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

MR DE BEER: I do.

CHAIRPERSON: Thank you.

5 ADV SIBEKO: Good morning Chair, Commissioner Musi. When we adjourned yesterday we were about to start with the, or dealing with the DIP Evaluation Results and for purposes of the leading that evidence I would request the Commissioners turn the pages or turn to pages 35 of File number 1 which we
10 will read with pages 368 to 374 of file number 3. Thank you Chair. Mr De Beer, when we adjourned yesterday we were dealing with paragraph 15.8 [sic] of your statement which appears at page 35 in which the following is recorded:

15 *“The original DIP evaluations were researched in preparation for this statement. It was found that the averaging of scores on the lower tier [sic] and normalisation throughout the programmes was erroneously calculated and this error in calculation was applied consistently in respect of programme
20 (i.e. LIFT, LUH, ALFA, Corvettes and Submarines)”.*

Yes, paragraph 15.18.

25 *“A recalculation was performed in respect of each programme and I observed that, despite this error, the selection of the preferred bidder for each programme did not change. The recalculated*

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evaluation results are shown in Annexure 'BDB16'.

It is still your contention that despite the error and the recalculation that was conducted by you in correcting these figures the selection of the preferred bidder was not affected
5 neither by the error, nor the correction of the error?

MR DE BEER: That is correct Commissioners.

ADV SIBEKO: Now in respect of the two tiers that you referred to earlier in your evidence could you remind the commissioners where the error occurred?

10 MR DE BEER: Commissioners, the errors occurred firstly by what we called yesterday the averaging of scores and we will by example explain this averaging of scores and the correction of the averaging to take into account the weight of the different lines of evaluation and secondly the second error
15 was made after the scores were tabled, the normalising of the scores, the process and in which the scores were normalised were erroneous. We will also by example explain that error.

ADV SIBEKO: Now just before we explain the error could you just describe what the process of normalisation entails?

20 MR DE BEER: Commissioners, the process of normalisation entails the comparison of different offers from different contenders and one can apply it more widely than just in the case of different tenders to compare it which each other. The tenderer with the highest score would be then ranked
25 number 1 and will be expressed as a percentage because it is

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more easy for the wider audience to understand that percentage, so the winner will always score a 100% and all the other tenderers will be expressed in relation to the winner's score, also expressed eventually as a percentage.

5 ADV SIBEKO: Now if I understand your evidence correctly the process you've just described is different from the process of auditing results, is that correct?

MR DE BEER: That is correct.

10 ADV SIBEKO: Now let us then deal with what you've referred to in your evidence. You say that the appropriate pages to start describing the process that was undertaken would be commencing at page 373 of that annexure.

MR DE BEER: That is correct.

15 ADV SIBEKO: Could you explain why it is important to start at 373 before we deal with the rest of the outcomes?

MR DE BEER: Commissioners, the pages before 373, and I'm specifically referring to as from page 368 up to 372 is dependent on the process as explained on 373 and also 374, so that's why it's important we start with these pages first to have a foundation for the further discussion.

ADV SIBEKO: Could you then proceed to explain the process undertaken?

20 MR DE BEER: Commissioners, if we look at page 373 it is an example of the evaluation of what we termed in the DIP Evaluation as compliance and conformance. The heading of
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this page contains a spelling mistake, Calculation. Nevertheless the table that we are looking at has got on the left hand side outside of the columns a Score Line Number, this is important to take note of, each line that is numbered from 1 to 11 has got different scoring values and different scoring categories.

If we look at the factors that were evaluated the first line we can see that the total DIP offered should be between 45% and 55% and now if that was offered any percentage between those two percentages as indicated the score would be 5 points, which we also termed, not specifically on this page, we termed that as a standard score, standard referring to the 50% of the contract price to be committed as DIP.

For offers that is less than 45% the bidder will get only one point, for any offers of more than 55% the offerers will get a score of 10 points. In the example, if we go to the two last columns the first, the two last columns is exactly the same until we get to below line 11, so I will not repeat these scores, it's just an example, we will discuss the difference in the averaging problem when we get below line 11.

If we now look at line 2 we also evaluated and measured and scored a Direct DIP portion to be 30% or more, if it is 30% or more the bidder will obtain 10 points. If the offer is between 20% and 29% only 7 points would be awarded. For

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offers between 5% and 19% three points will be awarded and for any offers for Direct DIP below 5% zero points would be rewarded.

5 If we move on to line number 3, this example is also based on the Corvettes because it explains the Corvette situation a bit more clear, so on the Corvettes we have the platform and the Combat Suite as depicted in line number 3 and 4, we will work through line number 3. For the platform a minimum of 10% was required in which case the bidders will
10 obtain 10 points as a score, the same for line number 4, if the Combat Suite, the offer was for 60% the bidder will obtain 10 points. Any scores lower than the 10% or the 60% would have been zero points.

15 If we move over to line number 5 we also measured the effect on local industry for local industry participation, if the offer was between 40% and 50% of the DIP commitment the bidder would obtain 10 points. If the offers were between 20% and 40% the bidder would obtain 5 points. For offers less than 20% a score of zero would be recorded.

20 We move to line number 6, the value of technology transfers to be in the order between 6% to 10% and then the offerer will get 10 points. For any other percentage zero points. Line number 7, value of globalisation which is exports, between 8% and 12% 10 points would be awarded. For offers
25 between 5% and 7% 5 points would be awarded and for offers

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less than 5% zero points.

Number 8 value of empowerment, if the offers were between 18% to 23% for non-JSE, Johannesburg Stock Exchange listed companies, and based on the 80/20 principle 5 10 points would have been awarded. For JSE listed companies 80/20 principle, 7 points would have been awarded and for any percentage less than 18%, zero points.

Line number 9, the value of a five year equity investment of between 10% and 14%, 10 points would be 10 awarded. For three to five years' investment and an offer of between 8% to 9% 5 points would be awarded. For less than three years' investment and less than 8%, zero points would have been awarded. Line number 10, the value of low interest benefit, between 2% and 3% 5 points, for any other proposal or 15 percentage zero points.

Number 11 and the last line for scoring purposes, the value of marketing support between 2% and 3%, 5 points. For any other proposal or percentage zero points. If we now look at the row just below the line number 11 with the 20 description of "Maximum Score Obtainable" you will note that the maximum score of 100 points is possible. Any bidder who would have full marks in all of those 11 lines would obtain a score of 100.

Now to explain the difference in weighting lines 25 number 1 to 9 can obtain all of them a score of 10 points, so

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they have equal weight, that is very important to understand. Lines number 10 and 11 can only obtain a maximum score of 5 points which means each of those lines have only 50% of the weight of any of the lines number 1 to 9. That was not taken
5 into account in our calculations.

The second last column with the heading "Score Erroneously Calculated" you will see the example scores as allocated 5 and then 10, then three 10's, then 5 and then 7 at number 8, I'm at line number 8 now, and then at line number 9,
10 5 points was for the example used and the rest at zero points. When you total that list of scores this bidder in the example obtained 62 points. If you go to the line with the description "Conformance and Compliance Score" you will note a value of 5.64. That value is erroneously calculated and I will explain.

15 What happened there is the total of 62 was simply divided by the number of lines which is 11, then you get a score of 0.564 and that had to be ..., we had to multiply that by 10 to have a score out of 10 and that is why the score is indicated as 5.64. That is an average score which does not
20 take into account the difference in weight of lines 10 and 11. If you...

ADV SIBEKO: Pardon me for interrupting. You say that was an average score, how is that average score arrived at?

MR DE BEER: The average score Commissioners is
25 arrived at by totalling the scores obtained by the bidder,

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unfortunately not indicated on the page but it is 62, and if you divide 62 by 11 you will obtain the value of 5.64. I note that I am, it's the right hand column that I will explain why we times by 10, it's not in this column that that happens.

5 ADV SIBEKO: You can proceed.

MR DE BEER: Commissioners, if we now concentrate on the very last column to see the correct way of doing the conformance and compliance score where we take into account the weight. It is a simple matter. The total score obtain in this
10 example is 62 and you would simply divide 62 by the maximum possible score and that is 100, the answer would be 0.62 and that is when we have to times 10, multiply it by 10 to receive a score out of 10 and that is the value that you see under the very right hand column with the row description "Conformance
15 and Compliance Score" 6.2, so this bidder should have in fact obtained 6.2 and not 5.64. This happened right through all of the evaluations, of all 19 bids that the DIP Division evaluated.

If we move one row lower the row with the description "Sectoral Development Ranking", those scores are
20 obtained from a table that is not shown on this page, we will also explain that in another annexure, Annexure 17 "BDB17" which we will get to later, but I can confirm to the Commissioners that these scores, the 6.33 you can see it's the same score on both of those columns were calculated correctly.

25 If we now move to the second last row you will find

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the words "Final Score". In case number 1 which is the second last column you will note a final score out of 10 of 5.98, how do we arrive at that score, we simply add the two values above 5.64 plus 6.33 and we divide it by 2. The reason why we divide

5 it by 2 is that conformance and compliance is 50% of the weight of the total DIP score and sectoral development is another 50% of the total of the DIP score, so that's how we arrived at a score of 5.98.

If you look at the very right hand column you will

10 note a difference, a different value of the final score which is 6.27, you will note that this score is slightly higher, that is the correct way of calculating the scores that was unfortunately not utilised during the evaluations to determine these scores. So, the highest of these scores normalised to 10 will become

15 clearer when we do example number 2 which is page 374.

ADV SIBEKO: Could you describe the exercise undertaken at page 374.

MR DE BEER: Commissioners, page 374 is example, is supposed to be numbered Example Number 2, "Normalisation contained in all DIP Evaluation Results", I think the word is

20 "within all DIP Evaluation Results" and this is yet another illustration, it's just an example. In this example we use four different bidders and we name them Bidder number A, B, C and D. In the second row you will the scores that are used for the

25 example is for Sectoral Development is a score of 8.6 for

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bidder number A, a score of 7.2 for bidder B and for C 8.3 and for D, 7.5, that is the score out of 10.

Then the second, the next row, that's in fact the third row, the scores for Conformance and Compliance, we have indicated and used example for Bidder number A of 4.8, for bidder number B 5.1, for bidder number C 4.6 and for bidder number D 6.2, once again this is a score out of 10. In the next row we've added the two values above and we divided, we've just added it to just make the example very clear. In the row following we combined the two score and we score it out of 10 by dividing it by 2 because it's got equal weights for sectoral development and for conformance and compliance, so the results for bidder number A is 6.7, for bidder number B 6.15, for bidder C 6.45 and for bidder D 6.85.

When one examines this row of numbers you will note that bidder number D obtained the highest score. The process could stop here because we already know which bidder scored the highest marks, but for illustration purposes we now expresses these values as a score out of 10 and we normalise it, so the row which is in colour erroneously normalisation in red, bidder number A, if it is erroneously normalised would obtain a score of 9.85. Bidder number B will obtain a score of 9.3, bidder C a score of 9.6 and bidder number D a score of 10.

How that was obtained is if you look in that same row, still in red, you will notice a value of 3.15. This value is

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the difference between 10 and the score of the highest bidder, in this case it was bidder D, and so the difference between 6.85 and 10 is 3.15. Now what we did is we added this number of 3.15 to the highest score which then automatically obtains
5 10 and all the three other bidders obtained the scores as already indicated to you when you add the value of 3.15.

As a percentage this is just shown below in the next row, 98.5%, 93%, 96% and for the winner which is bidder D, 100%. The ranking is then thus indicated, it's for A is in the
10 second position, bidder B in the fourth position, bidder C in the third position and bidder D in the first position. This process was the process utilised for normalisation right through all the evaluations. Now I need to point out, just to remind the Commission with respect that it already contained an error in
15 the second line or the third line, the line with the name "Scores Conformance", it should be Conformance and Compliance, those scores of 4.8 for bidder A, 5.1 for B and for C 4.6 and for D 6.2. That row of numbers already contained the averaging problem and now we continued and we even included a
20 normalisation problem. If we can continue, the last table with three rows,

ADV SIBEKO: Perhaps just to interrupt you, you say the third row already contained the error. Could you just explain where that error comes from?

25 MR DE BEER: Commissioners, this error comes from, as

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explained on page 373 the previous example, the error of averaging where the scores obtained by bidders were simply divided by the number of lines instead of by the maximum score obtainable, that's where the first error comes from.

5 ADV SIBEKO: And the second error you say is with the normalisation?

MR DE BEER: Commissioners, with normalisation that row that is indicated in a red colour.

10 ADV SIBEKO: Now if we look at this example you have referred to it is quite clear if one looks at the row of combined scores out of 10 that one is able to determine which of the bidders ought to be ranked high. Now having seen that what is the point or what is the purpose sought to be achieved by undertaking the process of normalisation?

15 MR DE BEER: Commissioners, the different areas of evaluation were requested to provide the final scores as a percentage. To be able to do that you have to go through a process of normalisation to get a score out of 10 and if you just multiply that by 10 you have the percentage. To be able to
20 combine for best value from the technical evaluation you need a score out of 100% and for industrial participation which is the combination of DIP which we're discussing here, and NIP, you need to obtain a score as a percentage and then lastly for the financial index also a score as a percentage. That is the main
25 purpose to do this.

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ADV SIBEKO: You can then proceed to the next rows.

MR DE BEER: Commissioners, the last table there is the correct way of normalisation, the first row in this table is indicated in green. The correct normalised score for bidder number A should have been 7.76, for bidder number B 8.6, for bidder number C 9.02 and for bidder D 10 points. How was this obtained?

I explain as follows; when we go higher up in the first table at the combined scores out of 10 we have examined that row and we've noted that bidder number D obtained the highest score namely 6.85. To do the correct normalisation one divides the highest score with itself and the answer will be 1. And then to express it as a number out of 10 you have to multiply it by 10, so the answer will be 10 and that is indicated in that row in green.

Now you have to express all the other bidders in relation to the highest bidder, their specific scores and that is how the scores of 7.76 for A, 8.6 for B and for C 9.02 are obtained. How one does that is you take for bidder number A the combined score out of 10 was 6.7 and you divide that to the score with the highest number which is 6.85, so the answer of 6.7 divided by 6.85 is in fact 7.76 when you times it by 10 as well, and that is how those numbers are obtained. We also express it as a percentage, 10 obviously will become 100% and if you look at A it's 97.81%, for B 89.78%, for C 94.16% and

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then D we already mentioned and the ranking is thus 1 for D and for number A it's 2, number B it's 4 and number C it is third. You will see that the ranking in both of the tables remain the same.

5 ADV SIBEKO: So the process of calculating the, or correcting error is purely by applying the mathematical equation?

MR DE BEER: That is correct.

10 ADV SIBEKO: But one has to apply the correct mathematical equation in order to have the correct outcomes?

MR DE BEER: That is correct, one must supply the correct mathematical equations.

15 ADV SIBEKO: Now having explained the process that was used to arrive at these scores, shall we then deal with the actual scoring of the individual programmes?

20 MR DE BEER: Commissioners, for this purpose we have to page back to page 368. On page 368 we see the heading there is "SDPP Re-Calculated Evaluation Results" and this is specifically for the LIFT project or the Lead-In Fighter Trainer. This recalculation was done for all four bidders to illustrate what happens with the ranking if the correct scores and mathematical equations were applied. You will note that there are two tables on the page in front of you, the left table, unfortunately not numbered, we can refer to as Table number 1.

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

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see on page 36 particularly under 15.21 you have got the rankings, so in other words what you did was you took these rankings here and you summarised them in that paragraph, is that what you did?

5 MR DE BEER: Commissioner no, that is not what happened there, what you see on page 36 under 15.21 is the scores as evaluated containing the errors and that was presented at the higher level committees and that determined eventually the final scores. That is what is indicated on
10 paragraphs 15.21 on page 36 right through to page 37 paragraph 15.25.

CHAIRPERSON: Are you saying that this what was presented to the higher authorities, but then did I understand that you were saying that even the correct calculations doesn't
15 change the ranking?

MR DE BEER: That is correct Commissioner.

CHAIRPERSON: So in actual fact it doesn't matter whether there was an error or not because the ranking didn't change?

MR DE BEER: That is correct Commissioners.

20 ADV SIBEKO: In responding to the chairperson's question regarding whether there is no change in the results between what is set out as from paragraph 15.2.1 and going further and what is demonstrated at as from page 368 your response was there was no change in the results.

25 MR DE BEER: That is correct.

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ADV SIBEKO: Now can I ask you to look at 15.21. I just ... Just put your finger on what we're dealing with at the moment. Now in terms of what appears at...

CHAIRPERSON: I'm sorry Advocate Sibeko, I didn't quite
5 follow you, you say that you must do the (indistinct) that we are dealing with, now where are you referring him to?

ADV SIBEKO: To his statement at page 36 at 15.21.

CHAIRPERSON: Thank you.

ADV SIBEKO: You'll see those are two tables dealing
10 with the LIFT. Do you see that?

MR DE BEER: Commissioners, I just want to determine is that page 368 or page 36 we're talking about?

ADV SIBEKO: We're looking at those pages, 36 and 368.

MR DE BEER: That is correct, I can see. I can see.

ADV SIBEKO: Now if you look at the LIFT Programme
15 under BAE Systems the DIP Index is recorded there as 94, the NIP Index is 100, the Combined Index is 97. Look at Aeromacchi the DIP Index is 95, the NIP Index is 25 and the Combined Index is 60, this is on page 36. Now if you look at
20 368 it appears that IP Index does not seem to correspond with what appears on page 36, could you explain that?

MR DE BEER: Commissioners, on page 368 the values that is supposed to correspond is shown at a row in the middle of the left hand table, I'm sorry, one can also see in the right
25 hand table.

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ADV SIBEKO: Let's refer to those two tables, the one on the left as Table 1 and the one on the right as Table 2. It makes it easier.

MR DE BEER: Commissioners, on page 368 in Table 1 the
5 left hand table, the row with the words "Original Value" is
supposed to correspond with what is shown in paragraph 15.21,
the Combined Index. Under "United Kingdom" on page 368 we
find the value of 96.5 and if you then look on page 36 table
15.21, the Combined Index you will see the value of 97, this is
10 a rounded value, the 96.5 is rounded upwards to 97, so it is
still the corresponding value. If we look at the next one for the
Czech Republic and the next one I'm referring to page 368
under the Czech Republic, original value is indicated as 84.3,
if we then compare that to the table in page 36 paragraph
15 15.21 Combined Index row the very right hand column shows
the value of 91. I note that there is a difference and I must
investigate that. It is supposed to show the same value.

When we look at the third column on page 368 under
"Italy" for the 339 the original value is indicated as 100. I'm
20 sorry, I think we look at the wrong rows when we look at the
two rows that we're comparing, we're comparing the wrong rows
with each other. The correct row that we have to look at on
page 36 is the top row with the DIP Index that is the row that
corresponds with the row on page 368 named "Original Value", I
25 should have named it "Original DIP Index". Those values

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correspond with each other.

ADV SIBEKO: Now if you look at page 368 the Original Value, you will see that the United Kingdom has 96.5.

MR DE BEER: It's a mistake.

5 ADV SIBEKO: Italy has a 100 points and if you look at ranking on the values reflected there Italy is ranked 1 and the United Kingdom is ranked 2, however, if you look at Table 2 which is on the right things changed because the ranking now has the United Kingdom at 1 and Italy which was number 1 is at
10 number 4. Are you able to explain this difference?

MR DE BEER: Commissioners, the column or the Table 2, the right hand table on page 368 is just the DIP and the NIP Combined Index and that ranking is different from the final ranking for the best value, so that is the first explanation.

15 CHAIRPERSON: I'm sorry, am I also right to say that what Advocate Sibeko said it is correct, but then things started changing once you factor in the NIP Index because if you look at the NIP Index Italy seems to have done very badly as compared to BAE and this is what in actual made it changed
20 because the difference there is quite big, Italy here have got 25 and BAE has got 100, so that made up the difference and that is why at the end BAE end up being ranked higher than Italy. Will that be the correct analysis?

MR DE BEER: That is correct Commissioner.

25 ADV SIBEKO: Is there an explanation you want to offer?

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MR DE BEER: Commissioners, I think we will have to revisit this page just to correct certain errors that it seems that is there and we will have to come back for this purpose.

5

ADV SIBEKO: What error are you referring to specifically?

MR DE BEER: On page 368 my tables doesn't correspond at the moment and we will have to examine and correct that.

10

ADV SIBEKO: Thank you Chair, we'll get back to this page in due course. Now that is the difficulty with the LIFT that those values have to be corrected and investigated and corrected.

MR DE BEER: That is correct Commissioner.

15

ADV SIBEKO: Right. Can we then turn the page to 369 and deal with the LUH? Now with regard to the LUH could you also, let's deal with that in the same way as we dealt with the LIFT, have the one eye on page 36 of your statement paragraph 15.22 and the contents of page 369.

20

MR DE BEER: Commissioners we have noted an error on the page 368, I am hesitant to continue with page 369 and the rest. I would like to re-examine just to make sure that we present you with the correct recalculated figures and not confuse the Commission.

25

ADV SIBEKO: Chair, may I request that we stand down to just determine the extent of the erroneous information that is contained in the bundles and we will give an indication as soon

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as we're ready to proceed with this.

CHAIRPERSON: Okay thank you, we will adjourn then.

(Commission adjourns.)

(Commission reopens.)

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

MR DE BEER: I do.

CHAIRPERSON: Thank you.

ADV SIBEKO: Thank you Chair, and thank you for the
10 opportunity to allow the witness time to reconsider his position
with regards to the columns and calculations we were dealing
with during the course of his evidence. Mr De Beer, you have
looked at the documents again and compared them. Would you
like to explain to the commissioners what the position is with
15 regard to the documents relative to the rankings of the various
bidders?

MR DE BEER: Commissioners, first and foremost my
apologies. I would like to start off on page 36, those tables
that you see on page 36 and 37 we must take note that these
20 tables are only the IP and the IP Index and the rankings for IP
only and those are the rankings that were used, the normalised
figures that were used to present together with the Military
Value as well as the financial indexes and that, those values
were used to combine, so that is one situation.

25 What we see in our annexure with the page numbers

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368 through to 372 is my own recalculation of the IP Index based on the corrected methods. So, one cannot compare it necessarily with each other. You can compare and I will explain which rows to compare if one really wants to look at that. If we now look at page 368 and this discussion is the same for the following pages as well, then we see the IP Index recalculation is Table 2 or the right hand column there with the heading "Recalculation of Evaluation Results", I should have indicated it a bit better, it's the IP Index.

5
10 CHAIRPERSON: Sorry, let me understand you. Page 368 onwards, that deals only with the IP Index?

MR DE BEER: Commissioners, the second table on each of these tables deals with the IP Index, the first table on your left hand side on page 368 and the following is the combined index, all three indexes combined to determine whether the error calculations in IP resulted in a change in ranking. If I may continue on page 368 the Table 2 or the right and column table is the recalculation of the IP Indexes. For the DIP in the first row you find indexes under United Kingdom as 89.87 and for Czech Republic 75.52, for Italy MB339 91.71 and for Italy with the YAK-130 100. Those DIP values are the corrected, where those errors have been corrected.

15
20
25 If you look at the next row the NIP Indexes shown there are the indexes from our source documentations, no changes, we assume that those rankings and normalised figures

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are correct. The third row with the IP Index before normalisation is thus the new percentages, excuse me, it's not the new values obtained with the new DIP figure and the existing NIP figure. The next row is the row called

5 "Normalised" that is now expressed as a percentage out of a 100 where you can see the United Kingdom received 100, the Czech Republic 91, Italy with the MB339 at 61 and Italy with the YAK-130 66. Now you can see the effect of the not very good NIP scores for Italy on both of their proposals, the 25.

10 The original ranking normalised values are shown in the next row, once again the United Kingdom with 100, the Czech Republic with 93, Italy with the MB339 at 62 and Italy with the YAK-130 at 64. The difference between the new normalised figures and the original normalised figures are

15 shown in the second last row, in the United Kingdom case zero difference, minus 2 in the Czech Republic, minus 1 in the Italy with the MB339 and Italy with the YAK is plus 2. So the new ranking from an IP perspective is shown as United Kingdom number 1, Czech Republic number 2, Italy MB339 number 4 and

20 Italy with the YAK-130 number 3, and this is not a change with regards to the IP Index shown in my statement under paragraph 15.21 on page 36.

25 Okay, if you allow, for all the rest of the discussions it is a similar approach and to the best of my knowledge there are not real significant changes with regard to

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IP Index, but I will point those out, the insignificant ones that was observed. Once we have now discussed the IP Index based on corrected calculations we can move over to the left hand side of the same page, page 368 and we can discuss the ranking as a result of the new IP Indexes when combined with Military Value and with Financial Index.

In row with the name Military Index you will find figures 45.1 for United Kingdom, Czech Republic 52, Italy with the MB339 was at 100 and Italy with the YAK-130 is 42.9. These Military Indexes are obtained from other source documentation. We can refer you to the statement of Mr Dawie Griesel where he indicated these tables as well, it is the correct figures we have determined during the break.

The second row contains now the new IP Index based on correct process of calculation and that is for the United Kingdom 100, for the Czech Republic 91, for Italy with the MB339 it's 61 and for Italy with the YAK-130 it is 66. You will note that it corresponds with the right hand column, the row with the name "Normalised", it corresponds, and that is supposed to correspond.

If we move back to Table number 1 left hand side and we move to the next row the FI Index is the Financial Index, these figures comes from sources Mr Dawie Griesel's statement, United Kingdom 100, Czech Republic 69, Italy with MB339 at 92 and Italy with the YAK-130 is 90. The next row

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shows now the Best Value before Normalisation, the best value figures is like this, for the United Kingdom 81.7, for the Czech Republic 70.62, for Italy with MB339 84.49 and for Italy with the YAK-130 66.24.

5 The next row show the same figures but in a normalised fashion expressed as in relation to the winner and that is for the United Kingdom 96.70, for the Czech Republic 83.59, for Italy with the MB339 it's 100 and for Italy with the YAK-130 it's 78.41. When you compare this with the original
10 values that was presented and as per Mr Dawie Griesel's statement it's the next row.

 You will note that under "Original Value" United Kingdom 96.5 *versus* the recalculated 96.7. For Czech Republic 84.3 *versus* 83.59. For Italy it is 100 and it was also
15 100 with the recalculated figures. For the original value for Italy with the YAK-130 was 77.5, when compared to the recalculated just on top you will note 78.41. The row, the next row we must ignore for the discussion, those differences are indicated in the wrong fashion. The ranking has got no change
20 but I am referring to the costed best value determination, not the non-costed. This was the ranking before the non-costed issue was brought to the table. I am not discussing or comparing with the non-costed at all in my statement, so that ranking of the United Kingdom in the second position, the
25 Czech Republic in the third position and Italy MB339 in the

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first position, Italy YAK-130 in the fourth position is the same ranking that was originally presented, therefore no change.

ADV SIBEKO: Thank you for that explanation. Can we then look at page 371 which deals with the Corvettes.

5 COMMISSIONER MUSI: But can I just, just a small clarity. If I understand your evidence what appears on Table 1 on page 368 on the left, these are the rankings, the results let me call them that were submitted to SOFCOM?

10 MR DE BEER: The row with the words "Original Value", that were the rankings that were presented to the SOFCOM and other higher level committees and that ranking is the same as shown in the last row with the word "Ranking", second, third, first and fourth.

15 COMMISSIONER MUSI: I'm trying to pick up on this story of the non-costed, where does it come in, in this picture?

20 MR DE BEER: Commissioners with due respect it is not compared on this table, so it doesn't come out here. These were compared with the costed, the standard process, so it's, that's all that I show, I have not a table to compare it with the rankings for the non-costed at all.

25 COMMISSIONER MUSI: You therefore don't have the results where the non-costed option was taken into account? These are the results without the non-costed, on costed option, in other words the rankings would have been number 1 would have been Italy MB339 FD, that would be at number 1 and number 2

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would have been the what you call, United Kingdom, the Hawk and so on and so on.

MR DE BEER: That is correct.

COMMISSIONER MUSI: And the non-costed option brought a
5 difference, a change to this but we don't have it on this table?

MR DE BEER: That is correct Commissioner, we don't have it on this table.

COMMISSIONER MUSI: Thank you.

ADV SIBEKO: Did your, the...

10 CHAIRPERSON: Just for my own understanding am I right to say that Industrial (indistinct) the same as IP Index?

MR DE BEER: That is correct Commissioners.

CHAIRPERSON: Thank you.

ADV SIBEKO: Thank you Chair.

15 COMMISSIONER MUSI: And the IP Index refers to the combined DIP and NIP indexes, is that correct?

MR DE BEER: That is correct Commissioner.

ADV SIBEKO: Now Mr De Beer you referred to column 1 that you have been explaining to the commissioners as being a
20 costed option, Table 1. Now there is evidence before this Commission that what was presented to the higher tiers was also a non-costed option, are you aware of that?

MR DE BEER: Commissioners, I'm only aware of that through the testimony from Mr Dawie Griesel.

25 ADV SIBEKO: Now are you aware if the non-costed

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option that we have heard about was evaluated by any of the
DIP Evaluating Teams?

MR DE BEER: No, I am not aware Commissioners. There
was no additional DIP Evaluation done based on the non-
5 costed. It would actually not have made sense because to do a
DIP Evaluation the first and most important you need is the
price meaning the cost.

ADV SIBEKO: Now to the extent that there may have
been an IP Index or IP values in the non-costed option how
10 would these have been derived or where would the figures
which add to the IP Value have been arrived at?

MR DE BEER: Commissioners, to my best understanding
the non-costed would have only affected the Military Value
Index and that would have been different indexes as the ones
15 that you see in row number 1 of the left hand table. To my
best knowledge that would be the only index that would have
been affected.

ADV SIBEKO: But as I understand your evidence
correctly to be able to arrive at any DIP commitment which then
20 has to be evaluated a cost or the value of the project must be
considered.

MR DE BEER: That is correct Commissioners.

ADV SIBEKO: Would it be fair to assume then that in the
non-costed option there was no figure for purposes of
25 determining the DIP obligation?

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MR DE BEER: Commissioners, I think the answer is yes, however, they most probably used this very same IP Indexes as in my statement contained in pages 36 to 37.

ADV SIBEKO: Thank you Mr De Beer. Before venturing
5 into further speculation shall we then deal with the Corvettes Programme which appears at page 371.

MR DE BEER: Commissioners, on page 371 we indicate the exact same type calculation but this time for the project for the Corvettes. Once again the right hand table or Table 2 is
10 the comparisons and the calculation with the new, for the new IP Index based on a recalculation of the DIP Index. The first row indicating DIP shows a value to the United Kingdom for GEC of 88, for Germany with the Meko A200, the GFC, 71.57, for France 93, for Spain 100. If we move one row lower for NIP
15 the United Kingdom, the GEC scored 11, Germany with a Meko A200 scored 100, France scored 52 and Spain Bazàn scored 48. You will know the, note the relative low values for the DIP indexes.

If we then move to the next row, the IP Index before
20 normalisation the new IP Index is now 49.5 for the United Kingdom, it is 85.78 for Germany with Meko A200, for France it is 72.5 and for Spain Bazàn it is 74. Now upon inspection of this row one will note that Germany with the Meko A200 has got the highest score before normalisation, so this is now the score
25 that we will use in relation to determine the scores for the

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other bidders. So, if the score under Germany Meko A200 is taken as 100 that's normalisation, you will note to the left of the 100 in the row "Normalised" the score for United Kingdom is 58, the score to the right of the 100 for France is 85 and for Spain for Bazàn is 86.

The original values normalised, based on the wrong calculations in DIP was 57 *versus* 58, 100 *versus* 100, 82 for France *versus* 85 and then 82 for Spain *versus* the new number of 86. The ranking obtained in this way ..., we will ignore the difference row, the row showing the difference s. The new ranking is then indicated for United Kingdom is number 4 position for Germany Meko A200 remains in the number 1 position, France is now in the third position and Spain is in the second position whereas before this with the, based on the wrong calculations both Spain and France was in the second position, they had the same scores and that you will also note when you look at the row with the original value, 82 and 82.

Now when the new normalised values are put into the table on your left hand side, Table 1 where we have the row with the words "IP Index|", the new values are indicated there, you will note ... First and foremost let us just determine, the MV Index as shown there is taken from other sources and it's still the indexes as have been testified about, Military Value Index for United Kingdom being 74.7, for Germany for the Meko was 91.9, for France 65 and for Spain with Bazàn 100. If you

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now look at the IP Index it's the new recalculated you will note 58 for United Kingdom, 100 for Germany with the A200, for France 85 and for Spain 86. The financial indexes indicated there are still the same indexes as been testified before. When these are combined you will notice the best value 77.47 for United Kingdom, 90.30 for Germany with the Meko A200, 79.84 for France and 90.09 for Spain.

It is important to note that upon inspection the highest value is obtained by Germany with the Meko A200 at 90.3 *versus* Spain at 90.09. It's a small difference but still a difference, so the value, the highest value is for Germany Meko A200 at 90.3, the normalisation row below is thus expressed in terms of this highest value with Germany at a, with 100. To the left United Kingdom 85.79, France 88.41 and for Spain at 99.76. You will note that that is a very small difference for the score for Germany, but the number 1 position is still with Germany, so there was no change in the ranking.

As shown in the very last row the ranking number 4 for United Kingdom, number 1 for Germany Meko A200, for France number 3 and for Spain number 2, no change in the ranking.

ADV SIBEKO: Now can I ask you to have a look at column, Table 2 at page 371 and have another eye on page 37 of the statement at paragraph 15.24, there also is a table dealing with the Corvettes. Now it appears in respect of the

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DIP Index in relation to GFC, there is a figure of 81 there whereas in Table 2 of page 371 there is a figure of 71.57, are you able to explain the difference? Page 37 of the statement paragraph 15.24 compared with Table 2 at page 371.

5 MR DE BEER: Commissioners, I can explain as follows; on page 37 paragraph 15.24 the normalised DIP Index is shown for the GFC Meko A200 as 81. When we look at page 371 under Table 2 for Germany Meko A200 you will note a score of 71.57, it's almost a 10 point difference. That difference is due
10 to the correction of calculation errors.

CHAIRPERSON: I'm sorry, so 71.57 is the correct version?

MR DE BEER: Commissioners, on page 371 under Germany the new DIP Index of the correction is 71.57.

ADV SIBEKO: So, the number 81 on page 37 of the
15 statement ... He's not there. Is that not the corrected version also?

MR DE BEER: Commissioners on page 37 the DIP Index shown under the GFC of 81 is the correct figure if you use the wrong calculation method, the averaging problem and the
20 normalisation problem and that was the figure that was presented and used for determining the best value.

CHAIRPERSON: Let me understand you, is the correct, 81 is the correct figure if you use incorrect method? Yes okay, I...

25 CHAIRPERSON: So, if you use the correct method 81 is an

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incorrect figure? Thank you.

ADV SIBEKO: Mr De Beer dealing still with the Corvettes can I ask you to turn to page 371A and just explain to the Commission what the table, Table 2 there deals with and point
5 to the difference between the Table 2 at page 371 and the one at 371A.

MR DE BEER: Commissioners, page 371A was included for the purposes of illustration and it's based on my, what I've noted in compiling this statement. On page 371 under Germany
10 for Meko A200 you will note the figure of 71.57 which is the corrected calculation of the DIP Index whereas on page 371A in the very same position you will note a figure of 68. This figure of 68 is derived from my observations in compiling this statement that in the scoring of the Corvettes the GFC obtained
15 a score, an incorrect score of 5 points as opposed to 1 point that they should have got and that was based in accordance with my research, based on a note stating because of an increased NIP Value.

Now I have included this table to illustrate that if
20 the GFC did not obtain the 5 points and we will illustrate to you where that comes from, if they did not get that 5 points which is a wrong scoring but in fact the 1 point that they should have got then this DIP Index drops to 68 and if you follow the whole calculation through this will then result in a change in the
25 ranking.

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I you look at the left hand table, Table 1 on page 371 you will note that the normalised values shows Spain with 100 and if you look at Germany at 99.56, so those two positions changed.

5 CHAIRPERSON: Can I ask the witness to repeat? Can you just repeat what you have just said, I really got confused with the process and fortunately Judge Musi says that he is in the same position as me.

10 ADV SIBEKO: Perhaps Mr De Beer to be able to explain this properly can I ask you to, without putting those pages away just turn to page 383 of File 3. I suspect you would be able to illustrate at least with reference to documents what you mean by what you stated earlier in your evidence which confused the Commissioners.

15 MR DE BEER: Commissioners if we look at page 383 this is...

ADV SIBEKO: Perhaps if you could start by first identifying that document.

20 MR DE BEER: Commissioners page 383 forms part of an annexure which represents the exact scores of the DIP Evaluations. In the case of page 383 it's for the Corvettes as proposed by the German Frigate Consortium and paragraph 9.3 as indicated shows a table, this table contains the conformance and compliance exact scores that were allocated to the German
25 Frigate Consortium. It's a copy of the original score sheet.

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ADV SIBEKO: Yes, you can continue to explain how the figures are scored there.

MR DE BEER: Commissioners, what I have noted is a wrong score that was allocated in row number 5, that row is described as the DIP percentage committed against the contract price and if we look at the next column, the third column for the norms and the points a bidder should have obtained five points for a DIP commitment between 45% and 55%. For a DIP commitment of less than 45% they should obtain 1 point, for a commitment higher than 55% a score of 10 can be allocated.

Now when we examine the next column there is a monetary value in Euro, €255 962 000 as a DIP commitment. When that value is expressed as a percentage of the contract price you will note that is 30.22%. Now when an evaluator must now allocate a score one will look at the column with the norms and the points and you will note this bidder should have obtained one point, but if you look at the very right hand column you will see they obtained five points as if they have a value between 45% and 55%, but in fact they had a score of 30.22% only, so the correct score should have been 1 but it is 5.

ADV SIBEKO: And if you turn the page or at least still at 383 under the same page and score there appears in brackets there that says "(See Note)" which appears on the next page.

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Could you read that into the record?

MR DE BEER: Commissioners, I have noted that the note below this table states:

5 *“GFC was given the standard score (of 5) for DIP offers between 45 – 55% because they made an increased NIP commitment”.*

And that I have obtained from the reference shown in brackets.

ADV SIBEKO: What in terms of your recollection is that document that you have referred to in brackets?

10 MR DE BEER: Commissioners that is the original GFC Score Sheet, DIP Evaluation Sheet.

ADV SIBEKO: Now having dealt with pages 383 and 384 where we see the error creeping in, can we then go back to page 371A so you can explain to the commissioners what you
15 said earlier in your evidence?

MR DE BEER: Commissioners, on page 371A Table 2, the right hand table under Germany Meko A200 you will note a value of 68. The value of 68 is to be compared with the value on the previous page which is page 371 in the same position
20 which indicates 71.57 and you will note the difference of approximately 3.57 points. The reason for this difference is on page 383 where you noted that the German Frigate Consortium was allocated a score of 5 they should have been allocated a score of 1 because the percentage is lower than 45%. Now
25 when that score is used as 1 the figure on page 378A of 68 is

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arrived at.

COMMISSIONER MUSI: And then what do you make of the comments at the bottom of page 384 that says that the GFC was given the standard score of 5 for DIP offers because they
5 had increased their NIP commitments, what do you make of that?

MR DE BEER: Commissioners, unfortunately I can only speculate on that, I actually don't know exactly what happened and what the reason was.

10 COMMISSIONER MUSI: But that statement doesn't it explain why they were given 5 on page 383 instead of a 1, doesn't it explain that perhaps?

MR DE BEER: Commissioners I assume it helps to explain, however, from a DIP Evaluation point and DIP score
15 they should have obtained 1 and that is the end of the story but there was, because of the NIP, the increased NIP offer they were allocated 5.

CHAIRPERSON: Now because of that statement what do you suggest we should make of it? You say that according to
20 your knowledge they should have been allocated 1 instead of 5 and then they go on and say that they were allocated 5, your statement goes on and says that they were allocated 5 because of NIP commitments, what do you suggest we deal with that?

MR DE BEER: Commissioners, all that I could suggest is
25 that NIP activities which is not known to me and I was not

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present at that Committee, was regarded as of high value and that the DIP Value System should take that into account, in my view it is done in the wrong way but as we testified yesterday in the DIP Value System there is a statement and I cannot
5 recall the exact paragraph number which states that NIP activities could be transferred to DIP and *visa versa* based on the Moderation Committee's inputs and if I was doing those calculations and scores, I would have looked at it in that way.

CHAIRPERSON: Now if at all the NIP activities could be
10 transferred to the DIP activities as you say how can you possibly then now come to a conclusion without knowing what happened, that it was incorrect for them to give a 5? Because you say you don't know whether there were any NIP activities which were transferred to the DIP activities, now if that is the
15 position how can you come up with the statement saying that that was incorrect for them to have done so?

MR DE BEER: Commissioners, I would have as a DIP evaluator and if I was in the second tier, I would have allocated a score of 1 and explained that it is because of 30%
20 of a NIP, DIP commitment and not 50%, therefore it can only be 1 but in the next higher level, the next tier of moderation that score was changed to 5 and the only reason that we can see from the evidence and from the documentation is because of an increased NIP offer and if I was in that tier I would have looked
25 at the NIP activities and discuss it at that tier and say but it

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means we have to transfer one or more of the NIP activities to DIP and re-evaluate and then determine the new score, that is what I would have done.

CHAIRPERSON: Okay Advocate Sibeko, you can go on.

5 ADV SIBEKO: Thank you Commissioner but just on that point can I ask you to have regard to file number 2 at page 149.

CHAIRPERSON: 149.

ADV SIBEKO: Could you identify that document again for
10 the record please?

MR DE BEER: Commissioners on page 145 the document can be identified and it is Industrial Participation Requirements, Conditions and Reference Documents for the Corvettes dated 27 January 1998.

15 ADV SIBEKO: Now go to page 149 and if you could turn your attention to paragraph 10 you will see at 10.1 we dealt with this document during the course of your testimony yesterday and we read these two subparagraphs into the record, do you recall that?

20 MR DE BEER: Yes, I do.

ADV SIBEKO: Now you will see that paragraph 10.1 provides that:

25 *“The Department of Defence in consultation with the Department of Trade and Industry reserve the right to re-apportion the respective DIP and NIP*

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obligations, in the eventuality that specific business proposals should justify such a decision”.

Now having read that subparagraph do you accept it is regulated here that if the position is justified or the decision is justified there could be a reallocation of the respective DIP and NIP obligations?

MR DE BEER: Yes, I do.

ADV SIBEKO: Now if you go to 10.2, could you just, to remind us once again, read that into the record and we will deal with the specific questions arising therefrom.

MR DE BEER: Commissioners, page 149 paragraph 10.2:
“In the event the respective percentage obligations are interchanged between Non-Defence and Defence Industrial Participation Programmes it must be clearly noted and understood that the portion added/transferred will be evaluated strictly in accordance with the respective evaluation prescriptions of the Department of Trade and Industry and/or ARMSCOR. This means that if a defence related project is reappportioned to the NIP Programme this additional portion will be assessed and evaluated in terms of the Department of Trade and Industry prescriptions and visa versa”.

ADV SIBEKO: Now applying what is provided for at 10.2 is it fair to assume or conclude that in the event where the NIP

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Project were, the NIP points were reallocated to the DIP Points using an example of the Corvette, that subsequent to that reallocation there had to be a re-evaluation of those points before anything could happen from the DIP perspective?

5 MR DE BEER: That is correct.

ADV SIBEKO: You have earlier said so in your evidence that you think thatought to have happened but in fact this document seems to suggest that that ought to have happened.

MR DE BEER: That is correct.

10 ADV SIBEKO: Now having dealt with that point and going back again to page 371A and reading that with paragraph 15.24, perhaps just dealing with page 371A and 371 what effect did the four points have on the rankings of the Corvette projects which were presented by the different bidders, if any?

15 MR DE BEER: Commissioners the effect of the additional three points as shown on in the table in 15.24 but also illustrated even with the correction of errors, it, the Germany Meko A200 was still in the first position, if the 4 points additional was not allocated then Germany would have been in
20 the second position with Bazàn Spain in the first position, that is the effect of this additional four points.

COMMISSIONER MUSI: Can I just as who would have reallocated the points from 1 to 5 in that document we have been looking at?

25 MR DE BEER: Commissioners, because it is in the DIP

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Value System and the DIP Evaluation Score Sheet for the Corvettes it can only have happened within the DIP Division because NIP does not have access to our value system and our scores, they don't have access to this automated programme that we did the scoring. Now as you will recall from yesterday's testimony that level of the evaluation, the actual scoring and reading it into the system was done by the head of the division Mr Van Dyk. Now Mr Van Dyk, also forming part of the Moderation Committee between Mr Shaikh, Mr Hirsch and also the colleague from the DTI which at that stage was Mr Vanan Pillay, that it could have only been Mr Van Dyk who added the scores but that was discussed at that committee and a decision which was reached which forced him to put the note: "This score is now 5 and not 1 because of an increased NIP offer".

If we read that or we look at that in the light of page 149 as just now read again, in my opinion what should have happened is the NIP activities 1 or more should have been transferred to DIP and then re-evaluated in the DIP Value System and then the scores should have been calculated and determine what the final result is.

COMMISSIONER MUSI: Don't...

CHAIRPERSON: Just...

COMMISSIONER MUSI: Don't you then think that only he can explain this, only Mr Van Dyk can explain that?

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MR DE BEER: I do.

CHAIRPERSON: Could have that been one of the functions of the auditor at that stage because yesterday you told us that you know it was only to the scores but then you couldn't tell us exactly what he was doing when he was auditing, so my question is that Mr Van Dyk when he changed it from 1 to 5 or when you deal with 5 (indistinct) 1, could that have been part of the process of auditing?

MR DE BEER: Commissioners, I would rather suggest that it is part of the function of moderation which I couldn't explain correctly yesterday, not necessarily auditing.

CHAIRPERSON: Okay, thank you.

ADV SIBEKO: Now that takes care of the evaluation results with the discrepancies that we have demonstrated during the course of the scoring, is that correct?

MR DE BEER: That is correct Commissioners, but if you allow, and if I may, a similar situation happened with the GSC but there was no change in ranking.

ADV SIBEKO: Could you take us to the relevant page, I think that would be, you will find that at page 372.

MR DE BEER: Commissioners, at page 372 the same two tables are shown as discussed before but this time for the Submarine Project, the right hand table calculating the IP Index. In this case Germany scored for DIP 29.28 and France 100, Italy 90.03, Sweden 88.95. The NIP Index, only the NIP

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Index for, in the same order, Germany scored 100, France 11, Italy 10 and Sweden 14. You will note the big difference between the score for Germany for NIP and the rest of the bidders. If we look at the DIP Index of 29.28 you will note that it is quite low.

ADV SIBEKO: Commissioners, if you look at the DIP Index for January 29.28 which is quite low as compared to that of France for instance of 100, that figure for Germany 29.28 also contained exactly the same 5 points for conformance and compliance whereas it was supposed to be 1 point. So, even with an increased point for the high NIP the DIP value was still low but when you go to the IP Index after it was normalised, there where it is shown "normalised", you will note that Germany has got 100%, France 86% and then Italy with 7% and Sweden with 80%.

So, even with that allocation of additional points to Germany the DIP was not a good score but with that, the normalised score is still 100. I have done a similar calculation but haven't shown it, it's not part of the evidence and there was no change in ranking if Germany was scored 1 point *versus* the 5 that they obtained.

MR DE BEER: Could you turn to page 387 of file 3, 387, you will see that that is the score.

CHAIRPERSON: Sorry, which page?

ADV SIBEKO: Page 387.

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MR DE BEER: Commissioners on page 387 this is the actual score sheet, Evaluation Sheet for DIP for Submarines as proposed by the German Submarine Consortium. In the table 11.1 row number 3 you will see DIP percentage committed against contract price, then the same norms as discussed before which is 45% to 55%, the allocation of 5 points will be correct. For commitments less than 45% is 1 point and for commitments higher than 55% is 10 points, and then we will see the monetary value in the next column in USD was US\$160 million. As a percentage you will note that this 18.78% of the contract price and this 18.78% will thus attract a score of 1 point being below 45% but you will note in the very right hand column the score of 5 points were allocated, was allocated, so it's the same situation.

The note that is referred to is on page 388 and it's the same note as under the GSC, the GS..., excuse me, the GFC, it's the same note, GSC was given the standard score of 5 for DIP offers between 45% to 55% because they made an increased NIP offer. I have added just for illustration the GSC offered a total Industrial Participation value, now this is a monetary value of US\$1.267bn and the reference there indicated is where the NIP offer is contained and the DIP portion as already indicated was a US\$160 million.

ADV SIBEKO: Now what effect did the reallocation of the NIP products to the GFC have on the ranking?

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MR DE BEER: Commissioners, according to my recalculations no change happened.

ADV SIBEKO: Now perhaps to deal with the question that was raised earlier by Commissioner Musi with regard to where
5 this reallocation happened, can I ask you to go to page 31 of your statement, you will find a table there. Through the use of that table you sought to demonstrate the various tiers that were involved in the evaluation, moderation and auditing, could you just by referring to this table or flow diagram just try and
10 indicate where this happened?

MR DE BEER: Commissioners, on page 31 that flow diagram starts off with RFO Response with two arrows to the left and to the right, however, in the middle of the two columns left and right you will find four blocks, the top one reading
15 "Independent Liaison with Respective Bidders". The next block reads "Results Audited DTI (Mr Alan Hirsch AND Chief of Acquisitions (Mr S Shaikh)" and the block below "Combined Input". Those two blocks is where auditing and moderation took place and I would suggest that the allocation of the scores
20 of 5 for the GFC and also 5 for the GSC as opposed to one in each case happened at those levels.

ADV SIBEKO: Right, we have now dealt with the various evaluations, scoring and to an extent the ranking of the various bidders. For purposes of completeness you refer to in
25 paragraph 15.20 of your statement which appears at page 36 to

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Annexure "BDB18" of your, of the files. Could you just briefly explain what Annexure "BDB18" is and Commissioners, this you will find in paragraph 3 as from page 389.

MR DE BEER: Commissioners, if we look at page 389 this document is the DIP and NIP Consolidation Ranking Report and the first next row shows the words "Advanced Light Fighter Aircraft". I am only going to deal with, not with all the rows indicated but with the row with the words "Normalised IV Index". Commissioners if I may continue know it's quite fine print, nevertheless the row "Normalised IV Index under the Advanced Light Fighter Aircraft" you will note in the middle column, the grey column you will note a value of 100 and that is for the UK Sweden for the Advanced Light Fighter Aircraft. The IV of the IV Index in this case stands for Industrial Value but it is the same as the IP Index which is Industrial Participation Index. For the purposes of the testimony they are exactly the same.

So if we go back then to the column UK Sweden indicates 100 for the ALFA Aircraft or the Gripen and then the middle column there under German 59, and for France 25. These values were transferred from these pages to my statement pages 36 and 37, the specific paragraph number on page 36 is 15.23 for the values that I've now read in from page...

COMMISSIONER MUSI: I'm lost, I can't see where you are, you

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are talking about under Light Utility Helicopters and you mentioned Germany, I don't see Germany there. Where are you precisely?

CHAIRPERSON: Advanced Light Fighter Aircraft.

5 COMMISSIONER MUSI: Oh, ALFA?

CHAIRPERSON: Yes.

COMMISSIONER MUSI: It looks like we've located.

MR DE BEER: Commissioners, with your permission we don't plan to go through these page 389 line by line, all we want to indicate that my values as shown in the tables on page
10 36 and 37, it was sourced from this document.

ADV SIBEKO: Perhaps Mr De Beer if I could ask you to have a look at page 389 under the "Corvettes", there is a column that says "The Combined Industrial Value Index" and
15 then there is the normalised, or in the column there is ... I'm advised it's a row, the first column in the rows, and you have a Normalised Industrial Value Index, for Germany it is 100 and for Sweden it is 100, is that correct?

CHAIRPERSON: Advocate Sibeko can you just repeat
20 because I am getting lost. You also refer to Sweden, I couldn't see Sweden here.

ADV SIBEKO: You will see the Normalised IV Index under "Corvettes", there's Germany at 100, and do you see that?

MR DE BEER: That is correct.

25 ADV SIBEKO: And in France the Normalised IV Index is

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82, do you see that?

MR DE BEER: That is correct.

ADV SIBEKO: Now following on my understanding then there is France or Spain. Now Spain has a normalised IV Index of 82, do you see that?

MR DE BEER: That is correct, I do.

ADV SIBEKO: Now if you look at the role of IP percentage attracted which is the last row under Corvettes you will see Germany has 330.54%, do you see that?

MR DE BEER: That is correct.

ADV SIBEKO: Now if you look at Spain it has 461.11%. Now doesn't that IP, total IP percentage attracted have the effect of putting Spain ahead of Germany?

MR DE BEER: Commissioners, no, it does not. Those percentage indicators there is based on monetary value only, it does not reflect of an evaluation of the specific projects as proposed for DIP and also for NIP. So, the difference is in the ranking is because of the level of the quality of products, projects as proposed and not only purely on monetary value. The value systems could have been for DIP, the highest DIP monetary value is number 1 and a similar approach in NIP but that was not the approach, so although it is higher for Spain than for Germany that does not determine the ranking.

ADV SIBEKO: Thank you for that explanation. These are prepared and they are taken to a higher tier, the results we

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have been talking about and do you know what happens there or you were not able to testify matters at the tier that you do not participate in?

MR DE BEER: Commissioners no, I do not exactly know
5 what happened there and I did not participate. I think we already discussed from the DIP and the NIP and the combination point of view we see the results what happened and we are faced with the final results and we've dealt with corrections of errors *et cetera* and the differences or no
10 difference that that made, so we are aware of that, but now if I understand correctly this combined IT Index must now be taken to a next higher level committee where it needs to be combined with Military Value and also with a Financial Index.

ADV SIBEKO: Right, once the DIP Evaluating Teams had
15 completed their jobs, those results were taken elsewhere and there were rankings made in respect of the DIP. You then in paragraph 16 of your statement seek to deal with the value of DIP and NIP offers as evaluated. Could you expand on that please?

MR DE BEER: Commissioners, as on page 37 the DIP and
20 NIP offers have been evaluated, it's been audited and moderated as we have learnt and the final results are now indicated in the table under paragraph 16.1. Now these final results were presented to the best of my knowledge to a
25 Cabinet Committee, that is also shown in Annexure "BDB19"

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and I assume that is in file 3. Annexure, the number 19. So, the table that you see on page 37 is an exact copy of the report given to a Cabinet Committee.

ADV SIBEKO: Now the report or the summary of the report as set out on the table has Maritime Helicopter in the results that were sent to Cabinet as you point out, in paragraph 16.2 you state that:

“The Maritime Helicopter was not contracted ...”

Together with the other projects. And you then show a table without the Maritime Helicopter. Now the figures that are shown in these tables are set out or they are stated in Rand and in my understanding the, all along we have been using either Euros or US Dollars, how was the conversion made of these figures?

MR DE BEER: Commissioners, the conversion rate used for expressing the Euro values and US Dollars values into Rand is based on the table also shown in paragraph 16.3 page 38. For US\$1 at a conversion rate to the Rand of 6.25 was used. For €1 a conversion rate of 6.5 was used and for £1 a conversion rate of 10 was used. Now if we go back to the table under 16.2 all values are shown in Rand and those were the conversion rates used to be able to get to the Rand values.

ADV SIBEKO: Now the figures shown on the tables as you have set out or stated in your evidence relate to the original equipment quantities that were offered, you deal there

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with in these tables with the projected number of jobs, could you explain how the projected number of jobs was arrived at?

MR DE BEER: Commissioners, with your permission and under guidance I think we need to point out in the table, before
5 we get to the famous job numbers we need to point out what those figures means if you'll allow.

ADV SIBEKO: You may continue.

MR DE BEER: Commissioners, we look at the table on page 38, this is the table where the Maritime Helicopter, the
10 results thereof were taken out. I would like to refer your attention to the second column with the heading "Projected Equipment Quantities", specifically against the Light Utility Helicopter. You will note 61 helicopters resulted in a projected cost next to it of R2.1bn and a projected total IP of R4.685bn
15 and the projected number of jobs of 4 558. The very right hand column in fact shows you what was eventually contracted, the reason why I need to point this out is you will note later the final contract did not differ too much in the terms of the projected IP, the projected IP was very similar to this although
20 it's based on only half of the number of helicopters which is an achievement for the DTI and also for ARMSCOR to a lesser extent on the DIP.

The other thing that I need to point out is in the very last row where the row with "Totals". "Projected Costs",
25 the third column you will see a total cost of R28.9bn was at

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that stage envisaged at the conversation rate as stated to pay for these projects. Now from that R28.985bn it is interesting to note and to point out that DIP plus NIP was supposed to deliver that same value in terms of Industrial Participation.

5 If you look at the very next column "Projected Total IP, DIP and NIP was in fact a R107bn which is almost four times higher. And then if you look at the projected number of jobs you will note a total of 61 629 as opposed to the previous page, page 37, the same table which includes the Maritime
10 Helicopter, you will see the projected number of jobs is 64 165. Now it is this figure 64 165 that gave rise to the rounding of this figure of 65 000 jobs and that was presented to the media *et cetera*. The real fact is it is supposed to be 61 629 and this leads us nicely into the discussion on the number of jobs.

15 ADV SIBEKO: Now how was the number of jobs calculated in respect of your Direct DIP and your Indirect DIP?

MR DE BEER: Commissioners, the final calculation of numbers of jobs as per paragraph 16, specifically 16.5 relates to the calculation for direct jobs, this calculation was based on
20 an average cost to company per employer, per employee for the South African Defence Industry at the time, taken as US\$75 000. Now if you use the conversion rate of 6.25 it is a much higher number, so that was quite a conservative figure used. The truth is that the cost to company in those days was
25 even closer to US\$30 000. Nevertheless we used that as a

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norm and we calculated, we divided that into a breakdown of
DIP values of US\$1.25bn and the answer that we got is 2 381.

This answer shows in terms of man years or person
years because we use cost to company per year per employee
5 to calculate it, so we can only offer that it is man years that we
calculated and not permanent job numbers for 30 or 40 years.
If I can express it with your allowance in a different way it
means for the Direct DIP activities it will take one person 2 381
years to perform the work, or it will take 2 381 persons one
10 year to perform that very same work, the Direct DIP work. Now
this same principle is used in the other three categories as
well or two of the next three categories.

If you allow and we continue Commissioners,
paragraph 16.6, here we calculate the Indirect DIP, let us say
15 person years and in this case we used a value of US\$100 000,
which is indicative of also the average annual cost to company
per employer at the time, although it is higher. We used a
higher number for the reason that indirect jobs are not
permanently involved in the main programme or in the contracts
20 that from the Indirect DIP activities. It includes all the
supporting personnel in a company, it includes their logistics,
the transportation, all that kind of people, so the number of the
calculation is based on a breakdown of the Indirect DIP
activities carrying monetary values and that total was
25 US\$1.33bn and the total number of person years calculated is

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13 345. It means it will take one person 13 345 to perform all the work, or it will take 13 345 people one year to perform exactly the same work.

ADV SIBEKO: Now as I understood your evidence as from
5 yesterday the DIP or the IP obligations, specifically with regard to the DIP had to be discharged over a period of seven years or depending on the circumstances if this period was extended, is that correct?

MR DE BEER: That is correct.

10 ADV SIBEKO: So, the jobs contemplated in respect of Direct DIP and Indirect DIP cannot be seen as permanent jobs, is that correct?

MR DE BEER: That is correct.

15 ADV SIBEKO: Can we describe them as job opportunities or temporary jobs?

MR DE BEER: Commissioners, I would rather say job opportunities within the DIP contracts as offered by the foreign contractors and for the period that those contracts require to be completed.

20 ADV SIBEKO: So, the definition relating to man years in respect of both the Direct DIP and Indirect DIP must be reckoned in terms of the period within which the DIP obligations had to be discharged?

MR DE BEER: That is correct.

25 ADV SIBEKO: Now in the next page 39 of your statement

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you deal with Direct NIP and Indirect NIP which also deals with the total projected number of man years. Is it your evidence that a similar calculation was applied or similar formula was applied in the project of this job as was the case for the DIP?

5 MR DE BEER: Commissioners that is correct but for paragraph 16.8 only. For paragraph 16.7 as on page 39 for Direct DIP ... Excuse me, for Direct NIP those are the NIP's involved in the specific projects that were offered. The value of jobs, or the quantity is 8 938, these were taken from the
10 business plans as offered by the offerers to the DTI, it's just a surmising of those business plan numbers, so there was no calculation done.

If we move to paragraph 16.8, however, on page 39 the indirect job numbers or man years was based on a similar
15 type calculation but this time the value of US\$300 000 was used as an average annual cost to company per employee and it's much higher than what you've seen before to indicate the temporary or the fact that these people will not be permanently involved with the execution of the specific NIP projects, so
20 using this value of US\$300 000 and dividing it into the total value as offered, the monetary value under NIP Projects for exports and for sales and the total of that is US\$11bn, US\$11.85bn, if you do that calculation you will get the figure of 39 501 and that is how it was calculated. So, to get to the
25 total of the 64 000 inclusive of the Maritime Helicopters you

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must add these four paragraphs' results, the four paragraphs I'm referring to is on page 38 paragraph 16.5, 2 381 and then you add that to 16.6 on page 38 and that is 13 345, and you add that on page 39 paragraph 16.7 to the number of 8 938 and you add those three totals to the last total in paragraph 16.8 of 39 501. As indicated in 16.9 the answer will be 14 165. I indicate it as man years.

ADV SIBEKO: From a DIP perspective were these job opportunities expressed in man years achieved or realised?

10 MR DE BEER: Commissioners, it is not included in my statement but from my research I have noted that the DIP Division did enquiry with almost all of the companies that we termed DIP beneficiary companies, meaning defence related DIP beneficiary companies. We, the DIP Division, and that was after I have left the division, has collated these results and they got relatively good responses from about 80 out of a 111 companies. I cannot recollect the figures exactly. I've done a calculation based on that and I would not offer it as tested evidence but it seems that we have exceeded those number of man years in the DIP environment both for Direct and for Indirect DIP.

We indicate in paragraph 16.5 and 16.6 values of 2 381 plus 13 345, the total is a bit more than 16 000, however, from my research from those results it was in, it was exceeding 17 000 number of man years.

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ADV SIBEKO: Now having dealt with the NIP offers based on the original equipment quantities and the number of jobs or man years that would be realised by the various projects. We now have to deal with the DIP evaluations on subsystem levels.

5 Perhaps to start with that aspect would be to enquire whether during the course of the evaluation of the various bids during the acquisition of the SDP Packages, whether the value system, the DIP Value System that we discussed during the course of your evidence yesterday contemplated an evaluation of at
10 subsystem level?

MR DE BEER: The answer is no, it wasn't contemplated, it wasn't expected that DIP Value, Evaluation had to be done on subsystem level as well.

ADV SIBEKO: Now how did it come about that there was
15 or there were evaluations done on subsystem level?

MR DE BEER: Commissioners, to the best of my understanding after the evaluations of DIP and NIP and the combination thereof, and then on the higher level the combination of the IP Index with the Military Value and the
20 Financing Index, after that has been completed and after it has been presented to the Cabinet Committee and the Cabinet Committee considered all the facts in front of them this Cabinet Committee announced the preferred bidders and we all know today who they were. After that had happened, and it was
25 publicly announced, the preferred bidders in some cases

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informed ARMSCOR, the technical teams that they in fact have various alternatives on subsystem levels. This was also known already before the fact that they were announced but there was not paid a lot of attention to that because the preferred bidder is not announced, so after the announcement of the preferred bidders ARMSCOR was made aware by some of the preferred bidders that they have various options in subsystems, also from foreign origin, not from South African origin and they asked ARMSCOR together with the DoD to make a selection on subsystem level.

Now before we continue I must explain what we mean by a subsystem for the purposes of this discussion. In the case of the Light Utility Helicopter that was now offered by Agusta, Agusta being the preferred, Agusta stated I have two different kinds of main engines, the turbine engines that you can select and we would as you the customer allow to select which engine you would like, in this case Agusta supported any one of the two alternatives from a technical point of view and as it became known later from an industrial participation point of view as well but as you can imagine there were different Defence Industrial Participation and also National Industrial Participation based on alternative subsystems and that had to be evaluated.

ADV SIBEKO: Now how many such evaluations were conducted by the DIP Division on subsystem levels?

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MR DE BEER: Commissioners, firstly I deal with in my statement on, with four of these occasions, there were, however, more of such which I have now seen in my research but did not have any specific impact and no change at all, so those are not discussed in this statement, only four relevant ones are discussed in this statement.

ADV SIBEKO: Now for purposes of performing these evaluations at subsystem level what value system was applied?

MR DE BEER: Commissioners, the DIP Value System as for the system level was applied unchanged on subsystem level.

ADV SIBEKO: Why was that so?

MR DE BEER: Commissioners, I was specifically tasked with this from my divisional head Mr Van Dyk, to investigate that, and we came to the conclusion that you can utilise the exact same value system which in my testimony it is now clear what that value system was because besides the commitment from a DIP point of view the most important input that is required to be able to perform a subsystem level evaluation or I should rather say a DIP evaluation is the price of the equipment in question. In the case of subsystems all we really needed was for alternative proposals, what are the price for alternative number one *versus* the price for alternative 2 and then in terms of alternative 1 you can do a DIP evaluation based on that price, the same for alternative 2 and 3 and if

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there are more. So, all we needed was the price and we could perform exactly the same evaluation based on the same value system.

ADV SIBEKO: When you stated in paragraph 7.17.3 of
5 your statement that”

“The DIP Division pursued the best possible DIP offer as measured against the DIP Value System in all the cases that were evaluated at subsystem level”.

10 What do you mean by that?

MR DE BEER: Commissioners the idea was, and the idea is that DIP are looking towards the interests of the Defence Related Industry, DIP is not looking towards the interest of the user or the main requirement statement, that technical
15 requirement, and the viewpoint for the DIP therefore is not in satisfaction of the user’s requirements which is the subject of the Technical Team, DIP is looking after the interest and the requirements of the South African defence related industry and I dare to say from a NIP perspective in the wider arena for the
20 South African industry NIP was also faced towards the best interest of industry and that’s a very important distinction to make.

ADV SIBEKO: Would that mean that despite the formula related to best value or the Military Index, that if those were
25 high, that the Industrial Participation Index would prevail over

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the other indices in the course of the evaluation?

MR DE BEER: Commissioners, in some cases it came out to be the case and in others not. I will explain as follows, we must first look at the formula that was used to determine best value, that formula consisted of three indices, Military Value, 5 IP Value and then third and last is the Financial Index. In the cases of subsystems Financial Index is no longer applicable, so that formula is now changed and the only two remaining indices to be used is Military Value for the subsystem and IP Value or 10 IP Index for the Industrial Participation and the combination or the sum of the two needs to be divided by 2 instead of 3, the reason is Financial Index fell away, so that formula was then used and in some cases the weight, not the weight, it's the wrong word, the index from IP obtained was so high that the 15 Industrial Participation interests were the input to determine the winner and in other cases it was the Military Value, but the weight was equal.

ADV SIBEKO: Now paragraph 17.4 you state which of the four subsystems were required to be evaluated, you deal in as 20 from 17.6 with the selection of the engines for the LUH, could you expand on that please.

MR DE BEER: Commissioners, the selection of the engines for the LUH, we now know that Agusta is the main supplier and they offered two alternative suppliers with their 25 alternative engines, those were firstly Pratt & Whitney from

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Canada with the engine PW207, and secondly, and that's the last alternative offered by Agusta was the engine Arrius 2K2 from Turbomeca France or TMF. I will also refer to Pratt & Whitney Canada as PWC. From a technical perspective there were differences which relates to the performance, qualification status and associated risk and obviously the price, the most important, if I recall correctly from a technical perspective was the qualification status. Pratt & Whitney Canada with their engine 207 was more advanced in the sense of it was a qualified engine that was offered *versus* an engine from Turbomeca France that still had go to, through minor qualification.

CHAIRPERSON: I'm sorry Advocate Sibeko you know if I'm not mistaken this evidence was led by another witness, I'm not quite sure at if at all it serves any purpose just to repeat the very same evidence. I think we did hear evidence about the subsystems, I'm not sure what purpose will it serve just to let the witness repeat what has already been said by other people.

ADV SIBEKO: Chair this, the evidence of this witness is limited in this aspect on the DIP, DIP evaluation which was required after the bidders or the preferred bidders had been announced and...

CHAIRPERSON: We do have his statement, probably try and restrict him only to that point, the other point that he is making (indistinct) before us and as I say, in other witnesses

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that have already testified about that. Maybe just restrict him to the DIP Evaluation.

ADV SIBEKO: Could you in the course of dealing with the evaluation of the engines relating to the LUH by Agusta, offered by Agusta, just deal with those aspects that resulted in one engine being preferred over the other for purposes of the DIP Evaluation exercise.

MR DE BEER: Commissioners, I will restrict me only to the IP. The DIP Team evaluated the DIP associated offer which formed part of Agusta's DIP offer and we did an evaluation on the subsystem level. First and foremost we used this as an exercise to determine whether the DIP evaluation instruction could be applied unchanged. It took us two iterations to get to that result to say that it can be, the outcome of those evaluations is immaterial, however, for background, and I know it is known out in the public is that Pratt & Whitney Canada in those iterations came out to be the winner, the reason for that is twofold, it's important to note Pratt & Whitney Canada offered activities under DIP and under NIP but some of those activities was directed towards the South African Air Force which is not the defence related industry and from a NIP perspective does not form part of industry at large but we allowed that for the purposes of the evaluation as if the South African Air Force's own facility for repair *et cetera* is part of the defence related industry, but it is wrong. That is why Pratt

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& Whitney Canada was in the first position, that's part of the reason in these initial evaluations. The second reason is Turbomeca France offered a number of activities under DIP and also under NIP which, when evaluated, a result was obtained but one activity that could not be used for scoring purposes because it was uncommitted, entailed a proposed investment into Denel, specifically at that stage a business unit called Denel Airmotive, the word Airmotive actually refer to the fact that they deal with aircraft engines which is the business of Pratt & Whitney Canada, or Turbomeca France, and other similar suppliers around the world. So Turbomeca France was interested towards the defence industry of South Africa, specifically Denel Airmotive to invest and as you may recall in the DIP requirements investments were allowed and investments could have been made in monetary terms or in capital equipment or a combination of the two.

The end result was the fact that Turbomeca France eventually could commit to that investment for capital as well as capital equipment and the value, the combined value was used in the DIP evaluation and determined Turbomeca France as the winner. That is what happened from a DIP, and I must also say from a NIP perspective, although we never removed from Pratt & Whitney Canada offer those activities towards the SAAF, we did not remove it but strictly speaking we could have removed it, which means Pratt & Whitney Canada would even

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have been worse off if I may use these words, from an IP perspective. So that is what is basically, what basically happened.

Commissioner, with your permission I left out one
5 point. During the course of these initial evaluations of
Turbomeca France offer *versus* Pratt & Whitney Canada offer,
the NIP activities or NIP projects as offered by these two
companies under Agusta was transferred in line with the DIP
evaluation instruction as we have read this morning again, was
10 transferred to DIP, so eventually it was only a DIP evaluation
and no longer a NIP evaluation, that's why I had to conduct
four iterations, the fourth one being the final one and the only
official one, the one that was signed, and in that evaluation
inclusive of the investment on Denel Airmotive Turbomeca
15 France was the winner. That was presented at the Project
Control Board together with the Technical Military Value and
when combined Turbomeca France was selected as the engine
supplier.

ADV SIBEKO: Now in paragraph 17.12 you state that:

20 *"The newly formed company Turbomeca South Africa
continued to do business from the premises of
Denel Airmotive and supply parts and components,"*

How far does this activity extend and is it still continuing?

MR DE BEER: Commissioners, this company Turbomeca
25 South Africa to the best of my knowledge still exist, they

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operate from the premises of Denel Aviation, the specific area that was always allocated to the old Denel Airmotive and this company operates as stated under the name Turbomeca South Africa, they supply parts, components, maintenance, repair services to quite an extensive level, not only to the South African Air Force under ARMSCOR contracts until today, and in the future but also to the commercial market of helicopters that are flying with Turbomeca France-type engines, so they are continuing. This is an example of sustainability, its way past the seven years.

ADV SIBEKO: Now the other projects that required a subsystem evaluation related to the GSC Project. Could you tell us about that?

MR DE BEER: Commissioners, in this case for the Submarine Project it was not the preferred bidder which now was the GSC that asked ARMSCOR to perform an evaluation on subsystem level, in this case Denel once again, the Denel Group had another business unit at those, in those days by the name of Eloptro and the company approached ARMSCOR at CEO level to state that the German Submarine Consortium would like to use the German sub-supplier for periscope by the name of Zeiss and they asked Zeiss to perform DIP activities in Denel Eloptro, but from Denel Eloptro and Denel Corporate's viewpoint they evaluated also other periscope suppliers around the world with whom they already had contact and those others

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are named here, it's Pilkington and if I remember correctly that's from the UK, Sagem from France, then thirdly Zeiss from Germany and then also Kollmorgen, I'm not sure from which country this company was, so what happened here is Denel
5 Corporate addressed a letter to ARMSCOR CEO Mr Llew Swan stating that their preference would be to rather cooperate with Pilkington. Now this is not exactly what should happen because the main contractor is supposed to indicate who is his supplier and the GEC said it is Zeiss.

10 This problem was then reverted to the DIP Division to say but you must do a subsystem evaluation to see who of these four companies actually will offer the best DIP and an evaluation was done, the results are shown in 17.15 and you will see using the DIP Value System Zeiss was indicated as the
15 winner with Pilkington the preferred option from the South African industry point of view, Denel specifically, and that is Denel Eloptro, Pilkington had a score of 95 when we looked at their business plan. So Zeiss was indicated, that was conveyed to ARMSCOR top management, the CEO and also Mr
20 Sheikh and the answer supplied to the GSC is that from ARMSCOR'S DIP point of view it should be Zeiss, but that coincided with the GEC from the beginning, so the Technical Team was not affected at all, so that is in short what happened with the periscopes for the submarines. This company Eloptro
25 nowadays there was also an investment made by Zeiss through

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the years and they now operate under the name still in the, under Denel but they have the name of, if I remember correctly Zeiss Optronics, same premises, they are working still today, they are supplying support services to the periscopes of the SA Navy. They are also supplying complete periscope sets to other foreign navies through the GSC, so the exports did take place and they were also supplying maintenance and support services to those foreign navies, specifically their periscope systems that originated from South Africa.

10 ADV SIBEKO: So the DIP activity proposed by them continues to yield benefits for the industry locally?

MR DE BEER: Commissioners, to the best of my knowledge the answer is yes.

15 ADV SIBEKO: Now that brings us to the gearbox supplier of the Meko A200 Corvette.

MR DE BEER: Commissioners, in this case the situation was as follows in terms of my research, the German Frigate Consortium was appointed as the preferred supplier and in their initial business plans as provided to the DIP Division there was a sub-supplier also from Germany with the name of RENK. So, the DIP evaluation as conducted on the German Frigate Consortium included those activities from RENK, but after the announcement of the preferred supplier the German Frigate Consortium, I assume, entered into negotiations with other foreign sub-suppliers and in the case of their gearbox

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offer they also negotiated with another company MAAG and that company was not from Germany, I'm not sure the origin country of that company, nevertheless ARMSCOR specifically on the DIP side, we became aware from our participation at Project Control Boards that the German Frigate Consortium changed sub-suppliers from RENK to MAAG and upon our request for information based on what is now the impact on DIP Value if there is a new sub-supplier for the gearboxes we determined that the DIP was effected negatively, almost four times less because of MAAG as opposed to RENK, so the DIP Division in pursuing of best interest of industry stated at the project control boards of the SA Navy that we would prefer RENK to remain, if there are any specific technical objections then that must be discussed at the PCB and the final decision of the PCB will be adhered to. So, the DIP Division was then requested to perform an evaluation which I did, and it came out that RENK as stated before was almost four times better than MAAG, that was conveyed on subsequent PCB's and the Technical Team also made some evaluation, there were minor problems between the two gearbox, but their preferred option was then MAAG, however, the DIP evaluation and the results shown to the PCB was the reason for the PCB to have a decision that it shall be RENK based on the better Industrial Participation. So, that is how RENK became the gearbox supplier to the SA Corvettes or nowadays frigates.

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ADV SIBEKO: As I understand RENK was in any event the supplier that had been submitted with the original bid?

MR DE BEER: Commissioners, from a DIP perspective the answer is yes.

5 ADV SIBEKO: Chair, I see it's almost lunchtime and I was just reminded that we did not take the tea adjournment earlier on. Would this be a convenient time to take the adjournment?

CHAIRPERSON: We'll adjourn until 14h00.

10 **(Commission adjourns.)**

(Commission reopens.)

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

MR DE BEER: I do.

15 ADV SIBEKO: Thank you Chair. Mr De Beer, we finished dealing with the evaluation and the ultimate recommendation of RENK AG as the supplier of that subsystem, the gearbox to the Meko A200 Corvette. Now that brings us to the issue relating to the gas turbines for the Corvette. Would you like to take us
20 through that?

MR DE BEER: Commissioners, as per the statement page 44 paragraph 17.21 there was also a subsystem for, provided for a DIP evaluation and that is with regards to the gas turbines for the Corvette Meko A200. It was also a case of the
25 GFC in the process of final selection between sub-suppliers

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providing two alternatives to the, to ARMSCOR. In the case of the two sub-suppliers it was Rolls Royce and General Electric. Both committed to DIP obligations with Rolls Royce DIP proposal being rated higher at 100% after we have performed
5 the evaluation, and that of General Electric was rated at 89% following the same value system as you are now familiar with. This was conveyed at the Naval PCB's and discussed at that point and the final decision was taken that the preference from the Technical Team was for the General Electric gas turbine
10 and that was also the solution that was more supported by the GFC themselves, therefore a decision was taken to remain with General Electric although from the initial evaluation of the DIP proposals they were ranked second.

The DIP Division accepted the decision with the
15 proviso that with General Electric a better DIP plan could be negotiated which indeed happened and from that point of view the user got the gas turbine that they would like to have, plus the DIP Division had the opportunity to negotiate the better DIP contract. That concludes actually the gas turbines evaluations.

20 ADV SIBEKO: Now once all of these evaluations were done and recommendations were made the preferred bidders were appointed, the subsystem evaluations were done at that level, the negotiation of the contracts at least with regard to the DIP Terms got underway, is that correct?

25 MR DE BEER: That is correct. The DIP Division

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prepared for negotiations and we had an internal schedule to be able to be in time which was supposed to be completed by May 1999 that was the plan at that stage.

ADV SIBEKO: You were one of the members of that made up the DIP Negotiating Team?

MR DE BEER: That is correct, as stated in paragraph 18.2, specifically 18.2.2.

ADV SIBEKO: Were you involved in the actual negotiation of the DIP Terms or what happened, if anything?

MR DE BEER: Commissioners, I was not involved in the actual negotiations. At that point in time we were informed that there was appointed an International Offers Negotiation Team and that the DIP Specific Negotiation Team will not negotiate the DIP Terms on their own.

ADV SIBEKO: Now what was your role subsequent to the appointment of the IONT with regard to the DIP Terms of the various bidders?

MR DE BEER: Commissioners, from my understanding in the research of this testimony Mr Van Dyk was co-opted on the IONT and the DIP Division, the remaining personnel of the DIP Division which was myself and Mr Jim Mampei, we were acting in support of Mr Van Dyk in the negotiation process.

ADV SIBEKO: Now the DIP Terms of the respective bidders were eventually finalised and they started to execute. Now what was the value of those terms as finalised as

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compared to the terms offered in response to the RFO's?

MR DE BEER: Commissioners, if we look at page number 46 of the statement under paragraph 18.5 a table is included which is a table copied from a report presented to Cabinet and it is summarised below for our benefit. In this table under the heading "Project" we will recognise the five projects, the Corvettes, the Submarines, the LUH, Maritime Helicopter is for today's discussion, and then the LIFT. There was an option number 1, LIFT with a (1) next to it and then below in the next row there's LIFT and ALFA.

That was the outcome of the negotiations, and if we go one row lower the final negotiated offers, the totals are indicated and it includes ALFA, but it also includes the values for the Maritime Helicopter, so the total Rand value for NIP investments, the next column is shown as R24.928bn. That was the negotiated total for NIP investments. The next column indicates "Gross Exports", also in Rand million, also under NIP, and the total R65 173bn, whilst for gross export value for NIP's.

The column next to that is the "Local Sales" also under NIP and the total final negotiated offer was for R2.349bn. The next column shows the values for DIP, if we look at the total which is unfortunately not in a good way presented, nevertheless that value is supposed to read R15.326bn, that is for DIP. The column next to that, which is

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the second last column indicate the performance guarantees that were negotiated for covering the NIP Terms, we can quickly go through it one by one or maybe we must go through both of those last two columns for NIP and for DIP under the
5 Corvettes.

The NIP Performance Guarantee was negotiated to be 5% of the contract price whereas the DIP Performance Guarantee formed part of the performance guarantee under the Supply Terms and was based on the proportion of the
10 unfulfilled obligation. What that means if that proportion is 10% it would be 10% of the contract price under the Supply Terms, but it's the same guarantee, there were no two separate guarantees, one for Supply Terms and an additional one for DIP Terms. In the case of NIP, however, that was a separate
15 performance guarantee.

If we go down and we look at the Submarines, the row for Submarines, the two types of guarantees, NIP Performance Guarantee was for 10% of the contract price and on the side of DIP it was a separate guarantee for 5% of the
20 DIP commitment, this is a significant difference. This is in line with our standard DIP conditions as put out in the RFO.

If we go to LIFT (1), the row with LIFT (1) we look at the performance guarantees under NIP, 10% of the contract price as opposed to DIP Performance Guarantee, 5% of the DIP
25 commitment, the same is for LIFT and ALFA combined, 10% of

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the contract price to cover the NIP Performance Guarantee and 5% of the DIP Commitment to cover the DIP Performance Guarantee.

5 If we now go to the second last row with the, starting with "Original Offers", that was what was presented to Cabinet in November 1998, based on original quantities of equipment and the finalisation of evaluations as we discussed this morning and the total investment value at that stage was R25.3bn for NIP export investments, as opposed to the final
10 negotiated one of R24.9bn. For exports the total was R56 204bn in the original offers and there is an increase with the final negotiated offers just in the row above and that is R65.1bn.

If we look in the next column for Local Sales for
15 NIP the presented value to Cabinet for original was R17.861bn and the final negotiated offer was R2.3bn which is a significant difference. One must look at the increase just to the left, the Gross Exports was an increase with the final negotiated firstly, and secondly one must also take into account that the
20 equipment quantities was lower.

If we then look at the total DIP that was originally presented to the Cabinet was R11.176bn *versus* the final negotiated on reduced quantities for R15.326bn, so that was also an increase. So this table is just showing us the original
25 evaluated presentation to Cabinet *versus* the final negotiated

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values.

ADV SIBEKO: Now the table that appears at page 46 of your statement you say this was presented to Cabinet as part of a report. Can I ask you to turn to page 775 of file 3? 775,
5 it is the last divider. Now what is that document, if you could identify it for the record? 53 Chair, the last divider, page 780. Thank you Chair. Mr De Beer, could you identify that document please?

MR DE BEER: Commissioners, on page 775 the heading
10 is "Executive Summary". If we page to 776 and we look at the very top line above the straight line it is the Executive Summary of the Affordability of Defence Procurements: The Executive Summary, and its dated August 1999.

ADV SIBEKO: Now paragraph 1.1 of that document at
15 page 776 gives background of what that document is for, is that right?

MR DE BEER: That is correct.

ADV SIBEKO: Under heading next to number 2 there is
20 an "Overview of Procurements: Negotiation Outcomes", do you see that?

MR DE BEER: Yes. Yes, I do.

ADV SIBEKO: Can I then ask you to turn to page 780.
Perhaps before you go to 780 can you just go to 779, you will see next to paragraph 2.3 there is a heading "Non-Defence
25 Industrial Participation (NIP) and Defence Industrial

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Participation (DIP) Benefits”.

MR DE BEER: Yes, I can see.

ADV SIBEKO: Could I ask you to read paragraph 2.3.1 and 2.3.2 into the record?

5 MR DE BEER: Commissioners, on page 779 paragraph 2.3.1:

10 *“The presentation to the Cabinet in November 1998 reflected the total investments, exports and sales as extracted from the business plans of projects submitted, plus a few additional projects that were submitted later. The actual NIP and DIP commitments of suppliers at the time were each 50% of the contract price”.*

In paragraph 2.3.2 as follows:

15 *“Through the negotiations, the commitments of suppliers have now been increased to a level close to the best case reflected in their initial business plans. The commitments as they currently stand are summarised below. The table also shows the*
20 *numbers presented at November 1998 Cabinet report. These results compare favourably with any other defence related offset achieved internationally”.*

25 ADV SIBEKO: Now if you turn to the next page 780 there is the table there. Now how does that table compare with the

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table that appears at page 46 of your statement?

MR DE BEER: Commissioners, it is the exact same table although in this case of my statement on page 46 I have included the performance guarantees of the DIP which is at the right hand column, which did not appear in the table as presented to Cabinet and also in addition there is a very last row just indicating based on the monetary values in the last, the third and the second last rows there are statements to the following effect, under the column "Investments" the answer is "Less (recused quantities ordered)". That's why the final negotiated offer for investments under NIP is less.

Then I've also included in the same row a statement "More", meaning that the total as negotiated for gross exports for NIP was more than the initial presentation to Cabinet, and then the next one, same row "Local Sales" was "Less", and that is also due to the reduced quantities. If we look at the DIP, the DIP negotiated figures was more and that is, that was a good achievement for the DIP, and then lastly due to changes in equipment quantity is just a general statement to declare why there are changes.

ADV SIBEKO: Thank you Mr De Beer. During the course of yesterday I made you aware of an Annexure "F" that was annexed to a statement, I think it's a Mr Zimela from the DTI, which shows certain values, and I've asked you to compare the values set out therein to those set out in the table in page 46.

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We saw that there are certain differences in the values that are reflected there. Could you just explain to the Commissioner what could be attributed to the inconsistencies between the two documents?

5 MR DE BEER: Commissioners, the table that we've just discussed is the only table that I can talk from my research with some authority. The document presented to me as part of previous testimonies here reflect differences in figures which I assume is because of the number of years that lapsed between
10 this table and the Appendix "F" that was referred to just now. I cannot really comment on any of the differences in detail.

ADV SIBEKO: But it is so that the figures that are reflected in page 46 are those that were presented to Cabinet and these figures at that stage reflected that negotiated and
15 guaranteed commitment before the actual performance of the various contractors.

MR DE BEER: That is correct.

ADV SIBEKO: Now in conclusion perhaps you say in paragraph 18.6 of your statement at page 47 that the DIP
20 commitments achieved after negotiations were 27% higher than those contained in the original offers despite the reduction in equipment quantities, is that the percentage value of the increase?

MR DE BEER: Commissioners, it is just taking the figures
25 indicated in the table under the total DIP Rand-million column,

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the R15.3bn is 27% higher than the R11bn as shown after evaluations, so that is what that figure reflects.

ADV SIBEKO: Now we've dealt with the report that was presented to Cabinet, agreements that were negotiated were then concluded, the implementation of these agreements or execution of these agreements commenced, could you just insofar as it relates to the DIP aspects comment even in general terms what measures were put in place by ARMSCOR for purposes of managing and administering the issue of the DIP performances?

MR DE BEER: Commissioners, after the final negotiated contracts and DIP Terms, Supply Terms and NIP Terms ARMSCOR DIP Division specifically was organised in such a way that we had two DIP managers under a head of the division, one of the two DIP managers initially was myself and we allocated the sets of DIP terms to be managed between the two DIP managers, the one manager is myself and I then managed the Naval related projects DIP Terms. It is for the Corvettes and also for the Submarines whereas I think I also managed the LUH, the Light Utility Helicopter set of DIP Terms.

My colleague Mr Jim Mampei at that stage was tasked to manage the ALFA and the LIFT sets of DIP Terms and that is what we put in place to now monitor and continue. We have also at that stage we have, we obtained the services of two additional DIP managers to help with the workload and

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unfortunately also Mr Jim Mampei left the division and left the services of ARMSCOR, so after he left we had one DIP manager, that's myself, but we then immediately appointed experienced ARMSCOR colleagues in the DIP management portfolio. So it continued up until completion, the detail of that DIP management process will be discussed by Mr Pieter Burger in his statement. I was still for another two years a DIP manager after I left the division and I joined the ARMSCOR Acquisition Department.

5
10 ADV SIBEKO: Now in paragraph 20 of your statement you provide the conclusion of just about everything that you were talking about, earlier you had referred to a total of 111 companies which were included in DIP business plans achieving a certain economic value. Could you just deal with that and the remaining paragraphs of your statement?

15 MR DE BEER: Commissioners on page 47, from my research and also with the support of the current DIP Division I noted that 111 local companies were included in the DIP business plans to a combined value of R14.4bn in 1999 economic terms and representing just more than 50% of the combined contract value of R29bn, also in 1999 economic terms. At this point I must state that there is a difference between this R14.4bn and the table, the final negotiated table, I did not specifically researched it, so I cannot declare what that difference is. Nevertheless, if we turn the page to page

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48 paragraph 20.2:

“The discharge of the obligations as negotiated and agreed in the DIP Terms varied between seven years but also up to nine years”.

5 In the case of the LIFT and the ALFA programmes those
obligation periods, discharge periods was negotiated to be nine
years. The reason is to be found in the Supply Terms where
they had the tranche 1, tranche 2 and tranche 3 decisions
where only initially tranche 1 was, if I remember correctly,
10 contracted, that had a certain DIP implication and when tranche
2 was added at a later stage we had to amend the schedule
eventually up to a nine year period. At the time that I left the
division it was already nine years. This discharge periods is
also subject to amendments of the Supply Terms through the
15 years. Then in paragraph 20.3 we state that:

*“The DIP Obligations were actively managed by both
the foreign obligors and the South African defence
related industry ...”*

Between them, and then also ARMSCOR:

20 *“... To the point where the performance figures
stated at 31st March of 2013 indicate the 93.83%
completion. The value of the claims approved
amounts to R14.2bn on 31st March 2013”.*

But that value is still stated in 1999 economic terms. I may
25 refer you to an earlier table in my statement where it will be

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indicated the rates of exchange that were used. When we report on DIP performance we remain with those rate of exchange, we did not show the figures in the actual rate of exchange which is obviously much higher.

5 And then lastly in paragraph 20.4 acknowledgement to our current DIP Division, the DIP Values as contracted in United States Dollars on 31st March 2013 for the different projects, for the Corvettes the obligation in US Dollars was US\$470.4, the actual performance in overall figures was
10 US\$321.2, the percentage is 68.28%.

ADV SIBEKO: Now are you able to explain, because we see in respect of the other projects there appears to be a 100% performance obligation that has been discharged. How does the 68.28% result for the Corvettes when it appears that the
15 time for the completion or the execution of the obligations has come and gone?

MR DE BEER: Commissioners, firstly Mr Pieter Burger will deal with that in more detail. In my discussions with Mr Burger and his division I was made aware that there is only one
20 subcontractor, foreign subcontractor that did not yet perform his DIP obligation in total. That subcontractor falls under the umbrella of Tales [sic] which used to be known as Thompsons, who were responsible for the Combat Suite, so it's under the Combat Suite, under Tales, they had a major sub-supplier for
25 missiles and as far as I know it is MBDA of France. This

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specific institution to the best of my knowledge and for my understanding did not perform their DIP in total as at that date, so that's the anomaly that you see there.

On the platform side the German contractors
5 Blommenvos and the others, had a 100% performance under the platform side, so that is as far as my information is, it's limited to that.

ADV SIBEKO: Thank you Mr De Beer. Is there anything
else that you wish to add regarding the evidence you have
10 given with regard to DIP and the obligations and the performances, discharge of those obligations?

MR DE BEER: Commissioners, I would just like to thank
the Commission for the opportunity to also present to you what
happened during the RFI, RFO, the nego..., evaluations,
15 negotiations and final contracting of the DIP Terms. We thank you for that opportunity. It is also with ... I've noted that no penalties had to be invoked on under the DIP Terms at least, which we are grateful for.

ADV SIBEKO: Thank you Mr De Beer. Thank you Chair,
20 that will be the evidence of Mr De Beer regarding this aspect of the DIP. A further witness Mr Pieter Burger will give evidence at a later stage regarding the actual management of the various DIP obligations by the various obligors.

CHAIRPERSON: Any other person wants to cross-examine
25 Mr De Beer? Thank you Mr De Beer, apparently nobody wants

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to cross-examine you, you are excused, thank you. I'm sorry, before you are excused, before you are excused (indistinct) legal team whether they want to re-examine you?

ADV SELLO: Thank you Chairperson, at this stage we
5 have no re-examination.

CHAIRPERSON: Thank you. Again Mr De Beer thanks a lot, you are excused. Thanks for giving the evidence. Thank you. Mr Sibeko.

ADV SIBEKO: Chair, the next witness will be Mr Pieter
10 Burger who, as I have indicated, will give evidence with regard to the actual, or some of the programmes that were administered by the DIP Division and will set out the processes relating to the claims, the approvals *et cetera*. At this stage we are in the process of finalising his statement and we are
15 accordingly not in a position to call him either today or tomorrow. May we stand down so that we can approach the Commissioners in chambers to discuss the date to which we can, the proceedings would be adjourned?

CHAIRPERSON: Before we adjourn Advocate Sibeko, what
20 do you have in mind?

ADV SIBEKO: Chair, having regard to the volume of paper that we have been furnished with, which we are trying to wade through, Ms Sello and I together with the ARMSCOR legal representatives have thought that the date of the 12th would be
25 the most appropriate time at which we can be ready with the

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evidence of Mr Pieter Burger.

CHAIRPERSON: I thought you were going to say maybe tomorrow afternoon.

5 ADV SIBEKO: Chair, we would have liked to be ready tomorrow afternoon but the volume of paper that we have been bombarded with over the period together with the constraints that are experienced by the ARMSCOR legal representatives in relation to reduced capacity, it has been difficult for all of us working together to finalise the statement at, to be able to
10 proceed tomorrow afternoon.

CHAIRPERSON: So, the 12th is next Wednesday?

ADV SIBEKO: That's correct Chair.

CHAIRPERSON: I suppose if you say we should adjourn until the 12th of next week do we have an option?

15 ADV SIBEKO: We are indebted to you Chair.

CHAIRPERSON: But then you agree that we don't have any option to say no to that now?

ADV SIBEKO: It is a difficult one Chair, but we want to present our best case to the Commission.

20 CHAIRPERSON: Okay, thank you. Then in that case let's adjourn until the 12th of March 2014, we'll start again at 10h00 on that day. Thank you. In the meantime can we just make sure that you know once the statement is finalised that a summary thereof is posted on our website?

25 ADV SIBEKO: We will do that Chair.

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CHAIRPERSON: Thank you. We'll adjourn.

(COMMISSION ADJOURNS)