get to the filter but that would be covered by the report.

ADV LEBALA: And now we are done with the critical criteria requirements, we are done with Part 1, remember Part

29 OCTOBER 2013

PHASE 1

1 focuses on criteria and critical requirements, we took the
Commission from page 18 to 31 to show what elements go in
there, we are going to Part 2, dealing with the relative
performance. Remember we also took the Commission from
5 page 32 to 42, demonstrating to the Commission that when we
deal with the second part, the second prong "Relative
Performance", we are looking at the weight, the criteria and the
scale assessment, am I right?

MR SMITH: That's correct Chair.

10 ADV LEBALA: There scores play a role, isn't it?

MR SMITH: That's correct Chair.

ADV LEBALA: Now please go to page 45, page 45 of the
Declassified bundle Chair, Commissioner Musi, please read it
for the record.

15 MR SMITH: Appendix "C", "Corvette Military Evaluation
Performance Score Summary".

ADV LEBALA: Now we know that at this stage we are
looking at the Relative Performance Evaluation isn't it?

MR SMITH: That's correct Chair.

20 ADV LEBALA: Now look at page 46. Now there are
scores isn't it?

MR SMITH: That's correct Chair.

ADV LEBALA: We have gone past the criteria and critical
requirements and we know that we have denoted that on page
25 44 it appears that Fincantieri of Italy was rejected as at that

29 OCTOBER 2013

PHASE 1

stage, you remember?

MR SMITH: I remember Chair.

ADV LEBALA: Now let's look at what the scores tell us here, bearing in mind that here we are looking at weight
5 criteria and scale of assessment, we are in Part B where we are looking at the Relative Performance Evaluation. Now when I look at the scores, let's start to the left, please read for the record: "Evaluated Characteristics", "Item - Weight". Read the first shipbuilder.

10 MR SMITH: DCN Lafayette.

ADV LEBALA: Second shipbuilder?

MR SMITH: GFC Meko 200.

ADV LEBALA: Third builder?

MR SMITH: GFC Meko A200.

15 ADV LEBALA: Fourth and fifth?

MR SMITH: Bazán P590/B, GEC Marine F3000.

ADV LEBALA: Now what is significant is that Italy Fincantieri is not here isn't it?

MR SMITH: That's correct Chair.

20 ADV LEBALA: Which informs us that what we said as conclusions on page 44 seeks to be correct, am I right?

MR SMITH: That appears correct Chair.

ADV LEBALA: Now we could look at the scores without
wasting time here, the scores are at the top and we could go
25 and analyse them in terms of groups noting that there are 12

29 OCTOBER 2013

PHASE 1

groups in line with the second part. We know, we took the Commission through that where we've demonstrated that the second part dealing with the Relative Performance Evaluation has got 12 groups as depicted by pages 32 to 42, you
5 remember?

MR SMITH: Correct Chair.

ADV LEBALA: Now let's not waste time, let's go to the scores. It appears that the score of DCN Lafayette is 570.1, am I right?

10 MR SMITH: That is correct Chair.

ADV LEBALA: As depicted by the column "Total Score" to the left isn't it?

MR SMITH: That's correct Chair.

15 ADV LEBALA: The score of GFC Meko 200 is 820.4, am I right?

MR SMITH: Correct Chair.

ADV LEBALA: And the score of GFC Meko A200 is 843.0 isn't it?

MR SMITH: That's correct Chair.

20 ADV LEBALA: Bazán 749.8?

MR SMITH: Correct Chair.

ADV LEBALA: And GEC Marine is 628.1?

MR SMITH: Correct Chair.

JUDGE MUSI: Marine.

25 ADV LEBALA: I beg your pardon, marine, yes Chair. GEC

29 OCTOBER 2013

PHASE 1

Marine, thanks Commissioner Musi. Now let's categorise the scores. From my calculation and computation GFC Meko A200 is number one, do you agree?

5 MR SMITH: In as far as what's depicted here that's correct Chair.

ADV LEBALA: And GFC Meko 200 is number two, isn't it?

MR SMITH: That's correct Chair.

ADV LEBALA: Bazán Spain is number three.

MR SMITH: Correct Chair.

10 ADV LEBALA: And GEC Marine is number four.

MR SMITH: Correct Chair.

ADV LEBALA: And DCN Lafayette is number last.

MR SMITH: That's correct Chair.

15 ADV LEBALA: Now we could go through the groups, the weights and the scores, what is significant is the scores, let's not waste time, what has become clear is at this stage GFC Meko A200 in as far as the ship platform in the acquisition of the frigate process is concerned is number one, do you agree?

MR SMITH: At the RFI stage yes, I agree Chair.

20 ADV LEBALA: I beg your pardon, let's complete it at the RFI stage, thank you Mr Smith, at the RFI stage. Now who compiled, let's go back to page 44, are you at page 44?

MR SMITH: I am there Chair.

25 ADV LEBALA: Were you part of the team that compiled this matrix on page 44?

29 OCTOBER 2013

PHASE 1

MR SMITH: I can't recall, in all probability I didn't compile this, this was compiled by the author of this document.

ADV LEBALA: No I'm not saying did you, I say were you part of a team that compiled this matrix?

5 MR SMITH: Chair, as we saw earlier I was part of the Evaluation Team.

ADV LEBALA: So, it is the Evaluation Team that compiled this matrix?

10 MR SMITH: The Evaluation Team compiled or participated in the evaluation on the raw data, that's correct Chair.

ADV LEBALA: So you did participate in this matrix, isn't it?

15 MR SMITH: In the raw data which probably resulted in this matrix I did participate.

ADV LEBALA: Now go to page 46. Were you part of the team that compiled this summary?

MR SMITH: I was Chair.

20 ADV LEBALA: To complete it you did participate in the compilation of these figures, am I right?

MR SMITH: In the raw data Chair, in the raw data that eventually resulted in these figures on this table I participated.

25 ADV LEBALA: Now let's go to the self-same bundle page 1. Now by way of background is very important to remind the Commission that we have dealt with the RFI Value System of

29 OCTOBER 2013

PHASE 1

the ship platform ...

CHAIRPERSON: I'm sorry Advocate Lebala, it's page 1 of which bundle?

ADV LEBALA: Declassified bundle.

5 CHAIRPERSON: Declassified bundle.

ADV LEBALA: Commissioner Musi, Declassified bundle.

What we have up to so far is that we have dealt with the RFI Value System in as far as the platform of the frigate is concerned and we have seen the matrix and the scores, now we
10 are going to deal with the Evaluation Report that is being depicted on page 1, can you see?

MR SMITH: I can see that Chair, yes.

ADV LEBALA: Now what it means is that some of the matrix that we saw on page 44 and the score summary that we
15 see on page 46 was provided towards the compilation of the report that we see on page 1, am I right?

MR SMITH: Right Chair. Just maybe a slight explanation here, it would appear that pages 1 through to 123, pages 1 through to 123 formed one document, that was the
20 complete report. So, all those, the valuation was included as appendix, as an appendix to the report, that's the document we've been going through in detail, the results as we just recently looked at and further appendices from page 1 to 123 is one document.

25 ADV LEBALA: Thanks Mr Smith, I think that simplifies it.

29 OCTOBER 2013

PHASE 1

All that you are saying to the Commission is from page 1 to 123 we are dealing with nothing else but the RFI Value System and the RFI Evaluation Report, am I right?

MR SMITH: That is correct Chair.

5 ADV LEBALA: And the scores thereto isn't it?

MR SMITH: That's correct Chair.

ADV LEBALA: Now we are going to look at the scores thereto which are informed by pages 44, I beg your pardon, and 46, in actual fact before we even go to page 1 we still have to
10 look at page 47 and I beg your pardon Commissioner Musi, Deputy Chair, I beg your ... Commissioner Musi and Chair, I don't know why I mention deputy chair, my thoughts are running, please let's look at page 47 to complete the picture. Now page 47, please read it for the record.

15 MR SMITH: Page 47: "Corvette Military Evaluation : Summary of Performance Scores per Functional Group".

ADV LEBALA: Now if one were to simplify this what are we looking at, use your own words.

MR SMITH: Chair, if you look at page 46 which gives
20 quite a bit of detail it would appear that 47 is a summary of that, of page 46 just in a much reduced form.

ADV LEBALA: You are actually correct, suffice to say you we are not going to deal fully with page 47, what we have seen on page 46 is clearly depicted in summary form on page 47, am
25 I right?

29 OCTOBER 2013

PHASE 1

MR SMITH: It appears so Chair.

ADV LEBALA: Confirming that in as far as the Corvette Military Evaluation in as far as the performance costs are concerned under the second leg dealing with performance,
5 Germany GFC Meko A200 was number one, Germany GFC Meko 200 was number two, Spain – Bazán number three, UK GSC Marine was number four and France DCN Lafayette number last.

MR SMITH: That is correct Chair.

ADV LEBALA: Now let's go to the Evaluation Report page
10 1 to page 11 and we'll start on page 1. We are still busy with the RFI Evaluations, am I right?

MR SMITH: That's correct Chair.

ADV LEBALA: Looking at the platform.

MR SMITH: That is correct Chair.

15 ADV LEBALA: Now please read the title for the record.

MR SMITH: The title on page 1 is "The International Equipment Offer Evaluation : Corvette Military Evaluation Report".

ADV LEBALA: Read the date below.

20 MR SMITH: The date is the 14th of November 1997.

ADV LEBALA: Now are you aware that as at the 14th November 1997 an important role player and an entity called SOFCOM, do you know what SOFCOM is?

MR SMITH: Yes Chair, I know what SOFCOM is.

25 ADV LEBALA: What does it stand for?

29 OCTOBER 2013

PHASE 1

MR SMITH: I'm not sure Chair.

ADV LEBALA: It's the Strategic Offers Committee. I'm refreshed, Strategic Offers Committee for the record, do you agree?

5 MR SMITH: Chair, I'm also refreshed. Thank you very much.

ADV LEBALA: Now we are advised that there has been testimony that it was established on the 2nd of July 1997, does it refresh you?

10 MR SMITH: It doesn't refresh me but I accept that Chair.

ADV LEBALA: Now it's on record, I'm happy that you accept it, let's just accept that it was established on the 2nd July 1997 and just to complete the record Mr David Griesel testified to that, Captain Jordaan testified to that and even Mr Rob Vermeulen, does it refresh you?

MR SMITH: It does refresh me Chair.

ADV LEBALA: Now were you present when Mr David Griesel was testifying?

20 MR SMITH: I was present Chair.

ADV LEBALA: Were you present when Captain Jordaan was testifying?

MR SMITH: No Chair.

ADV LEBALA: Of course you were present when Mr Vermeulen was testifying?

25

29 OCTOBER 2013

PHASE 1

MR SMITH: I was Chair.

ADV LEBALA: Now the relevance of the 2nd July 1997 in relation to the date of the evaluation report on page 1, in actual fact I think one should take the Commission with, the date of the 14th November 1997 on page 1, what does it depict in relation to this Evaluation Report?

MR SMITH: As where the dates given here was the 14th of November 1997?

ADV LEBALA: Yes, what does it depict, what does it tell us?

MR SMITH: Chair, if the question is did it happen after the refreshed date of the establishment of the SOFCOM then it appears that it did take place after the establishment of the SOFCOM.

ADV LEBALA: Yes, thanks for that detail but that's not my question. I just want to confine myself to the Evaluation Report on page 1. What does this date, and you see what creates a problem is that there is a Defence Intelligence Declassified stamp that's hiding some information that could be telling us what the date of the 14th November 1997 depict, are you able to assist us?

MR SMITH: No I'm afraid not Chair, but maybe, and once again I've been asked to talk about the SOFCOM but I note on page 10 if I can draw your attention to that, in terms of the distribution it appears that this report was sent to the

29 OCTOBER 2013

PHASE 1

chairman of the MOD Management Committee which was, I don't know what it is but anyway, there it is.

ADV LEBALA: Would you agree with me if I were to say that the date of the 14th November 1997 on page 1 could inform us about the date on which the report was issued?

MR SMITH: I think the date the report was issued, although that's the date of the document, the issue status of the document it would rather go with the date of the final approval signature or signature given.

10 ADV LEBALA: It's on page ...

MR SMITH: Which is on page ...

ADV LEBALA: ... 9.

MR SMITH: Page 9 Chair.

15 ADV LEBALA: Commissioners' attention is drawn to page 9 of the self-same bundle. We note that the document was signed by the chairperson Admiral Kamerman or rather Captain Kamerman as at that stage and moderated by Admiral Hall and it was approved around the 19th November 1997.

MR SMITH: That's correct Chair.

20 ADV LEBALA: Now we could collate these dates of the 14th November and on page 1 on the 9th November 1997 but the document then was issued around November, is that correct?

MR SMITH: That's correct Chair.

25 ADV LEBALA: Now as at that stage I'm happy that you pre-empted my question when you say that you accept that by

29 OCTOBER 2013

PHASE 1

the 14th November 1997 SOFCOM was already in place?

MR SMITH: Yes, if SOFCOM was established in July then SOFCOM would have already been in place.

ADV LEBALA: Let me refresh you, Mr David Griesel testified about ARMSCOR's formula in looking at military value, you remember that part of his testimony?

MR SMITH: If there is reference made to military value in equal to the raw score divided by the acquisition cost then correct, that's what ... I agree.

ADV LEBALA: You are right, to be precise he testified to the following, he said we take the total score of (indistinct), the raw score and you divide it by the total price of (indistinct), you remember?

MR SMITH: That's correct Chair.

ADV LEBALA: And according to Mr David Griesel that is how the Military Value Formula was applied, you remember?

MR SMITH: I remember Chair.

ADV LEBALA: But we know that after SOFCOM was introduced, that is after the 2nd July 1997 the best value came into the picture, remember? The best value which was the Military Performance Index, do you remember?

MR SMITH: I remember the Military Performance Index.

ADV LEBALA: Which was also called the BIS Value, does it refresh you?

MR SMITH: It refreshes me and it was also referred to

29 OCTOBER 2013

PHASE 1

as a Figure of Merit as well if I recall correctly.

ADV LEBALA: And just to refresh ourselves it was indexed as follows; you take the factor X RFO response and you add the factor X Submarine Product and add the factor X Integrated Logistics Systems and divide it by Cost, do you remember?

MR SMITH: That was Chair, that was applicable to the submarine, it is that formula or that breakdown, the formula stands, it's just the total value, total performance value, raw score divided by cost.

ADV LEBALA: Yes, remember we are confining ourselves whether it applied to submarines because up to so far you are one of the first following up on the testimony of Mr Vermeulen to talk about the frigates, we know that as at that stage there was no testimony about the frigates, nor was there testimony about the submarines, it was at the stage where Mr David Griesel was talking about the process. All that I want to know is do you agree with that formulation of the formula?

MR SMITH: I agree with the formulation Chair.

ADV LEBALA: Now was that formula applicable as at 14th November 1997 whilst your team was evaluating and looking at the RFI's?

MR SMITH: Chair, as far as I can recall yes, it would be applicable and I can maybe just draw your attention to the words used on page 16 under paragraph 7 "Figure of Merit"

29 OCTOBER 2013

PHASE 1

where it's ... Chair if I may read that, page 16, paragraph 17
"Figure of Merit" where it states, in terms of this report
compiled by the DoD it says:

5

*"The cost of the offer were reduced to a common
Rand baseline. The total score achieved in Part 2
will be multiplied by the inverse of this cost to
achieve an offer cost for performance Military
Figure of Merit".*

10

ADV LEBALA: Well, you are confirming all that we wanted
to establish is that given the fact that SOFCOM was
established earlier during 2nd July 1997 and when this report,
Evaluation Report was being compiled by your team, SOFCOM
was already in place, its formula was in place, I think you have
confirmed that that SOFCOM formula was considered, am I
right?

15

MR SMITH: That's correct Chair.

20

ADV LEBALA: Now let's proceed. Let's look at page 2 of
the self-same Declassified bundle. Remember we are now
looking at the report, the Evaluation Report, we are done with
the Value System, we know that there are, we've got the matrix
and the scores that we've confirmed that informed this
Evaluation Report. Let's read "Introduction" paragraph 1(a),
please read it.

25

MR SMITH: Paragraph 1(a):

"The aim of the Patrol Corvette Military Evaluation

29 OCTOBER 2013

PHASE 1

was to enable the evaluation of international offers for the Patrol Corvette Vessel Element as solicited by the Minister of Defence on the 23rd of September 1997 in order to:

- 5 (a) *Eliminate those offers that were military unacceptable to the SA Navy and;*
- (b) *Achieve a relative Figure of Merit (“FOM”) for the military value for each of the acceptable offers as the military input into the overall value*
- 10 *system that includes industrial participation and financing values for presentation to the political level”.*

ADV LEBALA: Now the, we have gone past this testimony, I think it has landed and it is very precise and clear

15 before the Commission what the aim was, it was two-pronged to eliminate and to achieve the Figure of Merit but something that we dealt with yesterday that made us to raise eyebrows was whether as at that stage could one say financial options and the industrial participation play a role and you said no, you

20 remember?

MR SMITH: I remember Chair.

ADV LEBALA: But in all fairness to you if one reads (b), and let’s read it again:

 “*(b) Achieve a relative Figure of Merit (“FOM”) for*

25 *the Military Value ...”.*

29 OCTOBER 2013

PHASE 1

We know that it's where you played a role because the technical evaluation aspect of the platform:

5 *"... for each of the acceptable offers as the military input into the overall value system. That includes industrial participation and financing values for presentation to the political level".*

Now does that mean industrial participation and financing values play a role when they go to the political level?

MR SMITH: Chair, I find this particular paragraph a bit
10 confusing as compiled by the DoD because the industrial participation and financing values were not part of the RFI process, they only appeared during the RFO and what could be misinterpreted possibly here is that they had a role to play during this phase, so I don't know why this particular paragraph
15 is worded in this way.

ADV LEBALA: Now would you say this paragraph is out of line, lack of a better word it's misplaced in other words?

MR SMITH: I think it is misplaced Chair, it is not
20 applicable to the RFI.

ADV LEBALA: When did you become aware of this?

JUDGE MUSI: Can I interrupt you there? But if I read
the sentence it says:

25 *"Achieve a relative figure of merit for the military value for each of the acceptable offers as the military input into the overall value system that*

29 OCTOBER 2013

PHASE 1

includes industrial participation and financing values for presentation to the political level”.

There’s an input into the ultimate package, doesn’t it mean that?

5 MR SMITH: Thank you Commissioner Musi. Yes, I agree with the way that you’ve placed that emphasis, however, the input was not required at this point, that input would only be seen to occur during RFO but you are correct in the way that you placed the emphasis on the military value, the other
10 words are just background (indistinct) the context of what was stated there.

JUDGE MUSI: It appears to me it would be used at a later stage.

MR SMITH: I concur Commissioner.

15 ADV LEBALA: But in actual fact Commissioner Musi’s throwing a lifeline to all of us but more specifically to you because I tried to draw your attention to the last part of the sentence: “... for presentation to the political level”, can you see it?

20 MR SMITH: I can see it Chair.

ADV LEBALA: Do you remember Mr David Giesel testified about the three-tier system? Are you refreshed when I talk about the testimony of Mr David Giesel talking about the three-tier system?

25 MR SMITH: I am refreshed Chair.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Do you remember Mr Rob Vermeulen also testified to it?

MR SMITH: I do Chair.

ADV LEBALA: We spent a lot of time with Mr Rob
5 Vermeulen trying to appreciate what it says and at, we
concluded by saying it informs us that at the third higher level
that's where the political level is, do you remember?

MR SMITH: I remember Chair.

ADV LEBALA: For instance the testimony of Mr
10 Vermeulen informed us about the following; and I think this is
applicable to you too, that at a technical level where you look
at the military value is the first tier, you remember?

MR SMITH: I remember Chair.

ADV LEBALA: And then the scores, the basic scores that
15 you compile you gave them to a moderating team, that's a
higher level, does it refresh you?

MR SMITH: It refreshes me Chair, we've just got to be
cautious here, that was the process during RFO, I am not sure
that this is the process that was followed during the RFI, the
20 RFI had a different intention.

ADV LEBALA: Thanks for this detail, it has become clear.
Actually I'm trying to assist you, you will appreciate where I'm
going so that we should clarify the political level, hence
Commissioner Musi says it appears that this refers to a later
25 stage.

29 OCTOBER 2013

PHASE 1

MR SMITH: Yes, I agree.

ADV LEBALA: And then we know that it gets pushed after the Evaluation Report has been prepared by the moderating team, looks at it and he pushes it to SOFCOM level at the
5 second tier, you remember?

MR SMITH: I remember Chair.

ADV LEBALA: And from SOFCOM it goes to the higher tier where for instance it involves cardinal process above R180 million as the SDPP was, you remember?

10 MR SMITH: Yes, the higher tier was the political tier but it wasn't qualified by the value, all these projects were cardinal projects Chair.

ADV LEBALA: Thank you. Of significance is it informed us that if it was less than R180 million during the SDPP's, we
15 know that earlier on was R100 million, was less than R100 million, but if it was above R180 million during the SDPP's ... I beg your pardon, above R80 million it pushes up, that's where it's going to land at the Cabinet Ministers Committee and it ends up at Cabinet, does it refresh you?

20 MR SMITH: It refreshes me Chair, but I don't want to create confusion here but we had a cardinal project which is typically the helicopters which was not part of the SDPP process and didn't go to the political level, it would have eventually in a sense but it's the scope of the SDPP that we're
25 talking about cardinal projects per se that were also taking,

29 OCTOBER 2013

PHASE 1

carrying on taking place over this period too.

ADV LEBALA: Thanks for this detail. All that we are trying to show you is we want to explain where the political level comes in, do you appreciate it?

5 MR SMITH: I appreciate it Chair.

ADV LEBALA: The political level is the level past the technical committee where your team operates, where Mr Vermeulen's team's operate, it's past the Moderation Team where Captain Kamerman and Admiral or Captain, Commander
10 Howell play a role, it goes past the SOFCOM and the second tier and it goes up into that third tier, that's where the political level is, does it refresh you?

MR SMITH: It refreshes me Chair.

ADV LEBALA: Now in line with what Commissioner Musi
15 says are you appreciating that this refers to a later stage now when it says: "... for presentation to the political level".

MR SMITH: I agree Chair.

ADV LEBALA: Let's go back, this is very important. We have conceded that this is misplaced, now when did you realise
20 it?

MR SMITH: Chair when I was, these documents were added to my bundle and when I started reading them I noticed that particular paragraph and the wording of that paragraph and yes, and I saw that it was probably misplaced in this, at this
25 stage in this document.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: In your knowledge are you the only one who realised that it's misplaced?

MR SMITH: I don't know Chair.

ADV LEBALA: No one has at that stage I suppose brought
5 that to say this is misplaced, am I right? As at that time during
1997, around November 1997.

MR SMITH: I have no knowledge of anybody in 1997
having made a correction or seen this or made a comment
regarding this paragraph.

10 ADV LEBALA: To be specific Commander Kamerman
never drew members of the Evaluation Team and members of
the Integrated Project Team's attention to the anomaly or the
misplacement of this paragraph?

MR SMITH: No, this report was compiled by the DoD
15 and I did receive a copy as you will see from the distribution
but I wasn't, I didn't participate in the actual compilation of
this report.

ADV LEBALA: Yes, that's noted. I think we will come to
that. My question is that I'm mentioning specifically if you go
20 to page 9 of the bundle. You will note that I'm mentioning
Kamerman, you remember? I asked as to whether the
chairperson, the chairman Commander Kamerman, you see that
it's Captain Kamerman, did draw attention to anyone during
that time about the misplacement or anomaly of this paragraph?

25 MR SMITH: I am not aware of any attention being

29 OCTOBER 2013

PHASE 1

drawn to this paragraph Chair.

ADV LEBALA: So let's complete it, not by Captain Kamerman, nor by Commander Howell in other words?

5 MR SMITH: I am not aware of anybody drawing attention to this paragraph.

ADV LEBALA: Now let's complete it, to be specific even Mr Frits Nortjé did not draw anyone's attention to it, am I right?

10 MR SMITH: I would ask you to direct that question to Mr Frits Nortjé.

ADV LEBALA: I will certainly when his turn comes but please respond to the question. It's very important for these things to come into the record and you are going to appreciate them later and the commissioners need this information. It might sound like a lightweight but I can tell you it carries so much weight and you are going to appreciate when you make closing arguments why we ask you these questions. Someday I'm going to come back and tell this these commissioners that: "You remember what Mr Smith said on this aspect? Consider it in this matter in this context and its content when you prepare your report". You see, they are not sitting there in the abstract and I'm not asking these questions in the abstract, let's go back, let's go back. Mr Frits Nortjé, did he draw your attention or anyone's attention during November 1997 about this anomaly, the misplaced paragraph that you are referring to?

15
20
25

29 OCTOBER 2013

PHASE 1

MR SMITH: I'm not aware of anybody referring to this paragraph, I just want to go back to what Commissioner Musi said, this paragraph could quite easily be interpreted as some future event that is going to take place. As was already stated
5 the SOFCOM apparently was already formed by this date, so the author of this document would have been aware of the process involved with the SOFCOM and in all probability just completed this paragraph to indicate a future event.

ADV LEBALA: I think I should agree with you and to
10 complete the picture in all fairness one should not ask questions unfairly. Would you agree that at the level at which the Evaluation Team operated I think it has become common cause that they have nothing to do with financial options isn't it?

JUDGE MUSI: You know Advocate Lebala, I don't know what is the (indistinct) of this is, I really don't quite follow what is the (indistinct). The sentence simply saying you are going to arrive at this military value which together with the other elements like your industrial participation and your
20 financing values will be put into the pot at a later stage, that is all it means, so what I don't understand, why is it being said that it is misplaced and I don't understand the debate around it.

ADV LEBALA: I think the concerns of Commissioner Musi
25 confirms what I wanted to take you through but let's not waste

29 OCTOBER 2013

PHASE 1

time. It has become clear that your team, the technical team that was looking at the RFI Evaluation of the platform focused only on the technical aspect, am I right?

5 MR SMITH: Correct, and we extracted the cost, acquisition cost.

ADV LEBALA: True, and it has become clear that you did nothing or considered nothing in as far as industrial participation is concerned.

10 MR SMITH: That's correct, it wasn't part of the evaluation at this stage.

ADV LEBALA: The fact that you extrapolated cost does not mean that you look at the financial values isn't it?

MR SMITH: That's correct, but the financing was not looked at.

15 ADV LEBALA: I think that confirms what you are saying. Now let's go to paragraph 2, "Pre-Submittal Meetings":

20 *"Only five shipyards of the 10 countries competing for the Corvette requested pre-submittal meetings with the South African Navy to clarify aspects of the technical baseline provided to them with the Minister's offer solicitation, reference A ...".*

Those are the five shipyards, DCN France, GFC Germany, Fincantieri Italy, Bazán Spain and GEC Marine UK.

25 *"Each was afforded exactly the same opportunity, two days of discussion with the project team at*

29 OCTOBER 2013

PHASE 1

5 *Naval Headquarters being accorded to each shipyard during successive periods in September and October. All these (indistinct) that the process was accountable and transparent and it gave these competitors an opportunity”.*

Am I right?

MR SMITH: That’s correct Chair.

10 ADV LEBALA: Now “Execution”, we can’t read what’s on “Execution”, nothing turns around it but let’s go to page 3, the next page, at the top:

 “Mr P Smith was occasional observer of the evaluation proceedings representing the Defence Secretariat”.

Who is Mr P Smith?

15 MR SMITH: Chair, it’s someone with the same surname. If I recall it was Piet Smith who was part of the Defence Secretariat and it appears according to this report that he was an occasional observer of the evaluation proceedings, I don’t know the extent of his involvement.

20 ADV LEBALA: Thank you. The Evaluation Team, I think we’ve gone past that, let’s not waste time, all that we know what comes out is that Captain Kamerman, Commander Watson, and that’s the reason why we mentioned him because he might come to testify, Mr B Smith, yourself, Mr Frits Nortjé who is
25 coming to testify, they were part of the Evaluation Team, that

29 OCTOBER 2013

PHASE 1

has become clear.

MR SMITH: That's correct Chair.

ADV LEBALA: Now we remind ourselves that this Evaluation Team was engaged in evaluating the ship platform
5 element of the frigate, am I right?

MR SMITH: That's correct Chair.

ADV LEBALA: Now we don't have to repeat what is being
said on the graphic representation, I think the commissioners
have heard a lot about it, it's the same, it informs us that this
10 was part of the process, even the Evaluation Team in its report
considered it. Let's go to page 4 "Methodology". Please read
it, paragraph 4 page 4.

MR SMITH: Paragraph 4, "Methodology":

*"The evaluation was undertaken in closed sessions
15 and under strict security to avoid any interference
or leaks. Evaluation of each characteristic of the
value system was completed for all options in
alphabetical sequence before proceeding to the next
characteristic in order to avoid the halo/reverse
20 halo effect".*

ADV LEBALA: Now I suppose this informs us that
fairness, transparency, accountability is very important, you
don't want external influences or unfair results, am I right?

MR SMITH: That's correct.

25 CHAIRPERSON: I'm sorry Advocate Lebala, just for my own

29 OCTOBER 2013

PHASE 1

understanding what does this "halo" refer to, halo, refer me?

MR SMITH: Chair, if during the Part 2 Evaluation as we showed earlier when you are dealing with the different characteristics, instead of staying, evaluating just one design throughout you rather don't do it vertically, you do it horizontally, in other words evaluate each of the characteristics for each of the designs as opposed to evaluating the one design from beginning to end because you start to, you get influenced by the results that have happened earlier and so forth and then you also forget the contents or the discussion that took place around the evaluation of that particular characteristic.

ADV LEBALA: Thank you Chair. Any incremental question Chair? Now at this stage let's refresh ourselves, we know that we have the RFI and we have the RFI Value System, we have the RFO and the RFO Value System, we are going to the RFO Value System, we are not going to take time because it is a duplication, we'll just go the scores. Please advise the Commission as to that the RFI Value System, does it gets sealed?

MR SMITH: Does it get sealed? It doesn't get, if references made here to what happens during the RFO process the, it's not, it's not a similar situation. If you can recall as previously testified by Mr Vermeulen and Mr Griesel as well probably, during our RFO prior to opening up the offers the

29 OCTOBER 2013

PHASE 1

value system has to be tabled and sealed with the ARMSCOR Procurement Secretariat so that in effect it can't be tampered with post-opening up of the offers. In the case of the RFI a similar approach was not followed or necessary but you would
5 note that the value system once it's approved it basically became sealed in terms of the Navy's procedures.

ADV LEBALA: I think just explain something remarkable arising from what you say, we've noted that the RFI Value System is similar to the RFO Value System, that has become
10 common cause, am I right?

MR SMITH: Yes, I said essentially it's the same thing, the variations or differences are pointed out later when we get to the actual RFO Value System.

ADV LEBALA: And we've seen how involved the process
15 is from the RFI Value System to the score matrix, to the scores that we have demonstrated, we referred to the Evaluation Team to prepare a report, am I right?

MR SMITH: Correct Chair.

ADV LEBALA: Something amazes me then, please explain
20 to the Commission why is it not sealed and short of saying, may I complete, short of saying it gets sealed on the RFO which goes through the same process, I mean look at what we went through and there's a reason why we went through that tedious process where we twisted and turned, it was very
25 difficult for us to bring that testimony before the Commission,

29 OCTOBER 2013

PHASE 1

look at where we come from. Why does it not get sealed, I mean it's the same process with differences there and there.

MR SMITH: Chair, I don't recall whether the RFI Value System was sealed or not and nowhere in the documentation
5 does it make reference to whether it was sealed or not and when I say sealed I'm talking from an ARMSCOR perspective, from the ARMSCOR perspective I don't, I can't recall that the value system was sealed with Procurement Secretariat of ARMSCOR. The Navy is in control of this process at this
10 stage, this is their document, this is this report. I just want to highlight again that the outcome of the RFI and was the first, the 1(a) aim that we read on page (a), on page 1 was to eliminate offers which were unacceptable to the Navy essentially to achieve a shortlist which could be used during
15 the RFO process and the outcome of this was just that, it was basically to get a shortlist of companies who could participate during the RFO process and I don't want to belabour the point that once again that most of the information that was provided in terms of the responses was once again, I mentioned, was
20 just a market survey, non-binding information as well.

ADV LEBALA: Now would you agree with me that if the RFI Value System was not sealed it could be tampered with?

MR SMITH: I don't know Chair.

ADV LEBALA: But let's look at why the RFO Value
25 System gets sealed, let's remind ourselves, we know that it

29 OCTOBER 2013

PHASE 1

gets tabled, it gets sealed, it gets sent to the ARMSCOR Procurement Secretariat so that it should not be tampered with, is that correct?

MR SMITH: During the RFO process, correct.

5 ADV LEBALA: Now we are looking at the substance value system, I know that it has become clear that we had the RFO Value System and we have the RFI Value System, that has become clear, I think you repeated it time and again, I'm certain that it has become a mantra to the commissioners now,
10 I'm sure they no longer want to hear about it. Let's continue.

"The purpose of this value system is to achieve one goal, fairness, accountability, ...".

No favours I suppose.

"... non- interference and to avoid leaks".

15 Isn't it?

MR SMITH: That is correct Chair.

ADV LEBALA: Do you agree that if the RFI Value System is not sealed it could be tampered with?

MR SMITH: If it's not sealed it could be tampered
20 with?

ADV LEBALA: Yes.

MR SMITH: Well I suppose I have to say it if it wasn't sealed, if it was just a document which was not under control then it could be tampered with but I on all the evidence before
25 us here this is a controlled document, so I must assume that it

29 OCTOBER 2013

PHASE 1

wasn't tampered with.

ADV LEBALA: So it means it was sealed?

MR SMITH: If you want to equate "sealed" with it was
a controlled document signed off and under the control or
5 configuration control of the Navy, then it was under the
configuration control of the Navy and if that equates to sealed
yes, then it was sealed.

ADV LEBALA: I think we've got bigger things to deal
with, this is petty but let me close by saying the following; are
10 you able to tell us whether the RFI Value System of the frigates
in as far as the platform is concerned was sealed or not?
That's my last question, "Yes, I can", "Yes, I cannot"?

MR SMITH: I can only say Chair that based on what's
before me here is that this document was under configuration
15 control, it was approved a particular date and there is nothing
to say that it was tampered with and if that equates to sealed
then I would say it was sealed.

ADV LEBALA: Thank you. Let's go on, on page 4,
"Proposals Received". Please read paragraph 5, the first
20 sentence.

MR SMITH: Paragraph 5 on page 4:

*"Proposals were received as follows via the
ARMSCOR Secretariat on the
3rd of November 1997".*

25 ADV LEBALA: Now let's pause there. The ARMSCOR

29 OCTOBER 2013

PHASE 1

Secretariat got involved because at one time or the other the RFI Value System had to be sent to him, am I right?

MR SMITH: Yes Chair, if you can recall earlier on in the testimony we talked about the RFI's itself which covered by pages 12 to 29 of, to 30 of my statement and I, if I recall correctly it was under cover of an ARMSCOR Appendix "A", it was to do with an ARMSCOR cover sheet, request for information which basically said that the replies must come to the ARMSCOR Secretariat.

5
10 ADV LEBALA: Thank you. Let's go on:

"Proposals were received as follows via the ARMSCOR Secretariat on 3 November ...".

Read (a), "Canada".

MR SMITH: "(a) Canada. No Corvette offer was received. A 55 meter Maritime Coastal Defence Vessel ("MCDV") and a 75 metre Offshore Patrol Vessel ("OPV") only being offered, only marketing, glossy material, i.e. not evaluable technical specifications or commercial information was provided".

15
20 ADV LEBALA: Do you interpret this to mean that as at that stage Canada was (indistinct), they did not present a weighty proposal, am I right?

MR SMITH: That's correct Sir, they didn't even enter the process of evaluation.

25

29 OCTOBER 2013

PHASE 1

ADV LEBALA: “(b), France. A cut-down and commercialised version of the DCN Lafayette Class design was offered in three propulsion options:

5

- Combined diesel and diesel [(indistinct)].
- Combined diesel and gas turbine (CODAG).
- Combined diesel or gas turbine (CODOG)”.

Documentation received was very limited in detail but able to be evaluated”.

Now are you saying as at that stage something informs us that the French proposal had limitations?

10

MR SMITH: It would appear so Chair, yes.

ADV LEBALA: And:

“Ashore logistics and the CODAG option were not costed”.

15 *It’s another limitation.*

MR SMITH: That’s correct Chair.

ADV LEBALA: “(c) Germany”. Now which Germany are we talking about now, I see that it’s both of them, read Germany.

20

MR SMITH: “Germany. Versions of the GFC Meko 200 and Meko A200 designs were offered in CODAG propulsion configuration. Documentation received was outstanding. Detail and quality was virtually at a contract baseline level and followed the requested specification response exactly”.

25 ADV LEBALA: What comes out clear is that the proposal

29 OCTOBER 2013

PHASE 1

of Germany was outstanding and its response was exact, am I right?

MR SMITH: The proposal by Germany was very complete.

5 ADV LEBALA: And (d) Italy?

MR SMITH: *“Italy. The Fincantieri Falco 2 design was offered being the basic Falco design incorporating major future modifications to meet the SA Navy requirements. Unfortunately the specification material provided was mainly for the original unaltered version. Documentation received was extremely limited, not much beyond high level preliminary specifications”.*

10

ADV LEBALA: The Italian proposal had limitations also, am I right?

15

MR SMITH: It would appear so Chair.

ADV LEBALA: Let’s go to Spain:

“The Bazán 590B design was offered with CODOG and CODAG propulsion options. Documentation received was very thorough and complete and further requested specification response exactly although the CODAG option was not costed”.

20

What are you saying about the Spain proposal?

MR SMITH: The proposal appears to be very thorough Chair.

25

29 OCTOBER 2013

PHASE 1

ADV LEBALA: No, you can't say that only. Please read further. There is a reason why I wanted to read it to you so that it should refresh you. Do you want me to read it, the first part tells us that:

5 *"Documentation received was very thorough and complete and followed the requested specification response exactly although the CODAG option was not costed".*

MR SMITH: It appears that the cost for the CODAG
10 option was not included in the response Chair.

ADV LEBALA: Now would you agree that it was thorough and it had a limitation?

MR SMITH: I agree Chair.

ADV LEBALA: UK:
15 *"The GEC Marine F3000 design was offered with CODAT, CODOG and CODAG propulsion options. Documentation received was very limited and generally poor except for the integrated logistic support systems part which was good, only the*
20 *CODAG option was costed".*

What are you saying about the UK proposal?

MR SMITH: The UK proposal was also limited.

ADV LEBALA: And also poor, am I right?

MR SMITH: The documentation received was very
25 limited and generally poor, correct.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: And the integrated logistic part was very good according to it, isn't it?

MR SMITH: It is so Chair.

ADV LEBALA: Now you will see that everything starts to fit in a puzzle, there's a reason why we took that journey again to remind the commissioners about the Integrated Logistics Systems, albeit we don't know its weight thus far, but what we know that it's weight in as far as the frigate ship platform is concerned is not the same as it was in the submarines, am I right?

MR SMITH: That's correct.

ADV LEBALA: Now we note something that the British proposal was very limited and poor except for the Integrated Logistics Systems part which was good and the CODAG option was costed. Page 5, ... Chair, this is an appropriate time for lunch.

CHAIRPERSON: Okay. We'll adjourn for lunch and we'll come back at 14h00. Thank you.

(Commission adjourns)

(Commission resumes)

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

MR SMITH: I do.

ADV LEBALA: Thank you Chair, Commissioner Musi. Mr Smith, when we parted ways for lunch we looked at the reality

29 OCTOBER 2013

PHASE 1

that we received the proposals and they were analysed by the Evaluation Team, am I right?

MR SMITH: That's correct Chair.

5 ADV LEBALA: And that was done under the leadership of Captain Kamerman, isn't it?

MR SMITH: That's correct Chair.

10 ADV LEBALA: Now let's complete the picture, I would like us to go to your Statement bundle page 4. Commissioner Musi, Chairperson, we are now looking at the Statement bundle with the annexures page 4 thereof, paragraph 3.3. I would like you to read it for the record Mr Smith, let's see whether the commissioners are on the same page with us? I see the commissioners are nodding, please proceed, paragraph 3.3 page 4.

15 MR SMITH: Paragraph 3.3:

20 *"The evaluation of the responses was executed at Naval Headquarters from 3 to 9 November 1997 under the leadership of the then project officer, Captain Jonathan Kamerman ("Project Officer"), who was seconded to the Secretary of Defence organisation by the SA Navy, to lead the project acquisition process, against a RFI Corvette Military Value System which was approved prior to receipt of the proposals".*

25 ADV LEBALA: Now proceed to paragraph 3.4.

29 OCTOBER 2013

PHASE 1

MR SMITH: Paragraph 3.4:

“The results of the evaluation are contained in the Military Evaluation Report dated 14 November 1997.

A short list of 4 (four) companies from 4 (four) European countries was developed namely –

3.4.1 Bazán – Spain;

3.4.2 German Frigate Consortium – Germany;

3.4.3 GEC Marine / Yarrow shipbuilders – UK; and;

3.4.4 DCN International - France”.

10 ADV LEBALA: Now if you look at page 1, let’s go back to the bundle, the Declassified bundle, the picture is being completed. Now you remember we wanted to know what the date of the 14th of November signified in relation to the date on page 9 and it has become clear from your statement that the date of the 14th November 1997 is a date on which one could associate this report with, am I right?

MR SMITH: That’s correct Chair.

ADV LEBALA: Now we now know also that we are at the stage where there’s been analysis of the proposals, comments have been made and that process of the evaluation took place from the 3rd to the 9th of November 1997.

MR SMITH: That’s correct Chair.

ADV LEBALA: Now let’s proceed on to page 5 of the Declassified bundle Chair, Commissioner Musi. The page headed “Proposals Rejected for Further Evaluation”. Now we

29 OCTOBER 2013

PHASE 1

know that the proposals were received, comments have been made on them, we note those who were outstanding, we note the limitations, we note those (indistinct) generally poor, but what is significant at this stage for the record is that the German Frigate Consortium proposals was outstanding, is that correct? What we know up to so far in as far as the proposals received are concerned having read paragraph, page 4 paragraph 5(a) to (e) is that the German Frigate Consortium proposal was outstanding, am I right, or do you want to refresh yourself?

MR SMITH: Chair, if I can just refresh myself, I'm not sure what the question is. The proposals received on page 4 paragraph 5(c) is Germany which was the two, Meko 200 and the Meko A200. I'm not fully understanding the question.

ADV LEBALA: Now remember the proposals were received and we know that the phase or programme of looking at this proposals was from the 3rd to the 9th of November, that has been confirmed, and you know that we could associate the date of the 14th November 1997 as the date on which this evaluation report was prepared. Now what is significant in line with that, having analysed all these proposals is the following to refresh you, Canada's proposal was neither here nor there, it was a lackey, we agreed, am I right?

MR SMITH: Correct.

ADV LEBALA: And we know that France's proposal had

29 OCTOBER 2013

PHASE 1

limitations, we agreed isn't it?

MR SMITH: That's correct.

ADV LEBALA: We know that the German's proposals was outstanding without limitations, am I right?

5 MR SMITH: It had no limitations, correct.

ADV LEBALA: We know that the Italians was extremely limited and there were limitations isn't it?

MR SMITH: That's correct.

10 ADV LEBALA: And we know that the Spanish proposal was very thorough but it had limitations as the option was not costed.

MR SMITH: That's correct.

15 ADV LEBALA: And we know that the UK proposal was very limited and generally poor but it had one aspect which was positive to it as the CODAG was costed.

MR SMITH: Correct.

20 ADV LEBALA: Now do you agree that it's only the German's proposal that was thorough at this stage and outstanding? But I just read it to you now, I've demonstrated all of them had limitations, it's not me, it's what's in front of us. It has become clear Mr Smith.

MR SMITH: Chair if you will just bear with me I'm trying to refresh myself and the five ...

JUDGE MUSI: Referring to page 4(c)?

25 ADV LEBALA: You are referring to page ...

29 OCTOBER 2013

PHASE 1

JUDGE MUSI: Page 4 paragraph (c) of the Declassified documents.

MR SMITH: Okay, in the Declassified Documents page 4 paragraph 5 (indistinct) is documentation and it says there in
5 the second sentence under Germany:

“Documentation received was outstanding”.

In other words there was nothing missing, it was complete. That was the question, then correct, it was what was an outstanding response both in detail and quality and I apologise
10 if I misunderstood the use of the word “outstanding” in this context.

ADV LEBALA: Fair enough. By the way I need to remind you that you were part of a team that prepared these proposals and Evaluation Report, am I right?

15 MR SMITH: I ...

ADV LEBALA: No you were not, we know that. You were not actually. I should be fair to you. We know that you were not part of a team that prepared this Evaluation Report, am I right?

20 MR SMITH: Correct.

ADV LEBALA: But we also know that you were part of a team that gave the team that prepared this report information isn't it?

MR SMITH: I was part of the Evaluation Team that
25 assessed the raw data as contained in the value system

29 OCTOBER 2013

PHASE 1

Appendix "A".

ADV LEBALA: Now it has become clear and I think we should clarify this, I don't have to be unfair to you, if you look at page 9 we know that this report was prepared by Kamerman and moderated by Howell, am I right?

MR SMITH: Correct Chair.

ADV LEBALA: And it has become common cause that nowhere is your signature here, nor the signature of ARMSCOR representatives isn't it?

MR SMITH: That is correct Chair.

ADV LEBALA: But it has become common cause that the detail and information that assisted this Evaluation Report to be prepared was also provided by a team to which you were a member isn't it?

MR SMITH: Correct Chair.

ADV LEBALA: That's why we had the scores and the matrix that were referred to earlier on isn't it?

MR SMITH: Correct Chair.

ADV LEBALA: Now let's go on, page 5, "Proposals Rejected for Further Evaluation", we are still on the Declassified bundle paragraph 7:

"All proposals and options received were subjected to Part 1 of the Value System, i.e. the critical minimum performance filter with results shown at Appendix 'B'".

29 OCTOBER 2013

PHASE 1

We know that by now, am I right?

MR SMITH: Correct Chair.

ADV LEBALA: We spent a lot of time on this and I think everything is started to gel now:

5 *“The following proposals were rejected for further evaluation, ...”.*

At this stage even the topic tells us proposals rejected for further evaluation, let’s look at those that were rejected.

10 *“(a) Canada. ALL. As no Corvette proposal at all was made by the Canadians their offers were therefore rejected immediately for any further evaluation”.*

MR SMITH: That’s correct Chair.

15 ADV LEBALA: Hence we said that Canada’s proposal was a lackey, it was lacking in weight and merit, you remember?

MR SMITH: Correct Chair.

ADV LEBALA: Falco, but we are talking about the Italians isn’t it, Fincantieri?

MR SMITH: Correct Chair.

20 ADV LEBALA: *“(b) Falco. The Falco design failed a large number of the critical minimum performance criteria on the first evaluation filter and was thus rejected for further evaluation as technical and operationally unacceptable for the South African Navy”.*

25 You remember we took you to that column where all were

29 OCTOBER 2013

PHASE 1

accepted with failure, failure and Falco Italy had 15 failures, you remember?

MR SMITH: I remember Chair.

ADV LEBALA: "(c) Lafayette CODAT ...".

5 This is which country by the way?

MR SMITH: France Chair.

ADV LEBALA: "... rejected due to the South African Navy specification of gas turbine propulsion and failure of minimum speed and range requirements.

10 (d) F3000 CODAT ...".

Which country is it by the way?

MR SMITH: UK Chair.

ADV LEBALA: "... rejected due to the South African Navy specification of gas turbine propulsion".

15 Now we know that proposals were received on page 4, they were looked at in weight and we know that there were those that were rejected now. We go to the next heading: "Proposals Failing Some Critical Performance Requirements but allowed to be Evaluated"

20 MR SMITH: Yes Chair.

ADV LEBALA: Now what this page is telling us is that they were evaluated even though they failed some critical performance requirements, am I right?

MR SMITH: That's right Chair.

25 ADV LEBALA: Now we know that as at this stage only one

29 OCTOBER 2013

PHASE 1

was outstanding, that is the German isn't it?

MR SMITH: Outstanding as complete, that is correct
Chair.

ADV LEBALA: With other seven limitations?

5 MR SMITH: Correct Chair.

ADV LEBALA: Okay, let's read paragraph 8:

10 *"The following proposals failed a small number of
the critical minimum performance requirements but
were allowed through to be evaluated due to the
relatively minor implications of the failures; ...".*

At this stage we are talking about scores isn't it we are not at
the filter Part 1 that we referred to on page 16 you remember,
according to The Graphic Representation, am I right?

15 MR SMITH: Chair, as stated at the paragraph heading
there these, we're dressing the proposals or responses that
failed that Part 1, "Critical Performance Requirements".

ADV LEBALA: Yes. Now at this stage we are weighing,
we are scaling and we are looking at the parameters.

MR SMITH: Correct, we are now moving to Part 2.

20 ADV LEBALA: Now:

*" (a) Lafayette CODAT failed the specified range at
27 knots, gun and tracker arc coverages and target
design site fit".*

We know that it failed, I think that remains isn't it?

25 MR SMITH: That's correct Chair.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Now the Germans who were outstanding, let's look at what their first design fail:

"The Meko 200 failed a specific jammer arc coverage".

5 MR SMITH: Correct Chair.

ADV LEBALA: "(c) Meko A200 (German designed) failed a specified number of watertight bulkheads".

MR SMITH: That's correct Chair.

ADV LEBALA: Now let's pause. In page 4 as far as the proposals are concerned the Germans were outstanding, you remember?

MR SMITH: I remember Chair.

ADV LEBALA: Our attention is being drawn to the fact that there were certain failures.

15 MR SMITH: Yes Chair.

ADV LEBALA: Are you able to explain this?

MR SMITH: The way you must read as looking at this report, although I didn't compile it but on page 4 paragraph 5(c) I would say that what the author is trying to indicate there in sentence two, the second sentence, is that the documentation itself and the scope of the documentation was outstanding, in other words there was a lot of detail in it, it was complete, it was, there was a lot of information that ... It goes further, it says:

25 *"The detail and quality was virtually at a contract*

29 OCTOBER 2013

PHASE 1

baseline level and it followed the requested response exactly”.

The author is trying to convey that this was a very complete response, however, notwithstanding a complete response, nevertheless it did fail in terms of its, under page 5 what the author is indicating is under paragraph 8(b) and (c) rather than (indistinct) that it did, although it was a complete response it did fail certain of the technical aspects of the specification.

I think that is what the author is trying to convey.

10 ADV LEBALA: Now I will explain to you why this is remarkable, let’s go on. “(d) 590B ...”, what are we, which country is it by the way?

MR SMITH: It’s, Chair, the 590B is from Bazán in Spain.

15 ADV LEBALA: *“... failed the specified delivery time for the first of Class”.*

MR SMITH: Correct Chair.

ADV LEBALA: (e), what country is it?

MR SMITH: It is the UK.

20 ADV LEBALA: *“... failed the specified gun and tracker arcs, radar signature and the deliver time for the first Class”.*

MR SMITH: Correct Chair.

25 ADV LEBALA: *“(f) All failed the specified pitch limitation in sea-state 9. Over specified”.*

29 OCTOBER 2013

PHASE 1

What does that mean?

MR SMITH: That means that as they went, while the team were going through this evaluation the realisation came that in fact the specification was too tight or too over the top at this point and it in fact felt that it was over-specified, that the actual Naval specification was over-specified. And just, this is just an example of what would now have happened is that when before we went out or before we went out on RFI in all probability the specification would have been corrected prior to going out on RFO in this particular area.

ADV LEBALA: Now just explain the simple explanation why these critical performance requirements were not addressed on paragraph 5 on page 4, and I'm certain that there's a simple explanation for it.

MR SMITH: Just my quick reading of ...

CHAIRPERSON: I'm sorry Advocate Lebala, can we repeat the question, I missed the question.

ADV LEBALA: We note that when we go to page 5 dealing with the proposals failing some critical performance requirements but nonetheless allowed to be evaluated, we note that almost those that succeeded went past the proposal stage on page 4 failed. Now my question is why were these failures not picked up on page 4 at that stage where the received proposals were being looked at as depicted on page 4, paragraph 5?

29 OCTOBER 2013

PHASE 1

MR SMITH: Chair, I think just looking and trying to now interpret what the author was trying to do here, I think under the heading "Proposals Received" on page 4 he is just giving a summary of all the proposals that were received, he is not
5 trying to at this stage highlight any evaluation aspects, he is just giving almost a qualitative statement on each of the proposals received in terms of its completeness of documentation *et cetera*, whereas when you go over to page 5 you now start to get to the actual evaluation, so paragraph 5
10 really is just a summary of the proposals at a high level.

ADV LEBALA: Please look at page 16 again, paragraph 8.

MR SMITH: I'm there Chair.

ADV LEBALA: I note that the commissioners are already there. Isn't it true that if I were to say to you what you see on
15 page 4 paragraph 5 relates to the first stage, the first prong, the critical performance filter stage?

MR SMITH: No Chair, I don't see that clarified relates to critical performance filter. As I said it's, paragraph 5 is just a broad description of each of the offers for the reader just to,
20 as an introduction if you will for the reader on each of the proposals received, that's the way I would read paragraph 5.

ADV LEBALA: Now read paragraph 8 that we've just read. Would you agree with me that paragraph 8 relates to the Relative Performance Evaluation as depicted on page 16 of The
25 Graphic Representation?

29 OCTOBER 2013

PHASE 1

MR SMITH: Paragraph 8 as it is headed relates to the graphic on page 16. Turn to page 16, as the heading is above paragraph 8 you will see there it's failing some critical performance requirements. That relates to the block on page 5 16 which is called "Critical Performance Filter" and what the author is doing here is saying what the results are, if you will, of the critical performance filter, he is giving you a summary of what the critical performance filter, more detail as what you saw on the table where there were different fails, it mentioned 10 "fail, fail, fail", he's just putting in words under paragraph 8 and where the, what that fail was, so it relates to the first, the block on page 16 which is the block referring to Critical Performance Filter.

ADV LEBALA: Now, and that's where the importance of 15 the Critical Performance Filter and the Relative Performance Evaluation comes in. Please assist us. When you look at page 4 paragraph 5 it's almost all of them including the Italians that we know that they were rejected from the onset, am I right?

MR SMITH: That's correct.

20 ADV LEBALA: When you look at paragraph 8 it's only a few of them because what qualifies what I'm going to say is what you see on paragraph 7 on page 5 where we know that before we go to paragraph 8 some had to be rejected, isn't it?

MR SMITH: That's correct Chair. If you look at page 5 25 and then also the graphic on page 16, the way you could

29 OCTOBER 2013

PHASE 1

interpret ... Are we there Chair? If you look at paragraph 7 those options or responses mentioned there you can almost equate to the fail on your Critical Performance Filter whereas the paragraph 8 which says "Proposals Failing", these did not
5 move, fail and weren't evaluated, they in fact then went down from the (indistinct) to the Critical Performance Filter into Part 2. That's just to make that distinction clear.

ADV LEBALA: Now I need to appreciate because I don't want us to spend time on this and if we past here then we will
10 appreciate the results that come out on page 6 because that's the critical part of your testimony. Isn't it true that what you see on page 4 paragraph 5 is at the stage where all of them, those who Request for Information letters were sent to, the RFI's, the letter of the Minister was sent to, because it even
15 includes the Italian who we know were rejected. Do you agree?

MR SMITH: Correct Chair. This is all the responses received under paragraph 5, that includes all the responses that, all the companies that responded to the RFI listed there plus a brief description of their responses.

ADV LEBALA: Okay, I think let's pause it on ... Let's go to page 6. Page 6 is in line with what you have said in your statement, you don't have to go back there, in paragraph 3.4 that a shortlist of four companies from four European countries was developed and we know that in actual fact it's four
25 European countries but it's four, it's five actually, it's four

29 OCTOBER 2013

PHASE 1

European countries but five designs isn't it?

MR SMITH: That's correct Chair.

ADV LEBALA: Now there they stand, but of significance is you see you are short-changing the Commission, if you look
5 at page 5 at the bottom I don't know why this was being done, proposals evaluated, all that part is covered by a stamp saying "Defence Intelligence Declassified ", I cannot second-guess, I'm not a superhuman being, I wish I could. Are you able to reconstruct what paragraph 9 says because this might be
10 critical and assist the Commission because we are just about to go to the scores now. Are you able to reconstruct?

MR SMITH: I will attempt to Chair and maybe I can get assistance from yourselves as well. It appears to say below, under that stamp:

15 *"The proposals were therefore evaluated through Part 2 of the Value System to determine their military performance".*

Then I can't make out the word, and it says:

20 *"... and main particulars of these designs are shown in Appendix 'D'".*

Appendix "D" I'm assuming are those diagrammatics. If you go to page 117 Chair, page 117 and you will see from page 118 onwards are just for the reader of this report just to give him a diagrammatic feel for what the responses looked like just in a
25 diagrammatic form. So, if we could go back to page 5

29 OCTOBER 2013

PHASE 1

paragraph 9 I now can tell you that the words below that stamp are the following:

“Outboard profiles and main particulars of these designs are shown in Appendix ‘B’”.

5 By “outboard profiles” that’s the picture that you see, it’s basically a side-on view which is called an “outboard profile” and then it goes on further on page 5 to say: “The five designs were ...”, and then we can clearly read on page 6 what they were.

10 ADV LEBALA: That’s very helpful Mr Smith. Now we’ve already dealt with the top of page 5, we know that it’s five shipbuilders from four countries. Now let’s go to the Corvette Military Performance Scores. At this stage we are looking at technical performance, we are not looking at financial options,
15 we are not looking at industrial participation, am I right?

MR SMITH: Correct Chair.

ADV LEBALA: We are looking at the platform of the frigate, not the combat suite, not the Maritime Helicopter.

MR SMITH: Correct Chair.

20 ADV LEBALA: Paragraph 10:

“The above proposals were evaluated for their military performance”.

What does “aiw” stand for?

MR SMITH: “In accordance with”.

25 ADV LEBALA: *“... in accordance with the criteria and*

29 OCTOBER 2013

PHASE 1

weighting of Part 2 of the Value System ...”.

I think that’s where we look at the Relative Performance Evaluation and we give scores and parameters and scales, am I right?

5 MR SMITH: Correct Chair.

ADV LEBALA: *“... to obtain a weighted score out of the maximum possible 1 040 points”.*

Standing for one thousand and forty points.

10 *“Summaries of the scoring is shown at Appendix ‘C’ with full details shown at Annexures 1 to 5 to that appendix, each annexure being the complete scoring of one proposal in the same sequence listed in paragraph 9”.*

15 Now let’s go to the total result as summarised in the table below:

Germany GFC Meko A200 CODAG	843 points
Germany GFC Meko 200 CODAG	820 points
Spain Bazán 590 CODAG	750 points
UK GEC F3000 CODAG	628 points
France DCN Lafayette CODAG	570 points

29 OCTOBER 2013

PHASE 1

Now this informs us that in as far as the technical value is concerned, that is the Military Performance, the Germans are number 1.

MR SMITH: That's correct.

5 ADV LEBALA: Paragraph 11:

"As can be seen German Meko designs offered have excellent military performance, very strong points being survivability, detectability, helicopter operability, logistic impact, systems and
10 *timescales".*

Now all these elements I see that they refer to, am I right to say they refer to the frigate performance or Integrated Logistics Systems or to the engineering?

MR SMITH: What they are also just referring to here
15 are the typical headings that you will find under Part 2 of the Value System.

ADV LEBALA: Yes-no, we know that. I think we have taken the Commission through that they appreciate that it goes to Part 2, starting from page 32 to page 42, that's why we took
20 them through that. Now my question is these elements, survivability, detectability, helicopter operability, logistic impact, systems and timescales, what do they refer to, do they refer to the element of the frigate, submarine ..., frigate product? I know that we are talking about the platform, do they
25 refer to the platform of the frigate product or do they refer to

29 OCTOBER 2013

PHASE 1

the engineering part of the frigate product or do they refer to the integrated logistics system of the frigate product?

MR SMITH: They cover all those points, plus more. I think if I recall correctly there were 12 groups under the Part 2, I don't think all 12 are quoted here, but the ones that were strong are the ones that are highlighted, the groups that have been highlighted here, the Germans scored, well, they had a good point.

ADV LEBALA: So, are we correct to say at this stage Germany became number 1 because they were strong in as far as Part 2 out of the 12 groups are concerned and that Part 2 covers the frigate product, covers the Integrated Logistics Systems and covers the engineering part?

MR SMITH: Yes, you can term it in a different way but of course the Corvette Project is different, use different terminology but yes, you can say it covered the, it covered the ship platform in all aspects.

ADV LEBALA: Thank you. Let's read further, paragraph 11 number 3:

"The Meko A200 in particular is a superior propulsion system, the CODAG with the water jet which in turn are (indistinct) design significantly superior radar, infrared and acoustic signatures".

Those parts to go the engineering isn't it?

MR SMITH: That's correct Chair.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: *“The German options were evaluated with the GELM 1600 Gas turbine engine which gives a maximum sustained speed of 27 knots”.*

Does that go to the frigate platform product?

5 MR SMITH: You can say that Chair, yes correct.

ADV LEBALA: I don't know whether Commissioner Musi seeks to say something but we'll go on.

JUDGE MUSI: I'm just murmuring to myself that after all we are dealing with that.

10 ADV LEBALA: Thank you.

“Also offered was the LM2500 which should push the top speed to some 31 knots but at a cost premium for the larger engine”.

Now I'm confused because the speed at one time goes to the frigate platform product but at the same time it goes to engineering. In this context guide us, what does it go to?

15 MR SMITH: I must once again caution against using the terminology that was used on the submarine programme on the Corvette programme because that would be confusing. This is just a characteristic, the way that the system was broken down for the Corvette's is, and in terms of its evaluation it was contained as we discussed earlier today, so this relates to the ship platform, the equipment onboard and the speed of the vessel. That you could say is, covers engineering as well as product, but it's to do with the product, the product is the ship

29 OCTOBER 2013

PHASE 1

platform and anything to do with the ship platform.

ADV LEBALA: Now Mr Smith, you ought to remember that we are trying to simplify these concepts for ourselves and I think this is more mechanical and technical, we are just trying
5 to bring them closer home. That's where we started by struggling to show the Commission that with the submarines it's one thing, with the Corvette's it's another thing. We know that with the Corvette's we are dealing with three hardware parts, I think that has become clear. When we say do they equate to
10 the engineering part, do they equate to the product, do they equate to the integrated logistics it's just to make things easier for ourselves, do you agree?

MR SMITH: I agree Chair that there is a bit of a, in terms of the Corvette's there's a bit of an overlap between
15 engineering and the product. The Corvette's dealt with the integrated logistic support system or component as a separate entity, so that's clear. The management aspects, that was clear. I'm not, I can't recall what was intended to, the submarines intended with the definition of engineering as
20 opposed to then the characteristics of the vessel itself, so if engineering has to do with the processes of engineering then this doesn't cover the processes of engineering, this covers the actual characteristics of the product or the vessel or the ship platform (indistinct), and that has to do with speed and the gas
25 turbine.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Now I'm taken aback that at this stage you tried to clarify that whilst all along you were confident in telling us that this covers engineering, this covers Integrated Logistics Systems and this also covers the frigate product.

5 Now are you summersaulting? I want the record to reflect this if you are, are you summersaulting, meaning are you changing your mind, and let the record reflect if you do because you see we don't have to confuse the record, it's very important.

NOTE: Caucus between Chairperson Seriti and Judge Musi.

10 CHAIRPERSON: Advocate Lebala just hold on, before the witness answers that question am I right to say that the witness has said that the process that was followed as far as the submarines are concerned and the process that was followed as far as the Corvette's are concerned, they are two separate
15 processes, they are not the same? Am I right Sir?

MR SMITH: That's correct Chair.

CHAIRPERSON: Am I right to have understood you to be saying that even as far as the terminology is concerned there is some slight difference, what the people who are dealing with
20 the submarines have referred to as engineering programmes, they might be called slightly with a different name as far as the Corvette's are concerned?

MR SMITH: That's correct Chair.

CHAIRPERSON: Advocate Lebala, I'm not sure do you want
25 to do now with your question in light of the answers that the

29 OCTOBER 2013

PHASE 1

witness has given us?

ADV LEBALA: Mr Smith, a submarine and a frigate are vessels, am I right?

MR SMITH: Correct Chair.

5 ADV LEBALA: They are propelled in water and they serve different processes, that has become clear before the Commission, and to be precise and complete the Naval officers say submarine operates in stealth, it means it disappears, no one should know where it is.

10 MR SMITH: That's correct.

ADV LEBALA: And you remember from the onset we did our best to even alert the Commission that we are dealing with different products, one of the products, the frigates, it's divided into distinct parts, the platform, the combat suite and
15 the Maritime Helicopter.

MR SMITH: That's correct Chair.

ADV LEBALA: It's no record that with the submarine it's a tube, you even tried to draw a distinction that the other one is already customised and because of what we picked up in the
20 documentation before the Commission it started to be appreciated that the distinction also comes when you look at the frigates, the combat suite you want to protect the local industry?

MR SMITH: That's correct Chair.

25 ADV LEBALA: And there were further distinctions that we

29 OCTOBER 2013

PHASE 1

need not go into. Now let's pause there, is it true that when you talk about engineering you talk about engineering applicable to both?

MR SMITH: In a general sense, yes Chair.

5 ADV LEBALA: For instance I'm confident to say you could talk about the platform in Integrated Logistics Systems.

MR SMITH: That was the distinction made under the frigate programme, yes Chair.

10 ADV LEBALA: You could also talk about the combat suite Integrated Logistics Systems.

MR SMITH: Correct Chair.

ADV LEBALA: Which means that you could also talk about the frigate product as you talk about the submarine product?

15 MR SMITH: Yes, you could use the term "frigate product", just that the definition that is, that was, and the scope of that definition in terms of the way it was used and your submarine is slightly different to the way it was used in the Corvette's and that's purely because they defined it that way and we on the Corvette's defined it slightly differently but
20 wouldn't actually use the term "product", you won't find the word "product" so far used for the Corvette programme, we've talked about vessels, we've talked about ship platform, we've talked about combat suite and you don't, that terminology was
25 not used during the submarine programme and it's nothing, it's

29 OCTOBER 2013

PHASE 1

not that the one was wrong and the other was right, it's purely the terminology used for that particular project which the project team were comfortable with to use and define.

ADV LEBALA: At this stage I want you to look at page 18
5 quickly of the bundle. Can you see "Sea-Keeping" under the "Characteristics"?

MR SMITH: I can see it Chair.

ADV LEBALA: That's Part 1, am I right?

MR SMITH: That's correct Chair.

10 ADV LEBALA: Look at page 32 Part 2, can you see "Sea-Keeping"?

MR SMITH: I can see that Chair.

ADV LEBALA: That's Part 2, am I right?

MR SMITH: Correct Chair.

15 ADV LEBALA: Look at page 33, "Speed".

MR SMITH: I see that Chair.

ADV LEBALA: Look at page 19 "Vessel Integration and Speed".

MR SMITH: I'm sorry, can you just repeat that page?

20 ADV LEBALA: Page 19 "Speed and Vessel Integration".

MR SMITH: I see that Chair.

ADV LEBALA: Look at page 21, "Growth Margins Vulnerability", page 22, Vulnerability, page 23 "Damage", page 24, "Underwater Signatures", "Above-Water Signatures", Page
25 26, "Surface Warfare Combat Suite", page 27 "Surface Warfare

29 OCTOBER 2013

PHASE 1

Combat Suite". Page 28 "Command, Control and Communications and Compartments". Page 29, "Helicopter Operating, Logistic Engineering, Supply Support, Ram Engineering, Electrical Systems, Accommodation". Now let's
5 pause there, I assure you that these elements were even common in the submarines, do you agree?

MR SMITH: They are common in the submarines but the submarines didn't make this distinction in their value system, they didn't group them in the same way, they grouped
10 them in a different way and they gave them different names, so yes, they're common, they're common characteristics, except that there are certain characterizes that you will only find in a surface ship Chair, you won't find it in a submarine, like for instance ... I don't want to be too flippant here but a surface
15 ship is not going to dive to a dive depth, so it won't have a dive depth characteristic and a lot of them are typically, like for instance damage control is something which is very important on a surface ship, although it be there on a submarine in this particular case it was quite an important
20 aspect of the surface ship, of a ship platform. So yes, you could probably if you dug deep enough you could find similar things on a submarine but the submarine programme didn't categorise it the same way or group it the same way.

ADV LEBALA: I think that has become clear. I'm going to
25 request you if you answer yes you say yes, if you answer no,

29 OCTOBER 2013

PHASE 1

you say no from now on. I think that has become clear and that's where we started and I've tried to demonstrate to you that there is a difference between a submarine and a Corvette, that has become clear, I think that was the first part of your
5 testimony when you started and probably the audience did not know where we were going, it has become clear that you are talking about, that we appreciate it from the onset, am I right that there is a difference between the submarine and the frigate?

10 MR SMITH: Correct Chair.

ADV LEBALA: Is it true that all these parts that I've read to you, except those that are distinctive, and it has become clear from the way you measured them, from the way they are being acquired, from the way they are distinct they are
15 different, I think that has become common cause, but let me ask, all these examples that I gave you, despite the distinctions that are there, do relate to the three elements that are common to both, that those three elements are engineering, the product itself and the Integrated Logistics Systems?

20 MR SMITH: At a generic level, yes.

ADV LEBALA: Now then we agree that there are commonalities even in that instance, the difference is how they are packaged I suppose and how they are referred to at different levels, am I right?

25 MR SMITH: Correct Chair.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: So you can talk of engineering in the submarines as much as you can talk about engineering in the frigates.

MR SMITH: Correct Chair.

5 ADV LEBALA: You can also talk about the Integrated Logistics Systems in the submarines as you talk about the Integrated Logistics Systems in the frigates.

MR SMITH: Correct Chair.

10 ADV LEBALA: And of course lastly the products are different, that's common cause, that's where we started, and when I keep on saying the frigate product is because I recognise that it is different from the submarine product, am I right?

MR SMITH: Correct Chair.

15 ADV LEBALA: Now, from now on when you talk about engineering we talk about engineering, when you talk about Integrated Logistics Systems we talk about Integrated Logistics Systems, when you talk about the frigate product we talk about the frigate product, when you talk about the submarine product
20 we talk about the submarine product, that has become clear, am I right?

MR SMITH: If that is the headings, or those are the things you want me to talk about that's fine, I just have to point out that in terms of the value system that we are dealing with I
25 can't make that distinction clearly because that distinction is

29 OCTOBER 2013

PHASE 1

not evident in the groupings that are contained in the value system and in the report.

ADV LEBALA: From now on where you can make a distinction we'll invite you to make a distinction. Shall we proceed?

CHAIRPERSON: Advocate Lebala, in all fairness to the witness, if he says there is this particular terminology that's not appropriate for submarines or the other way around, I don't think that you know we should try and push him to use the terminology that we want (indistinct), let him use the terminology that he is comfortable with for as long as he can justify why is he using that type of terminology, we can't tell him exactly what terminology to use. I think the witness should be at liberty to use whatever terminology that he feels comfortable with, he is an expert in his own field and I think he must be having good reasons why he is drawing the type of distinction that he is currently drawing between the two, what do you call, what do you want to call products, which is the submarine and the Corvette. I'll prefer it if at all the witness uses the terminology that he is comfortable with. Thank you.

ADV LEBALA: Thank you Chair. May the record reflect ...

JUDGE MUSI: I just want also, I don't understand why we should keep on referring to witness to the submarines when he's testifying about the Corvette's.

ADV LEBALA: Thank you Commissioner Musi and Chair.

29 OCTOBER 2013

PHASE 1

Let me start with the Chair's concern first. Chair we note it, we accept it, but we remind you that we will come back when you make our closing submissions to remind you about this portion of the testimony and we are confident that it will make sense to you. What we did with this witness, we wanted to demonstrate that although there are distinctions there are commonalities, it's not a misnomer to talk about engineering systems in submarine as you would talk about them in a frigate, there is ...

5
10 JUDGE MUSI: But we are talking about Corvette's Mr Lebala, this witness is testifying about Corvette's and not about submarines. Why do you draw him to submarines?

ADV LEBALA: Commissioner Musi, actually I'm already invited, I'm done with the Chair's concern. Commissioner Musi these examples were just meant to simplify the process. These witnesses are very technical and mechanical but from now on thanks for your guidance, we'll just refresh, we'll confine ourselves to Corvette's and frigates without creating confusion. I think it has landed, we are not going to swing any longer Mr Smith, we are parting ways with the submarines and I thought that we are demonstrating that with a view to assist us to appreciate what we are dealing with and the commissioners are making sense, not only are we clogging the record, we are creating a confusion, I appreciate the commissioners' concern.
25 Now let's proceed on.

29 OCTOBER 2013

PHASE 1

We are on page 6 of the Declassified bundle and the reason why we are doing what we are doing, we wanted to simplify these concepts onto ourselves, noting that with the Corvette's it's not as simplified as we saw with the submarines, and we thought that the fastest winning relevance of doing it is to give examples by way of illustration because with the submarines it was easier for us to look at them, their weights were in place, one could easily configurate them, but let's look at what we have to look at in line with what the commissioners have directed. Back to the Corvette product, the frigate product. Let's look at paragraph 11, line number 6:

"The GELM 1600 gas turbine engine which gives a maximum sustained speed of 27 knots".

You did agree that that relates to the engineering, engine?

MR SMITH: That relates to the engine of the platform, that's correct Chair.

ADV LEBALA: *"Also offered was the LM 2500 which would push the top speed to some 31 knots but at a cost premium for the larger engine".*

What are we looking at, is it the engine or is it something else in the frigate language?

MR SMITH: What you have here Chair is that for the German Meko Class vessels what was offered is two different sizes of gas turbine, the LM 1600 and the LM 2500, the one having a bigger capacity and larger output, so this is just, the

29 OCTOBER 2013

PHASE 1

report is just showing that in terms of the German response they gave the option of the two gas turbines, both meeting the requirement and of course the larger engine would be more costly although it would give you a slightly higher top speed.

5 ADV LEBALA: Now back to my question. Thanks for that information. In the frigate language what are we talking to, is it an engine, engineering or any other element?

MR SMITH: Chair, this is talking to the propulsion system of the frigate, the propulsion system and in this
10 particular part the gas turbine propulsion part of the frigate where there was an option given on those, so it's part of the propulsion package systems with, onboard the frigate. If I might use an analogy, it's getting a Boeing aircraft with either an engine from one supplier of a certain size or a slightly
15 larger engine for the Boeing. It's just the engine distinction, slightly bigger, one than the other. So, it's to do with the configuration of the propulsion system.

ADV LEBALA: Back to my question. Thanks for the further information. Are we talking about the engine?

20 MR SMITH: You are talking about the engine, the gas turbine.

ADV LEBALA: Let's read on:

25 *"The modular construction of the Meko allows for very short build times and also greatly facilitates the integration of a local combat suite".*

29 OCTOBER 2013

PHASE 1

There it is very clear we are talking about the combat suite.

MR SMITH: Yes, we're talking about the ease of which this particular design would accommodate integration of the combat suite.

5 ADV LEBALA: *"Given the superior features and level of documentation offered very little design work is foreseen on either of the Meko versions should a German Corvette be selected".*

Now we are talking about the design work. Now in the frigate
10 language what are we talking about? Simplify it, engine, the product itself or I've got to be careful. You see, the reason why I go to the Integrated Logistics Systems, I need to remind you, you mentioned that we can talk about the Integrated Logistics Systems in as far as the frigates are concerned, am I
15 right?

MR SMITH: Yes Chair, when we were looking at the evaluation or the value system we could identify some of those groupings that dealt with logistics. Here we are talking about the configuration of the ship platform, we're talking about the
20 equipment and system onboard the ship itself.

ADV LEBALA: Now where does it fall, does it fall on the product, does it fall on the engineering side, does it fall on the Integrated Logistics Systems? Remember it's a design work.

MR SMITH: Chair, this forms part of the ship platform.
25 If you want to call it a product then it's part of the product.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Thank you. Now back, we are being short-
changed again, can we reconstruct what they say about Spain?
We know that there are positives coming from Germany and we
know why they got number one in as far as the Corvette
5 military performance scores are concerned. What we can see
on paragraph 12 is that:

*“The Spanish 590B is a very good all-round design
with significantly better mobility and operability
than the others”.*

10 Can you see?

MR SMITH: I can see Chair.

ADV LEBALA: Now this gives the Spanish proposal an
edge over the German proposal. Listen to what they say:

15 *“The Spanish 590B is a very good all-round design
with significantly better mobility and operability
than the others”.*

Including even the Germans.

MR SMITH: I don't, I'm looking, I'm trying to read in
what the author is trying to convey here, but I think this, in
20 each of these paragraphs he's not trying to give a comparison
between for instance paragraph 11 and paragraph 12, Germany
and Spain, he's not trying to give a comparison, he's just
giving a synopsis of the actual design to the reader and yes,
he's not trying to equate the one to the other, he's just giving a
25 synopsis of, in words, of the particular design.

29 OCTOBER 2013

PHASE 1

ADV LEBALA: Of course you can't say that Mr Smith, please. Let me read it to you again:

"The Spanish 590B is a very good all-round design ..."

5 Here he is not comparing it with any other:

"... with significantly better mobility and operability than the others".

Can you see that he is comparing?

MR SMITH: Yes, I can see when he is referring to the
10 "others".

ADV LEBALA: Now we can't read further but what we know is that in as far as the Spanish design is concerned it has got mobility and better operability than the others. Let's go to page 7.

15 CHAIRPERSON: Just hold on Advocate Lebala. Let me find out from the legal team of ARMSCOR, is it possible to get a clean page 6 because I think this page is very important, one needs to see exactly what is written, particularly at the bottom where there is that stamp, one can't see exactly what is written
20 there, is it possible to get a clean page 6?

ADV SOLOMON: Chair, I'm sure one can. Just to point out this is a document that was inserted in this Declassified bundle of documents under the auspices of the Department of Defence. I see Admiral Green is here, he was part of the Declassification
25 process if not himself but it was under his auspices. I think if

29 OCTOBER 2013

PHASE 1

one could, I'll ask my legal team to speak to Admiral Green and I'm sure one can make available a copy of this document without the stamp on. There must be something around and perhaps we can do it after the adjournment.

5 CHAIRPERSON: Thanks a lot for that, thank you.

ADV LEBALA: Chairperson, thanks for that guidance and direction. In actual fact I think we could try to complete this. I've been struggling with my colleague Mr Ngobese for the whole weekend to try and reconstruct some of this, but for the
10 sake of completeness we've tried to complete this sentence, albeit the theme informs us that the Spanish designs are a very good all-round design with significantly better mobility and operability than the others. Now let's read further, it says that:

15 *"As in the case of the German very little design work will be necessary if the Spanish Corvette is selected".*

Then full stop. I think it says:

20 *"The delivery date of the first of Class exceeds the specified maximum but is (Indistinct) to be consecutive and could be brought forward in negotiations".*

That's the theme of it.

CHAIRPERSON: Advocate Lebala, with the greatest of
25 respect I can't understand what you are saying because some

29 OCTOBER 2013

PHASE 1

of the critical words, I can't see them and to me, when I try and read this paragraph it doesn't seem to make sense.

ADV LEBALA: In actual fact ...

CHAIRPERSON: And I think you know it is important,
5 particularly as far as the Spaniards are concerned, one should be in a position to fully understand what this Evaluation Report is saying about that. You know that there are in certain quarters where it is claimed that Bazán in fact should have been awarded this contract, so it is important that we should
10 see exactly what that report says as far as the Spaniards are concerned.

ADV LEBALA: I agree Chair but I assure you that there is an answer to this and please bear with me, I'm going to show you what the theme of this paragraph says in relation to what
15 you see on page 5, paragraph (a), (d). Remember all these paragraphs you are reading make sense, it's like a jigsaw puzzle. What we know on page 5 paragraph 8(d) is that there were limitations and critical performance weaknesses in as far as the Spanish bid is concerned, it says:

20 "590B. *The Spanish ...*".

CHAIRPERSON: Advocate Lebala, can I suggest that you park this point and let's deal with it when we meet again because I think it's an important point, I'll want to understand exactly what they are saying and not rely on trying to draw
25 inferences from other paragraphs when in actual fact one can

29 OCTOBER 2013

PHASE 1

just read this paragraph and understand it. If you don't mind, because I'm sure you are not going to finish with this witness today.

ADV LEBALA: Chair, Commissioner Musi, I've never
5 doubted your fairness, instincts, if they are being called then I align with them. Will this be an appropriate time to adjourn, let us adjourn.

CHAIRPERSON: Not necessarily. I just thought this
10 specific point, if you want to park it you can park it and then let's deal with the other issues and this point, you can deal with it when we next meet.

ADV LEBALA: Thank you Chair, I will. But may the
15 record reflect the following without short-changing, bearing in mind what you have said Chair. This paragraph, it will be completed when my colleague Solomon SC, and I suppose Cane SC will also assist, when they bring this, the proper document before the Commission, but in closing this paragraph Chair it could be read with what we see on page 5, paragraph (a), (d) where we are being told that the Spanish failed in as far as the
20 specified delivery time is concerned and the remaining part of this paragraph seems to harp and feed on that theme, hence they say that delivery could be brought forward in negotiations but we'll come back to it. What we know is that "the Spanish bid was very good and it was all-round designed with
25 significantly better mobility and operability than the others",

29 OCTOBER 2013

PHASE 1

they compared it to the others and we know that it appears that it topped all the others in that regard. Now let's go to page 7, 13, "The UK". Please read it Mr Smith.

MR SMITH: Paragraph 13 "UK":

5 *"The F3000 design has poor signatures (especially radar) and generally poor operability due to a very odd forward structure. Combat suite effectiveness is also not good. The delivery time for the first of Class is also poor, signifying both a lack of design*
10 *maturity and shipyard productivity. Considerable redesign work will be necessary on the F3000 if a UK Corvette is selected, further lengthening the delivery schedule and thus the date of operational availability".*

15 ADV LEBALA: I don't have to repeat the fact that according to the scribe the UK product was very poor, am I right?

MR SMITH: This paragraph reflects that Chair, correct.

ADV LEBALA: Now let's refresh you:

20 *"It's poor in signatures, it's poor in operability, the combat suite is poor. Delivery time is poor, it lacks design maturity".*

I don't have to complete it, it's standing before us. 14, "France", please read.

25 MR SMITH: Paragraph 14, "France":

29 OCTOBER 2013

PHASE 1

5 *“The so-called Lafayette design suffers from being a
drastically scaled down version of its well-known
namesake with a total redesign of some of the main
design features of the latter. The result is an
obviously hasty attempt to reduce cost but which is
at the expense of a good overall design. In
particular the design fails the minimum range
requirement to its increased hull resistance.
Growth potential is relatively poor as are
10 signatures, combat suite effectiveness, logistic
impact and accommodation and habitability. The
delivery timescale for the first of Class is on the
limit of the specified maximum. The large amount
of redesign work will be necessary if the French
15 Corvette is selected, lengthening the delivery
schedule and thus the date of operational
availability”.*

ADV LEBALA: The France product also suffers constraint,
let’s refresh them:

20 *“It suffers a scaled-down version of its namesake”.*
It seems to be copying from its namesake and they say its
namesake is better than it. They further say that:
*“It’s a hasty attempt to reduce costs, it fails
minimum range requirement, it is poor in as far as
25 accommodation, habitability, signatures, combat*

29 OCTOBER 2013

PHASE 1

suite effectiveness, logistic impact is concerned”.

And all those things are things that we kept on drawing your attention to that, they are there in both the submarines and the frigates. I know we don't have to go back to submarines, can you see that?

MR SMITH: Yes Chair.

ADV LEBALA: And the other constraints, the delivery timescale of it. What we know is the following; it appears that the Germans at this stage, and the Spanish are favourites isn't it, at this stage reading these paragraphs?

MR SMITH: That's correct Chair, and the results bear that out as well in terms of the report.

ADV LEBALA: And we know that irrespective of the fact that the Spanish bid is a very good all-round design with significantly better mobility and operability with a constraint in as far as the delivery time is concerned isn't it?

MR SMITH: That's correct Chair.

ADV LEBALA: Irrespective of that we know that Germany Meko A200 became number one with the score points of 843, am I right?

MR SMITH: In terms of the RFI that's correct Chair.

ADV LEBALA: Let's go to the Corvette costs. Please read paragraph 15.

MR SMITH: Paragraph 15, "Life Cycle Costs":

"Life cycle economy was measured as a major part

29 OCTOBER 2013

PHASE 1

5 *of the performance evaluation without a significant
difference between the offered designs which was
expected as the ships are all designed to the same
strict SA Navy specification and have identical
combat systems and crew. In quantitative terms
therefore all the offers have the same life cycle
operating costs”.*

ADV LEBALA: This is just an emphasis that the combat
suite is similar and we know that it was put at the ceiling of a
10 particular amount, am I right?

MR SMITH: That is correct Chair.

ADV LEBALA: Then it goes to performance, that the
performance evaluation of in as far as the platform of this
frigate is concerned were similar, isn't it?

15 MR SMITH: That is correct Chair.

ADV LEBALA: Now let's go to "Acquisition Costs".
Please read paragraph 16.

MR SMITH: Paragraph 16, "Acquisition Costs":

20 *“The acquisition costs of the offers were calculated
for the ship platform, combat suite and integrated
logistic support elements, including a common worst
case figure used for programme management by the
prime contractor. ILS costs were also taken as a
common average across the prices offered as a
25 commonly derived baseline for this item was not*

29 OCTOBER 2013

PHASE 1

5 able to be extracted from the offers, some
 appearing too low and others too high for a similar
 scope of supply. All duties, taxes and surcharges
 that accrue to the RSA (indistinct) were also
10 calculated and are shown. A breakdown of these
 costs can be seen at Appendix 'E'. All costs were
 reduced to Rand values at the exchange rate
 pertaining on the 31st of October 1997. The overall
 acquisition costs per offer are shown in the table
15 below".

ADV LEBALA: Now from this paragraph we see the
importance of the integrated logistic support elements in the
integrated logistic costs, am I right?

MR SMITH: Correct.

15 ADV LEBALA: Of course it doesn't discount the
importance of the ship platform combat suite?

MR SMITH: That's correct, it's all dealing with costs of
the various items.

20 ADV LEBALA: Now are you able at this stage to tell the
Commission about the weight of the integrated logistic system
elements?

MR SMITH: Chairman, this section deals with costs,
the weights were covered in a different place, the weights is
under Part 2 of the Value System.

25 ADV LEBALA: Now I just want you to talk about the

29 OCTOBER 2013

PHASE 1

weight in as far as the costs are concerned. We know that it appears that the integrated logistic support elements are important because they break into elements and costs. Are you able or are you not, to tell us about the weight that the ILS carries in as far as the costs are concerned?

MR SMITH: Chair, if we may be able to be enlightened if we turn to Appendix "E", I don't know, but it refers us to Appendix "E". Chair, I can't put my finger on Appendix "E". Maybe I can just with your forbearance just go back to page 7 paragraph 16.

ADV LEBALA: Let me assist you, Appendix "E" is on page 123 of the self-same bundle.

MR SMITH: Thank you. Chair, if we just have a quick, I'm just looking at this table and a cursory glance across it, you will see that it's given a breakdown of the cost elements for costing, purely for costing purposes and you will notice in the breakdown that other than the row 1 and 2 above, Serial 1 and 2, row 1 and 2 you will notice that row 3, 4, 5, 6, 7, 8, 9 and 10 are in fact identical across the various designs, so in other words if you look under the cost item they were all of them given exactly the same figure so that to measure apples with apples for RFI purposes, for CFE delivery, cost to the state, RSA duties, the ILS cost to the state, you can see they were made common across all of them, similarly with again with RSA duties and combat suite, as we know was already a fixed

29 OCTOBER 2013

PHASE 1

amount including the RSA duties and then also for the prime contractor costs that was kept as (indistinct), so the only variable that was in terms of cost deriving from this table is basically the ship platform and the duties related to those plus
5 the exchange rates under Serial 11.

ADV LEBALA: In actual fact let's just complete this heading by starting here because it's one and the same information as denoted on paragraph 16 dealing with acquisition costs. Now if we look at page 123 let's complete it,
10 can you see that Spain, Bazán is number 1?

MR SMITH: In terms of lowest cost.

ADV LEBALA: That is so yes, in terms of lowest cost, thanks for that clarity yes.

MR SMITH: In terms of lowest cost, correct Chair.

15 ADV LEBALA: Of course with costs we want to see whether are we getting value for our money and are we bargaining better, am I right?

MR SMITH: Correct Chair.

20 ADV LEBALA: And more significantly Cabinet has given a ceiling in as far as how much we should utilise, am I right?

MR SMITH: Correct Chair, and just with regards to the Cabinet ceiling I am not sure when that was, the ceiling was introduced, but it may have been introduced during the RFO period and not at this stage already.

25 ADV LEBALA: Fair enough. Let's look at the results,

29 OCTOBER 2013

PHASE 1

Spain in terms of cost is number 1, we see that the German Meko A200 is number 2 and we can give the points, for instance if you look at Spain at the bottom total cost to the state is R3 257 billion and total additional RSA duties, taxes *et cetera* is R546 billion. Number two is Spain, total cost to the state is R3 780 billion and below that total additional RSA duties, taxes *et cetera* is R629 billion, and there is a tie between the German Meko 200 and the German Meko A200 with the same points, can you see?

10 MR SMITH: Yes Chair. Points, if you mean that they are the same level yes, they are the same level in terms of cost.

ADV LEBALA: And are you confirming what I've read in as far as Spain – Bazán is concerned?

15 MR SMITH: Yes. Bazán, Spain is the lowest cost Chair.

ADV LEBALA: And number 5 is France with R3 982 billion and as the total cost to the state and R660 billion as the total additional RSA duties, taxes, *et cetera*.

20 MR SMITH: Correct Chair.

ADV LEBALA: And number 4, which is number last is the UK GEC Marine with R5 233 billion for total cost to the state and R700 billion as total additional RSA duties, taxes *et cetera*.

25 MR SMITH: In terms of cost they were last Chair, that

29 OCTOBER 2013

PHASE 1

is correct.

ADV LEBALA: Now at this stage we know that in as far as the costing breakdown is concerned the Spanish are the lowest, followed by the two German shipbuilders, Meko design A200
5 and Meko 200, followed by France DCN Lafayette and the last is the UK GEN Marine F3000.

MR SMITH: Correct Chair.

ADV LEBALA: Now that completes the picture on page 7 at the bottom, am I right?

10 MR SMITH: That's correct Chair.

CHAIRPERSON: Advocate Lebala, maybe this might be an appropriate time to adjourn before you start with a new line.

ADV LEBALA: Thank you Chair.

15 CHAIRPERSON: And we will come back only on Thursday morning, we are not sitting tomorrow. I'm made to understand that this venue is not available tomorrow, apparently there's a meeting which is going to be held in this venue, so we can't have access to this venue, so we will resume on Thursday morning at the same time.

20 ADV LEBALA: Chair, Commissioner Musi, we have a vaulting ambition to finish with this witness on Thursday.

CHAIRPERSON: Excuse me?

ADV LEBALA: We have an ambition which is vaulting to finish with this witness on Thursday.

25 CHAIRPERSON: Thanks a lot, then let's try that on

29 OCTOBER 2013

PHASE 1

Thursday. We'll adjourn now.

(COMMISSION ADJOURNS)