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CHAIRPERSON: Thank you. Good morning. Ms Ramagaga.

MS RAMAGAGA: Good morning Chair, today our team is ready to lead MR Odendaal and he will be led by myself. Mr Odendaal is available and I would request that he be ...

5 CHAIRPERSON: Can the witness take the oath?

**(Witness is sworn in.)**

MS RAMAGAGA: May I proceed Chair?

CHAIRPERSON: Just hold on.

MS RAMAGAGA: Right, thank you.

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**WITNESS NUMBER 5 (ARMSCOR): MR JOHAN ODENDAAL  
(Hereinafter referred to as "MR ODENDAAL"), GIVES  
EVIDENCE UNDER OATH**

**EXAMINATION IN CHIEF:**

15 MS RAMAGAGA: Mr Odendaal, I'm going to start off by dealing with your statement read with your *Curriculum Vitae* where necessary and your statement commences on page 1 of the bundle. It is correct that you are presently employed by the Armaments Corporation of South Africa Ltd., ARMSCOR?

20 MR ODENDAAL: Yes Chair.

MS RAMAGAGA: And you were appointed as the programme manager for the Light Utility Helicopter, the LUH Programme a few days after the completion of the source selection process and announcement of Cabinet decision to appoint Agusta SPA  
25 as the preferred bidder for the LUH.

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MR ODENDAAL: That is correct.

MS RAMAGAGA: You are currently employed as a Senior Manager Technical in the IRO [sic] System Division?

MR ODENDAAL: That is correct.

5 MS RAMAGAGA: And you have made a statement to the Commission.

MR ODENDAAL: That is also correct.

MS RAMAGAGA: Your *Curriculum Vitae* is attached to the statement and it appears on pages 13 to 14 of the bundle.

10 MR ODENDAAL: That is correct Chair.

MS RAMAGAGA: Now I would like to focus your attention to the *Curriculum Vitae*, firstly I'll start off with ... We'll alternate nè? Now I'd like to take you through your *Curriculum Vitae* is it appears on pages 13 and 14 of the bundle. Firstly what I will  
15 deal with is your education and qualifications. It is correct that you have obtained a Bachelor of Engineering degree from the University of Pretoria in Gauteng?

MR ODENDAAL: Confirmed.

MS RAMAGAGA: And you have also obtained a Bachelor of  
20 Engineering Honours degree from the University of Pretoria in Gauteng.

MR ODENDAAL: Yes Chair.

MS RAMAGAGA: You have also obtained a Bachelor of Economics from the University of South Africa in Gauteng.

25 MR ODENDAAL: That is correct.

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MS RAMAGAGA: Now the next portion of your CV that we will deal with is your work experience. It is correct that from February 1981 to October 1981 you worked on failure analysis, metallurgical process control and optimisation at Pretoria Metal Pressings?

MR ODENDAAL: Yes Chair.

MS RAMAGAGA: And for the period November 1981 to December 1981 you worked at Lyttleton Engineering which is today known as Denel Land Systems in Gauteng.

MR ODENDAAL: That is correct.

MS RAMAGAGA: And for the period from January 1982 to December 1983 you were with the South African Defence Force and stationed in Pretoria, Gauteng?

MR ODENDAAL: That is correct.

MS RAMAGAGA: You completed your Officers Course during 1982 and after conclusion of your Officers Course you were then seconded to the CSIR where you held the position of researcher into the development of specialised ceramic material during 1983.

MR ODENDAAL: That is correct.

MS RAMAGAGA: Now from January 1982 to December 1983, no, no, I beg your pardon; from 1984 to 1987 you worked again at Lyttleton Engineering in Gauteng.

MR ODENDAAL: That is correct.

MS RAMAGAGA: And then from 1987 to date you have been

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employed by ARMSCOR?

MR ODENDAAL: That is correct.

MS RAMAGAGA: And you are employed as a manager responsible for the development and acquisition of the following products, I'm going to place them on record, is it correct that from 1987 to 1998 you were employed as the manager responsible for the acquisition and development of certain products?

MR ODENDAAL: That's correct.

MS RAMAGAGA: Now in page 14 of the bundle you do mention those products, can you just indicate as you mentioned the product as to which product were you managing for acquisition purposes and which ones were you managing for development purposes?

MR ODENDAAL: Chair, Commissioner Musi, first of all I worked on an infrared missile system, development and production, thereafter I worked on an advanced air-to-air active radar missile system, both the development and production and delivery to the customer, afterwards I worked on various unmanned aircraft as the programme manager from ARMSCOR's point of view, a number of them and also on various technology establishment projects for which I was the ARMSCOR programme manager dealing with different companies in South Africa.

MS RAMAGAGA: Right, thank you. Then it's correct that

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from 1999 onwards you were the project manager responsible for the development and procurement of the LUH.

MR ODENDAAL: That is correct.

5 MS RAMAGAGA: Now will you please just briefly indicate to the Commission as to what your responsibilities as the programme manager?

MR ODENDAAL: I understand that the interest is specifically for the Light Utility Helicopter, in this case I was responsible for the technical negotiations of the contract, afterwards I was from ARMSCOR'S point of view responsible for the, for overseeing the development and production of the Light Utility Helicopter and that includes the technicalities as well as finances, as well as the personnel involved.

10 MS RAMAGAGA: And Mr Odendaal, when we progress with your evidence it will become even more clear and apparent as to what your responsibilities are in detail.

MR ODENDAAL: That is correct.

15 MS RAMAGAGA: Now I'd like to take you back to your statement at page 1 of the bundle. Now the statement that you have drawn was signed yesterday on the 19<sup>th</sup> day of November.

20 MR ODENDAAL: I confirm.

MS RAMAGAGA: And you do confirm that that statement is true and correct information that is within your personal knowledge, also based on documents that you have read?

25 MR ODENDAAL: I confirm.

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MS RAMAGAGA: Now it is correct that you have been asked to provide evidence within your knowledge that may be relevant to the LUH acquisition for the SDPP's insofar as same may relate to ARMSCOR and you are in fact testifying in your  
5 capacity as an employee of ARMSCOR.

MR ODENDAAL: That is correct.

MS RAMAGAGA: Now in this statement you set out matters that may be relevant to the process and the outcome relating to the LUH acquisition which formed part of the SDPP's and this  
10 included the adjudication process insofar as it concerned the scoring of the Technical Value System, the negotiation phase from the technical point of view and the overseeing of the acquisition of the LUH.

MR ODENDAAL: That is correct.

15 MS RAMAGAGA: And it is correct that your evidence is going to focus on the processes undertaken from the time that Project Flange was registered.

MR ODENDAAL: Ma'am, from the time that ARMSCOR got involved which is at the Staff Target I will deal with it, until the  
20 delivery of the product.

MS RAMAGAGA: Now it is also correct that the evidence that you are going to lead after ARMSCOR came in, that is from the time that the ARMSCOR then took over the process up until the time when the preferred bidder was selected you were not  
25 directly involved, however, you rely on the official documents

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of ARMSCOR on the evidence that you are going to present.

MR ODENDAAL: That is correct.

MS RAMAGAGA: Now in the presentation of your evidence you are going to rely on the documents that were developed by your predecessors who are Mr Louw and Mr Coetzee respectively.

MR ODENDAAL: That is correct, they are no longer in the service of ARMSCOR, therefore ARMSCOR has requested me to summarise the details of what happened during their tenure.

MS RAMAGAGA: Thank you. Amongst the documents that are attached to your statement there are classified documents which have since been declassified, however, some of the documents that are attached have been masked for one reason or the other which includes the sensitivity of the information as well as the confidentiality of the information.

MR ODENDAAL: That is correct.

MS RAMAGAGA: And in order to ensure that the Commission executes its mandate properly we have made provision for the pages that are masked to be also coupled with the unmasked ones, solely for the sight by the Commissioners.

MR ODENDAAL: That is correct Chair, and Commissioner Musi. Also I want to point out that it's very few pages, it's perhaps 10 pages of 500 pages which have any masking on and the details are at a very low level that has been masked. Of course many of the important, which I believe is important to

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the Commission is items with respect to total costing, those information are all in the public domain and therefore there was no requirement to deal, to mask them due to confidentiality agreements with suppliers.

5 MS RAMAGAGA: Right, now the main focus of your evidence are aspects relating to the light utility programme, the LUH Programme Acquisition Process through the SDPP within the ARMSCOR domain of responsibility, however, for completeness of your evidence and to an extent necessary you are also going  
10 to touch on the acquisition process that preceded the SDPP process in respect of the LUH as informed by the documents that were prepared by your predecessors.

MR ODENDAAL: That is correct, I believe that it would be useful for the Commission to understand that the LUH was  
15 initiated long before the SDP and it was a continuation of the existing acquisition process.

MS RAMAGAGA: And Colonel Viljoen has already given evidence relating to the LUH Acquisition Process from the perspective of the Department of Defence within the South  
20 African Air Force arm service, arm of service I beg your pardon, and his evidence relates to the identification of the need to replace the Alouette III system and the process that was undertaken leading to the registration of the LUH Replacement Project which is Project Flange.

25 MR ODENDAAL: That is correct Madam Chair,

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Commissioner Musi; I will not deal with that because that is something solely in the domain of the DOD, I will only deal with matters that ARMSCOR got involved subsequently.

MS RAMAGAGA: Yes Mr Odendaal, you will not be required  
5 to deal with the information unless there is an indication that there are certain things that need to be corrected, but just for the completeness of the record and also for the assistance of the Commission I think it's proper that we just show the link as to where we are continuing from because Lieutenant Colonel  
10 Viljoen at the time when he presented his evidence he said he can only do, give adequate information on the DoD and someone would take over to deal with ARMSCOR and you are the person that is now taking over to deal with the ARMSCOR.

Now in his evidence Colonel Viljoen has also  
15 informed the Commission that he drew the first version of the User Requirement Statement in 1994 and there were several iterations of the User Requirement Statement and Version 5 of the user requirement is the one that was approved and it was approved in March 2000. Can you confirm that indeed the user  
20 requirement was approved in March 2000 as Version 5 of the User Requirement?

MR ODENDAAL: That is correct Chair.

MS RAMAGAGA: And he has also testified that the project  
could only be registered after the Staff Target had been  
25 approved and in your statement you are dealing with the

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approval of the stage post the approval of the Staff Target.  
Can you then look at page 2 of your statement and then present  
your evidence from Clause 2.5?

MR ODENDAAL: Chair, Commissioner Musi, if you would  
5 allow me to read it to be as accurate as possible, and I read  
from paragraph 2.5 on page 2 of my statement:

*“On the 16<sup>th</sup> of May 1996 the Staff Target 03925  
dated 29 January 1996 was approved for the  
replacement of the Alouette III fleet of aircraft that  
10 had been operated by the South African Air Force  
since 1962. The programme was designated Project  
Flange. Colonel Viljoen has given evidence on the  
Staff Target and annexed an extract from it as  
Annexure “FKSV3” to his statement”.*

15 MS RAMAGAGA: Alright, thank you. Now before you  
proceed to deal with evidence relating to the activities of  
ARMSCOR in the acquisition process of this LUH Programme or  
LUH System I would like you to actually explain the certain  
documents that I believe they are going to be referred to or  
20 they are going to be mentioned on several occasions during the  
presentation of the evidence and those documents are the  
following; the Staff Target, the User Requirement Statement,  
the Staff Requirement and the Acquisition Plan, in that order.  
Can you then commence just to give information about what the  
25 purpose of the Staff Target is and what that document is?

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MR ODENDAAL: Chair, these document is as the Commissioner mentioned DoD documents and the best suitable speaking about them would be the DoD but in this case to clarify this I will, and to be as helpful as possible to the  
5 Commission try to summarise what these documents mean. And I will read from the Auditor-General's Report which quoted the Acquisition Glossary which is a standard document in the DOD defining the processes and procedures. With respect to the Staff Target it says:

10 *"A short summary of the operational requirements with particular reference to the function of requirement together with an indication of the shortcomings of the existing equipment which is to be ruled out by the new requirement".*

15 That is the definition, the standard definition for the Staff Target within the DOD. With respect to the Staff Requirement it's a detailed description of the user requirements of an envisaged equipment weapons system as proposed in the staff objective and to further clarify the Staff Requirement includes  
20 the User Requirement Statement, so it's the User Requirement Statement is part of the Staff Requirement.

25 With respect to the Acquisition Plan this is the DoD document which define all the relevant items and which is presented for approval to the relevant authorities within the DoD, the document typically contain costing information and

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what is to be procured and the risks associated with the procurement of the specific equipment and of course the timescale and the financial impact.

5 MS RAMAGAGA: Right, thank you. The only document that you have not tried to explain and indicate as to what its purpose is the User Requirement Statement. You spoke about the Staff Target, the Staff Requirement, the Acquisition Plan, will you please then enlighten us about the user requirements.

10 MR ODENDAAL: The user requirement is part of the Staff Requirement, it is a detailed specification in terms of Functional User Requirements and Logistic User Requirements which was also explained by Captain Jordaan and I believe also Mr Griesel, so the User Requirement Specification is in essence a detailed function and Logistic Requirement Specification from the user.

15 MS RAMAGAGA: Now from the perspective of acquisition, be it through the ARMSCOR standard acquisition policies or the SDPP Acquisition Policy, can you indicate to the Commission as to whether any of the four mentioned documents are

20 obligatory, it is peremptory that they be in place during the course of the acquisition process.

MR ODENDAAL: The Staff Target is the only obligatory document as also with, was given evidence by Captain Jordaan and Mr Griesel.

25 MS RAMAGAGA: So, is my understanding correct that the

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User Requirement Statement as well as the Staff Requirement document is not obligatory?

MR ODENDAAL: That is correct Chair, in terms of the DOD policies.

5 MS RAMAGAGA: Now let us go back to your statement and in paragraph 2.6 you are talking about the, what, the formation of the IPT after a project has been registered with the IPT would then commence to undertake its responsibilities or duties relating to acquisition. Can you please just take us through as  
10 to what would be done up until the point where the RFI would be issued.

MR ODENDAAL: The purpose of the project study is to determine and finalise the user at the Staff Target Specification and to be able to determine the cost and to assist  
15 in making a decision for the relevant approval authorities with respect to the risk of procuring the envisaged equipment as envisaged in the Staff Target and in order to collect all the relevant facts about the equipment available in the market and to assist in the decision whether to develop or buy the items  
20 from a possible available source.

MS RAMAGAGA: Right, thank you. Now shall you then take us through the process relating to the RFI's, that is where the ARMSCOR then issued the first RFI which is Request for Information document that appears on paragraph 2.8 onwards  
25 of your statement. Yes.

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MR ODENDAAL: Request ... Maybe I can just mention and confirm what was alluded to before, the RFI sent out to collect some data to assist with the project study in terms of what's available and the relevance of the specifications from the user and I read, if you'll allow me Chair:

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10  
15  
*"The Request for Information document (RFI) was issued on the 17<sup>th</sup> of July 1996 to all identified possible suppliers and upon request and here forthwith called the first RFI. The purpose of the RFI was to determine whether the suppliers had a product that would satisfy the requirements of the South African Air Force and whether the suppliers were interested in participating in the acquisition programme. A copy of the first RFI is annexed hereto as 'JO2'".*

MS RAMAGAGA: Thank you. Now it is correct Sir that this first RFI was issued prior to the advent of the SDPP process?

MR ODENDAAL: That is correct Chair.

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MS RAMAGAGA: And this first RFI appears in pages 15 to 24 of the bundle, of Mr Odendaal's bundle. Sir, I'd like to take you to the RFO document, that "JO2", in particular I'd like to focus your attention on page 17 of the bundle. Now it is correct that Clause 1.2 and 1.3 of this document read as follows:

*"The objective of this Request for Information is to*

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5           *obtain information from your company on a  
helicopter system currently in service or currently  
being developed that could satisfy the South African  
Air Force's requirement as described in more detail  
in paragraph 3 of this RFI".*

Thank you Chair and Commissioner Musi. It is correct that  
Clause 1.2 reads as I have just read out to the record?

MR ODENDAAL:       I confirm.

10       MS RAMAGAGA:       Now what I would like to highlight on this  
paragraph 1.2 is that the requirement is made in relation to the  
system that is either currently in service or which was then  
being developed, so it covered the developed ones as well as  
the ones that were already in use, it is correct?

MR ODENDAAL:       That is correct.

15       MS RAMAGAGA:       Now paragraph 1.3 on the same page as I  
have said, it reads:

20           *"Responses received will be evaluated against  
certain selection criteria. Those responses that  
satisfy or will soon satisfy those criteria will be  
invited by ARMSCOR to continue with a competitive  
tendering process".*

Do you agree that it reads like that?

MR ODENDAAL:       That is what it reads.

25       MS RAMAGAGA:       Now the reason why I am referring the  
Commission to this paragraph it is because it does create an

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expectation that those that have been shortlisted although that would have met a certain criteria would be invited to continue with the competitive tendering process.

MR ODENDAAL: That is correct.

5 MS RAMAGAGA: Now while I stay on this first RFI I would also like to just draw the attention of the Chairperson and the Commissioner that this clause, these clauses that I have read are going to be contrasted against the second RFI which appears in page 27 and the contrast to Clause 1.3 that I have  
10 just read will appear in the second half of Clause 2.1 on page 27. Now maybe the appropriate approach would be then to do that contrast here and now so that the commissioners can see the difference between that RFI that was issued prior to the SDPP's as against this one that was issued post the SDPP's.  
15 Now please, while you are keeping your finger on this page 17 please go to page 27. Now in Clause point 2.1 it reads:

20 *“Addresses are requested to provide information only according to the data requirements list. It should be noted that a response to this RFI does not necessarily imply or guarantee that a respondent will eventually be issued with tender document or selected to participate in a tender process”.*

Is that correct?

25 MR ODENDAAL: That's what is written there Chair.

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CHAIRPERSON: I'm sorry Ms Ramagaga, you had read that portion and this seems to be an ARMSCOR document. Now the witness simply says that this is what it says, what does that mean, because he is an ARMSCOR employee, a senior official of ARMSCOR. Does he agree that that is the procedure that was being followed at ARMSCOR or not because he just says to us that you know that is what the paragraph meant, I don't know what does that answer imply. Is it what has been happening at ARMSCOR or he just simply agrees that you know this is what this document says?

MS RAMAGAGA: Thank you Chair. This is an issue that I would actually request the witness to clarify, however, I should just maybe preface it by just repeating or reiterating an indication that the witness has said he did not participate in the issuing of this RFI and subsequent documents during the period, however, I believe that he is in a better position to clarify, more so that the documents are actually official documents of ARMSCOR. Thank you Chair.

MR ODENDAAL: Chair I apologise for being unclear, I really want to be helpful, as helpful as possible. Chair, I confirm that this provision in this RFI with respect to the RFI being Request for Information and under no circumstances is putting ARMSCOR under an obligation to proceed with the tender or even to send the tender to the particular company that received a copy of the RFI documents in order to respond,

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it is also similar in paragraph 2.1 of the first RFI there is a similar provision, that is a standard provision in all ARMSCOR RFI's because it must be very, very clear to all companies that provide data that there can be no expectation of a contract in the future whatsoever. I hope that helps Chair.

MS RAMAGAGA: Right, thank you Chair and Commissioner Musi. As I have indicated the reason why I'm referring to the two paragraphs and putting them side by side is just to indicate that the first RFI document made a provision or yes, a provision that the selection would be made and if you make it through the selection then you will be invited into the next, second phase, whereas the second document is just saying you should not expect to be even invited for the second phase, so that is the distinction between the two provisions. Now may I then proceed to go to the next page, page 18 of the first RFI? Now on page 18 of the first RFI document Mr Odendaal I'd like to focus your attention to paragraph 2.7, the one that deals with the counter trade, do you see that?

MR ODENDAAL: I do.

MS RAMAGAGA: Now it is correct that in terms of this clause the respondents must note that the actual invitation to tender will insist on certain minimum levels of counter trade and local participation optimised to the maximum benefit of the South African economy. Is it correct?

MR ODENDAAL: That is correct.

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MS RAMAGAGA: Now can you just explain to the Commission as to whether this was the first time that a document of this nature would have a provision for a counter trade or whether it wasn't the first time and just give  
5 information as to what, when the counter trade were introduced into this type of document.

MR ODENDAAL: Chair, if you will allow me I will give some information on this, I however want to remind the Commission that later on there will be people specifically giving witness to,  
10 with respect to counter trade and as we call it today, industrial participation. With respect to the question posed to me it is correct that ARMSCOR has for a long time since the first time that I remember as 1988 have demanded counter trade on all contracts above a certain amount with foreign suppliers or with  
15 a foreign content, so in this case it was not abnormal in the first RFI to have it, it was a standard process that has been applied before and continues to be applied with respect to all contracts with foreign content in that.

MS RAMAGAGA: Right, thank you. This clause that appears  
20 on page 18, the 2.7, I will actually try to draw the attention of the commissioners to page 27, page 28 I beg your pardon, page 28 of the second RFI that is the RFI that was used during the SDPP process. Now in page 28 we also have Clause 2.7 but this clause now does not talk about counter trades broadly, but  
25 it deals specifically with the industrial participation element

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and it reads:

*“Respondents must take note of the requirement and minimum levels of industrial participation as described in the document attached and complete the relevant sections of the document”.*

5

Do you agree that those are the contents of the second RFI, Clause 2.7 in particular?

MR ODENDAAL: I do agree and I can also point out that it's similar on all SDP Packages, the similar clauses was included in the RFI's.

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MS RAMAGAGA: Now let's go back ... Sorry, sorry Chair. Let's go back to page 19 of the first, of the bundle, which is the first RFI. Now in page 19 you find a provision in Clause 3 which states the LUH Requirement Statement. Now at the time when you presented evidence you have already indicated and alluded to the fact that the User Requirement Statement was only adopted in 2000 and we are now talking about the RFI that was issued in 1996. Can you just indicate to the Commission as to where was this information sourced from, the information contained in paragraph 3?

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MR ODENDAAL: Chair, the information with respect to the requirements stated here, the source of that is the Staff Target, of course ARMSCOR when we send out a tender add some additional information to make it possible for the contractors to unambiguously quote for that but the source is

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from the Staff Target.

MS RAMAGAGA: Thank you. Now I'd like to take you to page 21 of the bundle, we are still dealing with the first RFI. In particular I would like to draw the attention of the Commission to Clause 4.1.1 in page 21 which reads, and this is addressed to the invitees:

*"State your company's willingness should it be selected to act as main contractor to enter into an agreement with ARMSCOR for the supply of the Light Utility Helicopters as well as any counter trade agreement that might be linked to the main agreement".*

Is that correct?

MR ODENDAAL: That is correct. Of course that has been added because the information would be un-useful unless the company giving the information are prepared to do those things and if they were not for example willing to enter into a counter trade agreement that would disqualify them as a provider.

MS RAMAGAGA: Now when one compares this provision to the similar provision in the second RFI which provision appears on page 31 of the second, of the bundle, paragraph 4.1.1 reads:

*"State your company's willingness should it be selected to act as the main contractor to enter into agreement with ARMSCOR for the supply of the*

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*Light Utility Helicopter as well as any industrial participation agreement that might be linked to the main agreement”.*

Now in this, the second RFI the provision clearly states that  
5 it's the industrial participation agreement, it does not just state that is the counter trade broadly, do you agree?

MR ODENDAAL: That is correct Chair; it is a much more specific requirement.

MS RAMAGAGA: Now shall we then revert to your  
10 statement, in particular I'd like to take you to page 3 Clause 2.9 of your statement. Can you proceed to present evidence from page, or from that paragraph?

MR ODENDAAL: Chair, I will read from paragraph 2.9:

15 *“The first RFI was issued to a total of 16 companies listed below; ...”*

And I remind you that some of them were identified beforehand as indicated in the RFI document itself and subsequently some companies requested also copies of RFI's, we also sent it to all the companies requesting to have insight into the RFI. The  
20 companies that received that, and I'll first mention the company and then the country, first was Agusta from Italy, second Bell Helicopter Textron from the USA, Eurocopter South Africa, from France, Hindustan Aeronautics from India, Kamov from Russia, McDonnell Douglas Helicopter Systems from the USA, Mil from  
25 Russia, Sikorsky Aircraft, WSK PZL Swidnik from Poland,

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Comair Sales from South African, National Airways Corporation from South Africa, Bell Helicopter Textron Canada, from Canada, Moscow Aircraft, Production Organisation from Russia, Denel Aviation from South Africa, Court Helicopters South Africa and Kazan Helicopter Plant Russia.

MS RAMAGAGA: Right. Thank you Sir. I think I'd like to then request that you go to page 23 of the bundle that is still the first RFI.

CHAIRPERSON: I'm sorry Ms Ramagaga, just for my own understanding the witness just went through a list of companies, is there any difference between the company that is mentioned as number 2 and the one which is mentioned as number 12? Are those two different companies or is it one and the same company?

MR ODENDAAL: Chair that's a company with affiliates in the two different countries, so it's a subsidiary with one branch, one subsidiary in the USA and one in Canada, so it is two different contracting entities.

MS RAMAGAGA: Right, thank you Chair. Sir, are you at page 23? Page 23 of the bundle? Yes. Now it notice from page 23 of that bundle at Clause 5 which states the distribution list of the companies which were furnished with the RFI, the provision reads:

*"The following companies have been identified to be issued with this document; other companies may be*

*added to this list at ARMSCOR's own discretion".*

Now if you look at this list that appears on page 23 it has only nine companies listed and in terms of your evidence as appears in paragraphs, in pages 3 to 4 the number of companies that were invited were 16, does this have to do with the discretion that ARMSCOR had to add the number or do you know?

MR ODENDAAL: Chair, what happened is that nine companies were initially identified as companies that has products or had products to, potential products that could satisfy the requirement. Subsequently seven more companies request also the RFI documentation, although we knew for example some of the South African companies do not have any product ARMSCOR decided to issue everyone that asked with a copy of the RFI in order to be seen as fair and transparent although we know, knew at the time that it's very unlikely that those companies could come up with a solution to the requirement.

MS RAMAGAGA: So is my understanding correct that the other companies in excess of the nine that are listed in page 23 are companies that actually requested to be furnished with the RFI?

MR ODENDAAL: That is correct Chair.

MS RAMAGAGA: Right, thank you. Then you can proceed with your evidence, back to page 4 Sir.

MR ODENDAAL: Chair, I read from paragraph ... I

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apologize. Chair, Commissioner Musi I'm reading from paragraph 2.10 on page 4 of my statement:

5 *"Due to the inclusion of the LUH as part of the SDPP the project study phase was restarted and the second RFI dated 29 September 1997 ..."*

CHAIRPERSON: I'm sorry.

MR ODENDAAL: Chair, just to be sure that I am clear I would repeat the sentence if you are satisfied:

10 *"Due to the inclusion of the LUH as part of the SDPP the project study phase was restarted and the second RFI dated 29 September 1997, forthwith called second RFI, was issued to the nine countries included in the SDPP as explained by Mr David Griesel's presentation. The second RFI,"*

15 Maybe I can just clarify then, so the RFI's were sent to all the countries that was identified as strategic partners by the South African Government, in other words countries that the relationship is to such an extent that we can be sure of the support and of those countries in the long run.

20 *"The second RFI included the user requirement for the supply of the LUH and included provisions for defence industrial participation, National Industrial Participation and financing to cater for all aspects related to the package".*

25 Or the so-called SDPP's.

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*“For the second RFI the Staff Target 03925 again served as the technical basis for the LUH User Requirement”.*

I annexed a copy of the second RFI as “JO3”.

5 *“Only the following companies responded to the RFI:*

- *Agusta Italy for A109’s South African Air Force.*

- *Bell Helicopter Textron from Canada for Bell 427 and:*

10 

- *Eurocopter International for the EC-635”*

MS RAMAGAGA: Right, thank you. Before we proceed to deal with specific portions of “JO3” which appears on pages 25 to 95 of the bundle I would like to place on record information relating to the introduction of the SDPP’s which information appears on the statement of Mr David Griesel because that would help the Commission to fully appreciate as to what processes were to be followed, what policies were applicable moving from this time when the SDPP process came into place. So, in particular I would like to refer the Commission to the statement of Mr Griesel as it appears in page, please bear with me Chair, page 49. Let me just check. Page 49 is a document, it’s “The MOD Policy for Dealing with International Defence Equipment Offers in the MOD”. Now that is actually the document that was used to put into operation the interim acquisition process that would be used solely for the purpose

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of acquiring the government-to-government packages as they appeared or as they had been identified by the Government, it is correct so Sir?

MR ODENDAAL: That is correct Chair; this is the document  
5 that gives the guidance for also the LUH which was part of the SDPP.

MS RAMAGAGA: Chair, the statement of Mr Griesel as well as the document that I am talking about appears in Volume 2, Volume 2 of the bundles. It says "Odendaal Volume 2". It's  
10 described or ..., yes, as Odendaal Volume 2. Do you have the volumes Chair? Yes. Maybe I should start off by referring you to page 10 of that bundle, page 10 paragraphs 5 which talks about the SDPP ...

CHAIRPERSON: Which is that bundle?

15 MS RAMAGAGA: Bundle 2.

CHAIRPERSON: 2.

MS RAMAGAGA: Bundle 2 of Mr Odendaal. Now paragraph 5.1 is important because it actually makes an indication that the SDPP's superseded the standard ARMSCOR procurement  
20 process and I will this read into the record the relevant portion of this statement 5.1 which reads:

*"Prior to the approval of the SDPP acquisition ARMSCOR was in the process of procuring various product systems on behalf of the Department of  
25 Defence but before these processes could be*

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*completed the individual procurement processes were suspended at various stages in 1997, ...”.*

This is in line with what Mr Odendaal has already stated though he did not refer to the policy as such but just to indicate that there was this intervention by the SDPP Process:

*“... However, it was later decided by the Department of Defence that the individual procurement processes which had been initiated by ARMSCOR on behalf of the DOD prior to 1997 would be superseded by the package approached reflected in the SDPP. For clarity prior to the SDPP acquisition there had been the following in respect of the LUH and RFI had been issued”.*

Now further on to, in order to assist the Commission about the policy that was going to be used moving forward I'd like to refer the commissioners to page 43 of that same bundle, bundle 2 or Volume 2 I beg your pardon. Now page 43 deals with the Project Control Board, in fact I beg your pardon Chair and Commissioner Musi, the page that I would like to take you to is page 46 of that bundle. Now this is a document that is headed: “DoD Policy Directive – MOD Policy for Dealing with the International Defence Equipment Offers in the MOD”, “Policy Decision”:

*“The process whereby international government-to-government Defence equipment offers are dealt with*

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5                   *in the Department of Defence and ARMSCOR is to  
be in accordance with this policy directive which  
includes the MOD Policy in Appendix 'A', origin and  
date. It is the Planning Directive dated the 2<sup>nd</sup> day  
of July 1997".*

And the involved authorities would be the Controlling Authority,  
Chief of Policy and Planning, Executive Authorities, Chief of  
Finance, Chief of Intelligence, Chief of Logistics, Chiefs of the  
Arms of the Service and information authorities would be  
10 MILSEC, Chief of the SANDF, and Secretary for the Defense.  
And the time factors, this policy directive would be effective  
from the date of issue which is July 1997 and it would then  
subsequently be reviewed or, yes, reviewed during or around  
October 1998. And this document is signed by the Chief of the  
15 National Defence Force General J L Meiring as well as the  
Secretary for Defence P D Steyn who was the Director General.  
And just below that signature Chair and Commissioner Musi  
there is an indication that says: "Approved in Council of  
Defence on the 8<sup>th</sup> day of August 1997". Do you agree Sir that  
20 the contents that I've just read into the record is actually what  
appears on this document for the purpose of the SDP's moving  
forward?

MR ODENDAAL:       I agree.

MS RAMAGAGA:       And further the document that would also  
25 guide the acquisition through the SDPP's is found in pages 49

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to 52 of the same volume, Volume 2, page 49 Chair and Commissioner Musi. Now ... Thank you. It is dated August 1997, the “MOD Policy for Dealing with International Defence Equipment Offers in the MOD”, “Introduction”:

5                   *“Several international defence equipment offers have been presented to the MOD and others have been proposed.*

*2. These international defense equipment offers fall outside the scope of existing Acquisition Policy and*  
10                   *specific policy for such international defence equipment offers has to be established”.*

You would have noticed that the emphasis is in a statement that these offers fall outside the scope of the existing Acquisition Policy. Now “The Aim” in paragraph 3:

15                   *“The aim is to provide MOD Policy guidelines and management procedures for dealing with foreign initiated international government-to-government defence equipment offers relating to armament*  
                    *acquisition for the South African National Defence*  
20                   *Force that are to be integrated with an interdepartmental coordinating and decision making*  
                    *structure”.*

Paragraph 4:

*“This policy only addresses the defence equipment*  
25                   *offer facet of the foreign initiated international*

*government to government cooperation proposals. The structure of these proposals dictates the scope of interdepartmental involvement. Non-government supported single product proposals are not addressed in this policy”.*

5

Do you agree with what appears in this document that is what appears as a directive from the Department of Defence?

MR ODENDAAL: Yes Chair, this was the directive from the Department of Defence for the SDPP’s.

10

MS RAMAGAGA: And further on this document then deals in detail with how and what would have to be done in execution of this policy solely for these government-to-government acquisition process.

MR ODENDAAL: That is correct.

15

MS RAMAGAGA: Now Chair and Commissioner, the purpose of placing this on record, it’s just to make it clear that now we are moving into the terrain where the documents and any acquisition that was done would have been done in accordance with this particular directive and this directive clearly states that the government-to-government acquisition would be or did fall outside the normal acquisition process of ARMSCOR. Shall we say then go to page 25 where you find the RFO?

20

CHAIRPERSON: I suppose it’s an issue that we will deal with at a later stage. I’m not quite sure where does ARMSCOR derive its powers. If ARMSCOR derives its powers from a piece

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of legislation can one say a directive of this nature amends or has the potential of amending that piece of legislation? I suppose these are issues that you will raise at a much later stage? I'm just making this remark in the light of what you have, in the light of what you have just said.

MS RAMAGAGA: Thank you Chair, I do agree that this is not the time you can talk about the validity or otherwise of the directive, all what I'm saying is just to put things in line just to indicate that prior to the SDPP implementation there is this policy that was put in place. As to whether it was valid or not, that is something that can be taken care of maybe by others and not this team in particular and the aim is not actually to suggest that that policy is actually valid and even to suggest that it is true that it actually superseded the standard ARMSCOR acquisition process that was in place. Thank you Chair. Shall you then proceed to page 25? Page 25 of the first Volume that is Mr. Odendaal's volume, the first volume.

Now Sir, would you please turn to page 27 of this second RFI, page 27 the clause that I would like to have highlighted, I have already read it into the record, it's that clause Chair and Commissioner Musi, Clause 2.1, the sentence starting with "Addressees to the Process ...". That is already on record. Now in terms of Clause 2.2 of this document on the same page, page 27, the closing date for the submissions was the 31<sup>st</sup> day of October 1997, is that correct Sir? The closing

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date for submission appears on Clause 2.2, do you see that?

MR ODENDAAL: I confirm.

MS RAMAGAGA: Right, thank you. Shall you then proceed to page 28, on page 28 the intention is just to highlight that  
5 Clause 2.7 that I have already read into the record earlier on when I was dealing with the first RFI Chair and Commissioner Musi. And then page 29, page 29. Now on page 29 paragraphs 3 we still have, or Clause 3 we still have that clause that gives information on the LUH Requirement Statement, is it correct  
10 that that information was sourced from the Staff Target, also in cooperation with members of the South African Air Force, users of the required equipment?

MR ODENDAAL: I confirm the source of this document requirements are the Staff Target and as before additional  
15 detail specifications is required which ARMSCOR normally adds in order to allow the contractor to quote in an unambiguous manner.

MS RAMAGAGA: Right, thank you. And then on page 31 still just for completeness it is that Clause 4.1.1 that I have  
20 already read into the record Chair and Commissioner Musi. And then page 34, pages 34 to 61, is it correct Sir that in those pages you have information or the appendices relating to the industrial participation requirements?

MR ODENDAAL: That is correct, and specifically for the  
25 National Industrial Participation.

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MS RAMAGAGA: Thank you. And it is also correct that pages 62 to 94 of the same volume relates to the Defence Industrial Participation?

MR ODENDAAL: That is correct Chair.

5 MS RAMAGAGA: And these documents were only introduced during the second or during the issuance of the second RFI, they were not included in the first RFI?

MR ODENDAAL: Chair, I can't confirm that because often when the tender is sent out the Defence Industrial Participation and the National Industrial Participation is added as a separate document by the ARMSCOR Procurement Secretariat, so I'm not sure of that but normally for an RFI you would not necessarily add the detailed document so it could well have been that it has not been included to the same extent in the first RFI.

10  
15 MS RAMAGAGA: Right, thank you. Then shall we then proceed to page 96.

COMMISSIONER MUSI: It looks like 2.7 of that first RFI provide for industrial participation of some sorts.

CHAIRPERSON: Which page?

20 COMMISSIONER MUSI: Page 18.

MS RAMAGAGA: Page 18?

COMMISSIONER MUSI: Yes. It says 2.7.

MS RAMAGAGA: Thank you Commissioner Musi. Yes, this Clause 2.7 just makes reference to the counter trade generally without specifying as to whether it would be the NIP's, the

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National Industrial Participation or it would be the Defence Industrial Participation or it would be the combination of the two or what that means because if one reads this paragraph in respect of this thing, the first RFI it just simply says that they  
5 must note that it would be insisted that certain minimum levels of countertrade and local participation optimised to the maximum benefit to the South African economy whereas if one looks at Clause 2.7 in respect of the second RFI the indication is quite clear and unambiguous.

10 At page 28 Commissioner Musi, page 28 Clause 2.7 which states "Industrial Participation" and even in the reading of that clause it refers specifically to Industrial Participation, and maybe I should also indicate as to why I have even gone to a point of highlighting the two differences, it is because in  
15 terms of the evidence we are informed that the main reason why the second RFI had to be issued, it was also meant to include the NIP's and the DIP's because in terms of the SDPP there was a clear directive that the NIP's and the DIP's would have to play a role, a significant role in the acquisition  
20 process.

COMMISSIONER MUSI: No that's quite in order, I was raising this in view of your last question to the witness and I think his answer was correct if you take into account what is said in 2.7.

25 MS RAMAGAGA: Thank you Commissioner Musi. Now may I

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take you to page 95 of the bundle, we're still talking about the first bundle. Now this document can be described as an undertaking by companies that show interest in participating in the acquisition and it is described as Appendix 6 and it reads as follows, in particular I will refer you to paragraphs 2 and 3 of this document.

10                   *"We accept the principles of Defence Industrial Participation and Non-Defence Industrial Participation as detailed in these Appendices 1, 2, 3, 4 and 5".*

Paragraph 3:

*"We furthermore undertake should we be favoured with a Request for Proposal ..."*

15 Which is an equivalent of the RFO, RFP and RFO are used interchangeably:

20                   *"... or any other alternative method of acquisition in the future and submit a proposal against such RFP to comply with the requirements of Appendices 1, 2, 3, 4 and 5 and enter into the required DIP and NIP agreements respectively with ARMSCOR and the Department of Trade and Industry".*

Is that reading correct Sir?

MR ODENDAAL:       Chair, I confirm that it was the intention of this document to give a firm, ensure that the prospective bidder will give a firm commitment with respect to DIP and NIP.

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MS RAMAGAGA: And it is actually also correct that this type of document that would request for an undertaking by any interested party was not included in the first RFI and I just indicate the undertaking in respect of the DIP's and NIP's in particular.

MR ODENDAAL: Chair, Commissioner Musi, in the first RFI it was stated less clear and unambiguously, it do state as far as I remember that, and without going to the document that the prospective bidder should indicate their willingness to enter into that but I cannot see from that document or any other document which is available in the ARMSCOR records that I could find that a similar undertaking was required as to this detail. If I may also just add, that firm commitment in normal ARMSCOR process would only be requested at the RFO process and not necessarily at the RFI process because by enlarge the RFI process is not a binding Request for Information.

MS RAMAGAGA: Just in conclusion Chair and Commissioner Musi before the tea time, Sir I'd like to take you to page 35 of this bundle. Now in terms of this page the important note, there is a directive that the interested parties should complete and return Appendix 6; in fact because it's just a short narration I can read that into the record:

*“For this Request for Information potential suppliers need not complete Appendix 3, they need not submit DIP business plans and DIP target planning*

*schedules as required under Appendices 4 and 5 respectively though additional information would benefit an evaluation of the process, but should complete and return the Appendix 6”.*

5 So clearly from this important notice the other documents that are attached, especially in relation to the NIP’s and DIP’s are meant for information, however, the suppliers that are interested or the potential suppliers were required then to sign this undertaking that appears in page 95.

10 MR ODENDAAL: Chair, Commissioner Musi I confirm that, the intention was clearly from this not to consider the RFI to bidders or prospective bidders that do not provide sufficiently for a commitment with respect to DIP and NIP.

MS RAMAGAGA: Right, thank you Chair. I noticed it is now 15 11h35, I request that we adjourn for tea.

CHAIRPERSON: We’ll now adjourn for tea and come back after 20 minutes.

**(Commission adjourns)**

**(Commission resumes)**

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

MR ODENDAAL: I do.

CHAIRPERSON: Thank you.

MS RAMAGAGA: Thank you Chair. Mr Odendaal we are now 25 done with paragraph 2.10 of your statement. Shall we then

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revert to your statement, page 4 in particular and please proceed to present your evidence in respect of paragraph 2.11.

MR ODENDAAL: Chair I read from paragraph 2.11 page 4:

5 *“The response evaluation model and procedure for the second RFI was drawn up by the members of the IPT and approved. The evaluation model for the Value System was designed for the evaluation of the second RFI responses and takes into account information requested in the second RFI as well as*  
10 *the user requirements as deducted from the Staff Target. The outcome of the evaluation model was ranking of the options available in terms of the Military Value Index”.*

I annexed hereto a copy of the response evaluation model as  
15 “JO4” and Chair, Commissioner Musi, if I can remind you this deals with the military Figure of Merit that was explained to some of the previous witnesses and not with the financial evaluation and the industrial participation evaluation.

MS RAMAGAGA: Right, thank you. That “JO4” appears in  
20 pages 96 to 115 of the bundle, but before we go to that page, page 96 just for clarity’s sake it is correct that you had to, or the information that was contained in the RFI was sourced from the Staff Target as deducted from the user requirement because the user requirement document had not as yet been  
25 approved, is that correct?

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MR ODENDAAL: Chair, the source for the evaluation is the, as was determined, the parameters to be evaluated was identified in the Request for Information and the evaluation model repeats this parameters and assigns then weighting to each of the parameters. The request for information was based on, and by implication the Value System was based on the Staff Target and the additional technical details that needed to be added to be clear for the prospective bidders.

I was not involved but I cannot recall that I've seen in any documentation that it was also based on the draft URS at the time, but if I can remind the Chair and the Commissioner Musi the user requirement is an output from the Staff Target, so they cannot be in conflict, it's two documents speaking to each other and furthermore the user requirement is not a compulsory document in terms of the acquisition process.

MS RAMAGAGA: Right, thank you Mr Odendaal. Are you now at page 96? Yes. Please turn over to page 97. Now in page 97 all what I would like to highlight is to highlight the fact relating to who compiled this document, the response evaluation model. From this document it states that it was actually compiled by Colonel Viljoen who was the user specialist officer, the D-Ops Plans SAAF Mr André Louw, as well as Mr Chalan Chetty. Is that correct?

MR ODENDAAL: This is correct Chair; they were the responsible officers at the time from the DOD at ARMSCOR.

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MS RAMAGAGA: And this document was, the approval page was signed on the 24<sup>th</sup> day of October in 1997.

MR ODENDAAL: That is correct.

MS RAMAGAGA: Now shall you then turn to page 99. Right,  
5 in page 99 I would like to draw your attention or to focus your attention to the second paragraph of Clause 1, the one dealing with "Background" and that second paragraph reads:

*"A Request for Information for the LUH was distributed in December 1997 as part of an  
10 information request package authorised by the Minister of Defence and the RFI was based on the LUH Staff Target approved in June 1996".*

Is that correct?

MR ODENDAAL: That is correct.

MS RAMAGAGA: Now the importance of this paragraph is  
15 that it highlights that this is a response to the package approach that was actually authorised by the Minister and secondly it also indicates that the information on the RFI was based on the Staff Target and we already know that the Staff  
20 Target was approved.

MR ODENDAAL: That is correct.

MS RAMAGAGA: Now let us look at Clause 2, the "Structure of the Document", will you please read into the record as to what is contained in that clause because that is the clause that  
25 deal, to an extent it's a summary of the structure of the

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document and the process that would be followed.

MR ODENDAAL: I read from paragraph 2 page 99 of the annexure to my statement:

5           *“The evaluation model consists of four sections. Section 1 contains the evaluation factors that are mandatory criteria and thus must be complied to by each proposal. Section 2 contains the evaluation factors that are discriminating criteria and that allow for tradeoffs between proposals which satisfy*  
10           *all mandatory criteria. The outcome of Section 2 is the Operational Effectiveness Index. The product system cost aspects are addressed in Section 3, the outcome of Section 3 is a lifecycle cost index and Section 4 is the OEI (Operational Effective Index)*  
15           *and the LCCI (Lifecycle Cost Index) are combined to provide a total Military Value Index. For each proposal that has passed Section 1 is a process to determine the Military Value Index for each proposal as depicted in Diagram 1”.*

20       Diagram 1 repeats what was said and if I can just emphasise the most salient point here is that if respond then to the Request for Information does not comply to the mandatory criteria the proposal will not be considered. And then there is discriminating criteria to try to determine the best of the  
25       proposals received of information pieces received.

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MS RAMAGAGA: Thank you. "Full and Final Details on the Description of the Evaluation Model" is contained in pages 100 to 103 of this document, is that correct Sir?

MR ODENDAAL: This is correct Chair.

5 MS RAMAGAGA: Just repeat, I'm sorry, it was on.

MR ODENDAAL: I'm sorry, this is correct Chair.

MS RAMAGAGA: Thank you. Then will you then proceed to page 104 of this document of the bundle? Now pages 104 to 105 is a list of the mandatory criteria, is that correct?

10 MR ODENDAAL: That is correct.

MS RAMAGAGA: And that list as you have accede or you agreed that it's a mandatory, a list of mandatory requirements is, is it correct to say non-compliance with any of the requirements would then disqualify a candidate from being considered?

MR ODENDAAL: That is correct.

MS RAMAGAGA: Now regard being had to the mandate of this Commission I have selected just a few items which I believe need to be highlighted in respect of this mandatory requirement and in particular on page 104 the item under "Technical Functionality" M1.1, that indicate as to what the helicopter, the type of engine or the basic what, the essential element of the engine that should be offered. I think you are in a better position to can speak to that because I may be giving some misinformation, can you just explain that Sir?

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MR ODENDAAL: Chair, Commissioner Musi that refers, I think the essence of that is asking for a twin-engine, in other words two engines, so in this case if a prospective bidder would propose a single engine helicopter will not be considered, of course the twin-engine is for, mainly for safety and additional power purposes.

MS RAMAGAGA: Now when you talk about a twin-engine it's not about the types of engines, even if it's the same type of engine but the helicopter should function with two engines?

MR ODENDAAL: That is correct; it does not in that sentence prescribe a specific engine with respect to the mandatory criteria.

MS RAMAGAGA: Right, thank you. Shall we then proceed to page, I think it's the following ... Where is it? Yes the next page, page 105 nè, under "Cost" you have M4.1:

*"The unit cost of the helicopter in FAA single pilot IFR Configuration shall be less than US\$3.5 million".*

Is that correct?

MR ODENDAAL: That is correct.

MS RAMAGAGA: Right. Is there anything that you want to comment about or it's just, is there anything that you want to add or highlight?

MR ODENDAAL: Maybe I can just add for clarity this of course refers to the basic helicopter without the so-called role

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and mission equipment which is for example in the case as Colonel Viljoen has explained hoist and cargo slings and weapons and so on, so this would refer to the basic helicopter.

MS RAMAGAGA: Right, thank you. Still under "Cost" at  
5 M4.2 it says:

*"The FAA single ..."*

CHAIRPERSON: I'm sorry Ms Ramagaga, what, with M4.1 that you referred to, I see it refers to FAA single pilot IFR configuration, what does that mean?

10 MR ODENDAAL: Chair, I appreciate the opportunity to clarify. The IFR stands for Instrumented Flight Rules which implies that you can fly this helicopter on the instruments and that you don't need a visual references, so you can fly this with a single pilot, you don't need two pilots, plus the IFR referring  
15 that it would have sufficient instruments that you don't have to allow on the outside seeing through the windows to fly the helicopter, so you can just look at the instruments.

MS RAMAGAGA: Right, thank you Sir. And then M4.2:

*"The FAA single pilot IFR Configured Helicopter  
20 shall have a direct operating cost of less than  
US\$500 per flying hour".*

Do you have any comment on that?

MR ODENDAAL: The direct operating cost is a term used in the aviation industry indicating the direct costs to fly the  
25 helicopter, that would exclude the cost for example of the pilot

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and the facilities and so on, so the cost, and I believe it's later on in detail explained but I don't think it's particularly necessary at this point to go into the details of that but it basically, it exclude things which are not directly related to the cost of the helicopter itself.

MS RAMAGAGA: Right, thank you. Then the next item that I would like to refer you to is M5.2 under "Programme Risk":

*"The helicopter shall be in an advanced stage of development or production".*

10 Would you like to comment on that?

MR ODENDAAL: Well, this is also consistent with the previous RFI where the idea is that the Air Force needs this helicopter as soon as possible since the Alouette was very old at the time and they don't want to take the risk of somebody starting just with a paper exercise and offering a helicopter that will be many years to be completed and inherently have much more risks and there could be issues with the certification by the Civilian Aviation Authorities for example that could lead, and often does, to a long protracted programme.

MS RAMAGAGA: Right, thank you. And then M5.2 says:

*"The helicopter shall be ..."*

No, no, I've dealt with that already, I'm sorry Chair, may I just proceed to M5.3:

25 *"The manufacturer must have a proven record of*

*international sales and industrial cooperation”.*

Can you also speak to that because I think it should be linked to the previous one?

MR ODENDAAL: Yes that is correct, it is linked to the  
5 previous one and the risk associated, of course ARMSCOR as a  
rule would not like to deal with companies that we are not sure  
that they will remain in the business and does not have a track  
record, we are working with government funding and we have to  
be as conservative as possible in dealing with these matters  
10 and not necessarily put the fiscus at risk, for example having a  
company that will not be in existence in the near future or not  
able to deliver what they promised.

MS RAMAGAGA: Right, thank you. And lastly under the  
“List of Mandatory Criteria” you have M6.1:

15 *“The company has stated its willingness should it be  
selected to act as main contractor to enter into the  
Industrial Participation Agreement linked to the  
main agreement and in line with the stated  
principles of the Defence Industrial Participation on  
20 Non-Defence Industrial Participation”.*

MR ODENDAAL: Chair that is just then a confirmation as is  
consistent through the document that a prospective bidder will  
not be considered if they do not act in line with the imperatives  
that were set by the Government for the SDPP’s to participate  
25 in Industrial Participation Programme.

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MS RAMAGAGA: Right, now I'll request you to turn to page 108, and maybe I should just indicate that this concerns the List of Discriminatory Criteria and that list runs from pages 106 to 109, however, I would just like to focus you on this page 5 108, in particular I would like to draw your attention to ... Are we there Chair and Commissioner Musi? We are looking in Volume 1 Chair page 108; it is directly under the divider 4. It falls within the bundle, the pages that are between dividers 4 and 5. Right, thank you Chair. Mr Odendaal, in page 108 I 10 would like to draw your attention specifically to item 2.9 which reads:

*“Value of the proposed Direct Defence Industrial Participation of the future support of the LUH (qualitative judgement based on the local expertise and support created and sustained and the level of 15 employment in these areas)”.*

Do you see that?

MR ODENDAAL: I do Chair.

MS RAMAGAGA: Now maybe I should just indicate that the 20 reason why I'm highlighting this item, it is because the concern relating to the Industrial Participation appears under the List of Mandatory Criteria and now it also appears in the List of the Discriminating Criteria.

MR ODENDAAL: Chair, I am in a position to clarify that. 25 With respect to the mandatory criteria you may remember the

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prospective bidders only had to make a declaration that they are willing to participate, they didn't have to give any details, so this is, this point is not about evaluating so much the Industrial Participation, you will later on see in the later  
5 evidence that comprehensive evaluations was made later on when the Request for Offers were sent out with respect to Industrial Participation.

On page 108 D2.9 speaks to the support, the local support of the system in South Africa, in other words should  
10 this prospective bidder establish facilities that will sustain the Direct Defence Participation, and if I can clarify Direct Defence Participation, that is direct on the specific item that we buy, in other words if they create support facilities in South Africa under the DIP, the Defence Industrial Participation and hence  
15 Direct Defence Industrial Participation they will score additional points, in this case the intention is to give a prospective bidder additional points because they establish support capability for the helicopter that they provide. I'm not sure if this clarifies it sufficiently Chair, I can continue if you  
20 need.

MS RAMAGAGA: Right, I see the chair is nodding and that's an indication that the explanation is satisfactory and well informing. On this page Sir is there anything else that you would like to highlight and bring to the attention of the chair  
25 and the commissioner? Maybe I should say you don't have to

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confine yourself to this page in particular but are there other items that you would like to highlight?

MR ODENDAAL: Chair, I don't have anything particularly to highlight but what I may say you can see from the extent and the depth of the questions asked that the suppliers had to respond to, that the team that drew this up made an honest and serious effort to be able to evaluate the products offer in order to determine if they are suitable for the South African Air Force.

5  
10 MS RAMAGAGA: Right, thank you Sir. Shall we then revert back to page 4 of the bundle that is we are continuing with your statement; we are now done with paragraph 2.11, shall we then proceed to present evidence on paragraph 2.12?

MR ODENDAAL: I read from paragraph 2.12:

15                   *"The evaluation results for the RFI was published on the 14<sup>th</sup> of November 1997. The report of the Integrated Project Team indicates that the responses of the three shortlisted companies were of an acceptable quality and each complied with the*  
20                   *mandatory criteria".*

The word "shortlisted" is wrong there, this is the three companies that responded, if I just may correct it, or the three, there was only three companies that responded and in other words all three's response, all three complied to the mandatory  
25 criteria. I attached hereto a copy of the evaluation in Appendix

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“JO5”.

MS RAMAGAGA: And “JO5” appears in pages 120 to 131 of the bundle. Now before we deal with the contents of “JO5” you have just made some correction by indicating to the  
5 commissioners that there was no shortlisting, these three companies are the ones that had made an offer, is it an offer? Yes. And in actual fact they were all found to be acceptable and as a result they qualified to go the next stage. Now are you able to tell the Commission as to whether from information  
10 that you have obtained from the documents as to whether these three companies were companies that had also responded to the first RFI or not, are you able to assist in that regard?

MR ODENDAAL: Chair, these companies also responded to the previous RFI, I may add in my view and at the time this was  
15 the only three companies of the nine strategic partner countries that the Request for Information was sent out on instruction of the Minister of Defence that did have suitable products and there was no one of the nine that had a product that did not present their bid, if this is clear enough.

MS RAMAGAGA: Right, thank you. I’m just highlighting this  
20 information because from the evidence that was presented previously there is an indication that the companies were shortlisted, however, when Colonel Viljoen testified about issues relating to the terrain of ARMSCOR he did caution the  
25 Commission that it is not his terrain but relying on his memory

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certain things could have happened. Now I said we should now focus our attention to the document "JO5" on, which appears on pages 121 to 129.

5 Now firstly on page 129 which are described as the Approval Page of the ... Are we there Chair and Commissioner Musi, page 121 of the volume, Volume 1. Right, the Approval Page. Now it is written on this page that:

10 "This document was approved as a true reflection of the SAAF the Light Utility Helicopter September 1997 Request for Information response evaluation".

It is signed by Colonel F K S Viljoen on the 17<sup>th</sup> day of November 1997 and Colonel Viljoen was the project officer, and it is also signed by Mr A A Louw who was the programme manager from ARMSCOR on the same date. Do you agree?

15 MR ODENDAAL: That is correct, these are the persons that published the report and approved it for distribution.

MS RAMAGAGA: Now that those signatures and declaration signifies that the Department of Defence as well as ARMSCOR jointly cosigned this document.

20 MR ODENDAAL: That is correct.

MS RAMAGAGA: Now will you please turn to page 123 under the "Executive Summary", will you read into the record the second paragraph, in fact the balance of that clause from the second paragraph.

25 MR ODENDAAL: Chair, I'll start with the second sentence

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of the first paragraph, I assume that is what was meant by the Commissioner:

*“All three proposals are of acceptable quality and each complies to the mandatory criteria of the value model. Through application of the value model discriminatory and cost factors, the relative Military Value figure or Figure of Merit (FOM), ranking of the proposals are:*

- *A109SAAF first with FOM of 0.96.*
- *EC635 second with FOM of 0.77.*
- *Bell 427 third with FOM of 0.61.*

*The unit cost of the three proposed products are very similar and the difference in merit is largely due to the operational functionality and programme risk factors. The direct operating cost of the helicopters falls within a narrow band, with the EC635 the lowest”.*

Chair, if I just may remind, the request for, the response to the Request for Information is a non-binding document and so those cost figures was just budgetary figures and we could not hold the contractor to that and hence the requirement to proceed later on normally with the Request for Offer, formal binding offer.

MS RAMAGAGA: Right, thank you. Shall you then turn to page 124 of the same bundle, Clause 3, it’s “Evaluation

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Process” and it starts off by indicating as to the proposals where, that were received, and then in the second part of Clause 3.1 it is stated that:

5

*“All three proposals are of acceptable quality with all the requested technical and cost information included. The data requirements of the Request for Information are fully satisfied by the proposals and data clarification requests to the offerers were not required”.*

10

Is that correct Sir?

MR ODENDAAL: That is correct.

15

MS RAMAGAGA: Now on page 4.4, I think it’s actually a repetition of what you have already placed on record as to what the Military Value Index could be calculated for each of the offers. Do you see that at paragraph 4.4, “Military Value Index” on page 126?

MR ODENDAAL: I do see it and I concur that it is a repeat of the Executive Summary in front.

20

MS RAMAGAGA: Now pages 127 to, pages 127 and 129 of this bundle are actually, those pages are actually the score sheets that were used during evaluation. Now pages 127 and 128 are partly masked, is that correct?

25

MR ODENDAAL: That is correct Chair, I can just point out that on 127 the columns, the part that was marked was the “Detailed Specifications” supplied by the prospective bidders

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and we felt that ARMSCOR might be in breach of contract or that we are in breach of the Confidentiality Agreement to make that public, however, you have the unmasked one in front of you Chair and Commissioner Musi which will give you a good  
5 indication that it does not distract from the results of the quality of the information available in order to make an assessment of this report.

MS RAMAGAGA: Thank you. And then ... Thank you Sir. Then page 129 is Appendix "B", "Calculation of the Lifecycle  
10 CostIndex", also this page there are portions that are masked. Would you like to talk to that?

MR ODENDAAL: Chair, Commissioner Musi this is the, it's only a small portion of that page that is marked which contains detailed costing figures which is subject to confidentiality  
15 agreements with the respective suppliers and again that does not distract from making proper conclusions because lower on there's the higher level information that was used for the final calculation which are available in the unmasked, in the document that is not masked.

20 MS RAMAGAGA: And for the purpose of the Commission the commissioners are placed in possession of their unmasked pages too.

MR ODENDAAL: That is correct. Again I honestly believe that this does not, even if you have the masked copy, allow you  
25 to make an assessment of the document and the report.

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MS RAMAGAGA: So, what you are saying is that those masked pages nevertheless do give fair information that can assist someone to understand and follow as to what happened?

MR ODENDAAL: That is my firm belief.

5 MS RAMAGAGA: Thank you Sir. Is there anything else that you would like to highlight about the evaluation results as contained in this document?

MR ODENDAAL: It may be a bit premature but I can just remark that the RFO where there was a more detailed Request  
10 for Information and detailed evaluation resulted in the same ranking of the three bidders' products.

MS RAMAGAGA: Right, thank you. Shall you then revert to your statement, in particular on page 5? It is correct that the Evaluation Team was charged with the responsibility of just  
15 evaluating and the decision to either adopt the evaluation results or so rested in another body, in this case it was the AAC which would be the next level of presenting the results, is it correct?

MR ODENDAAL: That is correct, the Project Team was  
20 tasked with the military Figure of Merit, there were also other evaluation results with respect to Industrial Participation. I apologise, I'm talking about the RFI, so yes, the team did do their evaluation and recommended it through the channels up to the AAC which is the final body for approval through all the  
25 relevant forums up to the AAC that had to approve whether we

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proceed to the RFO phase or not.

MS RAMAGAGA: So, in fact what you are saying is that the, you would only, and when I say you I'm talking about the institution.

5 MR ODENDAAL: Yes.

MS RAMAGAGA: You would only proceed to the next phase after proper approval or the approval had been given by the AAC.

10 MR ODENDAAL: Yes. If I just may emphasise, the AAC is in this case for the cardinal project as was testified before, the final approval authority, of course it goes to various other forums before it get to the AOC [sic] where the Minister of Defence is the Chairperson and yes, we recommended, or not recommended, sent the results to them which basically  
15 recommended that all three companies that responded to this SDP's from the selected countries, we are satisfied that all three of them can be considered for a Request for Proposal in order to enter into the competitive bidding process. Of course the budget indications are also given to all the respective  
20 approval authorities for them to be able to assess, together with the risk whether this is something that the State should proceed with.

MS RAMAGAGA: Right, thank you. I just want to highlight that in your response you mentioned that there are different  
25 criteria of approval forums and in respect of the cardinal

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projects there would be a certain process and in respect of the non-cardinal acquisition there would be a different process but this process that we are talking about or the system that was sought to be acquired fell within the cardinal projects category?

MR ODENDAAL: I confirm that it's a cardinal project as all the other SDPP's due to the importance for the Defence Force as well as the budget implication for the department. I also maybe can add that it should be noted that the special directive for the SDPP's was not, it was in support of the current existing legislation and directives, for example the AOC [sic] is the normal approval authority for any cardinal project, the final approval authority for that, so if I can add if this is helpful Chair.

MS RAMAGAGA: So, the correct understanding is that the introduction of the SDPP's did not seek to displace the existing ARMSCOR standard of acquisition, all what it sought to do was to bring in necessary policies or directives that could be fused with the ARMSCOR standard of acquisition, is that the correct ..., is that understanding the correct one?

MR ODENDAAL: Chair, Commissioner Musi, I, in order to be helpful I will expand on this, before I may just may remind that Mr Griesel did talk about this subject and maybe there is other more appropriate persons in ARMSCOR, however, I can confirm that the specific directive for the SDPP's was not replacing any

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other existing policies and procedures as can be seen from the directive itself, nor it was meant to be in breach of any existing legislation. Furthermore this was, one of the main purposes of this directive was of course because this was not a normal process because as stated in the directive we're talking about government-to-government agreements, normally we don't buy defence equipment based on government-to-government agreements, so there was clearly some other strategic and national objectives and the directive was also, and this is a personal view from what I read from the directive and not being firsthand involved, but it's clearly intended to manage the process from the Department of Defence's point of view because in this case there's many other governmental departments involved and it's in order to assist with managing the interfaces. I hope the information is helpful, although as I stated I did not prepare the statement on that level, the statement itself is talking about the acquisition of the LUH and not the higher level authorities. Thank you Chair.

MS RAMAGAGA: Thank you Sir. I think just for the completeness of the record it is true that Mr Giesel is the person that had sufficient or adequate information relating to the processes and even the fusion of the two processes, the directives read with the government act, the ARMSCOR Act.

CHAIRPERSON: Sorry Ms Ramagaga, sorry to interrupt you, we are asking the witness to speculate now, he's clearly said

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that this thing doesn't fall within his personal knowledge, he thinks, he's trying to give us now his own interpretation. We had evidence from somebody who was working with this document who gave us the background and the reasoning  
5 behind those documents, clearly this witness, that is not within his personal knowledge, he is now going to start speculating.

MS RAMAGAGA: Thank you Chair, I will then withdraw that comment. Now in terms of paragraph 2.13 you indicate that subsequent to receipt of the evaluation results you were then,  
10 it was approved that you go to the next level which is the level of issuing the RFO to the three companies that had made it through. And in response to that approval you then proceeded to then issue an RFO which is attached to your statement and it is described as "JO6", it appears on pages 132 to 332 of the  
15 bundle.

MR ODENDAAL: That is correct Chair.

MS RAMAGAGA: Now Chair, before I turn to deal with this evidence on the RFO I notice that it is now 13h05 and request that we adjourn for lunch.

20 CHAIRPERSON: We'll adjourn for lunch.

**(Commission adjourns)**

**(Commission resumes)**

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

25 MR ODENDAAL: I do.

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CHAIRPERSON: Thank you.

MS RAMAGAGA: Right, thank you Chair. When we adjourned we were about to start with the contents of "J06" which I have indicated appears from page 132 of the bundle.  
5 132, do you have it Mr Odendaal? Thank you. Right, thank you. Firstly I'd like to take you to page 133 of that document. Now under "Request for Final Offer" the closing date that is reflected is the 13<sup>th</sup> day of May 1998. Do you agree?

MR ODENDAAL: That is correct.

10 MS RAMAGAGA: And then on page ... Please bear with me Chair. Now on page 37 of the bundle, 137, I beg your pardon, 137 under Section 1 "Introduction", "Background". Clause 1.1.1, reads:

15 *"The South African Air Force requires a fleet of sixty one new technologically advanced the Light Utility Helicopter (LUH) to replace its ageing Alouette III helicopters".*

Now read this particular clause into the record, it's just to draw the attention of the Commission to helicopters that are stated  
20 to have been required at the RFO stage. Do you agree that the requirement is for replacement by sixty one helicopters?

MR ODENDAAL: That is correct.

MS RAMAGAGA: Is there anything that you would like to say about this number at this stage?

25 MR ODENDAAL: Chair, Commissioner Musi the request for

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a proposal also provided to give offers for a quantity of 50 and 40 helicopters should the quantities be reduced and we will, I propose that we will deal with it when we get to, in detail when we get to the response evaluation results which will give a good information on the impact of that.

MS RAMAGAGA: Right thank you, we will do so. And then I'd request the Commissioners to then turn to page 139 of this bundle. In particular I would like to draw your attention to clause 2.4, 2.4 which deals with "Negotiability". Are you there Mr Odendaal?

MR ODENDAAL: I am.

MS RAMAGAGA: Right. And it reads 2.4.1:  
*"ARMSCOR reserves the right to enter into negotiations with any prospective contractor regarding the prices proposed or any other terms or conditions of this offer".*

Is that correct?

MR ODENDAAL: That is correct Chair; this is the standard clause for ARMSCOR Request for Offers.

MS RAMAGAGA: And further on at Clause 2.4.2 it says:  
*"If ARMSCOR considers negotiations necessary, such negotiations will be entered into with any of the prospective contractors concerned prior to the awarding of a contract".*

MR ODENDAAL: That is correct, again it is the standard,

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the typical standard clause in the Request for Offer or that ARMSCOR normally issued.

MS RAMAGAGA: Thank you Sir. Shall you then now turn to page 141 of that bundle? And in particular what I would just  
5 like to bring to the attention of the commissioners is Clause 2.10 "Industrial Participation Requirement". I will not read them into the record because they are almost identical to the clause dealing with this under the RFI. Do you see that provision relating to the Industrial Participation Requirements?

10 MR ODENDAAL: I confirm the clause which is one of the imperatives for the Strategic Defence Procurement Packages.

MS RAMAGAGA: Thank you. And lastly I would like to direct you to page 166 of this bundle, 166 and in particular I would like to refer you to paragraph 4.10.5 which deals with  
15 "Spares Price List". Do you see that?

MR ODENDAAL: I do see the relevant paragraph.

MS RAMAGAGA: Yes. Now I am cognisant of the fact that in the scheme of things the issues of the engine will be addressed later but for completeness of the record at this  
20 phase I would like to read the relevant portion into the record as it touches on the engine make or the engine type, "Spares Price List":

25 *"Provide the list price for the following LUH LRU's  
(use price list nomenclature and serial numbers, (if  
any of the descriptions imply more than one price*

*list sub-assembly/component, they should be listed and priced separately)".*

And the first item that appears there of the Spares Price List is the P&W 206 Engine which means it's actually a shortened form of the Pratt & Whitney 206 engine. Do you see that?

MR ODENDAAL: I do.

MS RAMAGAGA: Now it is correct from this page of Spares Price List that the only engine that is indicated is the Pratt & Whitney 206 engine.

10 MR ODENDAAL: That is correct Chair and Commissioner Musi, if I can just clarify that elsewhere in the Request for Offer it states clearly that the reason for using the Pratt & Whitney 206 for the reference is not because it excludes the offerer offering any other engine, purely in order to make the comparison on a fair basis with respect to logistical cost for the different suppliers. So, and hence this is also repeated at the Spares Price List.

15 MS RAMAGAGA: Right, thank you. Now shall, is there anything else that you would like to highlight for the commissioners in relation to the RFO's?

20 MR ODENDAAL: Chair, Commissioner Musi, I was not involved in this drawing up the document, so this is definitely not self-praise because I think the people that drew up this Request for Offer did a very comprehensive and appropriate job that would allow the State to select a proper helicopter.

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MS RAMAGAGA: Right, thank you Sir. Shall we then revert to your statement and in particular to page 5 of the bundle? Will you then proceed to place on record as to what you say from paragraph 2.14 just for completeness of the record, you  
5 may proceed to read 2.14 as well as 2.15.

MR ODENDAAL: I proceed from paragraph 2.14 on page 5 of my statement:

*“The RFO was based on the SAAF Staff Target 03/95 with information added and adapted to be in  
10 the appropriate technical terms as required for contracting. The RFO’s were issued for 61 helicopters, one of which would be used for development purposes”.*

Paragraph 2.15:

*“A response evaluation model for the RFO dated  
15 22<sup>nd</sup> of May 1998 was duly approved, prior to the opening of the proposals. The RFO evaluation model was designed for the technical evaluation of the RFO responses and is based on the information  
20 requested in the Data Requirement List section of the RFO. Technical evaluation of the RFO responses determined the Military Value of each proposed system. A copy of the response evaluation model is annexed hereto as ‘JO7’”.*

25 Chair if you may indulge just to remind that this deals with the

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military Figure of Merit and not the Industrial Participation and the financial evaluation which will be dealt with some of my other colleagues.

MS RAMAGAGA: Right, shall we then proceed to page 333, 5 may I just indicate to the Commission that "JO7" appears in pages 333 to 372 of the bundle, pages 333 to 372. Now Sir, I'd like to, I'd like to request that you turn to page 374 of the bundle which is the Approval Page of this document. Page 374. I beg your pardon Chair and Commissioner Musi; the correct 10 page number is 334. Now 334, have you found it, the Approval Page is in 334 Sir. Now it is correct that the approval page is signed by Mr J J Britz as the Senior Manager Aircraft as well as Major General C B Lombard as the Chief of Air Staff Operations and finally also by the Chief of Acquisition 15 Department of Defence Mr S Shaikh, is that correct?

MR ODENDAAL: That is correct.

MS RAMAGAGA: And it is also correct that this document is dated the 22<sup>nd</sup> of May 1998, is that correct?

MR ODENDAAL: That is correct.

20 MS RAMAGAGA: And in fact if you look at the bottom middle, bottom part of that document it shows that it was actually issued on this date, the 22<sup>nd</sup> day of May 1998.

MR ODENDAAL: The bottom part refers to the date that it was finalised and approved and issued.

25 MS RAMAGAGA: Right, thank you. And this line of

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questioning is meant just to highlight that this Approval Page was actually signed by ARMSCOR, the South African Air Force Arm of Service as well as the Department of Defence representatives. You do agree that those are the offices or departments that were represented in the signature of this document?

MR ODENDAAL: I agree.

MS RAMAGAGA: Thank you Chair. Now Sir, I would like to take you through to page 336 read with 337. Now Clause 2 on page 336 relates to the structure of the document as well as the model, do you see that?

MR ODENDAAL: I do.

MS RAMAGAGA: Would you like to take the Commission through the important information that should be highlighted in relation to the structure of the document as well as the model?

MR ODENDAAL: Chair, if you allow, Commissioner Musi, I will summarise to try to be as brief as possible. Section 1 of the document deals with programme requirements to result in what is called a Programme Requirements Index. Section 2 of the criteria contains evaluation factors that determine the Technical Functionality and that result in a Technical Functionality Index. Section 3 contains the evaluation factors that deals with System Supportability and result in a System Supportability Index. The product cost aspects are addressed in Section 4, the outcome of Section 4 is a prediction of the

lifecycle, is the Life Cycle Cost Index. Section 5 contains the Risk Assessment and which result in a Risk Adjustment Factor. And then on page, to page 37 [sic] which have a graphical representation and the weighting of the relevant parameters mentioned before and for the benefit of the Commission if the Commissioners will allow me I will just summarise, the Programme Requirement Index counted 10% of the Military Figure of Merit or the Operational Effective Index.

I'll just repeat for clarity. The Programme Requirements Index counts 10% of the Operational Effectiveness Index, the Technical Functionality counts 50% of the Operational Effectiveness Index and the System Supportability Index counts 40% and by adding those indexes together you end up with the Operational Effectiveness Index which is designated OEI.

In Section 4 the lifecycle cost calculation is made for each of the proposals and dividing the Operational Effectiveness Index by the Lifecycle Cost Index you arrive at the Military Figure of Merit. And then Section 5, if applicable, will allow for adjustment according to the risk of each proposal which is assessed in terms of certain considerations of up to the maximum of 5% of the total.

MS RAMAGAGA: Maybe just before you proceed to give further clarity or highlight on what to focus on, can you just explain to the Commission as to whether Section 5 is optional

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or can only be exercised in the event of certain things happening or what is the position?

MR ODENDAAL: Chair, Commissioner Musi, a risk assessment is made in terms of every proposal, it's obligatory because somehow the risk need to be taken into consideration when deciding two different bids.

MS RAMAGAGA: Right. Thank you. Would you like then to proceed?

MR ODENDAAL: Chair I'm not sure, do you want me to proceed to page 338?

MS RAMAGAGA: Page 338. That is actually further ... Yes; you may proceed to page 338 because it deals with ...

MR ODENDAAL: Yes, page 338 starts to go into the details and this deals with the Programme Risk Requirements. Here you can see in paragraph 3.1.5 [sic] that pints are allocated for each parameter and in accordance with certain considerations, for example, and I don't want to, unless the Commission wants me, but will not go into the full details, I think it's self-explanatory but in essence it means that an "Answer the fully satisfies or fully complies with the stated requirement" for the Programme Requirements will score 5 points, and the in the case where "the question has not been answered at all" there will be zero points allocated and according to "the quality of the answer" points will be allocated between zero and 5. This is with respect to the programme requirements. If we proceed

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to page 339 paragraph 3.2 that deals with the Technical Functionality, if one look in the table a good summary is in the table under 3.2.2 for the Value Function of Technical Functionality, there can be seen that the rating for the Technical Functions are done relative to the other proposals, meaning that if the best of the proposals considered would score 5 points and the worst one would score 1 point, and depending on the relative ranking compared to the other proposals points will be given to the various proposals.

5  
10 MS RAMAGAGA: Right, thank you Sir. Now I'd like to take you to page 372 of the same bundle, that being the last page of the RFO's. It is correct that the Request for Offer Evaluation Plan was actually also developed and that appears on this page, it indicates different dates on what should be done in terms of the plan and during which periods.

15 MR ODENDAAL: That is correct; this is an indication of the planned activity surrounding the Request for Offer and the evaluation thereof.

MS RAMAGAGA: And what is the use of that plan?

20 MR ODENDAAL: Commissioner, Chair, this is a supplementary document to the response evaluation model. Strictly it's not required but as a formal part of the document that part is for information, also to inform all the parties involved and especially the organisation, higher levels up in the organisation, what time period is required to complete all

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the different activities and so that planning in the organisation can be done in accordance.

MS RAMAGAGA: Right, thank you. Shall we then revert to page 5 of the bundle and you should then proceed to present your evidence in relation to paragraphs 2.16 onwards. Thank you.

MR ODENDAAL: Thank you. I'll read from paragraph 2.16 onwards:

10 *"The proposals which were received from the three bidders were all found to be of acceptable quality with all the requested technical and cost information included; therefore they qualified for further evaluation".*

2.17:

15 *"The Evaluation Team Adopted a three stage approach for evaluating the proposals:*

2.17.1 *Two pre-evaluation meetings were held where the relevant documents (evaluation model, proposals and evaluation procedure) were discussed and strategy agreement reached;"*

MS RAMAGAGA: Right Mr Odendaal, can you just indicate as to who were invited, not in terms of the specific names of companies or what have you, but who were actually invited and participated at these pre-evaluation meetings, the two meetings.

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MR ODENDAAL: Chair, Commissioner Musi, the people that were involved in this evaluation was the approved Evaluation Team of which I will give more details later on, but as always ARMSCOR will not allow third parties to participate in this evaluation, it is only officials, appropriately qualified officials from ARMSCOR and the DoD, in other words in this case the South African Air Force with appropriate expertise that participate after they have agreed to that and confirm that they will not divulge any information and that they will conduct themselves and do their evaluation in an appropriate manner as expected from there.

MS RAMAGAGA: Right, thank you. You may then proceed to paragraph 2.17.2 and the following paragraphs.

MR ODENDAAL: I read from paragraph 2.17.2:

15                   *“Individual evaluations of the proposals were done by members of the Evaluation Team and Individual score sheets prepared and handed in; and*

*2.17.3 Risk analysis was done during the combined work session and proposal risk adjustments were*

20                   *developed through consensus between the members of the Evaluation Team”.*

If I can just summarise those, that last sentence that is maybe not clear enough because this is quoted from the relevant reports, it means that the risk factor, unlike the other items was not scored individually, it was scored in discussion and

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which was found to be more appropriate in order to appropriately understand the risk surrounding each one of the proposals. Again you will see later on Chair that the risk is also documented that this Committee found at the time which were evident from the proposals that were given, so it's not, it's a serious exercise.

MS RAMAGAGA: Right, thank you. I think your explanation is clear, you may then proceed to the next paragraph, and it's 2.18.

10 MR ODENDAAL: *"2.18 the members of the Evaluation Team from the Light Utility Helicopters were ..."*

The team that evaluated the programme requirements and Functional Requirements and I'll read it to you, Colonel J B West, Lieutenant Colonel S L Dodds, Lieutenant Colonel P J Labuschagne, Lieutenant Colonel F K S Viljoen, Major J J O'Connel, Mr F Kotze from ARMSCOR, Mr S N Chetty from ARMSCOR. With respect to the team that evaluated the Supportability Requirements was from the South African Air Force Colonel P A Haley, Colonel A Swart, Colonel J B West, Lieutenant Colonel S L Dodds, he only evaluated training factors, Major W J Moller, Captain D L Teepe and from ARMSCOR Mr A W Botha. Now Mr A A Louw calculated the lifecycle cost and presented to the rest of team for verification.

25 MS RAMAGAGA: Thank you. In actual fact when one looks at this list of the team members it is apparent from the list that

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the participant in the teams were made up of the users of the required system, ARMSCOR as well as the Department of Defence generally, am I correct?

MR ODENDAAL: That is correct, and if I may point out for each category for example supportability or functionality, the relevant experts in the field that were capable to make the evaluation were, took part in this evaluation.

MS RAMAGAGA: So, in fact what you are saying is that even in terms of the positions that they held it is clear that these people were qualified in respective required qualifications to can participate in this exercise?

MR ODENDAAL: That's correct.

MS RAMAGAGA: Thank you. Then will you then proceed to paragraph 2.19, this is in page 6 of the statement or the bundle.

MR ODENDAAL: I read from paragraph 2.9 [sic] Chair.

MS RAMAGAGA: 19, I beg your pardon.

MR ODENDAAL: 2.19:

*"The evaluation of the RFO's were completed by mid-June 1998 and on the 25<sup>th</sup> of June 1998 the final response evaluation results for the February 1990 offers was published. The copy annexed as 'JO8'".*

I propose that we read the next paragraph as well because this is part of the report and gives a good summary, paragraph

2.20:

*“The report states and I quote:*

*‘Proposal for a The Light Utility Helicopter  
were received from AGUSTA (A109LUH) in  
Italy. BELL HELICOPTER TEXTRON (M247)  
[sic] in Canada, and EUROCOPTER (EC635) in  
France/Germany. All three proposals are of  
acceptable quality and enabled successful  
application of the value model”.*

*Through the application of the value model  
discriminating and cost factors, the relevant  
normalised Military Figure of Merit (MFOM) ranking  
of the proposals are:*

- AGUSTA A109LUH ranked first with the  
evaluation of the MFOM of 100.*
- EUROCOPTER EC635 ranked second with  
an evaluation with MFOM of 69.*
- BELL M427 ranked third with an evaluation  
of MFOM of 57.*

*ALL THREE PRODUCT SYSTEMS ARE  
OPERATIONALLY ACCEPTABLE TO THE SAAF AND  
THE INDICATED FIGURE OF MERIT, MERIT VALUES  
ARE NOT A REFLECTION OF THE ABSOLUTE MERIT  
- THE SPREAD BETWEEN THE VALUES IS A  
RESULT OF A MATHEMATICALLY CREATED*

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*DIFFERENTIATION IN OPERATIONAL  
EFFECTIVENESS,*

5

*Initial system acquisition cost (all cost, including  
programme management costs) for a product system  
of 60 helicopters are:*

- *AGUSTA A109 – US\$423m.*
- *BELL M427 – US\$462m.*
- *EUROCOPTER – US\$503m.*

10

*The programme risk attached to all three proposals  
were judged by the Evaluation Team to be normal  
and acceptable (The BELL and EUROCOPTER  
proposals carry a marginally higher risk than the  
AGUSTA proposal)".*

15

MS RAMAGAGA: Yes, is there anything that you would like  
to explain before we proceed to the next paragraph?

20

MR ODENDAAL: I don't think so, it is quite clear and it is a  
good summary of the report and I think in the next paragraph or  
two I would say there is additional information confirming  
certain facts.

MS RAMAGAGA: Right, thank you Sir. Then you can  
proceed to paragraph 2.21 and the following paragraph,  
subparagraphs.

25

MR ODENDAAL: *"In terms of the Military Figure of Merit  
and System Acquisition Cost in respect of technical*

*evaluation, the Agusta proposal ranked first”.*

If I may add, in other words the Agusta proposal were both technically the best of the three and also cost the least of the three. Again I have to emphasise that this was with respect to the technical evaluation and in respect of the Industrial Participation and the Financial Evaluation additional evaluations were done and the results were combined. I may read from the following paragraph:

“2.22 *The results were presented during the SOFCOM during the first week of July 1998.*

*2.23 This signalled the termination of the first phase of the Integrated Project Team’s involvement in the process”.*

The Project Team was not involved until there was a decision to proceed with the SDP’s; and I read from paragraph 2.24:

“SOFCOM which consisted of representatives of the DOD, the Department of Trade and Industry, the Department of Finance and the Department of Public Enterprises, as well as ARMSCOR coordinated all the programmes up until after the Cabinet decision was announced with respect to the identity of the preferred suppliers on 18 November 1998”.

MS RAMAGAGA: Thank you. I would like to take you to page 373 of this volume, Volume 1, the “Final Response Evaluation Results for the February 1998 Request for Offer”.

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That is the description of the document. In particular I'd like to draw your attention to page 374 which is the Approval Page. Are you there? Now this information appears on this page, it says:

5                    *"This document was approved a true reflection of the results of the evaluation of proposals received in response to the SAAF The Light Utility Helicopter Request for Offer issued in February 1998".*

And this document is actually signed, or the Approval Page is signed by Lieutenant Colonel Viljoen who was the project officer, as well as Mr A A Louw who was the programme manager of the LUH from ARMSCOR. Is that correct?

MR ODENDAAL:        That is correct Chair.

MS RAMAGAGA:        And this Approval Page was signed on the 15 25<sup>th</sup> day of June 1998.

MR ODENDAAL:        That is correct Chair.

MS RAMAGAGA:        Now as you have correctly pointed out this brings about the end of the phase in which you were not directly involved in terms of the sequence of the evidence and now the next that we will be dealing with moving from paragraph 3 on page 7 onwards we will now be dealing with the portion of evidence where you were directly involved except of course in some instances where it is clearly indicated that you were not involved.

25 MR ODENDAAL:        This is correct Chair. If you will allow me

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I just want to point out while we're still at the relevant annexure, because later on in the statement I will refer back to it, on page 380 of the bundle which still deals with the Final Response Evaluation Results and ... Sorry, I'm ... Sorry, 5 correction, page 383, the table at the bottom, I would like to refer you to the table at the bottom on page 383. Chair, you are aware that the quantities were reduced from the 60 that the RFO initially provided for but there was also cost information requested for lesser quantities and this table on page 383 10 indicate that for quantities, for both quantities 60, 50 and 40 helicopters the AGUSTA LUH proposal was in all cases the lowest cost compared to the other offerers. Thank you.

MS RAMAGAGA: Right, thank you Mr Odendaal for referring the Commission to this page because you have mentioned 15 earlier on in your evidence that whilst in the first or the second paragraph there is mention of 61 [sic] but there is provision in this document for other different quantities of the LUH that are required, and maybe it is significant to point this out because ultimately we know that the number that was ultimately ordered 20 was even below these numbers that are indicated here. Thank you.

Now at the time when we were dealing with introduction and actually specifically dealing with your work experience you indicated that you only took up the position of 25 management of the programme in 1998 or shortly after the

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announcement of the preferred bidders had been announced and this is now the terrain that we are now going to deal with which ... For the convenience of the commissioners I will just indicate that this terrain that we will now be dealing with is the terrain that deals with the evaluation of the negotiations, the engine evaluation as well as the results pertaining to the engine while we will be dealing with other things, but these are of key in respect of this portion of the evidence. Is there anything else that is key other than what I have mentioned?

5  
10 MR ODENDAAL: I agree with what the Commissioner said. I can just maybe say, or reconfirm this section deal with the technical, with the terms and conditions of the contract and not with the so-called loan agreement which is the outflow of the financing proposals which are dealt with by the department, which was dealt with by the Department of Finance and it also does not deal with the Industrial Participation, just for clarity purposes.

15  
20 MS RAMAGAGA: Right, thank you Sir. Shall you then proceed to present your evidence as appears on page 7 onwards, starting with paragraph 3, "The Contract Negotiations"?

MR ODENDAAL: Chair, Commissioner Musi, I read from paragraph 3.1:

25 *"From 18 November 1998 to the end of October 1999 the IPT was once again involved in the process,*

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*negotiating the Supply Term Agreement with Agusta as the preferred LUH supplier for the A109LUH under the auspices of the IONT”.*

The IONT being the International Offers Negotiating Team that  
5 was appointed by the Cabinet. If I can just clarify further here,  
of course as indicated in paragraph 3.2:

10 *“As Mr Griesel has testified, while the IONT were negotiating the umbrella agreements and financing arrangements at a high level, the respective programme teams were negotiating technical details with respective suppliers in order to finalise the configuration of each of the equipment types while remaining within the pre-determined cost ceiling”.*

Paragraph 3.3:

15 *“Due to affordability the number of helicopters was further reduced from 40 to 30 by the Cabinet.*

3.4:

20 *“Various studies were done and options investigated during the negotiations and finalisation of the detailed technical specifications as captured in the contract”.*

3.5:

*“Following a request by the IPT,”*

The Integrated Project Team from ARMSCOR and the DOD:

25 *“... Agusta conducted a training needs analysis and*

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5           *a cost study with respect to training matters. From  
the study the IPT concluded that the acquisition of  
the operating cost of a full mission simulator did  
not warrant the procurement thereof considering the  
relative low through put and the eventual impact on  
the SAAF operating budget. The outcome of the  
study was presented to the Helicopter Projects  
Control Board ("HPCB"). As sufficient funds were  
not available for a full mission simulator, this  
10           option was not pursued any further".*

Chair, you might wonder why I mention this here, the main  
reason because this was a very big portion of, would have been  
a very big portion of the contract price and that portion was not  
pursued any further and hence we did not buy a full mission  
15           simulator due to affordability issues.

MS RAMAGAGA:     Thank you. Just before you proceed to the  
next paragraph you make mention of the Helicopter Projects  
Control Board. Will you please just inform the Commission as  
to what the role of this HPCB board was and what the powers  
20           were, whether it had any decision making powers or what were  
the functions of this Board?

MR ODENDAAL:     Chair, if you will allow me I think we have  
in the second bundle the constitution of the HPCB which I  
believe was also dealt with by Mr Griesel, so if you allow me  
25           I'll just look for it.

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MS RAMAGAGA: Maybe just a minute Sir, just for the flow of the evidence I think what we can do, because I'm still going to come back to even the constitution of the IONT, now it's the HPCB. Can you just proceed and then you'll come later and deal with those documents that appear in the bundle of Mr Griesel.

MR ODENDAAL: Yes.

MS RAMAGAGA: You may then proceed to the next paragraph.

10 MR ODENDAAL: Paragraph 3.6:

*"Consequently a more advanced cockpit procedural trainer was acquired to support pilot training".*

I apologise, paragraph 3.6:

15 *"Consequently a more advanced cockpit procedural trainer was acquired to support pilot training".*

So, this was sufficient to deal with the training of pilots in a simulated environment for the South African Air Force. I'll proceed to paragraph 3.7:

20 *"The Agusta 109LUH helicopter was initially offered with the Pratt & Whitney 206 engine which was already [sic] certified on the A109 Power the Light Utility Helicopter [sic]. In the Agusta response to the RFO it was however indicated that the slightly more powerful Pratt & Whitney 207 (which was*  
25 *certified) or the Turbomeca Arrius 2K2 (which was*

*not certified as it was still under development)  
could also be integrated into the Agusta A109LUH”.*

Chair, because this engine sometimes are a subject that is debated I might want to just refer you to the source of this requirement. If I may, to refer you to my bundle as part of the RFO on page 160. To page 160.

MS RAMAGAGA: 160?

MR ODENDAAL: It's part of the section 6 and on page 160 of my attached bundle. Chair, if you look at paragraph 4.4.19 of the Request for Offer on page 160 it reads:

*“Describe any performance growth options of the LUH that are currently available or that are under development”.*

So, this was requested as part of the parameters to be evaluated in the proposal. In the proposal Agusta responded that apart from the Pratt & Whitney 206 Engine that is offered, for the future growth path they could also offer the Pratt & Whitney 207 Engine or alternative that an engine from Turbomeca called the Arrius 2K2, so this is where the whole engine business started right in the RFO where it was requested to indicate growth options. I'll proceed then ...

MS RAMAGAGA: Before you proceed will you also turn over to page 384 which deal with the LUH RFO Evaluation, in particular I'd like to draw your attention to paragraph or Clause 5.3 which deals with the “Engine Choice”. Will you please read

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that into the record and thereafter then explain as to what that paragraph means. Just before you proceed Sir, are you there Mr Chair and Commissioner Musi, page 384? Yes, Section 8, thank you. It's between 8 and 9, that divider, 8 and 9 divider.  
5 Right, thank you. Yes Sir, can you then proceed?

MR ODENDAAL: Chair, this page 384 is part of the attachment which deals with the results of the evaluation of the offers for Light Utility Helicopters and I would like to read the details as required:

10 *“Engine choice between Pratt & Whitney and Turbomeca was not considered as part of the proposal evaluation. As prescribed in the RFO the proposal evaluation was done for a helicopter fitted with a Pratt & Whitney PW206 engine. The reason*  
15 *for this was to have a common baseline for all three products (the Bell M427 is available with a Pratt & Whitney engine only).*

*Analysis of the representative basket of functional and cost parameters would indicate the*  
20 *operational aspects are not deterministic and that the engine choice should be a strategic decision.*

*It can be assumed that the LUH purchased by the SAAF will be fitted with a Pratt & Whitney PW207 or Turbomeca Arrius 2B2 (Both engines are*  
25 *still under development rather than the Pratt &*

*Whitney 206 or Arrius 1B1. A sensitivity analysis was done to determine the impact of introduction of the upgraded engines or functional effectiveness and proposal merit (See Appendix 'H'). The implications are:*

- *The proposals merit ranking does not change;*  
*and*
- *The relative functionality effectiveness merit of the EC635 improves.*

10 Chair, if I can summarise this, a bit technical paragraph, what it says is that regardless of which engine is installed it will not change the ranking of the winning bidder for the helicopter, they made a sensitivity analysis which is a mathematical procedure to determine if the outcome of the evaluation could  
15 have been different with different engines installed, and that was the result. I think the other point here is it was known at the time the proposal, there was on proposal with the 207 and it was known that there is this possibility to go to the Pratt & Whitney 407 ... 207, or the Turbomeca engine, the upgraded  
20 Turbomeca engine, but it could not be evaluated because the proposals was not for that, there was not sufficient information on the proposals in any way to do the full evaluation.

MS RAMAGAGA: Now in the information relating to the engines later on we'll start to hear about the 2K2 and 2k1 or  
25 1k1, can you just explain to the Commission as to why here do

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we have the description of Turbomeca Arrius as 2B2 as well as 1B1 respectively?

MR ODENDAAL: Chair, I'll take the opportunity to try to explain because what you have to remember here things  
5 happened over a timeline, from the date that the proposal was made until it was evaluated and when the successful bidder was announced it was an extended period of time, so the status of things changed, so I'll try to explain so that this terminology is not confusing. I'll start with the Pratt & Whitney 207.

10 You would see here it seems that the 207 is not certified yet, by the time that the bidder, the successful bidder was announced it was certified by the Civilian Aviation Authorities. Then I go to try to deal with the confusion about the Turbomeca Arrius 2B2. When the proposal was made by  
15 Agusta the engine that was available and certified by this, the appropriate civilian authorities was the Arrius 1B1 from Turbomeca, but they were talking about a new engine which they called a 2B2.

Later on when we started with the negotiation phase  
20 Turbomeca changed the designation of the engine to 2K2 to make a difference because the 2B2 would be suitable for some Eurocopter helicopters, the interfaces would be for some of the Eurocopter interfaces and the 2K2 would be an engine with interfaces suitable to Agusta A1 and on LUH. Chair, I hope  
25 that this didn't confuse the matter further, but basically what I

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would recommend we do now is only refer to the 206 which was the basis of the offer and from, and to the Pratt & Whitney 207 and the Turbomeca 2K2 because henceforward this is what we will be dealing with, this other discrepancies, or not really  
5 discrepancies but difference in names is just due to the timeline and nomenclature that changed over time.

MS RAMAGAGA: Thank you Mr Odendaal. I think you have clarified this, you know description of 2B2, 2K2. Maybe what I should also highlight in respect of this clause and particularly  
10 that will be found in the first paragraph of the clause is that the engine choice between Pratt & Whitney and Turbomeca was not considered as part of the proposal evaluation then, so this means that during this evaluation process prior to the year (indistinct) 1998 announcement of the preferred bidder the  
15 evaluation between Pratt & Whitney and Turbomeca engines was not considered, is that correct?

MR ODENDAAL: That is correct, that is in accordance with the instruction for the Request for Offer and the proposals made. What this paragraph in essence says is that the  
20 negotiations to proceed with the best engine in terms of cost and functionality and all other parameters will only be done after the selection of the preferred bidder and then the specifics will be negotiated with the preferred bidder.

MS RAMAGAGA: Right, thank you. Then which means that  
25 the responsibility to do a study and ultimately a

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recommendation of the preferred engine in respect of the technical aspect only would have to be done by your team that was established after the announcement of the preferred bidder? And remember I say recommendation only and nothing  
5 more.

MR ODENDAAL: Chair, if I may expand a bit, of course the engine is a very important part of any aircraft, so it would not be wise to try to buy an aircraft without an engine and buy an engine yourself, so of course any study or recommendation you  
10 can only integrate the engine which are recommended by the supplier or that is supported by the supplier of the aircraft, so in essence it is correct to say that the, by implication the Project Team had to deal with the matter further after, as soon as the negotiations start, however, this need to be strictly with  
15 the supplier of the aircraft and not with the suppliers of the engine because the engine is deeply integrated into the aircraft and we are buying the aircraft system and not components and we need to be sure that it is supported by the aircraft manufacturer and which in turn have to get the authorities of  
20 all the relevant aviation authorities.

MS RAMAGAGA: Now without overburdening the record with this point, just in closing, the correct information is that when this evaluation process was undertaken prior to the announcement of the preferred bidder, the choice engine or the  
25 determination of the choice of the engine had not yet been

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made.

MR ODENDAAL: That is correct Chair.

CHAIRPERSON: I'm sorry, just for my own understanding,  
are you saying that the choice of the engine was done after the  
5 preferred supplier was announced?

MR ODENDAAL: Yes Chair, because we asked for the  
proposals to be based on the Pratt & Whitney 206 engine in  
order to be able to compare all the bids from the aircraft  
suppliers in a fair manner. The proposals also did not include  
10 all the options for the different engines in terms of the costing  
and the risk details, therefore it was only possible to make the  
final selection with the specific bidder after the selection of  
the preferred aircraft suppliers. Chair I may also just again  
point at the second paragraph of paragraph 2.3 [sic] which also  
15 summarise this in a slightly different way.

MS RAMAGAGA: Page?

MR ODENDAAL: It's on page 384 the second paragraph of  
under paragraph 5.3, I just want to read it for the benefit to be  
sure that also, because this will support many of the points  
20 that's made here:

*"Analysis of the represented basket of  
functionalities and cost parameters would indicate  
that operational aspects are not deterministic and  
that engine choice should be a strategic decision".*

25 What that tries to say is that looking at the result of the type of

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engine from the different manufacturers or even 206 between  
the Pratt & Whitney and 206 and 207, would not have a  
dramatic outcome on the capability of the aircraft, therefore it  
is not viewed, was not viewed at the time as an essential  
5 decision based on technical matters to be made immediately  
because you can, they made the evaluation as alluded to later  
on in the same paragraph, the sensitivity of the results for  
different types of engines with different types of performance  
and it did not dramatically influence the overall performance of  
10 the helicopter.

MS RAMAGAGA: And I think as stated in this paragraph, is  
it this one, where the indication is that the evaluation was done  
on the assumption that the Pratt & Whitney 206 was fitted in  
the helicopter systems that had made an offer or the, from  
15 companies that had made an offer?

MR ODENDAAL: That is correct, in order to fairly compare  
the proposals for the aircraft.

MS RAMAGAGA: May I then precede Chair and  
Commissioner?

20 CHAIRPERSON: Yes.

MS RAMAGAGA: Right, thank you Chair. Sir, shall we then  
revert to your statement and proceed from paragraph 3.7 [sic],  
but maybe let me just, piggybacking on part of your answers to  
questions that were asked by the commissioners and myself,  
25 you indicated that at the time, that is at the time of evaluation

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the engines, the Turbomeca engine as well as the Turbomeca engine 2K2 which subsequently came to be known as 2K2 as well as Pratt & Whitney 207 had not as yet been certified at that time, but subsequently just shortly before the  
5 announcement of the preferred bidder the Pratt & Whitney engine 207 had been certified. I'm just mentioning this in order to highlight, but in due course Commissioners, evidence, documentary evidence will be presented to show as to when the Pratt & Whitney was certified. I'm just mentioning this just for  
10 the completeness of the record from what the witness has said in response to questions that were asked. You may then precede Sir.

MR ODENDAAL: Chair, I can also confirm it is stated in 2.7 that at the time of the evaluation the Pratt & Whitney was  
15 certified by the Aviation Authorities and the Arrius 2K2 was not certified yet and was still under development, and I proceed to read from paragraph 3.8 as requested.

MS RAMAGAGA: Yes, you may proceed.

MR ODENDAAL: *"Agusta was requested by the Integrated  
20 Project Team subsequent to their selection as preferred supplier to provide a comparative study and data for both engines".*

I remind you Chair that in the initial, in the proposal they just indicated this as a possible growth option without detailed  
25 information in terms of costing *et cetera*.

*“The report concluded ...”*

The report from Agusta concluded that, and I specifically refer to the technical matters and not necessarily to the Industrial Participation, that will be dealt with by another witness:

5                   3.8.1 *The expected technical performance of the two engines are similar.*

                    3.8.2 *The additional cost to ARMSCOR to acquire and integrate the Turbomeca engine Arrius 2K2 engine to the Agusta*  
10                   *A109LUH would amount to additional US\$3.8 million”.*

Chair I just want to mention that this point, and to avoid any confusion later on, this amount was later on after negotiations reduced to approximately US\$2.7 million.

15                   3.8.3 *No extra cost with respect to the Pratt & Whitney 207 engines were applicable.*

                    3.8.4 *The expected operating cost of the Pratt & Whitney engine would be marginally lower than that of the Turbomeca engine.*

20                   3.8.5 *The Turbomeca engine represented high risk as it still had to be developed and certified.*

                    3.8.6 *Agusta recommended the Pratt & Whitney engine ...”*

25                   Sir if I can just go back one just to explain the risk, the risk

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being here that the one, that it will take longer to develop and secondly that it does not perform as purported to perform. I continue with paragraph 3.8.6 on page 9:

5

*3.8.6 Agusta recommended the Pratt & Whitney engine as it represented the lowest risk to the programme and offered a comprehensive local repair and overall capability of Pratt & Whitney engines”.*

10

MS RAMAGAGA: Right, thank you. Just before you maybe give any explanation can you just indicate reading from 3.8.6 which indicates that “Agusta recommended the Pratt & Whitney engine ...”, can you just indicate to the Commission as to who had the final word between the supplier and the client, in this case ARMSCOR as to all the ... Yes, ARMSCOR as the acquisition agency, as to which engine to be used, who had the ... Yes.

15

MR ODENDAAL: Chair I would, if you indulge with me I will deal with in more detail after point 3.8.7, because I think that leads nicely into the question posed by the Commissioner:

20

*“3.8.7 Agusta stated that they will support either selection decision provided that the additional cost with respect to the Turbomeca will be funded by the client”.*

25

Meaning ARMSCOR in this case. Now if I can answer the question of the Commissioner, ARMSCOR will not select a

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critical component such as the engine and put it on the supplier of any aircraft, it has to be supported by the aircraft manufacturer. In this case the manufacturer was willing to let ARMSCOR make the final decision provided that we stand in for the additional cost. Also by implication supplier being Agusta in this case were prepared to take the risk of slips and additional cost on them, there was not a, they didn't ask for extension in timescale or did not pass the risk onto ARMSCOR, so I hope that clarifies the question.

5  
10 MS RAMAGAGA: Right, thanks. Yes, you may precede Sir to the next paragraph, 3.9.

MR ODENDAAL: I proceed with paragraph 3.9

15 *"A 'Response Evaluation Model for the Engine Selection' was issued on the 3<sup>rd</sup> of February 1999 and after a few changes issue 2 dated the 2<sup>nd</sup> of May 1999 was finally approved by the Chief of the SA Air Force, the Chief Executive of ARMSCOR and the Chief of Acquisitions of the Department of Defence on the 1<sup>st</sup> of June 1999. A*  
20 *copy of the evaluation model is annexed hereto as 'JO9'".*

If I may just add this evaluation is done, it's not a competitive bid where you send it out to many suppliers; we send it out to Agusta. ARMSCOR in a case like this will not deal directly with the subcontractors; we only dealt with Agusta that had to

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supply all the relevant information in order, in other words the tradeoff study which will allow, would have allowed the IPT to make an evaluation of the different options.

MS RAMAGAGA: Sir, you mentioned earlier on in your  
5 evidence that after the Project Team had been constituted, that is post the announcement of the preferred bidder, one of the important things that you did was to request for a tradeoff study of the two engines from Agusta. Now after you received, or rather maybe let me put it this way, the tradeoff study that  
10 you received was actually drawn by Agusta, there was no direct communication between yourselves, that is ARMSCOR, and the two respective engine, either manufacturers or engine users, that is the Turbomeca on the one hand and the Pratt & Whitney on the other hand, am I correct?

MR ODENDAAL: Chair, we dealt solely with ... I'm sorry, I  
15 apologise Sir. We dealt solely with, formally with Agusta which had to give the information, which had to get the information from their sub-suppliers. There were a number of meetings with Agusta with respect to the engine in order to clarify all the  
20 matters because there's a lot of issues to be considered. In some cases they did invite representatives of their subcontractors, the IPT was diligent in dealing with that, of course it may be the marketers of the different companies might have spoken to many other officials in the Air Force, or  
25 the DoD, or ARMSCOR but not the IPT that did the technical

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evaluation.

MS RAMAGAGA: In the exercise leading to finally choosing or selecting the engine that should be used, in addition to the tradeoff studies that you secured from Agusta it is correct that  
5 Turbomeca as well as Pratt & Whitney also had an opportunity to make presentations of their engines to ARMSCOR, is that correct?

MR ODENDAAL: Chair, Commissioner Musi, with respect to the Value System the only information that was considered  
10 during the evaluation is the information formally received by, via Agusta which is formally documented tradeoff study reports and clarification letters. This was the only items allowed to be considered for the evaluation of the technical merit of the proposals for the two engines. Secondly I just want to  
15 reiterate that with respect to the Project Team we did not deal directly with Turbomeca or Pratt & Whitney during the negotiations and before the Value System was finalised or the report was finalised, and but we, however, cannot vouch for the Turbomeca or Pratt & Whitney speaking to other officials  
20 informally and in any way those persons were not part of the Evaluation Team of the technical merits, so as far as I'm concerned it's irrelevant if they did speak to them or not because the evaluation was done in terms of the documentation and the tradeoff studies and clarification notes formally  
25 received from the aircraft supplier, I hope that clarifies that

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Commissioner.

MS RAMAGAGA: Now is it correct Sir that in an effort to try and arrive at an appropriate recommendation of the suitable engine you also at some point, and I've already said that when  
5 I say you I'm talking about you as an institution or as your team but for the institution. You also to an extent involved the CSIR for comments, not necessarily a decision or recommendation but for comments on the engine.

MR ODENDAAL: Chair, allow me to clarify. Especially with  
10 respect to the Turbomeca proposal, this is the engine that still had to be developed there was a lot of contradicting technical, because the basic question in order to assess the risk that we proposed via Agusta to Turbomeca was tell us what modifications are you going to make to the existing Arrius 1K1  
15 to arrive at the 2K2 so that we can judge what the risk is. In the case of the Turbomeca proposals, and they changed a number of times what they told us what their plan was how to arrive at the more powerful engine, hence we asked some advice from the one or two technical experts at the CSIR which  
20 has before been involved on the contract from ARMSCOR to establish some local understanding of the (indistinct) engines.

I may mention what the outcome of their assessment was if you would like me to Sir, basically they said that they are not in a very good position to judge what Turbomeca would  
25 just obviously as Pratt & Whitney, a well-known capable

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company proposed to do their engine because of course Turbomeca knows their engine much better than the expert or two at the CSIR would.

5 They however pointed out, and I personally was in agreement with that conclusion that Turbomeca is a reputable company and that we should not have any reason to not believe them if they say that the modifications that they do, that they plan to make on their engines, we have no reason to believe that they cannot do that and that they should be able to  
10 correctly judge the outcome of that.

MS RAMAGAGA: Thank you. Then you may proceed to the next paragraph.

MR ODENDAAL: I'll continue Chair on page 9 paragraph 3.2:

15 *"After the evaluations ..."*

I apologise, I continue from paragraph 3.10 on page 9:

*"After the evaluation according to the process described in the Response Evaluation Model for the Engine Selection was concluded, the 'Final Response Evaluation Result for the Evaluation of the Engine Proposals', report dated 24<sup>th</sup> June 1999 was published. The report was compiled by Mr Chetty (LUH Engineer employed by ARMSCOR), and confirmed by Col Viljoen and myself as being a true  
20 reflection as of the results of the evaluation. A  
25*

*copy is annexed hereto as 'JO10'.*

MS RAMAGAGA: Right. Thank you Sir. Before we deal with this Annexure "JO10" I'd like to take you back to "JO9" so that we can read into the record the significant contents of this document which appears in pages 415 to 433 of the bundle. Now this document that I am talking about is the Response Evaluation Model for the Engine Selection. It is correct as appears at the, as ... Should I proceed Chair?

CHAIRPERSON: I'm not sure. If at all you are going to start a new point is this not the right moment to adjourn and then we can continue on the point that you are trying to make tomorrow morning.

MS RAMAGAGA: I do agree Chair that this is the convenient time to adjourn and I will accept that proposal.

CHAIRPERSON: Thank you, we'll adjourn until tomorrow morning.

**(COMMISSION ADJOURNS)**