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

LT GEN (RET) STEYN: I do.

CHAIRPERSON: Thank you. Advocate Sibeko.

5 ADV SIBEKO: Good morning Chair and Commissioner Musi. Before we commence with the, or continue with the evidence of Mr Steyn he has indicated to me just before we commenced after the camera crew came into the auditorium that he, while he accepts the right of the media to have access  
10 to these proceedings and to make them available to the public he also feels uncomfortable in having the camera focused on him during the course of testifying. He informs me that the presence of the camera and especially if the camera is focused on him, he would find it difficult to give evidence in a manner  
15 that would be qualitative, so he suggests that the focus of the cameras on him would diminish the quality of the evidence he will give and he has requested me to make an application to the Commissioners that while he accepts the right of the camera to be present in the auditorium the Commissioners  
20 should direct that the focus of the cameras not be on him during the course of giving evidence. Now I would humbly make the application that the Commissioners so direct that the proceedings while being recorded [indistinct] by cameras, that the focus of the cameras not be made on Mr Steyn in order not  
25 to diminish the quality of his evidence.

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**NOTE: Caucus.**

CHAIRPERSON: It appears to me that [indistinct], the focus of the cameras [indistinct] going to diminish the quality or the manner in which he's going to give, to present his evidence probably is only fair that we give the directive that the cameras should not focus on him when he gives his evidence although the media houses are entitled to broadcast his oral evidence. Will that be good enough if at all we made [indistinct] focusing their cameras on him when he gives evidence but his evidence can be broadcasted [indistinct] to this one.

ADV SIBEKO: Chair we have no difficulty with that, I have just looked at Mr Steyn and he confirmed that the recordal of the voice he has no difficulty with it, it's just that he mentioned that he has difficulty with it, it's just the image that he has difficulty with it, it causes a bit of a distraction, but they would be entitled to record the voice.

CHAIRPERSON: Thank you. The order is so granted.

ADV SIBEKO: Thank you Chair. Mr Steyn, when we adjourned yesterday we were just about to commence to deal with the various CoD meetings that you attended in your capacity as firstly Secretary for Defence, secondly the Chairman of the Armaments Acquisition Steering Board, the AASB, and also in your capacity as the member of the Armaments Acquisition Council of which you were a permanent member. Now the narration relating to these minutes would

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start at page 24 of your statement as from paragraph 7.16. Do you have that page in front of you?

LT GEN (RET) STEYN: I do Chair.

5 ADV SIBEKO: Can I ask you to just bring the mic before you. Now at paragraph 7.16 you mention that when you, or after you received the subpoena to appear before the Commission you made a request to the Department that you be furnished with documents relating to meetings that you attended that would assist you in giving evidence, is that  
10 correct?

LT GEN (RET) STEYN: That is correct, but unfortunately I didn't have a list then of what I would need to prepare my statement.

15 ADV SIBEKO: But it is so that the documents you sought to be furnished with would have had a bearing on meetings that you attended either as an invitee or a member of those that you chaired.

LT GEN (RET) STEYN: That is correct, and subsequent to that request I did in fact give a list of what I needed but the  
20 compilation of that list was not informed by the knowledge of anything else that existed that would assist me.

ADV SIBEKO: So, your first request was non-specific, it was of a general nature, then documents were furnished to you but subsequent to thereto you had a list of documents that  
25 came to your, that you remembered you might need and you

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were furnished with some of the documents?

LT GEN (RET) STEYN: Yes, I need to confirm that having given the list to the member of the Department, they gave me copies of all of them, but I need to stress that there were  
5 minutes not listed on that list which I might need for completeness in my evidence.

ADV SIBEKO: In the middle of paragraph 7.16 you state that:

*'I was provided with the relevant minutes save for  
10 the minutes of CoD meetings held on 8 August 1997 and 19 September 1997 and the minutes of the AAC meeting of 19 September 1997'.*

Now the three sets of minutes have, with reference to the CoD meeting held on 8 August 1997 we dealt with this set of  
15 minutes yesterday during the course of your evidence, you recall? And if I recall your evidence it was to the effect that you were informed that there were only two pages of that document available and in the light thereof you could not deal with the full minute because the context would be lost, do you  
20 confirm that?

LT GEN (RET) STEYN: I confirm.

ADV SIBEKO: And you state also in your statement that you believe these minutes are relevant to your evidence, are you able at this point from the top off your head to state the  
25 relevance of these meeting minutes that have not been

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provided to you, to your evidence?

LT GEN (RET) STEYN: Commissioners, I feel confident that with the documents provided to me thus far I was able to compile the statements, or statement, and its appendices which served before you. I indicate that I might need it in the future should I be recalled for example for cross-examination.

ADV SIBEKO: Let's then go to paragraph 7.17 of your statement, you will find that on page 25, the first meeting that you deal with there is the CoD meeting of 31 October 1997, that minute you will find in your bundle as from page 177, it is "PS11" of your statement. Have you found that document?

LT GEN (RET) STEYN: I do, thank you.

ADV SIBEKO: Now perhaps it would be proper to state once again that you were a permanent member of the Council of Defence in your capacity as Secretary for Defence.

LT GEN (RET) STEYN: I confirm this.

ADV SIBEKO: And if one has regard to the first page of "PS11" page 177, it confirms that it is "Minutes Of The Ninth Council On Defence Meeting Held In Pretoria On 31 October 1997", do you confirm that?

LT GEN (RET) STEYN: I confirm this.

ADV SIBEKO: Below the signature of the Military Secretary Brigadier M Snowball, there is a distribution list for action and you are recorded there as one of the persons to whom this document is addressed.

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LT GEN (RET) STEYN: I confirm.

ADV SIBEKO: Do you confirm that you attended this meeting?

LT GEN (RET) STEYN: I confirm that I attended.

5 ADV SIBEKO: Now of relevance with regard to this minute you will find at page 178, it's item 5 "New Matters" and the item deals with "International Offers : Contender Evaluation". Can you just briefly take us through that minute and the significance of that meeting?

10 LT GEN (RET) STEYN: I wish to highlight two aspects from this minute and should you require more information I'm willing to talk on that. The first one is that this meeting discussed the international offers from a countertrade perspective and the Minister's attitude was that the financial model which will be  
15 used in the future should reflect the obligation of the supplier governments to guarantee countertrade or industrial participation to offset the value of the respective armament offers. The second point I wish to highlight is the fact that in order to attend to these international orders in a logical  
20 manner an evaluation value system was put before the meeting for their consideration. It reflected the requirements for countertrade in terms of military value, Industrial Participation value and financial requirements and this was introduced to the meeting by the Chairman of ARMSCOR and presented for  
25 discussion by Captain Dewey of the Logistics Division. Having

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discussed the value system the meeting took no firm decision but it was recognised in the meeting that this value system is recognised as a tool that may be used in supporting decisions or decisions supporting mechanism during the evaluation phase that would ensue.

ADV SIBEKO: Now let's go to page 179 of that minute. You've indicated that the discussions that ensued during the course of that meeting took place within the context of the countertrade, which would be the Industrial Participation that was contemplated. Can I ask you to have regard to paragraph 5.5.10 at page 179 where you find the following recorded:

*"In reply to a question from the Minister, Mr Haywood explained how the countertrade would be taken into account. He again stressed the fact that although national policy called for a minimum 80% countertrade it is internationally accepted that the highest countertrade offer would be accepted. The Minister then stressed the importance that companies must establish themselves in the country. It is not just a question of buying from South Africa for an amount equal to what they spent, we are looking for an alliance which will grow and perpetuate itself".*

Now is this what you meant when you stated that the Minister considered the financing of the proposed armaments to the

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countertrade benefit that would come into the country?

LT GEN (RET) STEYN: Before this meeting I was aware of the fact that many countries have used this concept of countertrade to offset the capital expenditure of their purchases from that government and the use of this is nothing  
5 strange, so I fully understood that when the meeting was presented with the concept of countertrade, this was not something new that was introduced there, it was something that was accepted.

10 ADV SIBEKO: So the acquisition of the armaments would have been tied to this 100% countertrade requirement that was discussed during the course of this meeting?

LT GEN (RET) STEYN: I confirm that the Minister left no doubt about the fact that this approach of the package, the  
15 obligation of participating governments should be clearly reflected in regard to the offers and the figures mentioned here by Mr Haywood should be taken as a guide, whether it is in fact true that from a national policy a 80% countertrade is required, I can't comment on that, I'm not qualified to do that.

20 ADV SIBEKO: Now if you go further down that minutes at paragraph 5.5.14 and 5.5.15 which deals with the weighting that is contemplated in that best value equation that we discussed yesterday it is recorded at 5.5.15 where it's stated:

25 *"The Secretary for Defence said that the system was only a decision support mechanism. The*

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*politicians have the final say when selecting the best offer”.*

Now this what you say is a decision support mechanism that would be used, is that the best value equation that we  
5 discussed yesterday?

LT GEN (RET) STEYN: No it is not yet the best value because at this meeting it was the first visibility of the Minister’s intention to insist that participating governments provide us with their willingness contractually eventually to  
10 participate in industrial participation. Now the, would you like me to comment on the weighting of technology or is that not the question?

ADV SIBEKO: Yes, that would include that.

LT GEN (RET) STEYN: The value system eventually as it  
15 was developed, I believe and I didn’t participate in that, gave weights to many factors, technology was one of them, but I’m not qualified to provide answers on how the weights were determined, it would appear as if the Minister gave much value to the weighting of technology in the equation that is to follow  
20 and I merely indicated that I, whilst the mechanism was not yet mature it could certainly be used as a guide and in support of decision making .

ADV SIBEKO: So at the conclusion of this meeting with regard to the value system relating to the IP no firm decision  
25 was taken as to how this could be done?

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LT GEN (RET) STEYN: No, I think at this early stage of the programme it wasn't possible for participants to confirm that the model which presented would serve its purpose and I believe that the Minister encouraged them to develop them to a more mature stage where it could be used as tool more confidently.

ADV SIBEKO: You in fact see on page 181 that the Best Value Equation was in fact presented at this meeting if you turn to that page?

LT GEN (RET) STEYN: I confirm but if you look at the diagram, the factors of Military Value, Industrial Participation and so on is void of numbers and I think I've previously said that this is the model that would be used but in populating the contents of those blocks is quite a different matter.

ADV SIBEKO: So, going forward these blocks would have to be populated to come to a very firm mechanism of dealing with these matters?

LT GEN (RET) STEYN: That's correct. And I believe that the Minister's comment regarding the weighting of technology would possibly appear as a figure in the block mentioned "Industrial Participation", that's an example.

ADV SIBEKO: Let's then go to paragraph 7.19 where we start to deal with the CoD Meeting of 8 December 1997, do you have paragraph 7.19 on page 25? While you have your finger on that page you could also turn to your "PS12" which appears

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at page 182, do you have those documents in front of you?

LT GEN (RET) STEYN: I'm ready on both of them, thank you.

ADV SIBEKO: Right, again this document is described as  
5 Minutes of a Special Council on Defence Meeting held on  
8 December 1997 in Pretoria. It also records persons present  
there as Mr J Modise, Minister of Defence, Mr R Kasrils Deputy  
Minister of Defence, Mr P D Steyn, Secretary for Defence,  
General G L Meiring, Chief of SANDF, Mr R Haywood Executive  
10 Chairman ARMSCOR, and Brigadier K W M Snowball Secretary,  
do you confirm you attended this meeting?

LT GEN (RET) STEYN: I confirm this.

ADV SIBEKO: Could you just briefly take us through the  
important or relevant parts of this meeting?

15 LT GEN (RET) STEYN: First of all apart from those listed as  
present turn to page 183 at the top and you will notice that the  
Minister of Public Enterprises was welcomed by the Minister of  
Defence, so he attended as an invitee. Now the meeting was  
... Sorry.

20 ADV SIBEKO: I see also at paragraph 4.2 that General  
Du Preez and Mr Esterhuysen joined in the meeting.

LT GEN (RET) STEYN: That is correct, they were invited,  
they had a job to do, they were busy with the presentation  
[indistinct].

25 ADV SIBEKO: At 4.4 reference is made to Admiral

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Simpson-Anderson and the rest of his team joining the meeting and there are various other persons whose names are in fact there.

LT GEN (RET) STEYN: Correct.

5 ADV SIBEKO: What was the purpose of this meeting?

LT GEN (RET) STEYN: The purpose of the meeting was to bring the members p to date with regard to the offers received thus far. In the presentation to them they noted that the information submitted by various governments made assessing  
10 difficult and this was because the offers included no firm business plans and scant details in rounded figures regarding countertrade, so in the absence of firm business plans when numbers are crunched the contention was that it was difficult to assess the value of the offers thus far received. In paragraph  
15 ..., no, not paragraph, the Chief of Acquisition informed the meeting that responses from the various countries included no business plans. He reported that most, but not all spoke of a 100% countertrade and some, for example Italy even reflected a 120% but no further proposals confirmed this.

20 From a financial point of view it was noted that the expected funds available from the 2001/2002 for capital expenditure in the department were listed as R1.4bn per annum for 12 years. Now what follows here provides the first indication of possible shortfall should we accept the package  
25 as it is, I'm talking about the capital expenditure, and having

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been provided of a figure, something like R27.33bn, it was concluded that the shortfall will be around R10.53bn. You may refer to paragraph 4.14 in the appendix "PS2012" [sic]. Now that ...

5 ADV SIBEKO: What you are saying appears at page 184 of the bundle, is that correct, if you look at paragraph 4.14 can I ask you to read that into the record, just that whole paragraph?

10 LT GEN (RET) STEYN: At paragraph 4.14 from "PS12" I read as follows:

15 *"General Du Preez said that the package represents approximately 35% of the SANDF capital requirement. The cheapest package was listed as R24.86bn and technically speaking the preferred one was R27.33 million {sic}. The expected funds available from the year 2001/02 was R1.4bn per annum for 12 years. The deduction was made therefore that R16.8bn would be available to finance the package".*

20 ADV SIBEKO: Now the preferred package was R27.33bn and not R27.33 million as you stated it, correct?

LT GEN (RET) STEYN: I stand corrected Sir.

ADV SIBEKO: Yes. You wanted to expand on it?

25 LT GEN (RET) STEYN: Okay, the last comment I want to make is the fact that whilst a lot of number punching took place

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with shortfalls and so on, it is important to note that no consideration was then given to the possible escalation of operating funds. Now that is just as important as the capital expenditure on one's budget and usually in a period of one year the capital expenditure is usually around about 30% and your operating expenses is often equal or more than that. So, the fact that the implications of looking at this package did not consider the implications of operating funds gave me reason for concern. The Minister, however, indicated that a good business plan should be drafted in order for the Cabinet to give approval to it.

ADV SIBEKO: Now this "good business plan", what did it relate to?

LT GEN (RET) STEYN: The Minister never defined what he meant by "good business plan", however, my taking of a business plan is that it clearly indicates what the organisation needs to perform, why it does not have the necessary resources to do so and why it has elected to acquire new capital equipment and how it would then integrate that into the system, taking into account the implications of operating funds or increased arm as well as the related costs regarding personnel or increase thereof, that is my interpretation of the business plan but the Minister never made it clear.

ADV SIBEKO: Could the proposed business plan have had anything to do with what is recorded at paragraph 4.15 on

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page 184 where the following is recorded:

*“The conclusion arrived at was that the capital requirement will have to be reduced or there must be an increase in capital funds”.*

5 And this was, is recorded just after that number crunching you referred to earlier on.

LT GEN (RET) STEYN: The first part of the conclusion is that the capital requirements of the new SDPP will have to be adjusted and reduced or if the decision is not to change it then  
10 the current availability of projected and budgeted capital funds will have to be increased.

ADV SIBEKO: Would it be fair then to include or infer that the business plan, the “good business plan” that is referred to at 4.19 would have to take these three factors into  
15 consideration?

LT GEN (RET) STEYN: Yes, absolutely. A “good business plan” which the Minister refers to here would state the current situation, where are we now. The introduction of a new SDPP programme will have to be accommodated in the business plan  
20 and indicate where changes to its current budgeting personnel and so on will be effected in order to accommodate the new system. So it takes the reader from where you are to where you need to be in the future once you’ve accommodated these equipments and you operate them.

25 ADV SIBEKO: Now if you go to paragraph 4.2.1 of that

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minute at page 185 it's recorded there that:

*"The Deputy Minister agreed ..."*.

And this is in response to a question raised with regard to the local industry benefiting from these packages where it's recorded:

*"The Deputy Minister agreed stating that the department ..."*.

Page 185.

LT GEN (RET) STEYN: I'm not with you, not yet. Please repeat your paragraph Sir.

ADV SIBEKO: Paragraph 4.21 on page 185.

LT GEN (RET) STEYN: Thank you, I'm with you now.

ADV SIBEKO: At paragraph 4.21 of page 185 a recordal is made of what the Deputy Minister stated in response to the question raised regarding the benefits to the local industry regarding the packages where he says, it is recorded:

*"The Deputy Minister agreed stating that the department will have to go to cabinet with what they are interested in – a total industrial plan clearly indicating the social benefits to the country"*.

Now could you explain what is intended thereby?

LT GEN (RET) STEYN: I can't. And the reason is that it is not the responsibility of the Department of Defence to go to Cabinet with a total industrial plan, the business plan I'm referring to would reflect the business of the department of

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Defence.

ADV SIBEKO: So that business plan would not reflect in it the Industrial Participation benefits as part of a budgetary consideration?

5 LT GEN (RET) STEYN: No, I think a complete business plan which takes into account the changes in the Department of Defence would in fact refer to the Industrial Plan but to populate that part of the plan the cooperation of colleagues in the Department of Trade and Industry will be needed.

10 ADV SIBEKO: Thank you. Regarding the International Packages, the discussion relating to those packages in this meeting was concluded by a decision to draw up a shortlist of the countries which would, which remained running for the packages that were tendered, is that correct, that you will find  
15 at paragraph 4.2.2 of that same page?

LT GEN (RET) STEYN: I can merely confirm what is stated in there.

ADV SIBEKO: Yes, especially because you attended these meetings, correct?

20 LT GEN (RET) STEYN: Correct.

ADV SIBEKO: Yes. Now this then brings us to a discussion of the CoD Meeting of 9 February 1998, the discussion regarding that meeting you will find commences at paragraph 7.22 of your statement, page 26, and the relevant  
25 annexure to your papers is "PS13" which is at page 187, is that

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correct?

LT GEN (RET) STEYN: Correct, I'm with you there.

ADV SIBEKO: The document appearing there is described as Minutes of the First Council on Defence Meeting 1/98 held on 9 February 1998 in Pretoria. Persons present Mr J Modise, Minister of Defence, Mr R Kasrils Deputy Minister of Defence, ...

CHAIRPERSON: I'm sorry Advocate Sibeko, we are still struggling to try and find those minutes.

10 ADV SIBEKO: I apologise Chair. These are at page 187.

COMMISSIONER MUSI: 187. 9 February.

ADV SIBEKO: Apologies, profusely Chair. As stated previously that is the Council on Defence Meeting of 9 February 1988 [sic], it lists the persons present there, you confirm you attended that meeting?

LT GEN (RET) STEYN: I confirm I attended the meeting.

ADV SIBEKO: Now if you turn the page to 188 while you are keeping your finger at page 26 you will find a discussion on item 5.4 "Government-to-Government Offers Feedback". Could you take us through the discussions that went on during that meeting as summarised in your statement?

LT GEN (RET) STEYN: Now the meeting we refer you to now, the 9<sup>th</sup> of February is two months away from the one we just discussed, so the meeting received further feedback on the programme. The broad estimates presented to the meeting

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correspond with the figures given previously and it suggested that the SDPP would cost around R26bn. Now the meeting also took note of positive discussions which ensued after the meeting of the 8<sup>th</sup> of December but it confirms that a clear  
5 financing strategy was not existing, financing meaning getting the resources in order to either put it on a budget or identifying other ways of financing the programme. Now I expressed serious concerns because of the absence of such a viable financing strategy and it was not clear to me how the benefits  
10 of the international industrial investments would be translated into a budget of the Department of Defence.

Now in this regard the Chief of the National Defence Force echoed my sentiments. The Minister replied that the funding of the package would be from the outside of the  
15 Defence budget and that the solution would be formulated by the Government, he nevertheless indicated that the Secretary for Defence would be held accountable for such expenditure. I viewed this to be irregular and objectionable as my accountability was by law confined to the Defence budget. I  
20 recommended that the financing strategy should be reflected in a Cabinet memorandum in views concern..., by in view of the concerns raised by the Director of Finance, Director-General of Finance Ms Ramos, raised with me at an earlier meeting between herself and myself.

25 Apart from the financing strategy I make mention of

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the fact that in conducting the affairs of this programme the Department was not leaving a clear audit trail with respect to acquiring the packages.

ADV SIBEKO: Now what is the clear audit trail in the  
5 financing of the packages that you are referring to?

LT GEN (RET) STEYN: We may go to the appendix which lists the responsibilities of the accounting officer on page 51 but I would prefer to keep it short and state that the first important thing that an auditor would look at is, is the  
10 department dealing with monies that have been voted by Parliament having made an application to have its budget approved, that's the first one. Now that is void. The second point is the auditor will look whether the monies voted for the Department are in fact utilised for the purpose stated in  
15 Parliament, so you might get monies voted to your department in your budget and yet if you use it for something else without authority, the auditor will pick that up and will qualify his report, those are two examples.

ADV SIBEKO: Yes. Now can I ask you to go to page 189  
20 of that minute. You mentioned in your evidence that the budget of R26bn for the packages was confirmed. I believe at 4.3 this records a report by Mr Haywood arising from a meeting with Minister Erwin at the time, is that correct?

LT GEN (RET) STEYN: Sir, I don't understand the question.  
25 Are you referring to an approved budget of R26bn or what are

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you saying?

ADV SIBEKO: No, you have mentioned in your evidence that in this minute it was, the budget of R26bn for the packages was confirmed, do you recall that?

5 LT GEN (RET) STEYN: I confirm that the budgetary requirement of R26bn was stated but it was certainly not broken down into requirements year-by-year, it's a rounded figure, capital only.

ADV SIBEKO: So that is the budgetary requirement that  
10 is confirmed. If we look at 4.3 it's a record of a meeting with Minister Erwin at the time, page 189 paragraph 4.3. Oh, it's 5.4. Apologies. Is that the confirmation of the budgetary requirement that you are referring to?

LT GEN (RET) STEYN: And I think I'm generous if I agree  
15 that this is a budget requirement, it's a rounded figure.

ADV SIBEKO: Mm.

LT GEN (RET) STEYN: And we are talking about a  
discussion held early in 1998. The confidence of reflecting those figures are certainly not there, it's rounded figures and  
20 as the accounting officer I dismissed this as an accurate reflection of what will be needed. I certainly didn't buy the fact. Now using terminology that "the package deal is too high and we should go for it" is not language that the accounting officer would use. Thank you Sir.

25 ADV SIBEKO: Now at paragraph 5.4.4 it is recorded

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amongst others that:

*“Mr Erwin was also emphatic that South Africa must buy the best that is available on the market”.*

Was it ever explained what was implied by this statement?

5 LT GEN (RET) STEYN: No, it is not. It is the same to say what is the length of a piece of string.

ADV SIBEKO: Now at 5.4.5 the following is recorded:

10 *“The only new aspect discussed at the meeting was the request for information (RFI) on a new trainer aircraft running parallel to that of the Light Fighter Aircraft. He felt that it was a good idea ...”.*

I suppose that would be Mr Erwin:

15 *“... and that the timescales should match that of the new fighter so that they can both be evaluated at the same time”.*

Could you explain or give the context of the RFI relating to the Light Fighter Aircraft and the trainer aircraft that are referred to there?

20 LT GEN (RET) STEYN: It is important to note that the maturity of the staff work done on the trainer aircraft was good, Project Winchester, and that the team had arrived at a point where they could make informed recommendations for decision making. The new fighter is [indistinct] because the Minister decided he wants a new fighter, he does not want the Cheetah-  
25 E and D to be remaining in service despite the fact that it could

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be serving us for another 15 years from that. So, since that was the case no staff work had been done to define a fighter that would be different to the Cheetah we had in service.

ADV SIBEKO: Now another matter arises at paragraph  
5 5.4.9 where”

*“The Minister warns that the figure of R6bn must never be mentioned”.*

And it goes on to say:

*“If we do, we will fail, irrespective of what Mr Erwin  
10 says, our aim remains a one-to-one ratio. We must also remember it is not only Mr Erwin that is important in this matter, the Deputy President is also involved regarding the question of R26bn”.*

What was sought to be conveyed reading this paragraph?

LT GEN (RET) STEYN: I must confess I have no idea. I  
15 don’t know where the Minister gets the R6bn from, I tried to link it, the latter part of the paragraph I understand and it reflects that once Cabinet members have agreed amongst themselves the next step would be to gain the support of the  
20 Deputy President, that’s what I understand from that.

ADV SIBEKO: At 5.4.10 you are recorded as having  
expressed a concern regarding the financial strategy and how to translate the benefits of the huge investment plan onto the budget of the Department of Defence. Could you just explain  
25 what is meant there?

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LT GEN (RET) STEYN: From my perspective, it may be narrow as accounting officer, I need to participate in this programme and guard against a situation where we all make decisions to acquire arms and equipment and yet it is not funded. I take note and appreciate what could flow from Industrial Participation. It is evident that if they can convince participating governments to make investments not only in our military and defence industry, but also otherwise, the country will benefit. What I say here is please assist me how do I factor in this wonderful benefit from a budgetary aspect point of view.

ADV SIBEKO: Was it ever explained to you at any stage?

LT GEN (RET) STEYN: No, it was not Sir.

ADV SIBEKO: Could you then turn the page to 190, page 190 at paragraph 5.4.11. You stated earlier on in your evidence that as it was clear there was no budgetary provision made to pay for the packages in the Department of Defence the Minister indicated that the funding of the package will be from outside the Defence budget, is that correct?

LT GEN (RET) STEYN: Yes, I confirm that is what the Minister said. Funding of the package, he addressed my concern, he said funding from the package will be from outside my budget and that monies will be made available, will have to be reflected on the Defence budget. That statement is comforting but that's all, I needed much more than that.

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ADV SIBEKO: And that is recorded at paragraph 5.4.11 of that minute, you confirm that?

LT GEN (RET) STEYN: Correct.

ADV SIBEKO: And you also confirm in the following  
5 paragraph that you were informed by the Minister in the context of what is recorded in the previous paragraph when you enquired as to who would have to account for the purchases when the money was coming from outside and the Minister replied that you would have to account for it.

10 LT GEN (RET) STEYN: I confirm that.

ADV SIBEKO: Now at 5.4.14 the following is recorded:

*“The Minister said that that is how ... “.*

This is perhaps in response to the issue raised at 5.4.13 with regard to clarity requested on the aspect of budgeting is  
15 recorded as having stated:

*“... that we have made it very clear that the 1.5% GDP budget cannot deal with the packages. This, however, does not mean that savings made within the Defence Force through rationalisation will not  
20 be used for the payment of purchases”.*

Now what savings could be made from the MoD or the DoD in order to facilitate the purchase or the funding of the packages in the, you know through the position you held as Secretary for Defence and accounting officer at the time?

25 LT GEN (RET) STEYN: Now at that time the Department of

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Defence had a bloated personnel strategy and the reason was simply that it was decided that the personnel as is from the National Defence Force would be integrated with the personnel as was with MK and APLA, so large numbers of personnel were added to the establishment and had to be paid a salary. Now the Minister gave his intention to rationalise the numbers and to fit them in accordance with their requirements of systems that had to be operated, however, the process whilst it took place, took a very long time to do, because I think you need to appreciate that in reducing the numbers the political implications had to be managed very clearly, and having said that the result of such a rationalisation programme would hardly free up enough funds to address the shortfall with regard to this package, in fact it will be infinite [indistinct], it was later proved to be correct.

ADV SIBEKO: Now when you state or you are recorded as having stated at paragraph 5.4.15 that whatever the final financial strategy was to be adopted it should be reflected in a Cabinet memorandum endorsed by Cabinet. What did you mean thereby?

LT GEN (RET) STEYN: Cabinet memorandums can originate from one department but if the subject matter overflows into the functional domain of another department that could also produce a Cabinet member but then it is signed by the corresponding ministers. So, since we are dealing here not

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only with acquisition for the Department of Defence but also have expectations with regard to the benefit to the country, it is clear that the Cabinet memorandum which I refer to here would at least be signed by the Minister of Defence, the  
5 Minister of Trade and Industry, the Minister of Finance and possibly the Minister of Public Enterprises.

ADV SIBEKO: But that would be intended to bring visibility of what was happening at the time to Cabinet?

LT GEN (RET) STEYN: Correct.

10 ADV SIBEKO: Now then we go to paragraph 5.4.16, you say:

15 *“The Minister said the final decision will not be taken by the Secretary for Defence and his counterpart in the Department of Finance, it is a decision that will be taken by higher authority when he had raised the question of Defence not being able to find the funds from its own budget for the acquisitions the response was that we should not look at our own budget, that problem will be solved  
20 by Government”.*

Now how did this affect the performance of your functions in your capacity as accounting officer?

25 LT GEN (RET) STEYN: I submit it's a good start. “Mr Steyn don't worry, the problem will be solved by Government”. The question that remains is please tell me how and how I can

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continue doing my job with the responsibilities of an accounting officer, that's what I mean.

ADV SIBEKO: Now in the next paragraph it is recorded:

5

*"The Minister said we must not be in a hurry and it is wrong for us to let people know that we cannot pay for the packages. Government has a strategy - it is more of a business strategy - and that is why there is so much emphasis on a business plan".*

10

Was this ever explained what the business plan would entail and why it was wrong to let people know that these packages could not be paid for?

LT GEN (RET) STEYN: Allow me to think. I've given my ...  
Sorry.

15

ADV SIBEKO: Perhaps while you want to think about your response to that question Chair, would this be a convenient time to take the tea adjournment?

CHAIRPERSON: Can we then adjourn until 11h40? It will give you 20 minutes at least to think.

LT GEN (RET) STEYN: Yes.

20

CHAIRPERSON: Thank you. We will adjourn until 11h40.

**(Commission adjourns.)**

**(Commission reopens.)**

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

25

LT GEN (RET) STEYN: I do.

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ADV SIBEKO: Thank you Chair. Just before we adjourned we were dealing with the contents of paragraph 5.4.17 on page 190 and I had posed questions to you which you requested time to think about responses thereto. Have you had  
5 sufficient opportunity to do so?

LT GEN (RET) STEYN: I have.

ADV SIBEKO: Could you then please give your comment?

LT GEN (RET) STEYN: My comment would focus on three aspects of what the Minister said and collectively I would  
10 question the statement from my point of view as well. First of all it's not clear from what is said here, and nor from memory whether he is referring to the people who made the bids or the people who paid taxes. If it's the latter then I have a serious concern, but I don't know. Now as far as the repetitive use of  
15 a business plan is concerned I have a problem.

This is not the Department of Public Enterprises where there are in fact businesses, the business of the Department of Defence is to defend the country and in the nomenclature of the Department of Defence using the word  
20 "business strategy" is a strange concept. Now he says then further if the business plan or whatever it means, is not attractive, there will not be funding, which means that he will probably approach funding not by means of the normal budgetary requirements made visible to the Department of  
25 Finance but in accordance with this statement through a

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business plan, I must admit very strange concept in the Department [indistinct].

CHAIRPERSON: I'm sorry Advocate Sibeko, just for my own understanding I hear what the witness says, you were part of this meeting and in [indistinct] of this meeting these concerns that you are raising now, did you bring it up at that meeting?

LT GEN (RET) STEYN: Sir not only at this meeting, throughout the year I said I wanted to have clarity with regard to the content of the business plan so that I could extract from it what I needed to do as an accounting officer. I didn't feel comfortable to interrupt the Minister to say: "What exactly do you mean by a business plan?", I indicated to you what I thought it meant and I expressed my concerns not in terms of what is meant by a business plan but what I ought to get as an accounting officer from such a document if it should ever be created and it never was in fact, there was no business plan.

CHAIRPERSON: Are you saying to me that the minutes as they are, they are not complete because there are certain portions which are missing, particularly the concerns that you raised, or am I misunderstanding you because I haven't seen any of your complaints in this minute unless if I've missed it, particularly the one that you have just raised.

LT GEN (RET) STEYN: Mr Commissioner, when the director-general of a department in my case raise concerns, I have an agreement with the Minister that I would meet with him on a

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regular basis, at least once a week. The Council of Defence meeting is a formal one where by agreement I don't embarrass the Minister by asking difficult questions. I have certainly discussed my concern as I raised them in the minutes on occasions in his office in the privacy of a one-on-one meeting between the Minister and his DD.

COMMISSIONER MUSI: Just by way of clarity then the subject matter here is funding for the packages and we are referring to this particular paragraph, and when he talks about business plan isn't he rather referring to funding models?

LT GEN (RET) STEYN: Sir, [indistinct] is he referring to?

COMMISSIONER MUSI: Funding models for the packages.

LT GEN (RET) STEYN: Counsellor, as Commissioner I'm not in a position to answer that question. The concept of a business plan was strange to me and one would think, I would think that the business plan would amongst others address funding because I've been a managing director of a company for many years and I've drafted and presented many business plans, whatever you need to do or to be funded, whatever you are dealing with a private company or whether you are dealing with a department of state, so the business plan referred to here, my expectation was Sir, just as you say, it ought to have, when it is drafted full particulars regarding the funding of what is to be required. It would also, as I indicated on the previous answer, reflect the benefits that it may have to the country as

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a whole, as a consequence of the department's SDP Programme.

COMMISSIONER MUSI: Thank you.

ADV SIBEKO: Thank you Chair, Commissioner Musi. Can

5 I ask you just to backtrack one moment to paragraph 5.4.15 of that minute on that same page where the following is recorded, this is after a discussion relating to the budget and everything else has been going on the following is recorded:

10 *"The Secretary for Defence felt that whatever the financial strategy is it should be reflected in a Cabinet memorandum endorsed by Cabinet. The Secretary said he was aware of a great concern in the Department of Finance".*

15 Now what concern were you aware of from the Department of Finance regarding the financial strategy that was discussed here?

LT GEN (RET) STEYN: Commissioner, at some stage, but I don't have the record to show the date, I made an appointment to meet with my counterpart, the Director-General of Finance. 20 We met informally and I said I need assistance because I have concerns regarding the building of a budget which ought to support the Strategic Defence Programme. When I explained that the scope and expected expenditure over 10 to 12 years would be in the order of R27bn and that no, and that's only 25 capital, and that no provision has been made on the budget of

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the Defence Department she shared my concern, whether she did that or not she said that she would discuss this matter with her principal, the Minister of Finance. After that meeting I did not ask and I did not receive any feedback as to what was the  
5 outcome of her intended discussion with her principal.

COMMISSIONER MUSI: You know, earlier on you said that you were told at this meeting that funding for the packages would be from outside the Defence budget and monies made available would have to be reflected on the Defence budget and you said  
10 you were happy with that.

LT GEN (RET) STEYN: If I received indications, either from the Minister and hopefully confirmed by officials from the Department of Finance that the package will be funded outside the current and future budget of the Defence Department I  
15 would have been happy because I'm aware of the fact that the Department of Finance have mechanisms such as loans, there may be more, I'm not familiar with that, and such loans accrue to the coffer of the Department of Finance, that is my understanding and they can then make it available in whatever  
20 way they feel to the Department of Defence. Whilst I was the Secretary of Defence, and until I left at the end of 1998 this mechanism was not translated into something which would allow me to account for the package.

COMMISSIONER MUSI: You know, I don't quite understand and  
25 you know what I was saying earlier was I'm quoting from page

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190 paragraph 5.4.11, the Minister made it clear, according to the minutes, that funding will come from outside and so I don't understand when you said you went to the director in Finance to enquire about how you were going to budget for the packages when you were being told that funding will come from outside the budget of ..., and I think it's also clear that it has been made clear that there was no funding, there was no budget for the packages and that funds will have to be sourced from somewhere, so how could you then talk about preparing a budget for the packages when you are told that there are no funds in the budget and the funds will come from outside the budget of the Department? I don't understand this.

LT GEN (RET) STEYN: Commissioner, you will recall that I posed a question to the Minister to say I take note of the fact that you have a comforting statement to say that the funding for the package will come outside the budget and if you recall I said who will account for this and his reply was: "You will", and I still don't know how to do that Sir.

COMMISSIONER MUSI: That statement I just quoted seems to suggest that if funds are available, from wherever they come, they will have to be reflected in the budget of the Department and that is where your role will begin.

LT GEN (RET) STEYN: With all due respect Sir, are you asking or telling me?

COMMISSIONER MUSI: It's a common based on what is stated

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in the minutes.

LT GEN (RET) STEYN: My only response is here, then and now I wasn't happy with the response, it's a strange concept to me and it wasn't explained even though I asked for it Sir.

5 COMMISSIONER MUSI: That's all from me, thank you.

**NOTE: Caucus.**

ADV SIBEKO: And your responses to the Minister are those, or the conversation you had with the Minister, those recorded at paragraph 5.4.11 and 5.4.12?

10 LT GEN (RET) STEYN: You are asking me whether my responses now relates to 11 or 12?

ADV SIBEKO: No, in response to the questions that Commissioner Musi put to you regarding the unavailability of funding for the purchase of the packages and the minutes there  
15 having indicated that the funding will be from outside the Defence budget but that these funds will be reflected on the Defence budget in respect of which you would be required to account, these are recorded in the minutes.

LT GEN (RET) STEYN: The question?

20 ADV SIBEKO: Well, the question is that ... The question was put to you by Commissioner Musi whether you were aware that at all times regarding these packages the Minister persisted on saying the funding for the purchase of the package would be from outside the Department.

25 LT GEN (RET) STEYN: The reason my reply to the deputy

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commissioner was simply because when that statement was made I had already spoken to my counterpart in Finance who denied that any attempt had been made outside budgetary provisions to find funding. If she didn't know I had the right to be concerned Sir.

COMMISSIONER MUSI: You know Advocate Sibeko, speaking for myself I don't know whether it serves any purpose to be pursuing this issue around the funding of the packages. We know where we stand, how these things were financed.

10 CHAIRPERSON: I'm sorry Advocate Sibeko [indistinct] in support of what Commissioner Musi has said, Mr [indistinct] from the Department of Finance came here and gave detailed information, evidence about how these packages were funded. We know that that money didn't come from the Department of  
15 Defence, it came from somewhere else, we know what they meant when they were talking about business plans, business plans related to the [indistinct] and definitely not at a much later stage and I'm not quite sure what they were trying to achieve, trying to go into details of this witness who talks  
20 about funding. At that stage nobody knew exactly how this funding was going to be handled, that is the evidence that we heard. Through negotiations and strategies and plans were put in place on how to fund this project. This came much later on, so I'm not quite certain whether you know the evidence of this  
25 witness is going to serve any purpose by taking us through

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what happened right at the beginning when we [indistinct]. You know you could be talking about funding, it might be right at that stage he didn't know how, how the funds was going to be there, but now he can [indistinct] how funding was dealt with, that evidence is on record.

ADV SIBEKO: Chair, you would recall when the witness was introduced yesterday that he was going to give evidence regarding matters relating to the department during his tenure while he was the secretary for Defence and acting in the capacity of Director-General of the Department and accordingly the accounting officer. Now this witness having been a permanent member of the Armaments Acquisition Council and chairman of the Armaments Acquisition Steering Board dealt with these matters at an early stage before the issue relating to the finalisation of business plans and the finalisation of funding was, have been finalised.

Now in terms of process and the law and regulatory framework that was applicable at the time material to his tenure as the accounting officer this witness has been called upon to give an account of the processes that were followed during that time up to the time his involvement came to an end in 1998. So, from the perspective and the context of his evidence while I accept that at a much later stage matters were concretised to deal with the funding that would be used to finance the purchases, it is my respectful submission that by

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virtue of the positions that the witness held at the relevant time in respect of which he is giving testimony he would be entitled, and I would submit further that his evidence is relevant only insofar as it relates to this charge of his obligations as were required by law while he was the accounting officer and it is to that extent that the processes he is questioning of relevance and perhaps the detail might be different, but the processes embarked upon at the time of the formulation of the funding model perhaps and the development of the processes or the manner in which the packages would be funded is relevant.

CHAIRPERSON: Advocate Sibeko we agree with you, if the witness talks about what he knows and what he [indistinct] Department of Defence. I was raising specifically the question of funding, we have spent a bit of time on the question of funding. He didn't know where the funding is going to come from, so then I don't see any need to spend a lot of time on the question of funding when we know that at the time this witness was working for the Department of Defence the question of funding was still hanging, they were still trying to work at it, but at this stage we know that it was resolved and it was resolved at the time when this witness had already left the Department, so [indistinct] I don't see why should we spend a lot of time on funding which was resolved in his absence. At that time when he was there, there was no funding, and I'm not

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quite sure whether the witness can take it further than that.  
[Indistinct].

ADV SIBEKO: Chair, while I accept ...

COMMISSIONER MUSI: And just to add to that, I think the  
5 witness articulated his concerns about being “side-lined” in the  
old funding process. He has raised his concern and I think he  
has sufficiently articulated his concerns and his statements is  
very clear on it, I don’t know why we should persist in going  
around and moving in circles on this issue of funding.

10 ADV SIBEKO: Chair, Commissioner Musi, while I accept  
the point that you have raised we’re merely stressing and  
emphasising this issue purely insofar as it related to the  
execution of the witness’s functions at the time, at the relevant  
time in accordance with the legislative prescriptions that  
15 applied and I accept that developments took place much later  
after the witness had left, but insofar as these matters were  
not clear during his tenure and they impacted on the  
performance of his duties we took a view that these are  
relevant and to the extent that it is suggested that these are  
20 raised sufficiently in the statements, the witness’s statement, I  
take the point and perhaps it would then perhaps be prudent to  
just go through the statement and to the extent possible try and  
devise means of getting some of the detail in the annexures on  
record because that’s the intention to get the detail of the  
25 statement as explained or expanded in the annexures on

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record, that is the purpose. Just to deal with perhaps the concluding paragraphs of that minute insofar as it is relevant to your testimony, and perhaps to avoid belabouring the point of the lack of the budget can I ask you to turn your attention to paragraph 5.4.22 which you will find at page 191. You will see the introductory sentence of that paragraph relates to another concern that you raised with the Minister where you lament the absence of an audit trail regarding the budget, and can I ask you to perhaps third last sentence of that paragraph which starts with the words: "The Secretary expressed his concern ...", and ask you to read that into the record please.

LT GEN (RET) STEYN: Your request is to read from paragraph 5.4.22?

ADV SIBEKO: Yes.

LT GEN (RET) STEYN: *"The Secretary expressed his concern that we are not leaving a similar audit trail with respect to the packages. We have Ministers who are enthusiastic, but who are working outside the formality of a Cabinet decision. We are not leaving a trail of decisions regarding what we want to do".*

ADV SIBEKO: Now will you explain this concern relating to Ministers who were, "are enthusiastic and are working outside the formality of Cabinet decision" regarding these matters?

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LT GEN (RET) STEYN: I'd like to illustrate this concern by referring to the next paragraph, and allow me to read that:

*"The Deputy Minister felt that there was little that can be done about this situation".*

5 As I explained it:

*"We are presently busy with negotiations and consultations with the President, the Deputy President, Trade and Industry. Everything hinges on the industrial participation and the business plan. He again stressed the fact that if the business plan fails the whole exercise falls flat".*

10

Now listen:

*"What we are saying to each other is that we must be confident and upbeat. The Minister knows how strong the party ...".*

15

Not Government:

*"... the party and the Deputy President feels about the package deal. There will be problems around funding, ...".*

20

Here it is admitted, no solution yet:

*"... however, Mr Erwin feels he can score by getting a major investment off the ground and it's therefore important for us to be positive and upbeat so that the defence industry can also become excited">*

25

So they're all excited.

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*“Optimism is needed because it will have a spinoff effect on Government”.*

And I contend Sir I didn't share that [indistinct].

ADV SIBEKO: So the paragraph you read demonstrated  
5 that there were discussions taking place outside of Cabinet  
which involved other people other than officials and Cabinet  
Ministers?

LT GEN (RET) STEYN: Yes and which I think is natural,  
however, if there's so much confidence in what they are doing,  
10 especially in view of the vast scope of this programme surely to  
cover themselves they need to make it visible as a Cabinet  
memorandum and advise Parliament of what they were doing.

ADV SIBEKO: Alright.

COMMISSIONER MUSI: Can I just get quick clarity before we  
15 go further on the last here on page 191, paragraph 5.4.22 the  
last sentence:

*“We are not leaving ...”.*

No, just before that:

*“We have Ministers who are enthusiastic but who  
20 are working outside the formality of a Cabinet  
decision”.*

What Cabinet decision are we referring to here?

LT GEN (RET) STEYN: Mr Commissioner I'm not referring to  
a decision, I'm saying there ought to be a decision, so if for  
25 example, and it happened, it must be, the whole process was

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audited, if they follow the train of events that led to decisions, usually the auditor will note discussion but will prefer to be, to have documents such as Cabinet minutes and decisions on Cabinet minutes available to corroborate what is claimed, but  
5 I'm saying that it is now already February 1998, throughout 1997 no Cabinet memorandums were generated stating what decisions would support from Cabinet this is what the Minister of Defence and Minister of Trade and Industry was doing, that is what I meant by that.

10 COMMISSIONER MUSI: Thank you.

ADV SIBEKO: Now you will recall that in the context of the minutes you testified about, it was quite clear that funding was not, or funding was, would be obtained from outside the budget of the Department. Would that have required Cabinet to  
15 take a decision regarding the funding that was to be obtained, if it was to be obtained outside the Department?

LT GEN (RET) STEYN: The answer is yes, and it would affect the difference between a particular year's income from tax and expenditure, the difference is normally taken up by  
20 loans. Now it might be that the idea was to fund this on an annual basis for maybe 10 or 12 years and that the source of funding would be coming from a loan. If they had made that decision and if they had conveyed that to me I would not have been so concerned as I was at that time.

25 ADV SIBEKO: Now can I then ask you to turn to page 27

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of your statement at paragraph 7.28. That deals with a letter that was written by the Minister of Defence to the Minister of Finance, could you just briefly take us through that?

LT GEN (RET) STEYN: Commissioner you will notice at the  
5 top left hand side of page 193 that I drafted this minute, this  
letter to Mr Manuel [indistinct]. Now the date is 23 March, it's  
a little bit more than a month of the stress [sic] I had when I  
attended the meeting on the 9<sup>th</sup> of February, so I convinced the  
Minister that we must leave an audit trail of some sort and this  
10 letter is an attempt to do that. Now you will note that we  
informed the Minister that shortfalls identified at this stage,  
March 1998 for the current year will hopefully be addressed if  
we adjusted the ratio of expenditure on personnel operating  
costs and capital costs.

15 Now the 8% capital costs in 1998 is unusually low  
and the reason for that was that the expenditure for personnel  
here is unusually high, I would not like to venture to indicate  
what an optimum ratio would be, but in this letter the Minister  
tells the Minister of Finance this ratio concerns me, and we  
20 intend addressing the skewness of the ratio by reducing  
personnel and he says reducing personnel from approximately  
95 000 to approximately 70 000. He also intends reducing the  
operating costs by 7% and this he suggests is to free money, in  
other words save money, to increase the capital expenditure  
25 which is now at a very low of 8%, hopefully to something like

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30%, yet he admits that the commitments on the current capital project exceeded available funds in the short term. Now this is March 1998, he makes no mention, he wouldn't allow me to do that, he makes no mention of the impending SDPP and the implications with regard to its capital and future operating costs Sir.

ADV SIBEKO: Alright, and subsequent to that letter or to you writing that letter, perhaps let's now deal with the Council on Defence Meeting of 6 March 1998. If you turn your attention to page 205 of the bundle you will find a copy of the minutes of the Second Council of Defence Meeting of that date, and on which it is recorded that you were present. Do you confirm that?

LT GEN (RET) STEYN: I confirm.

ADV SIBEKO: Do you also confirm as you turn to page 206 that that meeting of the Council of Defence was then converted into an AAC meeting?

LT GEN (RET) STEYN: I confirm that.

ADV SIBEKO: Why was that necessary?

LT GEN (RET) STEYN: If you consider the item 2 paragraph 2.1 and 2.2 then you will notice that the subject matter is typical of the Council of Defence, a discussion on B MATT is a discussion regarding the assistance received by the British Government ...

CHAIRPERSON: Please, can you allow us at least to get to

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the pages? We are struggling to get the pages [indistinct]. Can you just give us a chance to get to the pages before you start going through the minutes of the meetings?

ADV SIBEKO: Once again I apologise profusely Chair.

5 Do you have page 205 of ...

COMMISSIONER MUSI: 205.

ADV SIBEKO: Thank you Chair. You can proceed Mr Steyn.

10 LT GEN (RET) STEYN: Thank you. Commissioner I go on, ...

ADV SIBEKO: Now do you have page 205 in front of you?

LT GEN (RET) STEYN: I do.

15 ADV SIBEKO: Now that is the Council of Defence Meeting we spoke about and I indicated to you that if you turn to page 206 you will find an item 6.8 marked "AAC". And as I understand it the CoD meeting was converted into an AAC meeting and I asked you why was that.

20 LT GEN (RET) STEYN: Commissioner my answer is the following; if you look at the items reflected under item 2 on page 205 you will notice that the subjects in 7.1, 7.2, 7.3, 7.4, 7.5 and 7.6 are the typical subjects that would reside on the general agenda of a CoD. Now if you start talking about acquisition that was the right moment to reconstitute the meeting to an AAC because now we're talking acquisition.

25 ADV SIBEKO: Could you just briefly tell the

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commissioners what this meeting discussed of the AAC?

LT GEN (RET) STEYN: Commissioner, you will notice that the subject matter revolved around the fighter aircraft. General Hecther being the chief of the Air Force briefed the AAC on the needs expressed by the Air Force with regard to his  
5 fighter system. Now Project Winchester was a MODAC project, fairly mature and following the prescripts of the different milestones and subjecting it to the prescripts of decision making, and he emphasised that Winchester which was not part  
10 of the SDPP was aimed at replacing the ageing Impala Trainer and he orientated the meeting that the Impala Trainer forms the second tier in a so-called three tier fighter aircraft system.

The top or the third tier of the system was occupied by the Cheetah-E and D and the F1 Aircraft. All of them in  
15 terms of the Air Force-Force Design was still conducting its functions in an exemplary way, there was no need for the Chief of the Air Force to identify a replacement but the Chief of the Air Force acknowledged that he had been instructed to phase the Cheetah out and the reason for that is that the Minister had  
20 decided that in the context of the SDPP he also want to be included a so-called Advanced Light Fighter Aircraft, the ALFA.

The Chief of the Air Force argued that the integrity of the three tier system need to be maintained and would be so if the Project Winchester becomes part of the SDPP. I argued  
25 at that point that the Air Force-Force Design which existed and

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which was approved have now been influenced and in fact informed by the Minister's objective choice of the choice to replace the Cheetah which it was known was fully operational and it was capable of continuing its service until 2012/2016.

5 ADV SIBEKO: So if I understand your evidence correctly you say the LIFT was not out of the, or at least the Project Winchester which is similar to the LIFT was not part of the SDPP?

LT GEN (RET) STEYN: At that stage, no.

10 ADV SIBEKO: And the ALFA is a programme that was introduced into the SDPP because of the choice that was made by the Minister at the time that it be acquired?

LT GEN (RET) STEYN: Affirmative.

15 ADV SIBEKO: Now in order to retain the three tier system the South African Air Force proposed that the LIFT be part of the package, is it correct?

LT GEN (RET) STEYN: Proposed that the programme Winchester currently residing in MODAC form part of the SDPP so that it integrated into the system.

20 ADV SIBEKO: We know that subsequently this happened that the LIFT became part of the packages, is there anything you want to add with regard to what's set out in this minute?

25 LT GEN (RET) STEYN: I wish to point out that I made the remark that the Arms Acquisition Process appears to be heavily influenced by political, economic and other considerations and

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not being informed by operational requirements of the South African Defence Force, in this particular case the Air Force.

ADV SIBEKO: Now can I ask you to go to page 208, ...

COMMISSIONER MUSI: Can I quickly interject for want of a  
5 better term. You have just said that Project Winchester had been a MODAC Project, now it is moving into the SDPP. Am I correct?

LT GEN (RET) STEYN: You are correct Commissioner, and being part of the MODAC system an audit trail will show that  
10 the project officer and team followed the prescripts of the MODAC instruction implicitly which was not the case of any of the other components of the SDPP, there simply wasn't enough time to do the same work and therefore the suggestion makes sense, use what was done in Winchester and adopt the  
15 information into the SDPP programme.

COMMISSIONER MUSI: Are you saying that you moved the Winchester Project out of the MODAC processes into something else?

LT GEN (RET) STEYN: No, I'm saying Commissioner that  
20 the Winchester Project afforded decision makers the benefits of the process applied in MODAC.

COMMISSIONER MUSI: I follow that, I follow that, but I just want to understand you when you say it is being moved from the MODAC processes into the SDPP, does it mean this SDPP  
25 is a different commodity?

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LT GEN (RET) STEYN: You will recall yesterday when we discussed the principles of MODAC, and I think the Commissioner indicated that you have heard this *ad nauseum* and I didn't expand on that. The point is that it is stated there  
5 that many projects that ran along the MODAC system ran concurrent to the activities in the SDPP and fortunately the Corvette and the Light Aircraft Trainer, Fighter Trainer, Winchester left the audit trail of responsible decisions, unlike what was happening and was about to happen in the SDPP after  
10 this.

COMMISSIONER MUSI: Thank you.

ADV SIBEKO: Perhaps let's break it down as follows; Winchester is a project that was commenced when?

LT GEN (RET) STEYN: I'm guessing, I don't know, but the  
15 complexity of the system, of the fighter aircraft, to get to the point where the result of the project study is presented for decision making, in other words almost at the point of acquisition planning, in my experience it would have taken 18 months to get there, so the, if you work back it would be  
20 sometime towards the end of 1995 or 1996 somewhere, but I'm not sure, I cannot answer the question with regard to the date Sir.

ADV SIBEKO: So when the programmes of the SDP's were conceived there had been a Winchester Project running in  
25 terms of the MODAC principles?

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LT GEN (RET) STEYN: That's correct Sir.

ADV SIBEKO: What was intended to be achieved through the Project Winchester?

LT GEN (RET) STEYN: The description in layman's terms of  
5 Winchester is to acquire an aircraft that would allow an air  
force to advance the young pilot who have just completed his  
basic pilot training to be trained on this aircraft and make him  
au fait with the world of fighter aircraft because on the Pilatus  
aircraft prospective transport pilots, helicopter pilots, maritime  
10 pilots and fighter pilots are all taught the same curricula and  
after that course they go in different directions. There's a  
helicopter school, there's a maritime school. This aircraft  
resides at the fighter school, so this fighter should be able to  
train and do so at economical cost. As I indicated yesterday  
15 that when you go to combat then training activities stopped and  
the same aircraft which you used for training is now fitted with  
weapons.

ADV SIBEKO: Now if I understand your evidence now and  
perhaps yesterday you say Project Winchester was intended to  
20 result in the replacement of Impala, is that correct?

LT GEN (RET) STEYN: That's correct Sir.

ADV SIBEKO: And the Impala at the time was used as a  
Lead-In Fighter Trainer which is the second tier of the three  
tier system that was used by the Air Force?

25 LT GEN (RET) STEYN: Absolutely correct.

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ADV SIBEKO: Now we heard evidence that at the time when the SDPP's were conceived of and the process relating thereto was commenced, various projects that had been undertaken at the time were stopped, do you confirm that? For instance the Corvettes had gone through a stage where a decision was to be taken to acquire Corvettes, in fact if you have to turn your attention to page 131, that is the presentation of Mr Griesel where he sets out the position prior to the SDPP. Do you recall that?

5  
10 LT GEN (RET) STEYN: I do, but I can immediately confirm that the, if you refer to stopping I would actually refer to what happened to the Corvette Project and Winchester as the logical decision to incorporate them into the SDPP. It wasn't terminated, it was now guided by the [indistinct] of the SDPP and not [indistinct].

15 ADV SIBEKO: So, when the packages were conceived these programmes had been undertaken in terms of the MODAC principles, is that right?

LT GEN (RET) STEYN: Correct.

20 ADV SIBEKO: So, they had left this audit trail that is contemplated in the MODAC principles, your acquisition plans, your project studies *et cetera*, that they could be used or considered for purposes of acquiring the packages contemplated in the SDPP's?

25 LT GEN (RET) STEYN: Absolutely, and the beauty of it all,

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music to my ears is the fact that both these projects were properly funded.

ADV SIBEKO: Now the LIFT or at least Project Winchester as we understand it was not part of the SDP's but it was then moved to the SDP Packages regardless of the fact that it had commenced as a MODAC, a MODAC driven project?

LT GEN (RET) STEYN: Yes but I didn't consider that a problem, I considered it as a benefit.

ADV SIBEKO: Does that perhaps answer that question Commissioners?

COMMISSIONER MUSI: No, it doesn't answer my questions, not at all. Maybe I must be specific. Why I'm asking this question is because of your evidence yesterday that the SDPP reverted into the MODAC processes. You see, the understanding of the evidence yesterday was that that Directive 4/147 did not apply to the SDPP, that was the evidence, because there was a reversion to the MODAC processes. Now I'm a bit puzzled because you are talking about moving Project Winchester from the MODAC structures into the SDPP, that tells me that this SDPP were operated on a different level, different sort of processes, that is nub of my question.

LT GEN (RET) STEYN: The correct way of stating it would be that Project Winchester developed with the prescripts of MODAC, it wasn't removed from MODAC's structures, it continued to be guided by those principles. Winchester

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benefitted from the processes that was adopted in MODAC, so it didn't move from the MODAC structure to the SDPP, it followed the MODAC prescripts and now was available to the SDPP.

5 COMMISSIONER MUSI: You see, that is the problem I have, maybe it's a question of language here because you specifically said that it was moved from MODAC into the SDP, that is the cause of my confusion.

ADV SIBEKO: Perhaps let's go back to ...

10 COMMISSIONER MUSI: But I don't think we should belabour the point Advocate Sibeko, I think [indistinct].

ADV SIBEKO: We shall just deal with it very briefly Commissioner Musi. If you go to page 154, that's where you will find this policy. That paragraph 4, the last sentence of  
15 that paragraph, perhaps reading the entire paragraph it says:

*"This policy only addresses the defence equipment offer of foreign initiated, international government-to-government cooperation proposals. The structure of these proposals dictate the scope of  
20 interdepartmental involvement. Non-government supported single product proposals are not addressed in this policy".*

Now you will see also that paragraph 2 says:

*"These international defence equipment offers fall  
25 outside the scope of existing acquisition policy, and*

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*specific policy for such international defence equipment offers has to be established”.*

Now having this in mind and also considering the question that Commissioner Musi has put to you today and perhaps several  
5 times yesterday, was Project Winchester, or what was sought to be acquired through Project Winchester?

LT GEN (RET) STEYN: The purpose of Project Winchester was to replace the Impala which was an old version of the Light Fighter Trainer Aircraft.

10 ADV SIBEKO: Now the aircraft sought to be acquired through that programme was a single product, is that correct?

LT GEN (RET) STEYN: One of the systems identified by the Minister in the SDPP was the LIFT, yes. Initially it was not the case, he only wanted to replace the Advanced Fighter, the  
15 Light Advanced Fighter and at this juncture it was proposed that the project which [indistinct] of MODAC, it's not a MODAC structure, be married with the SDPP programme. I have a problem that if you take the long sentence of paragraph 4, when the tenders went out the parties to contracts did not  
20 reflect a government as a contracting party, it was now the producing companies of Britain and France and Italy and so on. So, I might ask the question having done that, having gone out on tender what was the name [indistinct], do you still refer to it as an SDPP? The answer is in the minutes, the people  
25 continued to refer to what was happening as an SDPP.

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ADV SIBEKO: Now you see Mr Steyn if you listened to the question you would be able to follow what is sought to be elicited from you and perhaps you could give the answer required. Now if you don't understand you ask me to repeat  
5 the question, I will explain it and I will explain it to you. Let me ask the question again; the Project Winchester, as you pointed out, was intended to replace the Impala and the Impala is the intermediate aircraft in the three tier system, is that correct?

10 LT GEN (RET) STEYN: That's correct.

ADV SIBEKO: So acquiring that system, the aircraft is a system as we understand it, that would be a single product, would that be correct?

LT GEN (RET) STEYN: Correct.

15 ADV SIBEKO: Now if that is correct, then the acquisition of the Impala, would you agree with me, would fall outside of this policy?

LT GEN (RET) STEYN: Certainly it would.

ADV SIBEKO: Winchester was that programme.

20 LT GEN (RET) STEYN: Correct.

ADV SIBEKO: Now that other aircrafts that would be acquired as proposed in the SDPP does not make an Impala a multiproduct that are acquired or the replacement of an Impala a multiproduct, what we know is Winchester was a replacement  
25 of an Impala and that is one system, is that correct?

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LT GEN (RET) STEYN: Correct.

ADV SIBEKO: Now we also know that a decision had been taken to go out on tender and a request for offers were invited and various companies, not governments, companies responded to these request for offers, confirm?

5

LT GEN (RET) STEYN: I confirm, still non-government supported [indistinct] products.

ADV SIBEKO: Now taking all of those factors together, would you still, what would your comment be to the application of this policy?

10

LT GEN (RET) STEYN: You are asking whether one [indistinct] would still apply?

ADV SIBEKO: Yes.

LT GEN (RET) STEYN: It cannot.

15

ADV SIBEKO: But if the Policy 147 does not apply, how is the acquisition of the packages managed?

LT GEN (RET) STEYN: Fortunately a decision was taken about a month after this to issue tenders in a normal manner as is accustomed by ARMSCOR in accordance with non-governmental supported single products. So the policy that would dictate that would revert back to MODAC and [indistinct].

20

ADV SIBEKO: Does this Commissioner Musi clarify the issue?

COMMISSIONER MUSI: You know Advocate Sibeko, I don't have a problem with the explanation given by the witness, all I

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was saying was that he was beginning to give the impression that the SDPP was operating under a different system from the MODAC principles when he said that the Winchester Programme was being moved out of the MODAC, out of the MODAC processes into the SDPP, that is the impression that was being created.

ADV SIBEKO: Now perhaps let's deal with this thing, this matter to its conclusion. The Project Winchester had achieved a certain level back to maturity when the SDPP's were ...

10 CHAIRPERSON: Advocate Sibeko with respect, I think that issue had been dealt with. Commissioner Musi said that he's satisfied with that, with the explanation, [indistinct].

ADV SIBEKO: Okay.

CHAIRPERSON: Maybe let's get to the next point.

15 ADV SIBEKO: Alright. Now you still have page 208 in front of you?

LT GEN (RET) STEYN: I do.

ADV SIBEKO: Now can I ask you to turn your attention to paragraph 6.8.17. In this minute we were still dealing with the issue, the issue relating to the LIFT and it's 208 Chair. Have you got page 208?

LT GEN (RET) STEYN: Yes, I do.

ADV SIBEKO: Now you will see at paragraph 6.8.16 of that minute where the following is recorded:

25 *"Mr Haywood pointed out that Mr Erwin had made*

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*the suggestion that the packages and the LIFT should run concurrently in case we wanted to negotiate both projects with any one government”.*

Do you see that?

5 LT GEN (RET) STEYN: I do.

ADV SIBEKO: Does that confirm the fact that the LIFT was not part of the packages, at least as at 6 March 1998?

LT GEN (RET) STEYN: It does. It does. Winchester did not at that stage form part of what was referred to as the SDPP.

10 ADV SIBEKO: Yes. Now at paragraph 6.8.17 you are recorded as having raised issues relating to the acquisition proposed there not being referred to the AASB. Could you just elaborate on that?

LT GEN (RET) STEYN: Just allow me a moment to refresh  
15 my memory?

ADV SIBEKO: Yes, please.

LT GEN (RET) STEYN: I can only refresh my memory from the minutes.

ADV SIBEKO: Yes.

20 LT GEN (RET) STEYN: I'm afraid I cannot answer that from memory, but the point is made towards the end of paragraph 6.8.17 and I state that the Project Winchester was in accordance with an existing force design of the Air Force. In that existing force design the Chief of the Air Force was  
25 content that the third tier remained as it was, in other words

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populated by the Cheetah. Now if you make a change to the force design, for an example by deciding that the third tier you must get rid of the Cheetahs and replace it with a new aircraft then that decision affects the whole system and the operational  
5 choices made in each of them will have an impact on the next one, so for example since you are now injecting a new member of the three tier system where you did not have it before, a Gripen costs in the order of R20 million each, this means that the budgetary provisions made for LIFT in Winchester will have  
10 to be readjusted, so the crux of the discussion suggests that if you make political or economic decisions on a single product and you neglect to discuss the implications of it in the relevant service, the Air Force, then you are not doing your duty.

ADV SIBEKO: Can I ask you then to go to page 210 at  
15 paragraph 6.8.27 where the matter of the LIFT forming part of the packages is further dealt with. You will see at 6.8.27 the following is recorded, or perhaps let's start at 6.8.26, ... No  
.., yes. 6.8.27 page 210 the following is recorded:

20 *"Mr Shaikh said he thought that confusion was coming from trying to dovetail the LIFT to the package deal. The package deal will influence our acquisition of the LIFT Aircraft, the LIFT Programme should therefore not be seen outside the package deal".*

25 And towards the end the following is recorded:

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*“What is being asked today is to go ahead with staff target and staff requirement for the LIFT programme. The report will be ready by March 1999, not the procurement”.*

5 Do you confirm that this matter, what is recorded there still confirms the contention that the LIFT was not part of the package but was sought to be included in the package during the course of [indistinct]?

LT GEN (RET) STEYN: Yes, the partial answer to your  
10 question comes from the first part of paragraph 6.8.27 and I agree with what he said. Chief of Acquisition suggested that it should not continue to function outside the package and this is consistent with the request from the Chief of the Air Force to incorporate Winchester into the deliberations of the whole  
15 package, but what he says at the end is not necessary, he says: “What is asked today is to go ahead with staff target and staff requirement for the LIFT programme”. It’s not necessary, it’s been done, and that’s why I say that Winchester was conducted according to the prescripts of MODAC which requires  
20 a staff target and a staff requirement to have been done already, it was done, so it’s not necessary to do it again. And then he says: “The report will be ready by March 1999”. What he could have meant was that from that date to March 1999 the integration of Winchester into the total programme, the three  
25 tier system, would be complete, I will agree with that.

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ADV SIBEKO: Chair, I see it's 13h00. Would this be a convenient time to take the lunch adjournment?

CHAIRPERSON: We'll adjourn until 13h45. Am I [indistinct]? Thank you.

5 (Commission adjourns.)

(Commission reopens.)

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

LT GEN (RET) STEYN: I do.

10 ADV SIBEKO: Mr Steyn, perhaps just to conclude the minutes of the AAC Meeting that we have been dealing with, can I ask you to have regard to paragraph 6.8.24, 25 and 26 on page 210 and just give a brief summary of what was being discussed there?

15 LT GEN (RET) STEYN: Thank you. Now at this juncture the meeting took note of the fact that the product of Winchester will as a manner of speaking be married to the packages, it will come into the family. So, in 24, paragraph 24 the Chief of the Air Force says that the trainer fell outside the packages and  
20 now he states the normal acquisition process must be followed and he says the package deal has had a year and a half head start and also remember that the ALFA is only coming on line in 2004.

25 Now why is this important? Sir, the content of the training aircraft has two relatives, the one is its compatibility

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with the basic trainer so that the young pilot when he goes from the basic trainer to this one has a [indistinct] feel, there's a similarity of systems, the cockpit looks almost the same and now he says the choice of the new ALFA and its definition should reflect the relationship to the advanced trainer and in fact today that is the case. The systems in the Hawk and the systems in the Gripen look alike and there's a smooth transition from the young training pilot from the LIFT to the ALFA but now this is the problem, he states that in order to complete that paperwork Mr Minister we need time.

So in paragraph number 25 Mr Haywood questioned the dates and he says the Cabinet will probably be taking a decision on the package this year. Now remember this is March but General Hechter warned that the trainer will have to go through the whole acquisition process to making it integratable into the package, if we don't do what he says we're going to miss a few important steps and then I confirmed that and I said I concur, we need to go through all the steps, we can compress them but we can't skip them and it's quite evident in paragraph 26 that Mr Haywood does not agree and that we should try and speed up the process. Towards the end of the paragraph the Chief of the National Defence Force supported me, that's all I wanted to bring to your attention Sir.

ADV SIBEKO: And you also advised against the deviation against the prescripts of acquisition at just about the second

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last sentence of that paragraph 6.8.26, you confirm that?

LT GEN (RET) STEYN: Correct.

ADV SIBEKO: Right. We do know that during the course of that year, this is after March 1998 RFI's relating to the LIFT and the ALFA were issued. You are aware of that?

5

LT GEN (RET) STEYN: I am Sir.

ADV SIBEKO: Now save for the compressed time that the probe was taken to finalise the project, the normal processes had been followed with regard to the LIFT, the Winchester Project was incorporated, is that right?

10

LT GEN (RET) STEYN: Not completely, it had followed the prescripts but the definition of the LIFT in Winchester was consistent with the definition of the Cheetah and now it had to be redone because the preparation of the fighter pilot is now not to prepare for operations on a Cheetah but will be preparing for operations on a Gripen.

15

ADV SIBEKO: Now the RFI's are out, or at least they will be going out. A further report, or at least there was a third meeting of the Council of Defence on 20 March 1998, do you see that?

20

LT GEN (RET) STEYN: Correct.

ADV SIBEKO: Now you deal with this in your statement as from paragraph 7.36 on page 29. You have that?

LT GEN (RET) STEYN: I do have it Sir.

25

ADV SIBEKO: Now while you have your hand there is

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Annexure "PS16" at page 213 of the bundle, that is a minute of the Third Council on Defence Meeting Held on 20 March 1998. Do Commissioners have the documents? Thank you Chair. Again you are recorded as having been present at that meeting and together with the other permanent members of the CoD, do you confirm that?

LT GEN (RET) STEYN: I do confirm that.

ADV SIBEKO: The issue dealing with government-to-government offers you will find is dealt with at paragraph 5.3.2 of the minutes which starts at page 215. Do you have this?

LT GEN (RET) STEYN: I'm there, thank you.

ADV SIBEKO: Now with reference to what is stated there, just hold, keep your finger on that page and let's go back to your statement where you deal with this minute, if you could just explain the purpose of that meeting and what was agreed there.

LT GEN (RET) STEYN: Okay, as far as the focus of this meeting is concerned the team took note of the decisions at the previous hearing and now the issue raised by the Chief of Logistics concerns the matter of overall management of the programme, and specifically with regard to the method of conducting the evaluation sub-phase in order to select the suppliers. He stated that the matter was important in view of the expected timeframe as mentioned in the previous council.

He indicated that the period from 15 October of that year 1998

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until January of 1999 had been set aside for Cabinet and Parliamentary approval. He is now reflecting what the team proposes the time it would need to conduct the evaluation sub-phase and now he says:

5                   *“Once the supplying countries had been selected, detailed negotiations would take place regarding the content of contracts, what the equipment should finally look like and what the associated logistics and Industrial Participation would be”.*

10           And therefore he states for all that we need time until November 1999. Would you like me to continue?

ADV SIBEKO:           Yes, what was the reaction of the members of the CoD when the timeframes were, that were projected were disclosed?

15           LT GEN (RET) STEYN:   The Minister’s response was expected [indistinct] view of the fact that at the previous Council of Defence he indicated that he would want the timeframes to be compressed and his words were we can forget about the acquisition if this is the timescale to be accepted, it  
20           will be stone-dead, he said he could not accept this continual moving of the timeframe to the right, we must strive for July 1998, in other words three months from there, four months from there.

ADV SIBEKO:           And that response you would find recorded  
25           at paragraph 5.3.6 at page 216 of that minute, is that correct?

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LT GEN (RET) STEYN: That is correct Sir.

ADV SIBEKO: Now if you have regard to the end of that paragraph 5.3.6 the following is recorded:

5

*“Project Winchester (LIFT) has no effect on the government-to-government offers. He could not accept this continual moving of the July timeframe to the right (later), we must strive for the July date”.*

What did he mean by that?

10

LT GEN (RET) STEYN: I think the Minister did not appreciate the fact that Winchester will have to be revisited in order to ensure that that particular aircraft at the second tier is managed smoothly with the choice of the Minister at the third tier, in other words the ALFA or what then become the Gripen.

15

ADV SIBEKO: Now is it correct that by 20 March 1998 there were no longer government-to-government offers on the table that were being discussed but these were offers that were responded to by the enquiries that had been issued by ARMSCOR?

20

LT GEN (RET) STEYN: Precisely Sir, correct.

ADV SIBEKO: Now can I ask you to turn to page 114, I beg your pardon, 217, sorry. At paragraph 5.38 ...

LT GEN (RET) STEYN: 5.3.8.

25

ADV SIBEKO: 5.3.8. thank you. Reference is made there to Mr Shaikh where he states that:

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*“... by the end of July the Department of Defence will be able to make the decision on what to buy”.*

Now the following is important:

5 *“The timeframe suggested by slide 3 allowed for consultation with the AACB, AASB and AAC. The AACB and the AASB can be eliminated, thereby moving the timeframe to the left”.*

What was intended to be conveyed by that elimination of the AACB, the AASB, thereby moving the timeframe to the left?

10 LT GEN (RET) STEYN: The remark by the Chief of Acquisition should be considered in the light of the Minister’s alarm at realising the timescales presented by the Defence Force, in other words 1999, and the fact that the Minister stated we must strive for July 1998. Now this remark makes a  
15 suggestion that say we can cut a few time quarters and achieve July 1998 but in doing that we have to eliminate the roles played by the AACB and the AASB, of course we realised that these two are sequential structures for decision making and recommendations in the MODAC.

20 ADV SIBEKO: So these structures could be ignored, these structures as is suggested could be ignored which would be a deviation from the MODAC principles?

LT GEN (RET) STEYN: Correct. The suggestion would certainly cause a deviation from the normative approach but  
25 fortunately in my statement I remark that this decision, ag this

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suggestion by the Chief of Acquisition was not captured in a decision which would cause the elimination of these two structures.

ADV SIBEKO: Right. Again at this meeting you will recall that General Du Preez made a presentation in which he sought a decision to be taken regarding the manner in which the packages could be dealt with, that is the evaluation process *et cetera*. Could you take us briefly through that as well and tell the Commissioners if any decision regarding the proposed structure was taken.

LT GEN (RET) STEYN: As reflected in the minutes the General took the meeting through so-called SDPP Management Plan and structure bid which would focus on the evaluation process, you will see that discussion in 5.3.16 on page 218.

ADV SIBEKO: Perhaps before you go to 218 if you have regard to what's written at paragraph 5.3.11, that is the presentation that General Du Preez made?

LT GEN (RET) STEYN: Yes.

ADV SIBEKO: Did you find the paragraph?

LT GEN (RET) STEYN: I did. I did, but I'm trying to figure out exactly what he meant. If you give me a moment please?

ADV SIBEKO: Perhaps if I could assist you what is recorded there is the following:

*“General Du Preez said the second requirement of the briefing was guidance on the management*

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structure for the evaluation sub-phase. The Management Committee was suggested comprising the Chief of Acquisition, the General Manager Aero Maritime of ARMSCOR, (alternate Chairperson),  
5 Special Defence Package Management Coordinator (himself), and Chief of Finance. Also in the team will be representatives of the arms of service who will act as moderators for defence equipment. A representative from the Department of Trade and  
10 Industry had already been appointed and a representative from Finance was strongly recommended. A representative from DAPA and ARMSCOR would act as coordinator/secretariat”.

That is what was required, a decision of the CoD to give  
15 guidance on the management structure that would be responsible for the management of these offers and the evaluation thereof, is that correct?

LT GEN (RET) STEYN: That is correct, but I’m trying to find  
if there was a firm decision and that is not the case, I don’t  
20 think, I state here that:

*“No decisions on changes to the SDPP Management Plan and Structure were handed down by the meeting”.*

ADV SIBEKO: Now if you turn to page 219 of that minute  
25 and go to paragraph 5.3.19, and perhaps you will find what was

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decided there where it is recorded:

*“General Du Preez asked if he may have guidance on the SDP Management Plan and structure and the decision is recorded there”.*

5 If you would like to read that into the record?

LT GEN (RET) STEYN: Yes. He didn't [indistinct] approve for the suggestion, the decision was that the Council would come back to the workgroup with the final decision, so he didn't get one there. In the meantime nothing is stop the  
10 [indistinct] from continuing with their [indistinct].

ADV SIBEKO: So, insofar as the proposed management structure that was proposed, that matter was still left unclear, is that correct?

LT GEN (RET) STEYN: That is correct.

15 ADV SIBEKO: So, as at the end of this meeting  
20 March 1998, no structure was in place for the management of those offers?

LT GEN (RET) STEYN: No. According to the minutes the Council would come back and formulate the specific decision  
20 with regard to this but at this meeting no decision was made.

ADV SIBEKO: Alright, can I then ask you to turn your attention to paragraph 7.40 of your statement, page 30, while you keep your finger on “PS17” of the bundle at page 221. That deals with the heading “SOFCOM”, do you see that?

25 LT GEN (RET) STEYN: Correct.

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ADV SIBEKO: Now at page 221 of the bundle there is a letter with the reference "C ACQ/D" and it is a letter that says "Enquiries Mr S Shaikh", it is dated 7 April 1998, the heading is International Offers Management Committee. If you look at the bottom of that letter provision is made for signature, this  
5 typed, in typed form in bracket is "S Shaikh" and just below that is Secretary for Defence: Director-General and there is a signature appearing just above "S Shaikh", do you recognise that signature?

10 LT GEN (RET) STEYN: I cannot say that I recognise the signature but it's the same as used on the minutes in the meetings of the AASB and AAC, so I compared it to them, it appears to be the same.

ADV SIBEKO: Do you know who that signature is?

15 LT GEN (RET) STEYN: The Secretary for those bodies or alternatively his position as Chief of Acquisition.

ADV SIBEKO: And that would be Mr S Shaikh?

LT GEN (RET) STEYN: Correct Sir.

20 ADV SIBEKO: But who was the Secretary for Defence on 7 April 1998?

LT GEN (RET) STEYN: I believe it should have been me Sir.

ADV SIBEKO: Do you express a belief or is that fact, a factual matter that you were expressing?

25 LT GEN (RET) STEYN: It's a fact, I was still appointed as Secretary for Defence Director-General.

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ADV SIBEKO: Okay. Now the letter reads in paragraph 1:

5 *“The formally convened workgroup tasked with establishing policy guidelines for dealing with the various international defence equipment offers continued functioning as an informally constituted management committee to provide counselling to the Minister regarding the way to treat the packages”.*

2:

10 *“Formal constitution of this management committee is now being established. Formal representation of the action addresses on this management committee, or alternatively notification of nil requirement to be represented, is requested. The enclosed draft constitution is presently being considered by representatives that attended the*  
15 *1 April 1998 Management Committee Meeting. This document provides guidance regarding the function to be fulfilled”.*

20 Now let me stop there. Did you at this time give authority to Mr Shaikh to act as Secretary for Defence?

LT GEN (RET) STEYN: I did not.

ADV SIBEKO: If you turn the page 222 there is a list for distribution, the first part is for action, the second part is for  
25 info, there are two persons listed under “Info”, one of those

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persons is Secretary for Defence. When did you become aware of this letter?

LT GEN (RET) STEYN: I certainly didn't become aware of this letter close to the 7<sup>th</sup> of April, I actually discovered this letter when I requested correspondence that would assist me in preparing my statement to the Committee, so that was in the last couple of weeks.

ADV SIBEKO: Prior to becoming aware of this letter have you had any discussion, conversation with Mr Shaikh who held himself off as a Secretary for Defence on 7 April 1998 about the contents or the proposal to formulate this letter?

LT GEN (RET) STEYN: In order to understand your question I need to say the following; we've already dealt yesterday ...

CHAIRPERSON: I'm sorry General, if you don't understand the question ask Advocate Sibeko to rephrase the question. Can you ask Advocate Sibeko to rephrase the question? I don't want you to answer something that you don't understand.

LT GEN (RET) STEYN: May I request you to repeat the question?

ADV SIBEKO: You've already stated that you only became aware for the first time of this letter during the course of preparing for your statement and this is after you had requested to be furnished with documents, is that correct?

LT GEN (RET) STEYN: That's correct.

ADV SIBEKO: Now I'm asking the question and you have

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already testified that you hadn't given any authority to Mr Shaikh to prepare this letter or sign this letter as if it was you.

LT GEN (RET) STEYN: I confirm, he never gave me the mandate to do that.

5 ADV SIBEKO: Right. Around the April 7, 1998 had Mr Shaikh approached you at any time to request or had a discussion with you regarding the proposal or an intention to prepare this letter?

LT GEN (RET) STEYN: Negative, he did not.

10 ADV SIBEKO: So would it be fair to suggest that when he prepared this letter, or perhaps let me put it differently; did it rank within the Department that Mr Shaikh [indistinct] as Chief of Acquisition?

LT GEN (RET) STEYN: He held the rank of Chief Director.

15 ADV SIBEKO: In his capacity as Chief Director did he have delegated authority to issue policy directives such as this one?

LT GEN (RET) STEYN: He did not.

20 ADV SIBEKO: Now if you turn to page 223 of that document you will find what is the annexure to his letter "International Offers Management Committee (SOFCOM): Constitution and Rules". Now you will recall what he says at paragraph 2 of that letter is that the enclosed draft constitution is presently being considered by representatives that attended  
25 the 1 April Management Committee meeting. Are you aware of

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a management committee meeting that may have been held on 1 April 1998?

LT GEN (RET) STEYN: I am not Sir.

5 ADV SIBEKO: Could you repeat your answer to the record?

LT GEN (RET) STEYN: Your question is am I aware of the Management Committee that was held on the 1<sup>st</sup> of April and the answer is no.

10 ADV SIBEKO: Now as that paragraph expressly states it says that that draft constitution is presently being considered by certain persons. Are you aware if this constitution was ever adopted?

LT GEN (RET) STEYN: I do not.

15 ADV SIBEKO: While you were still in the employ of the Department of Defence as Secretary for Defence did you become aware of the existence of the SOFCOM?

LT GEN (RET) STEYN: Yes, I became aware of it.

ADV SIBEKO: Did you make any enquiries as to the origins of SOFCOM or how it was established?

20 LT GEN (RET) STEYN: Yes, I did make enquiries and I was told that it is nothing more than a support workgroup for the IONC created and approved, I believe in October of 1997.

ADV SIBEKO: Now let's have regard to paragraph what, paragraph 1 states the obvious:

25 *"The aim of SOFCOM was to support the Minister of*

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*Defence in the management and execution of the DoD involvement in the International government-to-government strategic partnership / alliance proposals, in which defence equipment is offered”.*

5 Now as at that stage were any government-to-government offers on the table, 7 April 1998, this is the time where RFOs had been [indistinct]?

LT GEN (RET) STEYN: As soon as the RFOs were issued the process as prescribed by the, by MODAC and the  
10 associated regulations were followed and therefore all actions and structures associated with that ought to be recognised. If you look at paragraph 1 it does not do that.

ADV SIBEKO: Let me repeat the question and perhaps you will understand. I'm asking if as at 7 April 1998 are you  
15 aware of the existence of any international government-to-government offers that were being discussed in view of the fact that RFO's, Request for Offers had been issued?

LT GEN (RET) STEYN: No. It cannot be.

ADV SIBEKO: Now if you look at paragraph 3 of that  
20 draft constitution page 223 it sets out the functions of the SOFCOM and it records:

*“SOFCOM performs the following functions in support of the Minister of Defence, the Council on Defence and mutual support amongst members of  
25 SOFCOM”.*

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Amongst others:

(a). *Gathering, sifting and advising of relevant information.*

5

(b). *Interpreting and executing client instructions from the MoD and members of the CoD.*

(f). *Regular reporting to the CoD and external for as directed.*

10

(g). *Conduct the second order evaluation of competing offers and submit the recommendation to the CoD.*

As I read this document what is conspicuous by its absence are the structures in the MODAC principles, do you see that?

LT GEN (RET) STEYN: I do.

15

ADV SIBEKO: It is also clear from this document, it would seem, that it sought to create a communication line structure with, directly with the CoD and perhaps the Minister, is that the impression you get?

20

LT GEN (RET) STEYN: It is, and what is strange is that he chose to make his connection with the CoD which is a general management council and not the AAC.

ADV SIBEKO: From the SOFCOM were any matters or perhaps let's start with paragraph 4 of that document where it says "Chair of the SOFCOM":

25

*"The SOFCOM will function under the dual chair of the Chief of Acquisition and the General Manager,*

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*Aero Maritime, ARMSCOR. Decisions of the SOFCOM are valid once confirmed by both Chairpersons”.*

5 Now the question is are you aware of any decision of the SOFCOM that had been confirmed by both the chairpersons of SOFCOM at any stage while you were in the service?

LT GEN (RET) STEYN: I did not and I cannot envisage that this Committee can make decisions that can ..., if it actually had a mandate it ought to have made recommendations, not  
10 decisions.

ADV SIBEKO: So you are saying SOFCOM did not have any mandate to make any decisions except for recommendations?

LT GEN (RET) STEYN: It was a legal body. It should rather  
15 have reflected its mandate to support decision making by the structures in MODAC, AACB, AASB and AAC, not the CoD.

ADV SIBEKO: Alright. Now having discussed this document can I then ask you to revert back to your statement at page 31, if you go to paragraph 7.40.3 you say there that ...  
20 In fact it's presented as a contention that:

*“... the Chief of Acquisition created SOFCOM with the apparent tacit approval of the Minister of Defence. The way was paved to circumvent MODAC structures AACB and AASB. In effect the DefSec, (Secretary for Defence) as Accounting Officer, was*  
25

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*that thus subversively deprived of exercising his fiduciary responsibilities by the actions of the Chief of Acquisition”.*

Could you explain that?

5 LT GEN (RET) STEYN: You will recall Counsellors, that at the previous meeting Chief of Acquisition made a proposal to the meeting and said if you're intent at saving time or compressing time his suggestion would be to eliminate the AACB and the AASB. Now when I discovered this document I  
10 realised, and this is my contention, I realised that he had indeed done that and yet we look at the decision of that relevant CoD the Minister didn't give him the mandate to do that, so I submit that this SOFCOM was the Chief of Acquisition's brainchild and he took tacit approval from the fact  
15 that the Minister said [indistinct], he didn't give him approval to eliminate the two structures that I mentioned.

ADV SIBEKO: In paragraph 7.41 in the middle of that paragraph you state:

20 *“By using this direct link Chief of Acquisition thus created confusion and tension amongst participants in the programme. The subversion of the MODAC structures as contemplated in 3(g) of the SOFCOM Constitution and Rules is but one example of the causes of this tension and confusion”.*

25 Could you explain what you mean by that?

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LT GEN (RET) STEYN: Bot myself and the Chief of the National Defence Force served on the AASB and that afforded us the opportunity to influence decisions, not make decisions, influence decisions that would go the AAC. Now if indeed this draft policy, because it was never confirmed as a true policy, would have resulted in eliminating the discussions that would result in final decisions at the level of the AAC or the CoD. I accept that many decisions were in fact taken to the CoD, but this would mean that myself and the Chief of the SANDF would only learn about discussions at that level and not have had the opportunity to debate and influence the recommendations. Now the recommendations according to this is coming directly from a SOFCOM.

ADV SIBEKO: Now in, later in the paragraph you deal with one of the functions of SOFCOM as recorded at 3(g), paragraph 3(g) which is on page 223, the conducting the second order evaluation of competing offers, what is this second order evaluation, competing offers, that was to be submitted, the recommendations of which were to be submitted to the Council of Defence?

LT GEN (RET) STEYN: I don't know Sir.

ADV SIBEKO: Now going back to your statement at 7.41 you say:

*"The subversion of the MODAC structures as contemplated in paragraph 3(g) of the SOFCOM*

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*Constitution and Rules is but one example of the causes of this tension and confusion”.*

Now what gives rise to the tension and confusion in 3(g)?

LT GEN (RET) STEYN: The discovery that myself and nor  
5 the Chief of the National Defence Force according to his policy  
would have been denied participation in any evaluation,  
whatever he means by second order, we would have been, we  
would not have been involved in whatever evaluation  
[indistinct] because having done that he would go ask us  
10 directly to CoD, that confused me.

ADV SIBEKO: Reading that paragraph are you aware as  
to who was going to be conducting the second order evaluation  
in the SOFCOM?

CHAIRPERSON: Advocate Sibeko, with the greatest of  
15 respect you are asking him to speculate, he knows nothing of  
[indistinct] and you want him now to try and explain the  
contents of this document, otherwise you know whatever  
answer that he is going to give you, it will be speculating, and  
for that matter [indistinct] to testify. I mean we must try and  
20 find out from him about what he knows and what he's done in  
the period he served in DoD.

ADV SIBEKO: A week after this letter was drafted, that is  
7 April 1998 you state at paragraph 7.4.2 [sic] of your  
statement that you wrote a letter to the DG of the Department  
25 of Finance in which you requested some action from her. Could

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you please deal with that?

LT GEN (RET) STEYN: As you note in this particular case the file reference is correct, it resides in the office of the Secretary for Defence, DSR. I requested the Chief of Acquisition to write this letter and the purpose of the letter was to invite through the DG of Finance participation in the Committee and subcommittees of the IONC. I will quote from my letter paragraph 4 on page 225:

*“The administration of the evaluation phase has been entrusted to a Management Committee reporting directly to the Minister of Defence as Chairperson of the Council on Defence. This Management Committee is jointly chaired at Chief Directors level between the DoD and ARMSCOR. This Management Committee is supported by evaluation teams in three domains mentioned previously, nominally operating at director/deputy director level”.*

ADV SIBEKO: Now you can finish with this letter, I need to ask something thereon.

LT GEN (RET) STEYN: So, the last sentence of paragraph 5 of the letter on page 226 says:

*“Official nomination of a chief director/director to the Management Committee and a director(s)/deputy director(s) to the Financing Evaluation Team to*

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*commence involvement during April of 1998 until evaluation completion by the end of June 1998”.*

That’s the invitation extended to her.

ADV SIBEKO: When you started the response to my  
5 question you indicated that this letter on page 225 has the correct reference, what do you mean by that?

LT GEN (RET) STEYN: I did that because when you referred  
to the letter written by Chief of Acquisition covering the draft  
policy for the SOFCOM and he signed it on the Secretary of  
10 Defence block, signatory block, he used the file reference C ACQ, which would then put the documentation in the filing system of his division, this one is correct, although he wrote the letter he wrote it on my instruction and I duly signed it.

ADV SIBEKO: So a letter that emanates or is prepared on  
15 your instruction will have a file reference “DS” instead of C AQ?

LT GEN (RET) STEYN: Correct. If I asked the Chief of  
Finance to do so he would in that case, he would use my file  
reference and send a copy to his own system but the reference  
20 at the top right hand side would indicate where it originated.

ADV SIBEKO: Now an invitation to the DG Finance to  
submit and/or nominate certain officials from her department to  
serve in the evaluation phase of the Management Committee,  
did this Management Committee resemble a structure  
25 contemplated in the letter prepared by Mr Shaikh at 221?

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LT GEN (RET) STEYN: Please repeat the question so that I can be quite sure what you are asking me please.

ADV SIBEKO: Now this letter is written by you in the context of evaluations that are about to take place at the end of April and certain officials were invited to participate in these evaluations. Now the Management Committee that you referred to at paragraph 4 of your letter does it come close to, or any close to the structure contemplated in "PS17" on page 221, that is the letter by Mr Shaikh?

5  
10 LT GEN (RET) STEYN: No, on the contrary the structure that I was referring to was the one created by the Chief of Logistics and which resulted in the IONC with its subcommittees and [indistinct] that.

ADV SIBEKO: This then takes us to the combined AAC and AASB meeting on 30 April 1998 on page 32 of your statement, the minutes of that meeting is "PS19" of your annexures, it appears as from page 234. The minutes of that, the document appearing there in these minutes of a combined AAC and the AASB meeting convened in the MoD conference room on 30 April 1998 to consider the shortlist of contenders for Project Winchester (LIFT) requirement. I see there are a lot more people than we normally see in either the AAC or the AASB and this was, this meeting attracted a lot of interest. Now could you just take us briefly through that minute?

25 LT GEN (RET) STEYN: The attention is drawn then to the

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briefing made by the SAAF Project Officer and his counterpart, the ARMSCOR Programme Manager briefing the meeting on Project Winchester, in particularly the evaluation of contenders in relation to the value system, and I state in my ...

5 ADV SIBEKO: Now before you go on have a look at paragraph 1 on page 234, it's recorded there, my copy has some interference with the stamp there, it says:

10 *“Chief Acquisition introduced the presentation to the meeting and highlighted both the urgency of the meeting and the importance of reducing the list of contenders through a decision by meeting to a maximum of five RFO recipients”.*

Now what was the cause of the urgency when this meeting was held?

15 LT GEN (RET) STEYN: Counsellors, I cannot comment on the urgency at this particular meeting, but at the time they made the presentation the list was fairly long and they requested to the Minister to eliminate contenders scoring below 69% in Military Value and the Minister approved that. Now I  
20 can go on or are you wanting to ask a question?

ADV SIBEKO: No, you can go on.

LT GEN (RET) STEYN: Okay. Having heard the request from the Project Team to shorten the list the Minister questioned the team and said what would be the operational  
25 capabilities of the main contenders, mindful of the fact that the

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[indistinct] under consideration is primarily a Light Training Aircraft that could also be used in the fighting group, so his question relates to the secondary role. The team confirmed that these aircraft remaining all had the inherent operational  
5 capability which could be utilised in a low-threat environment, similar to the capabilities previously employed during the Impala force application and they also presented a list of collateral tasks that the remaining contenders may be able to perform, paragraph 5 of this minute, page 235.

10 ADV SIBEKO: Now during the discussion of the issue relating to the LIFT, if I refer you to paragraph 8 it's recorded that:

*"The Project Team presented the meeting with an affordability analysis of LIFT contenders. Without  
15 cost consideration the selection process is biased towards the higher performance category of aircraft. These aircraft are, however, also significantly more expensive to acquire, operate and maintain, thus unless additional funding could be found to support  
20 the application of a more superior aircraft the Air Force would have to take cognisance of budgetary constraints in that selection process".*

What is your comment to it?

25 LT GEN (RET) STEYN: Of note is the fact that this meeting on the 30<sup>th</sup> of April first entertained the concept of a non-

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costed option, you will find it appearing at subsequent meetings as well, but this is the first time that a non-costed option was introduced. Now the discussion indicates, and one shouldn't be surprised, if you have a higher performance contender you would instinctively expect it to be more expensive than the lower priced one, that is all that one can glean from this particular paragraph.

ADV SIBEKO: Now further on in paragraph 9 the following is recorded:

10                   *"The Minister of Defence cautioned the meeting that a visionary approach should not be excluded, as the decision on the acquisition of a new fighter trainer aircraft would impact on the RSA defence industry's changes to be part of the Global Defence market in partnership with major international Defence companies, in this case European companies. With this vision the most inexpensive option may not necessarily be the best option. The Minister requested that DoD Acquisition staff bear this vision in mind during the selection process".*

15

20

Now do you recall if at any stage during the course of that meeting the Minister of Defence explained what the visionary approach that is referred to here contemplated?

LT GEN (RET) STEYN: Now whilst the Minister was not specifically defining the meaning of visionary approach one

25

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instinctively realised that there may be arguments put forward to make the choice of a more expensive aircraft but in doing so there might be benefits accruing from that decision, that is my understanding of the visionary approach, but he never defined it as such.

5

ADV SIBEKO: Now to the extent that a visionary approach was suggested during that meeting was it ever explained how the visionary approach could form part of an evaluation process?

10

LT GEN (RET) STEYN: We should remind ourselves that this is 30 April and the expression of a non-costed option and in the same discussion the visionary approach does not necessarily link the two, but I will demonstrate when I have the opportunity at later meetings where the Chief of Acquisition attempts to make that link, but it cannot be, that cannot be concluded now.

15

ADV SIBEKO: Now if you have a look at paragraph 7.47 of your statement at page 32 you state the following at the end of that paragraph:

*“The Minister gave no explanation for what he termed a ‘visionary approach’ and neither did he explain how this concept should be factored into the evaluation formulae”.*

20

What did you mean by that or is this the matter you will explain later?

25

LT GEN (RET) STEYN: The statement simply captures the

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situation on that date Sir.

ADV SIBEKO: Chair, it is page 32 at paragraph 7.47. You say the statement simply captures what is recorded in the minutes?

5 LT GEN (RET) STEYN: Yes. I've ... I included that sentence because at that time the Minister didn't give a connection between using a non-costed option or not necessarily choosing the cheapest one as to be equated to a visionary approach, not then.

10 ADV SIBEKO: Okay. Now at paragraph 10 of that minute on page 236 a recordal is made of the decision that was taken by the meeting. Can I ask you to read paragraph 10 into the record please.

LT GEN (RET) STEYN: It reads as follows:

15 *"The Minister instructed the project team to issue the approved shortlist of contenders with the RFO's, to thus bring the LIFT programme in line with the other offers received under the strategic defence package process".*

20 ADV SIBEKO: Could you also read what is recorded in paragraph 12 of that minute?

LT GEN (RET) STEYN: Paragraph 10 mentions an approved shortlist and in paragraph 12 the list is now spelled out that the Aermacchi MB 339FD and the YAK 130, it's another aircraft,  
25 I don't know why it's listed under the same subparagraph, and

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the L159 and finally the British Aerospace Hawk, those four aircraft.

ADV SIBEKO: So RFOs were sent to these three companies, is that right?

5 LT GEN (RET) STEYN: That is correct.

ADV SIBEKO: This will then bring us to the minutes of the Special AASB International Offers held on 8 July 1998. This you start discussing at paragraph 7.48 of your statement which appears at page 33 and while you have your finger on  
10 there you turn to "PS20" on page 238. You chaired that meeting, is that correct?

LT GEN (RET) STEYN: That's correct.

ADV SIBEKO: Now could you just briefly summarise the purpose of this meeting? You will see that there are quite a  
15 number of people who are attending this meeting and invitees and others SOFCOM members and members of the AASB, it's a fairly long meeting. If you turn to page 239 you will see the chairman opened the meeting at 938 and emphasised that this presentation, the Special AASB was to report on the progress  
20 made with International Offers, do you see that?

LT GEN (RET) STEYN: I do.

ADV SIBEKO: Now can you recall if, apart from reporting, that is providing information to the AASB, if the AASB as it is required to do in terms of the MODAC Constitution applying to  
25 the AASB, any other instruction was sought from the AASB by

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those presenting this report?

LT GEN (RET) STEYN: First of all I didn't talk in my statement on any other weapon system other than the Lead-In Fighter Trainer which starts its discussion on page 242. Okay,  
5 and are you with me Sir? The ...

ADV SIBEKO: Just listen to the question and make sure you understand the question when you respond. I have directed your attention to page 239 paragraph 1, that is the "Introduction", do you see that?

10 LT GEN (RET) STEYN: I do.

ADV SIBEKO: Now it's recorded in paragraph 1 that:

*"The Chairman opened the meeting ..."*

That is correct?

LT GEN (RET) STEYN: It's correct.

15 ADV SIBEKO: And after opening the meeting he emphasised that:

*"... this presentation to the special AASB was to report on the progress made with the international offers"*.

20 Now having stated that I asked the question that it seems from what you state that the presentation that was being made to the AASB was merely intended to provide the AASB with information, that is just progress report, just take note of what has happened and the AASB was not required through this  
25 presentation to perform its function as contemplated in the

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constitution of the AASB and the MODAC-1 Report. That's what I'm asking.

LT GEN (RET) STEYN: I confirm that.

ADV SIBEKO: Now various ...

5 CHAIRPERSON: I'm sorry Advocate Sibeko, just for my own understanding, if at all there is a body called the AASB and in terms of the MODAC Report must perform its functions, if [indistinct] function what was the purpose of this meeting if at all they had not [indistinct] functions and in terms of your  
10 [indistinct] was just coming together [indistinct] or was it these people who are part of the AASB come together in order to perform their function? It's a question [indistinct] question arise from the fact that you say that they were meeting as a body [indistinct] as contemplated in the MODAC Report?

15 LT GEN (RET) STEYN: I was going to turn your attention to paragraph 27 and the reason I did that was to respond to the question of the evidence leader when he used word "What was the aim" and then I qualified by saying I only refer to the Lead-In Fighter and there in that paragraph the following issues  
20 regarding this evaluation needs resolution, so it's not only information, for the Lead-In Fighter it was different, so the aim stated in paragraph 1 is not exactly the same as what was intended as far as this meeting is concerned with a LIFT. Does that answer the question Sir?

25 ADV SIBEKO: Thank you. We can proceed to deal with

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that, with the LIFT then. Chair, Mr Steyn informs me that he needs to take a short break, about a five minute break, he's tired at this point.

CHAIRPERSON: I think we'll give him 10 minutes, but then  
5 we will have to add that 10 minutes at the end.

ADV SIBEKO: That's in order Chair.

CHAIRPERSON: Thank you, we'll adjourn.

**(Commission adjourns.)**

**(Commission reopens.)**

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

LT GEN (RET) STEYN: I do confirm Sir.

CHAIRPERSON: Thank you. Advocate Sibeko, can I suggest that [indistinct] let's go straight to the [indistinct]. The  
15 first paragraph that you were trying to introduce the witness to, there's no dispute there, we know exactly that there is a difficulty with the cost and non-costed option, let's go straight. I'm sure maybe that will help us to [indistinct].

ADV SIBEKO: Mr Steyn can I ask you to go to page 242  
20 of that document? That page deals with the Lead-In Fighter Trainer, it has the cost option ranking and the non-cost option ranking, do you see that?

LT GEN (RET) STEYN: Yes, I do.

ADV SIBEKO: That's the section you wanted to refer to  
25 earlier on in your statement. Could you do that now?

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LT GEN (RET) STEYN: I choose not to make reference to (a), (b) and (c), it's not relevant, but I need to draw your attention to paragraph 27(d) on page 242. It states:

5           *"The following issues regarding this evaluation need to be resolved [sic]:*

*d. The decision of the AAC during the 30 April 1998 briefing on the shortlist of offers required the Project Team to consider a solution taking into account, and a solution where cost was not*  
10           *taken as a deciding factor".*

That is false. I state it's false. I state it's false.

ADV SIBEKO: Now while you have your finger on that paragraph can I ask you to revert to page 235 of the bundle? You will recall that I referred you to paragraph 8, 9 and 10 of  
15 that document and at 236 paragraph 10 records the decisions taken there and that is the meeting of 30 April 1998, is that correct?

LT GEN (RET) STEYN: Correct.

ADV SIBEKO: Now at paragraph 10 it is recorded that:

20           *"The Minister instructed the Project Team to issue approved shortlists of contenders with RFO's to thus bring the LIFT Programme in line with the other offers received under the strategic defence ...".*

Is there any decision taken or recorded at 10, 11 and 12 of  
25 page 236 that corresponds with what is recorded at 27(d) of

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page 242?

LT GEN (RET) STEYN: No, there is not.

ADV SIBEKO: Could you repeat that answer into the record?

5 LT GEN (RET) STEYN: The answer to your question is no.

ADV SIBEKO: Is that the reason why you say what is recorded at 27(d) is false?

LT GEN (RET) STEYN: The wording to be a reflection of what was decided on the 30 is not the same and therefore I say  
10 it is not true, it is false.

ADV SIBEKO: Right. Now if I ask you to turn to page 243, you see that the provision is made for you to sign there and your name is scratched out, somebody else has signed as chairman of the AASB, you see that?

15 LT GEN (RET) STEYN: I do.

ADV SIBEKO: On 21 October you were still in the service as, if I understand your evidence correctly although you had served your notice?

LT GEN (RET) STEYN: That is correct Sir.

20 ADV SIBEKO: Are you aware that on 21 October a new chairman of the AASB had been appointed who was the director-general?

LT GEN (RET) STEYN: I served my full term and on that date I was still the appointed Secretary for Defence,  
25 21 October, three months, this is dated three months after the

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meeting and signed 25 February of the next year by someone who had been on the [indistinct] but was requested to sign on my behalf [indistinct].

ADV SIBEKO: Now what was the significance of that signature and the fact that the minute is signed some three months after the meeting as pointed out at paragraph 7.48 of your statement.

LT GEN (RET) STEYN: I would like you to refer to paragraph 7.4.1, 7.48.1 page 33. I state there:

10 *“I dispute this version of the state of [sic] minutes, and contended that it had been altered to justify the inclusion of a non-costed option”.*

This is the second time that this non-costed option is considered by the meeting, it was never condoned as an option to be considered by the Minister. The minutes which I chaired on the 8<sup>th</sup> of July is dated on the 21<sup>st</sup> of October but only signed on the 25<sup>th</sup> of February. Ostensibly Mr Grundling acted on my behalf, [indistinct] the chairman.

ADV SIBEKO: Now this would then bring us to the next minute of the special AAC of 13 July 1998.

CHAIRPERSON: I'm sorry Advocate Sibeko, the witness [indistinct] Mr Grundling was obviously not the chairman, [indistinct] management on the 5<sup>th</sup> of February 1999. Is the witness implying that as at that day [indistinct] 1999 this gentleman was not the chairman of the [indistinct] or do you

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mean that at the time when you were still, in other words before November 1998 he was not the chair?

LT GEN (RET) STEYN: When I had a look at these minutes, this one and the one to follow, they were both dated more or less the 21<sup>st</sup> of October, the one was signed 25 February and  
5 the one was 26 February. I called Mr Grundling during the course of this week and I wanted him to comment on this. His response was that he signed the minutes on my behalf on the *bona fide* exception that, accepting that the minutes were  
10 correctly recorded but just presented for signature at a very late stage. The burden of many of the administrative tasks in the Secretariat revolved down to him and Mr Netshianda when I left, and the appointment of my successor was more than a year later. Mr Grundling said Mr Steyn during the course of  
15 February returned from leave [indistinct] on the 4<sup>th</sup> of February I had many documents that were required to be signed and filed and I did this on your behalf. I therefore cannot state that he is part of the drafting of the document, the drafting of the document was done by the Chief of Acquisition.

CHAIRPERSON: You haven't answered the question. The  
20 question is simple, as at, are you saying to me that as at 25<sup>th</sup> February 1999 the person who signed this document was not the chairman of AASB or not? Or when you say he was not chairman, do you mean at the time when you were still a  
25 member of DoD?

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LT GEN (RET) STEYN: I can only answer your question over the period that I served. I understood your question to be could Mr Grundling be the chairman, at this time could he have been the chairman of that meeting of, of meetings in 1999, I don't know, I don't know. He was simply requested he says, to sign this document so that it can be captured in the records.

ADV SIBEKO: Are you aware if Mr Grundling after he left the service was appointed chairman of the AASB and served as such around February 1999?

LT GEN (RET) STEYN: No, I don't Sir.

ADV SIBEKO: Thank you. Now no decision was taken regarding the LIFT in this meeting, that takes us to the meeting of the special AAC International ...

CHAIRPERSON: I'm sorry Advocate Sibeko, the last question.

ADV SIBEKO: Yes.

CHAIRPERSON: [Indistinct] was the one who signed, [indistinct] acquisition on page 243?

LT GEN (RET) STEYN: Yes, I do Commissioner. He's a uniformed member that was made available from the Chief of Logistics Division in the Uniformed Branch of the Defence Force to serve with Mr Shaikh in the Division of Acquisition. So you will find that many of the meetings where Mr Shaikh chaired was actually captured into minutes by [indistinct].

ADV SIBEKO: Can we then deal with the Special AAC,

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International Offers Meeting of 13 July 1998. You deal with that on page 34 of your statement, captured also in Annexure "PS21" of your documents as from page 260. Can you confirm that you attended that meeting, correct?

5 LT GEN (RET) STEYN: Yes, I did.

ADV SIBEKO: Page 260. Now you deal with the issues captured in this minute, especially at page 262 as from paragraph 7.51.1 of your statement. Would you like to take us through that?

10 LT GEN (RET) STEYN: Counsellors, I would prefer to talk to my statement which makes reference to this document anyway. So, let me start by saying that the meeting was briefed on the outcome of the evaluation of the value system. Now I state here clearly that this is the third meeting where the non-  
15 mandated, non-costed option was again presented, and the meeting, the same concerns was voiced again at the meetings of the AAC and the AASB. The Chief of the Air Force in fact warned against the risk associated with such a non-costed option. He stressed that the winner of the costed option was  
20 significantly cheaper, half the cost of the most expensive one and half the cost to operate. From an operational point of view we are now talking about the collateral ability of the aircraft the MB339 met all the stated requirements of the Air Force, refer to paragraph 10 in the attachment. The Air Force  
25 requested more information, particularly in relation to the

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Logistic Support and Engineering Management be solicited, the meeting took no decision in this regard. The reason why he requested more information is that the preferred choice of the MB339 takes into account that this aircraft is a close relative  
5 of the Impala and therefore the expensive equipment located at all the bases where they operate from was still in position and with minor adaptations could be used should this aircraft be chosen. Now if the choice does not fall on this aircraft and it falls on the Hawk, all that equipment will be pushed to the side  
10 and new logistic equipment will have to be acquired, that's why they need more information on that.

Now in paragraph 7.51.2 I say that from my point of view as the accounting officer the consideration of non-costed option is contrary to the prescripts of Treasury, nowhere does  
15 it allow him to ignore the cost of acquisition. Now I say:

*"Should an ultimate decision be made in favour of such an option, there is no doubt that the public would be outraged".*

Can you imagine that the public is aware of something like  
20 this?

*"The national financial implications to the Treasury of such cost would simply be dismissed ...".*

I state:

*"... and the aims and objectives of the RDP ...".*

25 Would be frustrated. I was then of the opinion that the

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Minister's "visionary approach" would not cut ice with the Treasury. I have been proved wrong, it did cut ice. Can I stop there?

ADV SIBEKO: Now how was that meeting then concluded  
5 in terms of the discussion as recorded there as you summarise at 7.52?

LT GEN (RET) STEYN: Again now we go to the paragraph  
7.52. Fortunately the Minister's decision reflects the following;  
the chairman instructed that the bargaining and negotiation  
10 process must proceed and it should do so without ...

CHAIRPERSON: I'm sorry, where are we reading now?

LT GEN (RET) STEYN: Sir, we are now on page 34 and I'm  
quoting from paragraph 7.5.2 [sic].

ADV SIBEKO: 7.52 of your statement.

15 LT GEN (RET) STEYN: Sorry, my apologies. 7.52. I'm  
sorry Sir. So, two instructions, continue with the bargaining  
and negotiating process but don't eliminate any of the  
contenders and draft the communication brief that would  
address any apprehension of the public, the media, Parliament  
20 and the contenders without exposure of the results. However,  
as far as I recall this instruction was never carried out.

ADV SIBEKO: That brings us then to the Minute of the  
Armament Acquisition Steering Board (AASB) meeting held on  
16 July 1998 which you chaired. The minute relating to that  
25 minute appears at page 277 of the bundle of documents, it is

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Annexure "PS22" and the discussion regarding that minute commences at paragraph 7.53 of your statement at page 34.

Could you take us through that?

LT GEN (RET) STEYN: I draw your attention again in 7.53

5 that this minute [indistinct] also carries the date of the 21<sup>st</sup> of October and it is also signed by Mr Grundling on the 26<sup>th</sup> of February. And again now, not then. I expressed my concern regarding the accuracy of this minute. Now in paragraph 6 of the document referred to it is minuted that the  
10 Chief of Acquisition contends that:

*"The AAC instruction to adopt the visionary approach that involves major Defence companies in the LIFT acquisition resulted in the generation of two options in the evaluation team and SOFCOM  
15 recommendation".*

Now I contend that it was never recorded as such, I strongly dispute it and I state that the paragraph is false. Then in paragraph 7.53.2 I state that:

*"It is clear from the presentation of Winchester that  
20 the results would in fact ably inform decision makers regarding the choices offered in the LIFT category of the SDPP, especially mindful at this juncture that the [sic] project study had been conducted in terms of the LIFT requirements as per  
25 the SDPP".*

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Then:

*“The Project Team presented the military value system and the corresponding criteria weightings as used in the evaluation of the LIFT offers”.*

5 Now at paragraph 7.55 I draw your attention to the fact that the LIFT training functionality results were presented and the team concluded that the combined weight of the training functionality value including risk gave the MB339 the highest rank, score of 100, and the Hawk scored 52. The L159k 63 And the YAK 130,  
10 39. So, from this point of view the MB339 attained the highest mark. Now in paragraph 7.56 the Chief of Acq...

ADV SIBEKO: I’m sorry to interrupt you, you will see that the results you are referring to are contained at page 286.

LT GEN (RET) STEYN: Yes, I do note that.

15 ADV SIBEKO: Now you can continue.

LT GEN (RET) STEYN: Now at paragraph 7.56 in my statement page 35:

20 *“The Chief of Acquisition contested this outcome and argued that the AAC instructed [sic] us to adopt a ‘visionary approach’ (now using this term to justify his inclusion of a non-costed option) that involved major international defence companies in the LIFT acquisition, ...”.*

And there in bold I state:

25 ***“... resulting in the generation of two options in***

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*the evaluation team and SOFCOM recommendation. Again I dispute this minuted interpretation”.*

5 However, he proceeded to advise the meeting that the sensitivity analysis now included in the presentation is new and was not previously presented by SOFCOM. He stated that the SOFCOM recommends two options and confirms one being the 10 costed one and the one, the non-costed one. Now in my search for documentation I could not locate any minutes of SOFCOM where the members in fact support this recommendation, in 15 other words to consider the non-costed option, and I contend that the use of this option and connected now in this particular case to the “visionary approach”, is the sole choice of the chairman of the SOFCOM and therefore I stated that the claim that it was a recommendation by SOFCOM is false. Then:

20 *“Having heard this presentation the meeting did not support the non-cost option, only costed options were considered and the AASB therefore supported only costed options from a rational and legal point of view. As chairman I confirmed the recommendation of selecting a 339B consisted with the results mentioned above”.*

Let me conclude there Sir.

ADV SIBEKO: What you state in your statement also is 25 supported by what is recorded at paragraph 7 of the minute at

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page 278, is that correct?

LT GEN (RET) STEYN: That is correct Sir.

**NOTE: Caucus.**

ADV SIBEKO: That would then bring us to the CoD  
5 Meeting of 21 August 1998, the minute of which appears ...

CHAIRPERSON: Sorry Advocate Sibeko, would this not be a  
convenient time to adjourn?

ADV SIBEKO: I hadn't really thought about it Chair, but  
if that is the direction I will take the cue from up there.

10 CHAIRPERSON: And yes, I'm just saying this because I see  
you are about to start with a new topic and some few minutes  
ago we were informed that the witness is probably tired, maybe  
[indistinct] to meet him halfway and that is the reason I'm  
going to suggest that we adjourn. [Indistinct] tomorrow  
15 because I heard the attorney of the witness saying that they  
are not available.

ADV SIBEKO: Mr Wagenaar has just indicated to me that  
he has made other arrangements in order to make himself  
available to continue tomorrow.

20 CHAIRPERSON: Advocate Sibeko, how long do you think  
you are still going to be with the witness tomorrow because  
then I'm trying to avoid a situation where we lead his evidence  
halfway, from there adjourn for another three, four, five days  
[indistinct] it's clear that this witness [indistinct] with him  
25 again [indistinct] of June. So I'm not quite sure whether it

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would be much more convenient for the witness that we adjourn until the beginning of June or adjourn until tomorrow and deal with him with two, three hours and then adjourn again?

ADV SIBEKO: Chair, there appears to be consensus on  
5 this part of the table that we should not be longer than two and a half hours tomorrow.

CHAIRPERSON: [Indistinct].

ADV SIBEKO: Yes Chair.

CHAIRPERSON: Okay, then in that case we will adjourn  
10 until tomorrow. Can we start at 09h30?

ADV SIBEKO: We'll do so Chair, and I undertake to be done in two hours, just to accommodate the further ...

CHAIRPERSON: So, if at all we start at 09h30 tomorrow, by  
15 10h30 we should be done?

ADV SIBEKO: According to my arithmetic Chair 11h30.

CHAIRPERSON: 11h30. [Indistinct]. So we can start at  
09h30 then it will be [indistinct].

ADV SIBEKO: Indeed Chair.

CHAIRPERSON: Thank you. In that case we will adjourn  
20 until tomorrow, but then [indistinct] apparently tomorrow once we finish with him we're going to have to adjourn for cross-examination at a later stage. But I think it will be best to finish his evidence in the morning and excuse him for the time being and when he comes back it's only for cross-examination,  
25 [indistinct].

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ADV SIBEKO: I suspect there might be opinion from across my colleagues, across the table, it seems there will be.

CHAIRPERSON: Maybe let me hear from ... Are you likely to bring an application to cross-examination [indistinct] evidence of this witness?

ADV CANE: Chair, there are certain limited aspects in relation to which I will seek to cross-examine, but we'll not be traversing some aspects of the witness's evidence where there is clearly a conflict with other previous [indistinct], we took principle staff [indistinct] couldn't take sides in relation to [indistinct], so in the absence of cross-examination on all [indistinct] be seen in a bad light, but in relation to policy directives [indistinct] to cross-examine.

CHAIRPERSON: Okay, maybe let's adjourn until tomorrow, we'll start at 09h30 and if at all there is going to be any cross-examination I think I'm going to adjourn to sometime in June, probably first week of June and then allow cross-examination to start on that date and time.

ADV SIBEKO: We're in your hands Chair.

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

**(COMMISSION ADJOURNS)**