

16 MAY 2014

PHASE 1

CHAIRPERSON: Good morning everybody.

ADV SIBEKO: Good morning Commissioner.

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

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

CHAIRPERSON: Thank you.

ADV SIBEKO: Good morning Chair and Commissioner Musi. Just before Mr Steyn would proceed with the minutes of the CoD minute of 21 August 1998 as we were about to start
10 dealing with it yesterday I would like to take you back just briefly to "PS20".

CHAIRPERSON: Advocate Sibeko, on which page are we?

ADV SIBEKO: Chair, Commissioner Musi, "PS20" which is at page 238. Do you have the document in front of you?

15 LT GEN (RET) STEYN: I do.

ADV SIBEKO: Now "PS20" is that minute of the Special AASB Meeting on International Offers and that meeting was ...

CHAIRPERSON: I'm sorry Advocate Sibeko, we seem to battle to try and find the document. You said 230?

20 ADV SIBEKO: 238, "PS20" and 238. Apologies Chair. Do you have the page in front of you?

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

ADV SIBEKO: Now you will recall that was the meeting at which a presentation was made, that is the progress report on
25 the packages as you testified yesterday.

16 MAY 2014

PHASE 1

LT GEN (RET) STEYN: Correct.

ADV SIBEKO: And you recall, if you turn to page 243 you indicated the person who signed the minutes on behalf of the chairman of the AASB is one J L Grundling, is that correct?

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

ADV SIBEKO: And you had indicated during the course of your testimony dealing with these minutes that you disputed the correctness of the recordal of what is set out therein.

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

10 ADV SIBEKO: Now are you aware of the minutes or this minute was ever confirmed at a subsequent meeting of the AASB which you will find at "PS22" which appears at page 27, as from page 277?

15 LT GEN (RET) STEYN: No, no consideration of the Minutes of the 8th of July was considered at that meeting, the meeting continued straight into the agenda.

ADV SIBEKO: Now if you look at page 277 it's "PS2" and an AASB meeting of 16 July 1998, you have that in front of you?

20 LT GEN (RET) STEYN: I have that in front of me.

ADV SIBEKO: You also chaired this meeting, is that correct?

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

25 ADV SIBEKO: And you confirm that as you've stated previously, no consideration was given to the previous AASB

16 MAY 2014

PHASE 1

meeting that I've asked you about?

LT GEN (RET) STEYN: Correct, no consideration was given to the minutes of the previous AASB meeting.

5 ADV SIBEKO: And just lastly regarding that meeting, that minute at the "PS22", may I ask you to turn to page 281. Now do you confirm that the minutes were also signed by J L Grundling acting as Chairman, Director-General on 26 February 1998?

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

10 ADV SIBEKO: I beg your pardon, it's 1999.

LT GEN (RET) STEYN: I stand corrected, I see that it was signed 26 February 1999.

ADV SIBEKO: Anything else you want to add regarding the two sets of minutes?

15 LT GEN (RET) STEYN: No, not at this stage.

ADV SIBEKO: Alright. We then go back to page 36 of your statement and as we deal with page 36 the meeting of the CoD held on 21 August 1998 we can put a finger on "PS24" at page 316.

20 COMMISSIONER MUSI: But before we go there can I just get clarity, if I understand the evidence the witness chaired both meetings, that is the meeting of, is it the 8th of July as well as the subsequent meeting of the 16th, and both are AASB meetings and both were chaired by him, is that correct?

25 LT GEN (RET) STEYN: Sir, that's correct.

16 MAY 2014

PHASE 1

COMMISSIONER MUSI: Why in the subsequent meeting of the 16th was the meeting, the minutes of the previous meeting not read and adopted?

LT GEN (RET) STEYN: It was simply not available Sir.

5 COMMISSIONER MUSI: Sorry, the minutes were not available?

LT GEN (RET) STEYN: No, the first ... The meeting that you referred to first is the 8th, the second meeting was the 16th and when requested the draft minutes were not available for scrutiny.

10 COMMISSIONER MUSI: The minutes were not available at the subsequent meeting?

LT GEN (RET) STEYN: The minutes of the ... The minutes of 8 July was not available at the 16th of July and the minutes of the 16 July were never available.

15 COMMISSIONER MUSI: As chairman of that board don't you insist on these things being made available?

LT GEN (RET) STEYN: You are correct, I did insist on the minutes but it never materialised whilst I was in my chair.

COMMISSIONER MUSI: Thank you.

20 CHAIRPERSON: Advocate Sibeko, maybe let me make a follow-up. Why were they not available?

LT GEN (RET) STEYN: I cannot answer you Sir. The ..., If I request the minutes then normally the answer would be the time was not available to do that, the Chief of Acquisition who is the scribe of that meeting indicated that a busy programme

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16 MAY 2014

PHASE 1

prevented him from doing that.

CHAIRPERSON: So, in other words you are saying that the scribe will not, was reluctant to make the minutes of that meeting available?

5 LT GEN (RET) STEYN: No Sir there was no reluctance, it simply didn't materialise. Things happened fast and that was his excuse, but he never said he wouldn't provide it, there was no reluctance. It was an oversight maybe from his side and also from mine.

10 CHAIRPERSON: If it at all it was an oversight that he signed, it was also an oversight on your part because as the chairman I think you must have insisted that you want them before you start with the meeting, that you want the minutes of the previous meeting.

15 LT GEN (RET) STEYN: Agreed.

ADV SIBEKO: And perhaps just one other aspect, can I ask you to page to 238 while we're still on that.

COMMISSIONER MUSI: 238?

ADV SIBEKO: Yes, 238. Do you have that page?

20 ADV SIBEKO: I have the page.

LT GEN (RET) STEYN: You see there is a reference at the top right corner of that page, it has a reference "C ACQ", which reference is that?

LT GEN (RET) STEYN: The reference of the Acquisition
25 Division.

16 MAY 2014

PHASE 1

ADV SIBEKO: Now there is a date 21 October 1998, what is the significance of that date?

LT GEN (RET) STEYN: I have no idea because I was not available to look at it and this is testimony to the fact that it was only signed in February of the next year. So, the date 21, I cannot explain why that date was appended and who did it.

ADV SIBEKO: Thank you. Could we then go to 316 and that's the minute of the Council on Defence held on 21 August 1998 which you deal with as from paragraph 7.59 on page 36 of your statement. Now if you could just briefly explain what the purpose of this meeting was and perhaps it would assist you to know that by that time SOFCOM had sat and integrated these out of the various evaluations that had been conducted in respect of the parties, you can take it from there.

LT GEN (RET) STEYN: Let me start by reminding ourselves that prior to this CoD meeting instructions has already gone out to a range or a special briefing to the Deputy President and selected Cabinet colleagues, so the purpose of the 21st of August was to bring the presentation that would be presented to the Deputy President up to date. The responsibility to brief the meeting was entrusted to Chief of Acquisition, he indicated that he did so on behalf of SOFCOM. An overview of the financial implications spoke only about capital costs, the meeting was informed that the total package

16 MAY 2014

PHASE 1

exceeded the departmental budget of the next 30 years by an estimated R43bn and despite that excess identified in the meeting no consideration was given to operating costs.

ADV SIBEKO: Chair before the witness started with his
5 testimony yesterday a request was made that a direction be given to the camera crew not to focus on him when he testifies. It does appear that every time he speaks the camera focuses on him.

CHAIRPERSON: I suppose the cameraman [indistinct], we
10 did give a directive yesterday that you shouldn't focus on him, he seems to [indistinct]. Thank you.

ADV SIBEKO: You may proceed.

LT GEN (RET) STEYN: The briefing proceeded after the
15 statement of deficit expected and the meeting noted that the cheapest option for the LIFT Aircraft was the MB339. If the Hawk was preferred over the MB339 the Air Force capital deficit would be increased by that decision by R9.716bn. The meeting noted that the AASB strongly recommended the MB339 and the reason was that it met the Air Force's requirements
20 with regard to training and the ability to do limited operations. I remarked that the Hawk choice was double the cost of the LIFT Aircraft for an increase of performance of merely 50%. Now it is important to note that due to time constraints we are now at August 1998. You will recall the Minister's instruction
25 was that the work should be finished and ready for

16 MAY 2014

PHASE 1

consideration at this meeting and to be presented by the team to the Deputy-President later that night. No detailed project studies would have been undertaken, there was a time constraint and the implication of that was that no consideration was given to the cost of ownership or for that matter any other logistic considerations, for example its compatibility with existing systems within the Air Force, and neither was there a consideration given to how the new aircraft would be integrated into the Air Force's existing infrastructure and maintenance programme. I contended that the members present were simply not able to make informed decisions in this regard with the information at hand.

Now I'm moved by the lack of financial clarity. The Minister of Defence remarked that the availability of funds was secondary and stated that from the beginning we knew that we did not have the funds to pay for the packages, that is why we opted for the way we have been operating, not through a normal tender process but through an option of partnerships in which the participating countries empower us through investments and favourable deferred payments to buy their equipment.

I then submitted that this approach by the Minister subverted the prescribed cautionary process of spending public monies. I contended that the state is not entitled to subvert prescribed processes involved in the expenditure of public

16 MAY 2014

PHASE 1

funds regardless of how visionary our leaders would be. Then the meeting was informed that Industrial Offsets ... Sorry?

ADV SIBEKO: Now before you proceed to the further paragraph can I ask you to turn to page 319 of that meeting after the debate regarding the choice between the Hawk and the MB339 had ensued and a discussion had been made with regard to the tank. What decision was taken by the AASB at the time as recorded at 7.3.13?

LT GEN (RET) STEYN: Let me first refer to 7.3.5 on page 315, you will notice that the expected deficits resulted in the re-planning and in that paragraph a number of systems are reflected and the initial planned numbers were reduced in an attempt to move within the limits of the stated budgetary provision. You want me to move now to?

ADV SIBEKO: Before you move I see reference is made to the LIFT at the end of that paragraph. Could you just read that into the record?

LT GEN (RET) STEYN: Okay in the same paragraph where the numbers are adjusted it reads:

“And the LIFT Aircraft remain at 24, however, the cheaper option was chosen”.

ADV SIBEKO: Alright, and at paragraph 7.3.7 the choice of the AASB is recorded there. Would you just read that also into the record?

LT GEN (RET) STEYN: Sir, you say the choice, 7.3.7 does

16 MAY 2014

PHASE 1

not reflect a choice but an option.

ADV SIBEKO: And what did the AASB recommend with regard to the LIFT as you see in the last sentence of paragraph 7.3.7?

5 LT GEN (RET) STEYN: Okay, so you want me to remark on that. This paragraph highlights that if the Hawk is preferred then the original deficit on that programme will increase from R1.742bn to R9.716bn. I stand corrected. The Hawk increased the total expected to R9.716bn instead of R7.39bn. The
10 strategic decision required is that we choose the MB339 or the Hawk. The meeting took notice that the AASB recommended the cheaper option, namely the MB339.

ADV SIBEKO: Right. Now you can then turn to page 319 where the decision is taken regarding the reduction of the
15 various programmes. Could you take us through that?

LT GEN (RET) STEYN: Sir, you are referring to the decision in paragraph 7.3.13?

ADV SIBEKO: Yes.

LT GEN (RET) STEYN: The Minister indicated with a remark
20 that the Deputy President was keen for the Department to move forward in respect of the government-to-government and now records the decision that the Council agreed that the tanks be removed from the packages but not from the SANDF's overall requirements.

25 *"Final briefings for the Deputy President, the*

16 MAY 2014

PHASE 1

Minister of Trade and Industry and the Minister of Finance must be arranged as a matter of urgency”.

ADV SIBEKO: It's recorded at paragraph 7.3.14 that a comparison between the Hawk and the MB339 was made with regard to the overall financial package, you confirm that?
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LT GEN (RET) STEYN: I do confirm that.

ADV SIBEKO: What discussion ensued after the comparison regarding the financial impact between the two aircraft was made?
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LT GEN (RET) STEYN: The minutes is silent on that discussion and from my memory I cannot respond to the question.

ADV SIBEKO: Alright. But was there any decision taken about which aircraft was to be recommended for purposes of the LIFT at this meeting?
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LT GEN (RET) STEYN: No, in fact the meeting recognised that both contenders, the MB339 and the Hawk should remain as possible contenders, but it certain didn't make a choice which would then be recommended to the Deputy President and Ministers.
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ADV SIBEKO: Right, what discussion ensued with regard to the industrial offsets regarding the two options? That discussion you will find at paragraph 7.63 of your statement.

LT GEN (RET) STEYN: 7?

ADV SIBEKO: 7.63 of your statement at page 37.
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16 MAY 2014

PHASE 1

LT GEN (RET) STEYN: Now having presented the meeting with the figures which reads that industrial offsets amounts to R161.2bn and costs R66 million and job creation in the region of R68 500 jobs, I was concerned and indicated that:

5 *“No detailed calculations were given to substantiate this statement”.*

Yet, the Minister’s response was”

“With those returns they must be the vanguard of our drive for approval ...”

10 And not for financing. Then it was resolved that the team would hold discussions with the Minister of Trade and Industry in the next week. From the minute there can be no doubt that the AASB on that date recommended the cheaper option to be recommended, so the AASB maintained its recommended on the
15 MB339, yet the meeting took no decision on that.

*“The aforementioned recommendation was made notwithstanding the Minister’s expressing a view that he was ‘actually thinking to allow the shortlisted countries the last opportunity to make
20 amendments to their offers’”.*

So, the RFO’s were accepted and he was thinking of allowing them to make changes to that which in my mind is irregular. This thinking of the Minister was intended to keep the country’s options open to enable it to get the best offer. I then pause
25 now to mention that with regard to the LIFT no decision was

16 MAY 2014

PHASE 1

taken pursuant to one; the recommendation by the AASB, nor the one relating to the suggested afforded shortlist countries a last opportunity to amend. So that thought by the Minister was not captured in the decision. Shall I continue?

5 ADV SIBEKO: Now this discussion ensued during the course of a debate regarding the industrial offsets, is that correct?

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

ADV SIBEKO: And this was in line with the view that had been expressed earlier on that perhaps partnerships must be
10 formed with various European countries which would benefit the country that is economically and so forth.

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

ADV SIBEKO: Right. You deal further with the matter regarding the industrial offsets and what advantages would be
15 obtained as from paragraph 6.4. Deal with it. Paragraph 7.64, sorry. Paragraph 7.64.

LT GEN (RET) STEYN: Now having considered the discussion on the possible benefits of Industrial Participation the Minister now declared that the political decision must not
20 revolve around the operational aspects of aircraft, that it is part of our recommendation. He also said that the Government must decide if they want to enter the European market and if so, through which partner. He concluded by advising that we must not pre-judge, let the politicians decide. This is the
25 paragraph 73.24 in the minutes. What was of great concern to

16 MAY 2014

PHASE 1

me was that only capital expenditure and supposed Industrial Participation in the rounded figures were being considered. I contend that this approach was to justify why operational aspects and financial implications in the acquisition aircraft should not influence the ultimate decision to acquire arms and that they were in fact reduced to secondary factors in the decision-making process. I then contend that the outcome is that the Cabinet would not be placed in the position to make rational decisions. In effect this approach undermined the obligation of the executive to manage public money responsibly.

Let me remind you that we discussed previously a moment where there was mention made of guarantees. At this stage there is a warm feeling that the Government ought to go into beneficial partnerships, the obligations on both sides were never discussed and I will revert back to my concern regarding these guarantees at an appropriate stage.

ADV SIBEKO: Now at paragraph 7.65 after you commented on the proceedings at the meeting and what was discussed there you state that you did not agree with the remarks made and you state the reasons why you disagreed with those remarks. Could you just elaborate on that?

LT GEN (RET) STEYN: The remarks I make here in 7.65 and further on is remarks I made having studied the minutes and therefore remark as follows: I say that the Minister's approach,

16 MAY 2014

PHASE 1

if not decisions, were irresponsible on several counts. Firstly as accounting officer and from my perspective the intended acquisition of defence equipment on such a grand scale without making budgetary provision was illegal, especially as there have been no apparent intention to seek Parliamentary approval for the intended acquisition.

“Through this conduct, the Minister contrived inter alia the provisions of Section s92 (2), S92 (3) (a) and (b), of the Constitution ...”

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“Secondly, the process did not follow the normal (State) tender process”.

He admitted this. The motivation for this is found in the words of the Minister at paragraph 7.3.9 where he states:

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“The availability of funds were secondary. The amount of investment coming in was of primary importance. The business plan was all-important. That is why many of the companies involved are trying to improve their bids. From the beginning we knew that we did not have the funds to pay the packages, that is why we opted for the way we have been operating, not through the normal tender process but through the option of partnerships and which the participating countries empower us through the investments and favourable deferred

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payments to buy their equipment”.

At this stage I need to remark, we will get to the contents of an audit performed after I had left, which reflects that guarantees were only contractually captured for 20% of these claims that were made for Industrial Participation.

ADV SIBEKO: Next up...

CHAIRPERSON: Sorry Advocate Sibeko, [indistinct] we have heard several witnesses testifying about Industrial Participation, I think six, seven, eight people have already testified about Industrial Participation, that evidence is on record. Let the witness [indistinct] unless if at all he can justify making a statement then he can continue to testify about the [indistinct], but if he's not going to give us the [indistinct] which will justify his making a statement that you know those industrial participation did not [indistinct] several people have already testified about [indistinct] to give us everything which will justify that statement, otherwise you know that statement is not going to be helpful at all.

ADV SIBEKO: The witness is not making that statement at all in his evidence, he is merely stating that as at the time that this meeting took place there were just rounded off figures that were, or commitments that were made with guarantees of 10% and he alludes to an audit report or that was produced after an audit review by the auditor-general with regard to the procurement of the packages and he is definitely not saying

16 MAY 2014

PHASE 1

that the industrial participation claims that were made did not materialise, that's not what he's saying and this, his statement is not going anywhere near there. You can proceed and conclude the start of the contention that you were making as at
5 the time of the meeting of 21 August.

LT GEN (RET) STEYN: At paragraph 7.65.3:

"I contend that the supposed financial benefits that would accrue from these 'partnerships' were at best, broad strokes of the artist's (Minister) brush. Throughout prior meetings and during this meeting, all attempts to caution this approach fell on deaf ears".
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And that is why I made the remark with regard to the 10% guarantee, there were no guarantees.

"Thirdly the claims by the international contenders regarding offsets were simply taken at face value by SOFCOM and I contend that these claims lacked a proper financial scrutiny. These industrial participation claims appears to have carried the day".
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And not the operational requirements for the aircraft.

ADV SIBEKO: Right, now having dealt with that minute it is clear that as at that time preparations were made for the briefing of the various Cabinet Ministers who were involved in
25 the procurement process and that would lead us to that special

16 MAY 2014

PHASE 1

briefing on 31 August 1998 that the Deputy President Mr T Mbeki on process of the Strategic Defence Package Programme for the SANDF. Perhaps if we can start by testing your recollection at this point without going to the actual minute that was made or even your statement it is correct that you attended that meeting?

LT GEN (RET) STEYN: It's correct, I was invited to the meeting but as I point out in paragraph 7.66 and 7.62 my understanding and those that were invited to it, apart from the Ministers and the Deputy President resident was that it was not labelled as a Cabinet Meeting nor a Cabinet Committee but merely a briefing to inform the Deputy President of the progress made on the Strategic Defence Packages. Beforehand, before we flew down to Durban the Minister...

ADV SIBEKO: Now you understood that the meeting was intended to be a briefing to the Ministers. Now the briefing, was it based on the decisions taken at the meeting of 21 August of the AASB?

LT GEN (RET) STEYN: No it cannot be, because there were no decisions taken at that meeting.

ADV SIBEKO: But was that in relation to the progress as reported at that meeting?

LT GEN (RET) STEYN: I understood that it was to brief the Deputy President on the progress at that time and I took for granted that it would be the first time that he is appraised of

16 MAY 2014

PHASE 1

that but this would be the moment to tell him this is where we are and we should move forward to making decisions in accordance with the timelines adopted by the Minister.

ADV SIBEKO: Now at the meeting that you attended who
5 made the presentation of this progress report?

LT GEN (RET) STEYN: The Minister decided that the presentation would be done by the Chief of Acquisition. No one else was involved.

ADV SIBEKO: Can you recall if there was anyone
10 designated to take minutes of that meeting?

LT GEN (RET) STEYN: Nobody took notes of that, in fact because the meeting was intended to be a briefing only no decisions was expected, so Mr Shaikh busied himself with the presentation and as far as I'm concerned didn't allow himself to
15 record anything else and there weren't any technical recording to be done.

ADV SIBEKO: You didn't notice any mechanical device to record the proceedings on that day?

LT GEN (RET) STEYN: I didn't and when I confronted him
20 later about certain statements in the ensuing minutes I requested him to provide me with a transcription or the tape itself and he couldn't.

ADV SIBEKO: Now could you briefly take us through what exactly happened on the day?

25 LT GEN (RET) STEYN: The meeting to brief the President

16 MAY 2014

PHASE 1

hardly took more than an hour, if an hour, it started at a fairly late time in the day, towards the latter part of the evening and it was stated beforehand by the chairman that Mr Shaikh had to be briefed and that the meeting would adjourn by about 19h00
5 or soon thereafter in order to allow the members to attend a prearranged function.

Now Mr Shaikh made available a set of slides, 58 of them, in fact I still have a coloured copy of the slides. He, if you consider that there were about almost 60 slides then you
10 can appreciate the fact that the meeting had little time to comprehend the contents of each slide, let alone get a full, comprehensive feel for what it was. I shall stop there.

ADV SIBEKO: Now with regard to the various programmes which formed part of the packages do you recall if any decision
15 was taken as to which one would be recommended to be presented to Cabinet for decision?

LT GEN (RET) STEYN: I recall specifically because I was so interested in what will happen there, I was interested to see whether the briefing would lead to the meeting or the Deputy
20 President making the choice between the Hawk and the 339 and this never happened and when appropriate we may return to a point where I in fact wrote a memorandum to Mr Shaikh challenging one of the many minutes that he drafted afterwards to say that there weren't any decisions, please provide me with
25 a transcription of the tape that corroborates the fact that you

16 MAY 2014

PHASE 1

claim that there was a decision.

ADV SIBEKO: Now from the people who were present there, the officials from the department, the members of the AASB or the CoD, were these officials invited to make any contribution during the presentation?

LT GEN (RET) STEYN: It's more than that, we weren't invited but we were warned beforehand that we should refrain from participating in the discussions ensuing the briefing.

ADV SIBEKO: Were you informed why you had to refrain from participating in the briefing?

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

ADV SIBEKO: Now the evidence you have given is summarised at paragraph 7.66 up to 7.69 of page 39 of your statement, do you see that?

LT GEN (RET) STEYN: I do.

ADV SIBEKO: Now can I ask you to turn to page 322 of the bundle, this is "PS25". Do you have "PS25|?

LT GEN (RET) STEYN: I have my finger there.

ADV SIBEKO: Now that document has the heading "Minutes of the Special Briefing on 31 August 1999 at 19h00 to the Deputy President Mr T Mbeki on the Process of the Strategic Defence Package Programme for the SANDF at Inzinga Conference Room" and it reflects the people who were present at that meeting and your name also appears there, do you confirm that?

16 MAY 2014

PHASE 1

LT GEN (RET) STEYN: I confirm that.

ADV SIBEKO: In paragraph 1 of the "Introduction" it says, it records:

"The Chairman, Deputy President Mr T Mbeki welcomed all present".

And:

"The co-chair of SOFCOM ..."

In paragraph 2 is recorded to have:

"... Made a slide presentation of the SOFCOM findings of the Request for Offers received (RFO's) from the bidding countries and their respective defence system suppliers".

Now if you turn the page to page 323 towards the end you see a heading: "Decisions Taken". Could you just comment briefly about what is set out on that, paragraphs 9, 10, perhaps 11?

LT GEN (RET) STEYN: The minute reflects the recommendations for the successful bidders as approved by the Armament Acquisition Council of 21 August was supported and approved by the members. It's nonsense.

ADV SIBEKO: Why do you say that?

LT GEN (RET) STEYN: The quotation that there was a decision in the Arms Acquisition Council 21 August is wrong, there wasn't any decision.

ADV SIBEKO: Now you say there was no decision taken by the Armaments Acquisition Council on that date.

16 MAY 2014

PHASE 1

LT GEN (RET) STEYN: No, the recommendation for successful bidders is the key word.

ADV SIBEKO: Yes.

5 LT GEN (RET) STEYN: The decision to drop the tank is something else, it didn't concern this meeting.

ADV SIBEKO: Now you recall earlier on we were talking about the minutes of the CoD meeting of [indistinct] CoD meeting of 21 August 1998, do you see that, at page 316?

10 LT GEN (RET) STEYN: Yes, and noticed that this minute refers to an Armament Acquisition Council and not the CoD.

ADV SIBEKO: Was there an AAC meeting on that day?

LT GEN (RET) STEYN: Negative. The CoD meeting continued until late in the afternoon and the meeting was adjourned without reconstituting itself as an AAC.

15 ADV SIBEKO: I see. Now before we continue with the rest of the paragraphs can I ask you to turn to page 39 of your statement at 7.69.1. In that paragraph you make reference to "PS25" that we are dealing with at this point.

LT GEN (RET) STEYN: Correct.

20 ADV SIBEKO: You deal in that paragraph with paragraph 11 of that minute. Could you take us through that?

LT GEN (RET) STEYN: I state as follows:

25 *"Paragraph 11 states that 'after discussion it was decided that both the Hawk (Option B) and the MB339 (Option A) should be investigated further*

16 MAY 2014

PHASE 1

with a view of structuring an industrial While
alliance between the countries supplying the
aircraft and the South African Aerospace Industries.
Both countries will be requested to submit further
5 information in this regard”.

ADV SIBEKO: While you were present at the meeting
during the presentation do you recall if this decision was
taken?

LT GEN (RET) STEYN: As far as I’m concerned no, this
10 [indistinct] briefing, and the Minister of Defence, nor Mr Shaikh
solicited a decision of this nature.

COMMISSIONER MUSI: I just want to raise the issue here, the
evidence of the witness is very clear, no such meeting took
place, it was merely a briefing, no discussions took place, no
15 decisions were taken. That is very clear and it is evidence,
why still go through the, what is purported to have been said
and decided at that meeting, and we’re wasting time there.

ADV SIBEKO: Now can I ask you to turn your attention to
page 40 of your statement at paragraph 7.68.5, you would see
20 that the numbering is a bit corrupt there because what follows
is 7.69.5.1, and this is after you have dealt with the various
versions of the, of what purports to be the minute of that
briefing of 31 August and you state at 7.68.5 that:

“The **decisions** reflected in all the various versions
25 of the minute are false”.

16 MAY 2014

PHASE 1

And you say these merits comment. Can you comment on there as well, you see that, 7.69.5.1? Going forward if you perhaps would like to read that into the record?

LT GEN (RET) STEYN: A detailed discussion of each of
5 these versions, Draft 1 before, there may be more, does not actually warrant detailed discussion because it's rubbish. Let me tell you why. The various minutes have some sort of correspondence with regard to paragraphs that we should note the differences in paragraphs 9, 11, 12 and 13 of the various
10 drafts. At subparagraph (1), paragraph 9 of the minutes convey that the decision had been taken by the AAC at its meeting of 21st of August in respect of successful bidders which decision was allegedly supported and approved by the members present. I am not aware of an AAC meeting of 21st
15 of August and in any event the CoD meeting held on the same day did not make any recommendation regarding successful bidders, that deals with all the paragraph 9's.

As far as paragraph 11 purports to convey that decisions relating to the LIFT Programme were made it is
20 utterly false. Paragraph 12 of the version of the minutes signed by the Ministers differ substantially from all the other versions.

*"In all the drafts mentioned above the minutes reflect that the recommendations are consistent
25 with the decisions made in AAC which approved the*

16 MAY 2014

PHASE 1

5 *preferred choices in paragraph 13. As no such meeting took place the alleged recommendation cannot be correct. To the extent that the reliance is sought on the minutes of the CoD meeting of the same day of 21 August, such a recommendation does not appear in the minute of that meeting”.*

Finally:

10 *“The Special Briefing lasted approximately one hour from 19h00 to 20h00 hours. No further meeting took place due to the fact that to the best of my recollections the Ministers were due to attend a pre-arranged function afterwards”.*

15 I therefore questioned the validity of the draft minutes as no one was designated to take these minutes, nor were the proceedings of that briefing mechanically recorded.

20 The Chief of Acquisition was fully occupied with presenting his slides and could not have taken the minutes of the Special Briefing at that time. There were no slides presented to facilitate decision making, only information for the briefing. The fact that the Chief of Acquisition attempted to draft several different minutes and trying to coerce his co-chairman in signing same is in my way highly suspicious.

25 ADV SIBEKO: You became aware of the various draft and/or the various versions of the minutes and on the evidence before the Commission Mr Esterhuyse brought this to your

16 MAY 2014

PHASE 1

attention to enquire whether the version that was given to him to sign was correct. What was your response?

LT GEN (RET) STEYN: Counsellor Can you just ask the question with regard to any one or a specific minute?

5 ADV SIBEKO: Well, whether a decision or any decision regarding the packages was taken at the Special Meeting on [indistinct].

LT GEN (RET) STEYN: Mr Esterhuyse approached me after the meeting, especially when both of us became aware of a
10 draft, I didn't see all of them, and as co-chair, the so-called co-chair of SOFCOM he said he was approached by Mr Shaikh to sign one of them and he said he couldn't do that because as far as he recalls there were no time for decision making and no decision could then be recorded. I scrutinised the draft that I
15 had then, I can't recall exactly which one, and I think it was the one ... No, let me first say I saw one of the unsigned drafts and requested Mr Shaikh by a memorandum to explain why this has been done.

ADV SIBEKO: This memorandum, is that the one
20 appearing at page 341 of the bundle of documents?

LT GEN (RET) STEYN: Correct, that is the memorandum dated 7 September 1998, addressed to Mr Shaikh.

ADV SIBEKO: Could you just read the two paragraphs into the record?

25 LT GEN (RET) STEYN: Let me start by saying one, I became

16 MAY 2014

PHASE 1

aware of the minute when Mr Esterhuysen handed me a copy of the minutes of the abovementioned meeting and I tell this to Mr Shaikh, and the second paragraph I say:

5

"I questioned the completeness and accuracy of paragraph 11. I cannot recall that a decision was made. The merits of either the Hawk and the MB339 were discussed".

The merits of either of the two were discussed.

10

"The fact that the MB339 meets the SAAF LIFT requirements adequately with reference to the predetermined criteria is not reflected. The Hawk is not the best option from a military point of view. The fact that the acquisition cost would solicit substantially more Industrial Participation apparently carries the day".

15

According to his minute.

"The South African Air Force, however, will have to absorb considerable higher operating costs during its lifecycle".

20

Would you like me to continue?

ADV SIBEKO: Yes.

25

LT GEN (RET) STEYN: *"As far as I recall the choice between the Hawk and the MB339 will be made later in Cabinet, hence the Italians should be afforded the opportunity to respond with other successful*

16 MAY 2014

PHASE 1

bidder. If we fail to do this I submit that the ensuing fracas could derail the initiative completely. In any event by keeping the Italians in play it would sustain the element of competition”.

5 ADV SIBEKO: Did you receive a response to this memorandum?

LT GEN (RET) STEYN: I did receive a verbal response but no letter, and that is covered in my statement at paragraph 7.72.

10 ADV SIBEKO: What was the response?

LT GEN (RET) STEYN: He said that:

15 *“... After I and the other officials, including Mr Esterhuyse had been excused from the meeting the collective ‘reconstituted themselves as a cabinet meeting’”.*

So now I ask the questions.

20 *“Why would Chief of Acquisition ask Mr Esterhuyse to sign the draft minutes of a meeting where he was not present? And, why do the draft minutes reflect that both myself and Mr Esterhuyse were present at the second meeting ...”*

Because this is what he was saying:

25 *“... If he claims that the meeting took place after we had left? I therefore contend that the various draft minutes prepared are worthless documents (not*

16 MAY 2014

PHASE 1

worthy of classification) and a bizarre attempt to purport a simple DoD briefing to the Deputy President to be a formal cabinet meeting”.

ADV SIBEKO: We now know that there are various
5 versions of this meeting which was signed by various persons and I believe that evidence is now before the Commission, we need not deal with that. Can I ask you then to turn to page 43 where you deal with the minutes of the CoD meeting held on 18 September 1998?

10 COMMISSIONER MUSI: Before you proceed, I’m sorry Advocate Sibeko, I just thought maybe this one sentence in that letter maybe may not perhaps be correct and I’m not sure about that. The sentence that reads:

*“The merits of either the Hawk and the MB339 were
15 discussed”.*

Were they discussed at the meeting or do you maybe refer to previous discussions?”

LT GEN (RET) STEYN: I confirm that your question is were the merits of the Hawk and the MB339 discussed at the
20 briefing?

COMMISSIONER MUSI: Well, they were discussed at the briefing, the merits of those two aircraft? I’m just trying to find out. I would have thought that your sentence here, since
25 merits of neither aircraft were discussed but we say here that

16 MAY 2014

PHASE 1

they were in fact discussed and now my question is whether discussion you are referring to is a previous discussion or are you referring a discussion at this disputed meeting?

LT GEN (RET) STEYN: Please allow me a minute to reflect
5 on the memorandum. The second sentence in paragraph 2 reads:

“The merits of either the Hawk and the MB339 were discussed”.

In that we should read that neither one of them were discussed.

10 COMMISSIONER MUSI: Yes, that’s what I thought in view of your evidence. Thank you.

ADV SIBEKO: Sir, you need to say something about what transpired after the verbal response you received from Mr [indistinct].

15 LT GEN (RET) STEYN: Now after the response to my memorandum at a later date I saw to my other surprise that the Chief of Acquisition had yet another version and this time the signature blocks of Mr Kasrils, Minister Sigcau, Minister Erwin and Modise were undercover of a letter dated
20 25 September 1998. There was also provision made for the signature of Mr Mbeki but it was unsigned. This version of the minutes reflected that the meeting supported and approved the preferred bidders as approved by the DoD. Ironically the Minister of the DoD dated 21st of August 1998 did not in fact
25 reflect the approval of the preferred bidders. I therefore

16 MAY 2014

PHASE 1

dispute the legal merit of this partially signed document in the strongest of terms.

ADV SIBEKO: Right. Now having dealt with that briefing you state that there was a further meeting of the CoD on
5 18 September 1998, do you see that?

LT GEN (RET) STEYN: I do.

ADV SIBEKO: Page 43. Could you just deal briefly with that and what the purpose of that meeting was?

LT GEN (RET) STEYN: The purpose of this meeting was to
10 take the process further. The Minister and the Chief of Acquisition felt confident that they could reflect the endorsement of the Cabinet Ministers who attended the briefing and I state in paragraph 7.75:

*“The meeting noted that the Deputy President and
15 Ministers Erwin and Sigcau had been briefed in Durban and basic approval had been given to the recommendations made by the team”.*

Now at this point I thought it was inevitable, it had happened and I remarked in the meeting that the financial implications
20 for the package must now be made visible in the MTEF as soon as possible. I alluded to the fact that approximately two weeks from then or a week from then on 22nd of September I had to participate in a discussion at Cabinet Financial Committee with regard to the Department of Defence. Of course other
25 departments would have been present too.

16 MAY 2014

PHASE 1

5 *“I stressed that nothing will advance any further until the matter has been converted into financial terms. Since the Minister of Finance had not been present at the meeting of the 31st of August I argued that the Minister and his staff might not support the inclusion of the package in the MTEF. My statement was however countered by the Deputy Minister of Defence who averred that the Minister of Finance was in fact positive about the programme”.*

10 Now:

15 *“Despite my caveat to the CoD regarding the abovementioned financial implications (visibility of SDPP in the MTEF), my office was not involved any further in matters pertaining to the SDPP including drafting of letters ...”*

Or drafting Cabinet proposals in this regard.

20 ADV SIBEKO: Now your remarks as contained at paragraph 7.76 of your statement reflected at paragraph 4.7.2 of the Minute of that meeting, that you will find at page 344 of the bundle.

LT GEN (RET) STEYN: I’m at that page.

ADV SIBEKO: Could you have a look at paragraph 4.7.2 and 4.7.3 and see if that accords with what you have set out at 7.76 of your statement, if you could confirm that?

25 LT GEN (RET) STEYN: I’ll do that, give me a minute please.

16 MAY 2014

PHASE 1

I confirm it relates to my statement.

ADV SIBEKO: Right. Now at some point after a decision has been taken and the negotiations went underway for the conclusion of the contracts there is evidence that the office of the Auditor-General conducted a Special Review of the selection process of Strategic Defence Packages for Acquisition of Armaments at the Department of Defence. Were you still in the service of the DoD at the time this happened?

LT GEN (RET) STEYN: No, I ... My intention was, before I had left my office in October 1998 to ensure that the Auditor-General is alerted to the concerns that I had and this was conveyed to them through Mr Grundling. Then the Auditor-General which I would presume has a very busy programme busied himself in 1999, I'm not sure of the date of the release of the report but it should be found, if it's important we should look for it.

ADV SIBEKO: That date is on record already, but you will find the copy of that audit report at "PS31", it starts as from page 346.

LT GEN (RET) STEYN: Correct.

ADV SIBEKO: Can you turn to page 355, at the bottom there you would see the date [indistinct] and it's dated 15 September [indistinct].

LT GEN (RET) STEYN: Thank you yes, I see it.

ADV SIBEKO: You were provided with a copy of this

16 MAY 2014

PHASE 1

Audit Report at some point when you asked for it, is it correct?

LT GEN (RET) STEYN: It wasn't necessary for me to ask it, I took it from the web which is open to the public.

ADV SIBEKO: Alright. Now the Auditor-General makes
5 certain key findings regarding the selection process as I've pointed out and these you will find at paragraph 3 of that report which appears as from page 351. Page 351. I see also that these are quoted at paragraph 8.10.1 of your statement.

LT GEN (RET) STEYN: That's correct, I quote from the
10 report.

ADV SIBEKO: Now at paragraph 3.2 of "The Key Findings" mention is made there with regard to the "Technical Evaluation of the Lead-In Fighter", the LIFT. Could you just take us through that.

LT GEN (RET) STEYN: Okay. For each of the individual
15 bidder in respect of all the programmes were evaluated by separate individual teams on the following basis, 1, the National Industrial Participation (NIP), and the Defence Industrial Participation (DIP). 2, there was a technical
20 evaluation and 3, a financial evaluation. All programmes included a cost factor as part of the technical evaluation. In respect of the evaluation of a value system was adopted where the technical score would be calculated by dividing the Military Value of the equipment by its lifecycle cost, however, in the
25 case of the LIFT Programme the Armaments Acquisition Council

16 MAY 2014

PHASE 1

after adopting and implementing the Value System requested that cost should not be a limiting factor. The LIFT ...

ADV SIBEKO: Now could I then ask you to go down to the paragraph just below the table that's written "Technical Evaluation and Overall Evaluation" and ask you to read that one paragraph into the record?

LT GEN (RET) STEYN: I read the requested subparagraph:

"The fact that the non-costed option was used to determine the successful bidder is in my opinion a material deviation from the originally adopted value system. This ultimately had the effect that a different bidder ("C"), at a significantly higher cost, was eventually chosen on the overall evaluation".

ADV SIBEKO: Now this accords with the objections that you had raised overall and these that served before the AASB over time, is that correct?

LT GEN (RET) STEYN: Yes, I believe that these findings from the Auditor-General Report vindicates my statements and criticisms [indistinct].

ADV SIBEKO: Mention is also made at paragraph 3.3 of that report regarding the "Adequacy of performance guarantees" regarding the NIP. Now evidence has been tendered previously at this Commission with regard to issues relating to the NIP but for purposes of the record perhaps we can skip that and deal with what is recorded at paragraph 3.4

16 MAY 2014

PHASE 1

of that report regarding the “Ministry of Defence Policy”. Could you take us through that?

LT GEN (RET) STEYN: May I request that I make mention of the last two subparagraphs in 3.2?

5 ADV SIBEKO: You may.

LT GEN (RET) STEYN: I read:

10 *“As the LIFT Value System did not include a risk adjustment factor as part of the technical score [indistinct] calculation the LIFT Project Team was later requested by the SAAF Project Steering Committee to make a risk adjustment to the technical scores. The effect of the risk adjustment resulted in the repositioning of bidder C from third to second point by the Technical Evaluation Team.*

15 *Although it did not influence the final recommendations by the Technical Evaluation Team it is a deviation in principle from the approved third order value system”.*

Thank you.

20 ADV SIBEKO: Right, you can then continue to paragraph 3.4 of that report.

LT GEN (RET) STEYN: Now 3.4 supports my concerns regarding deviations from policy, it reads:

25 *“The following was not in line with the requirements of the MoD policy for dealing international offers:*

16 MAY 2014

PHASE 1

3.4.1 *First-Order value system was not established”.*

As I stated in my evidence previously.

3.4.2 *MoD working group was not appointed”.*

5 *The failure to establish a first-order value system and MoD working group as mentioned in paragraph 3.4.1 and 3.4.2 above resulted in the military strategic advantage not being determined by military appreciation”.*

10 ADV SIBEKO: The Acquisition Policy?

LT GEN (RET) STEYN: Comments by the Auditor-General on the Armaments Acquisition Policy, subparagraph (1)”

“The Advanced Light Fighter Aircraft (ALFA) ...”.

In other words the Gripen:

15 *“... did not have a prior approved staff target and staff requirement. These approvals were only obtained for the Advanced Fighter Trainer (AFT) project, which was later changed to ALFA”.*

(2):

20 *“The Light Utility Helicopter (LUH) project only had an approved staff target and no staff requirement, mainly because this could not be funded by the project”.*

(3):

25 *“The SUBMARINES programme had no approved*

16 MAY 2014

PHASE 1

staff requirement”.

(4):

“The Lead-In Fighter Trainer (LIFT) programme did not have a prior approved staff target and staff requirement as required by the Armaments Acquisition Policy”.

Stop.

ADV SIBEKO: Then paragraph 3.8.

LT GEN (RET) STEYN: With regard to comments on the “Budget”:

“No formal budget was compiled as required by governmental financial regulations at the request for information (RFI) stage. The total cost of the military equipment was approved by Cabinet only during the negotiation phase”.

ADV SIBEKO: The “Conclusion”.

LT GEN (RET) STEYN: In “Conclusion” it is stated:

“As mentioned in paragraph 3.1 and 3.2 material deviations from generally accepted procurement practice was discovered. The explanation provided by the DoD for this material deviation does not appear to be satisfactory”.

I may say at this time I did, I established that the official who responded to questions was Chief of Acquisition. Based on the review performance at the prime contractor level there were no

16 MAY 2014

PHASE 1

other material findings other than those mentioned in paragraphs 3.3 to 3.9 above. The review focused mainly on the awarding of contracts to the [indistinct] contractors, many allegations regarding possible irregularity in contracts awarded
5 [indistinct] subcontractors exist of which the finding in paragraph 3.6.1 is an example. I recommend that a forensic audit or special investigation into these areas be initiated. Furthermore I am concerned that the guarantees for national Industrial Participation may not be sufficient, only 10%.

10 ADV SIBEKO: What is recorded in the Auditor-General's report kind of resonates with and seeks to confirm the evidence that you tendered up to so far.

LT GEN (RET) STEYN: Correct. Correct, I believe that it is consistent with my [indistinct].

15 ADV SIBEKO: Chair, there is just one last aspect I would need to deal with, I was wondering if this would be a convenient time for the tea adjournment. We shouldn't be longer than half an hour.

CHAIRPERSON: Well, let's adjourn for 20 minutes.

20 ADV SIBEKO: I do.

(Commission adjourns.)

(Commission reopens.)

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

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

16 MAY 2014

PHASE 1

CHAIRPERSON: Thank you.

ADV SIBEKO: Just one final aspect regarding the audit report that you were giving evidence about earlier Mr Steyn, if you turn to page 352. You will find after the two paragraphs with (ii) and (iii) there is a paragraph that starts with: "All programmes included a cost factor ...". Later on, the next sentence there reads:

"However, in the case of the LIFT programme the Armaments Acquisition Council after the adoption and implementation of the value system requested that cost should not be a limiting factor".

Now did you attend an AAC meeting where this request was made?

LT GEN (RET) STEYN: No, I did not. The last time that I attended a meeting where the contenders in the LIFT programme were considered and discussed was the CoD meeting of ..., the CoD meeting of the 21st of August. The information contained in this subparagraph makes reference to the Armaments Acquisition Council, I find that may be a mistake and I contend it might be that the information given by the respondent to the Auditor-General's investigation could have made the same mistake by referring to an AAC meeting and not a CoD meeting, and then of course after adoption and implementation of the value system requested that cost should not be a limiting factor. Those words were not in formal

16 MAY 2014

PHASE 1

recordings or correct recordings of an AAC but the last reliable reference, I submit, ought to be the minutes of the CoD of 21 August.

ADV SIBEKO: So there was no request that then required
5 the LIFT team to perform two technical evaluations, one including, or one which took cost into account and the other which did not take cost into account?

LT GEN (RET) STEYN: Commissioners, it is difficult for me
10 to comment on this paragraph because it might have, it might have been a different timeframe and you know, often they quote value systems, cost factors and so on, so I don't think my response to your question on this paragraph would be useful to the Commission.

ADV SIBEKO: Now having gone through the Audit Report
15 and having noted its findings regarding the various deviations to the acquisition policy and so forth you make certain observations at paragraph 8 of your statement. You first deal with the deviations from prescribed practices, these are contained at paragraphs 8.1 to 8.7 of your statement and they
20 run from page 43 to page 44. We have extensively dealt with this during the course of your evidence, do you think that there is still a need to repeat any or to emphasise any specific ones?

LT GEN (RET) STEYN: Give me a moment and I'll identify if
25 there is any Sir. I think I propose that what could be useful for the record of the Commission is to pick the key words in each

16 MAY 2014

PHASE 1

paragraph if we are allowed to do that.

ADV SIBEKO: If you could just do that quickly. Just do that briefly.

LT GEN (RET) STEYN: Paragraph 3 states that:

5 *“The creation of concurrent and unauthorised acquisition processes (notably the SOFCOM0 which deviated from the legal norms interfered with the fulfilment of my legal functions ...”.*

Then in paragraph 8.4 I conclude that:

10 *“The strategic and economic benefits of Industrial Participation ...”.*

In my mind was continuously overemphasised, but that can be forgiven but it’s unsubstantiated at the time of pressing forward subjective decisions. I submit that the consideration of these proposals by the different governments were never subjected to proper scrutiny or due diligence for that matter from a financial term. Then in paragraph 8.5 I alluded to it before but I say here again the interchangeable use of the CoD which is a broad management forum and the AAC interchangeably had the tendency to confuse and didn’t leave an auditable paper trail of recommendations and subsequent decisions. It is of note here to see that from the 21st of August and even in the Auditor-General’s Report the AAC and the CoD is constantly used in a synonym consideration.

25 Now in paragraph 8.6 one must realise that even at

16 MAY 2014

PHASE 1

that stage and also now the scope and scale of this rapidly escalating programme not following a normative approach rang alarm bells as far as I'm concerned and I state that it was for me very, very difficult to apply myself as an accounting officer and building a budget to support them. And then finally in that subset of paragraphs the Minister continued to try and compress the timescales. According to me he dismissed sound financial arguments, he ignored prescript acquisition processes, those which he in fact created himself and as far as I'm concerned unduly speeding up the SDPP process.

As stated by the Auditor-General many of the programmes didn't follow each step, some didn't have staff targets, some didn't have staff requirements and so on. The acquisition then followed, the process, well, lacked transparency. After they had made a decision on the 21st of August they continued without the office of the Secretary for Defence in support, almost as if I was a nuisance.

And I then contend if you drag a blanket over what you are doing and you shroud it in secrecy, especially as far as this ought to have been in the public domain, this sows the seed for possible fraud and corruption, it cannot be summarily dismissed. I can stop there.

ADV SIBEKO: And finally as from paragraph 8.8.1 to 8.8.4 you make remarks regarding financial risks that were

16 MAY 2014

PHASE 1

inherent in the process that was followed with the SDPP.
Could you briefly summarise that?

LT GEN (RET) STEYN: One should be mindful of the fact
that my comments is rooted in my responsibility, so finance or
5 financing or financing and the risks associated with that is
uppermost in my mind. In paragraph 8.8.1 I had to deal with
the counterargument of not being able to fund it, because it
was stated there would be tremendous economic benefits and
yet I was not convinced that the unsubstantiated assumptions
10 and bold claims made, made it possible to make an assessment
of the value.

As far as 8.8.2 is concerned I make reference to a
term called "Base Case" terminology. Now this you will also
find in the testimony of Mr Donaldson. Now the reason why it
15 is important to take note of this terminology is the fact that at
that time in in 1998 the medium term expenditure framework
system was in its child shoes, if I may call it that, there was
little experience in departments for making longer term
financial provision, long term budgets. Now this was an
20 excellent attempt at extending the timeline beyond the 12
months that lay ahead, but in order to assist those who were
planning in departments certain assumptions were made. Don't
consider inflation, don't consider economic growth actually, so
in many terms for instance zero really growth was assumed.

25 Now if you do not take zero real growth into

16 MAY 2014

PHASE 1

consideration then the Treasury would assist you and say you may now escalate your requirements in terms of the expected inflation and he would give you a figure for that. Now it's also of note that when we started the first work, the first year of the MTEF, the government had already decided and made implementation of the reconstruction and development plan mandatory.

And in long lengthy planning and preparation meetings we had with Treasury it was impressed upon us that the contents of the reconstruction and development plan informed the way that monies would be appropriated to the different departments and hence I say that if you suddenly have a significant increase in defence spending as suggested by the scope of this programme this would in my mind have caused great alarm amongst officials and the Minister of Finance, in fact when I visited Ms Ramos during the course, earlier in the course of that year she did confirm my concerns in this regard.

Now in paragraph 8.8.3, there are many financials risks, but the financial risk on the large capital expenditure programmes as the SDPP would have to include the risk of unfavourable changing foreign exchange rates. It's very similar to a young official who ..

CHAIRPERSON: Advocate Sibeko, with the greatest of respect, we have heard enough about this evidence, somebody else from the Department has dealt with all these issues.

16 MAY 2014

PHASE 1

Maybe let's get to the next point, I wouldn't want to, we don't want to hear the witness on this point on financial issues.

ADV SIBEKO: Mr Steyn that just about concludes your statement having dealt with the Auditor-General's Report. Is there anything else you would like to add regarding the statement that you have prepared and the evidence that you have given?

LT GEN (RET) STEYN: No Sir.

ADV SIBEKO: That will be all Chair.

10 CHAIRPERSON: Thank you. Any cross-examination?

ADV CANE: Thank you Chair.

CHAIRPERSON: I'm sorry, let me find out from Lawyers for Human Rights whether they are also going to cross-examine.

15 ADV SNYMAN: Thank you Chairperson, we would like to make an application to cross-examine.

CHAIRPERSON: And how long do you think your cross-examination is going to be just roughly.

ADV SNYMAN: I would estimate it at about half an hour at tops.

20 CHAIRPERSON: Advocate Cane.

ADV CANE: Thank you Commissioner. The cross-examination from the Department's side is [indistinct]. You will remember the important documents that this witness has introduced into the Commission [indistinct].

25 CHAIRPERSON: You say [indistinct], do I understand you to

16 MAY 2014

PHASE 1

be saying that your cross-examination might take hours?

ADV CANE: You are understanding me correctly Judge.
I anticipate at this stage at least two hours.

CHAIRPERSON: Unfortunately we'll have to adjourn the
5 cross-examination, we have time constraints and that is why at
this stage I was trying to find out how long you are going to be,
but then if we are going to go for several hours we'll have to
adjourn for cross-examination.

ADV CANE: [Indistinct] had in fact understood that
10 yesterday we would have to [indistinct] cross-examination
would probably take place on the 6th of June.

NOTE: Caucus.

CHAIRPERSON: General Steyn, unfortunately we'll have to
adjourn. The date that we are, that we have is the 4th of June.
15 Will that suit everybody? Okay maybe let's ..., we'll adjourn
until the 4th of June. Unfortunately General we thought we
might be in a position to finish your evidence today but then
that seems to be impossible.

ADV SIBEKO: Chair, we would like to place on record
20 that if there are any documents that will be used in cross-
examination other than the documents that have been produced
by the witness be discovered prior to the time of the intended
cross-examination.

CHAIRPERSON: I suppose that will apply to both DoD and
25 Lawyers for Human Rights [indistinct] to cross-examine so that

16 MAY 2014

PHASE 1

we can prepare in the meantime. But then if there are documents that are going to be used that the witness doesn't have we need to make sure that we timeously make them available to the witness so that the witness can also prepare.

5 ADV CANE: Thank you Chair, and we will do that.

CHAIRPERSON: Thank you.

ADV SNYMAN: Mr Chairperson.

COMMISSIONER MUSI: We'll now adjourn. We will proceed with the cross-examination of the general ...

10 CHAIRPERSON: I'm sorry, we'll proceed with the cross-examination of the general on the 4th of June.

ADV SIBEKO: As it pleases the Chair.

CHAIRPERSON: Thank you, you are excused. Now we [indistinct] which is our next witness, on which day, and
15 [indistinct].

MS RAMAGAGA: Thank you Chair. I'm led to understand that the next witness is John Kamerman who will start giving evidence on the 26th of May, and if my understanding is correct he will be led by [indistinct].

20 CHAIRPERSON: 26th of May?

MS RAMAGAGA: 26th of May Chair.

CHAIRPERSON: So, we will adjourn until the 26th of May and we'll start at 10h00 in the morning. Can we request you to make sure that the summary of the evidence of Mr Kamerman is
25 also on our website timeously?

16 MAY 2014

PHASE 1

MS RAMAGAGA: I will do so Chair.

CHAIRPERSON: Thank you, we'll now adjourn.

(COMMISSION ADJOURNS)