

ARMS PROCUREMENT COMMISSION

Transparency, Accountability and the Rule of Law

PUBLIC HEARINGS

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HEARING ON 24 JULY 2014

CHAIRPERSON: Good morning everybody. Advocate Lebala?

ADV LEBALA: Esteemed Commissioners, Ms Patricia de Lille is standing before the Commission.

5 CHAIRPERSON: Good morning Ms de Lille.

MS DE LILLE: Good morning.

CHAIRPERSON: Do you mind taking an oath? Can you take an oath?

PATRICIA DE LILLE: (d.s.s.)

CHAIRPERSON: Thank you. Yes, Advocate Lebala?

10 ADV LEBALA: Esteemed Commissioners, let us just deal with the approach that we would like to implement in the testimony of Ms de Lille. You will see in the composition of the document before you, that there is a three page statement accompanied by a three page Annexure "A", that would be the "De Lille Statement" bundle. It is a three page statement
15 accompanied by a three page Annexure "A". We will call it the "Ms de Lille Statement bundle".

You will also see that accompanying the documents that you have, there are written submissions to the Arms Procurement Commission, constituting four pages. That will be another bundle. This forms an integral
20 part of a document that we will be calling or naming "De Lille's dossier".

The second documentation is written submissions to the Arms Procurement Commission constituting four pages. You will also note that there is a document within a bundle of documents, headed the "De Lille Dossier". It starts on page 5. It ends up on page 301. It is called the "De
25 Lille Dossier".

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You will also note that there are two transcripts. The first transcript will be the transcript of the testimony of former President Mbeki. It constitutes a bundle on its own, the transcript of former President Mbeki.

Then there is another fifth bundle on its own. It is a bundle called
5 “Admiral Cameron’s transcript bundle”.

Now before you esteemed Commissioners, one would say that there are five separate documentation constituting the bundles of documents that Ms de Lille’s testimony will be traversing. That will be our approach.

I would like to get an indication from you esteemed Commissioners,
10 before you traverse the journey as to whether you are with us in as far as the bundles are concerned. [indistinct] for the sake of expediency and hygiene issues, esteemed Commissioners.

CHAIRPERSON: Advocate Lebala, I think that the [indistinct] documents are with us here. [indistinct] they do not have and I think let us proceed. We
15 can get the document later and that will be [indistinct] statement.

ADV DE WAAL: Chair, before we start, I am not sure that we have the bundles. We have of course the documents referred to, but not in that order either, so that may make it a little bit more difficult for us to deal with. But any way, we agree to proceed.

20 CHAIRPERSON: I am sorry. I did not quite hear you. Can you just repeat [indistinct]

ADV DE WAAL: Perhaps I should also introduce myself Chairman. My name is Advocate Johan de Waal. I am representing Ms de Lille. We do not have the documents referred to by the evidence leader in exactly that order
25 either, but of course Ms de Lille has a copy of her statement, the annexure

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thereto and the dossier and we have just been given the transcripts of the evidence of former President Mbeki .

CHAIRPERSON: Ja, I understand that. I suggested that maybe let us start with what we have and then later on when we break for lunch, or something
5 like that, then [indistinct] a further document [indistinct]. You can check [indistinct] in [indistinct] documents that you think [indistinct] during the lunch break.

ADV DE WAAL: Thank you, Mr Chairman.

CHAIRPERSON: Thank you. Advocate Lebala?

10 EXAMINATION BY ADVOCATE LEBALA: Ms de Lille, I am going to start with your statement. I would like you to focus on your statement, the statement constituting three pages, accompanied by an annexure constituting three pages. Please draw my attention when you are ready and you acknowledge that your finger is on the pulse of the statement,
15 Ms de Lille.

MS DE LILLE: Chairperson, before we get to that, in getting to the statement, I have got a declaration to make. If I may proceed?

ADV LEBALA: You may, Ms de Lille.

MS DE LILLE: I want to declare that I do know the Honourable Judge
20 Mr Seriti from long time ago, but I must just put it on record that I do know the Honourable Judge. Then the second point that I might just before we get into the document, seek clarity with your permission, Chairperson, is just that I have been reading the terms of reference, the regulations, the proclamation and all of that and I just wanted to hear maybe your understanding or
25 interpretation Honourable Judge. Now in the regulations it makes reference

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to the commission of enquiry into allegations of fraud and corruption. Then also in the terms of reference it also makes reference into the commission of enquiry. Then in the summons that I received Honourable Judge, it made reference to the scope of the investigation and also in the Commissions Act
5 of 1947, that was written long before I was born, it also makes reference to investigation. But I want to understand Honourable Judge, is there a difference between 'investigation' and 'enquiry into', or is the same? Do we have the same understanding? I seem to think that there might be a slight difference. I am not sure. If you could assist me with that before I proceed
10 into my affidavit.

CHAIRPERSON: Ms de Lille, you do have a representative, Advocate de Waal I see is sitting next to you.

MS DE LILLE: Ja.

CHAIRPERSON: If at all you need any legal opinion, I am sure the learned
15 counsel next to you will be in a position to assist, and secondly I also want to confirm that I have known Ms de Lille for years, [indistinct] for a very long time. But unfortunately Ms de Lille, [indistinct] the competent counsel next to you [indistinct] and raise that with your counsel.

MS DE LILLE: But I just want to put it on record Honourable Judge that to
20 me when reading these documents... and I did raise it with my legal counsel, that the word 'enquiry into' and 'investigation into' seemed to be used interchangeable in the documentation. I will accept your response. Thank you.

ADV LEBALA: I am grateful for your direction esteemed Commissioners.

25 CHAIRPERSON: You can proceed Advocate Lebala.

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ADV LEBALA: Ms de Lille, let us recapitulate and go back to the statement that I referred you to. I would like you go to directly to page 3 of your statement. Page 3. [indistinct] Annexure "A" I see a signature. Do you recognise it?

5 MS DE LILLE: Yes, I do Advocate.

ADV LEBALA: Let us go to the first page now. The document is headed "Affidavit" and you just confirmed that you signed that affidavit. Now I want to take the liberty to start taking you through your testimony. Please be advised of the following, Ms de Lille: the Commission does not want to hear from us.

10 They would like to hear from you most of the time. You will be doing the testimony.

Now shall we proceed?

"I, the undersigned, Patricia de Lille, do hereby make (technical problem with microphone)

15 Now one knows that your CV has not been [indistinct]. Now your background and your history is not that relevant. Normally when you [indistinct] some witnesses [indistinct] as far as that may be [indistinct] am I right?

MS DE LILLE: You are 100% correct.

ADV LEBALA: We will not delve into your CV. It will come out as we take
20 you through your testimony. Paragraph 3:

*"On the 9th of September 2009, I, then a Member of Parliament, representing the Pan Africanist Congress of Azania, called for a judicial commission of enquiry to probe the arms acquisition programme and the offsets, to determine whether certain officials and public representatives were
25 not guilty of criminal conduct in their dealings with the arms procurement*

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process.”

CHAIRPERSON: [indistinct] to test the equipment to see whether it is in order. Thank you. You can proceed.

ADV LEBALA: Thank you, Chair. I hope the record has captured the last
5 portion. But just to go back. In your current position as the Executive Mayor, you will see that we will be disintegrating, if need be, going to your CV, looking at the content where you are testifying the Commission, the context in which you qualify yourself. Now as an Executive Mayor of Cape Town, it is common cause that it did not go with a ticket of the Pan Africanist Congress,
10 am I right?

MS DE LILLE: What ticket?

ADV LEBALA: I tried to simplify it. I have got to measure my speech also. I have read the paragraph that informs us that in 2009 you were a Member of Parliament representing the Pan Africanist Congress and I have drawn your
15 attention that we do not have your curriculum vitae before the Commission and we are not going to delve into it, because it is not that relevant, except in the content and context in which you are testifying before the Commission and I would like to do that. Now I will simplify it: you are the Executive Mayor of the City of Cape Town as a member of a different party, not the Pan
20 Africanist Congress, am I right?

MS DE LILLE: That is correct.

ADV LEBALA: I beg your pardon about the language. Please feel free to draw my attention if you think I am using awkward language. Now what becomes clear is that the date of the 9th of September 2009 is very critical
25 because by then you were a member of the Pan Africanist Congress, not a

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member of the party that qualifies you to be the Mayor of Cape Town, am I right?

MS DE LILLE: I just have to draw your attention... it is not the 9th of September 2009, but the 9th of September 1999.

5 ADV LEBALA: Thank you for noting this important date. May the record reflect that we will be referring to the date of the 9th of September 1999.

MS DE LILLE: 1999.

ADV LEBALA: 1999. Needless to mention that this statement was not drawn by our team. But of significance is that we know that you are the
10 Executive Mayor of the City of Cape Town under the auspices of a different party, and by then in 1999 you were a member of the Pan Africanist Congress. Now let us pause there. As at that stage, just inform the Commission what was critical about that date in relation to the issues that brings you before the Commission?

15 MS DE LILLE: I would like to approach it in this way: I think it is irrelevant whether I was PAC then and what I am now, but rather approach it from my personal journey with this matter. From the 9th of September 1999 my life has changed in many ways because of what I did on that day. Because I love my country and because I care about the future of this country, and
20 because I wanted to assist our Government to root out some of the bad apples within Government, I did what I did... a huge risk.

What followed after that day of the 9th of September 1999, was two words of what I can call Honourable Judge, 'hell'. I was [indistinct], I was called names, I was called a 'useless idiot', or 'useful idiot'. I was followed.
25 You know I had a list of cars' numbers next to me on my seat when I was

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driving, to look in my rear window to know it is one of them and [but was so open sun glasses on, trying to intimidate me. I was never really intimidated by them. But then I was also subpoenaed...I was also called through the then Minister of Justice, Penuell Maduna, that instructed Advocate Frank Kahn, who was then the head of the NPA in the Western Cape, to sit with me for half a day to go through a document... this so called "De Lille Dossier".

Now remember that this document was given to me as a briefing document. I received the document. I did not compile the document. But I did sit with Judge... I mean Advocate Frank Kahn and another senior counsel from Bloemfontein, which I cannot remember the name, and we worked through the document, because the request from Minister Penuel Malduna was that please see if there is any *prima facie* evidence in this document and I spent half a day with them, and finally they did a report which they then submitted to the then Minister of Justice and to President Mbeki, confirming in fact that there was *prima facie* evidence in that document, and it is worth the while to investigate this document.

That Friday night President Thabo Mbeki went on national television and he said that he has been advised there is no *prima facie* evidence in that "De Lille Dossier" and like he has done a week ago before this very Commission, still asked for evidence. That same night I received a call from Advocate Frank to say to me that he is not what he had advised President Thabo Mbeki. That he in fact did confirm that there was *prima facie* evidence in the document and that he was going to give the office of the President and the Minister one week in which to come out with the real report, which confirmed that there was *prima facie* evidence, failure of which

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he will then get the newspapers to publish his full report and Honourable Judge, that is exactly what happened. Seven days later no retraction and then the full report appeared in the Business Day, where in fact it was confirmed that there was *prima facie* evidence. That is just but one example.

5 Now I have tried many routes Honourable Judge to get the allegations contained in this "De Lille Dossier" investigated. I have never accused anybody of being corrupt. I have always just asked that these allegations be investigated and I have continued to do that for 14 years, because two of the allegations contained in the "De Lille Dossier" led to two successful
10 prosecutions. Tony Yengeni and Schabir Shaik and therefore I then believe that you know there is substance and let us investigate all the allegations.

What the Government then did was to put together the joint investigating task team, consisting of the Auditor-General, the Public Protector, the Head of the NPA. I even at one stage Honourable Judge, tried
15 to go for a private prosecution, just to try and get this ... these allegations investigated.

We all know that it is claimed that there are two versions of the JITT Report, but the one that came before Parliament that I saw, Honourable Judge, was... in summary the theme that came out of there, was that there
20 was no corruption or wrong doing in the primary contracts, but rather in the secondary contracts. Then thereafter I also at my own expense, I travelled to Germany and I travelled to the United Kingdom, where in Germany I met with the equivalent of our NPA head and in the UK I met with the Serious Fraud Office, because I did believe at that time that there is merit to some of these
25 allegations and they should be investigated.

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When I came back from Germany I came back with a number of a court case that took place in Munich, where a certain company paid an admission of guilt fine and if I can go into that right now, I will ... is there a problem with the recording? Sorry.

5 ADV LEBALA: Ms de Lille, if I lose control of leading you, I am in trouble. All these testimonies are so critical, but there is a way in which at as I am standing here, I would like you to bring them before the Commission, that is why I am standing here. And I wish you could know that in order to simplify that journey, we have given a road map but please travel it with us. That is
10 why we are standing here.

MS DE LILLE: Okay.

ADV LEBALA: I will be drawing my attention to you. Each time I pause, it means I am recognising that you are saying something very critical and I would like us to put it in a proper sequence. So you will see that the Judges
15 are also making notes. I want to slow you down.

MS DE LILLE: So if you nod your head [intervenes]

ADV LEBALA: Yes. Hence I draw my attention to you. I am not saying there is anything wrong with what you are saying. Actually we would like to hear it.

20 MS DE LILLE: Ja.

ADV LEBALA: But I just want us to go back. What has become clear is that you were initially a member of the PAC, you joined the DA and you became the Mayor of Cape Town. We are going to back way [indistinct]. Actually I am not even going to repeat it. There is a better way in which we
25 deal with it. I just want us to look at paragraph 3 of your statement. Not

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subtracting anything of what you have said up to so far and I am happy that it is standing before the Commission.

Now on the 9th of September 1999, I would like you to tell the court, I beg your pardon, the Commission, as you were a Member of Parliament,
5 who approach you and what was the subject of that approach, if any personal approach, or any entity or any party approach, on the 9th of September 1999.

MS DE LILLE: I have said in my statement and if you can see the document, says it is a “Briefing Document to Honourable Member of
10 Parliament, Patricia de Lille” and it came from concerned ANC members of Parliament.

ADV LEBALA: Ms de Lille

MS DE LILLE: Sorry.

ADV LEBALA: Ms de Lille, I am trying to draw the Commission’s attention
15 to a document from page 6 to page 15 of your dossier. We will take you through that. You have just informed the Commission that on the 9th of September, in paragraph 3, then a Member of Parliament, you called for a judicial commission of enquiry to probe the arms acquisition programme. Now that has become common cause. Now what made you to do that? I
20 would like you to tell the Commission briefly and when dealing with it, I will put a question to you, respond and there will be instances where we will just like you to explain. I am going to that [indistinct] part of the explanation, but at this stage I just want us to set the scene. Let us look at each other if you can so that we should set the scene.

25 Now we know that you referred us to the document headed “Briefing to

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Honourable Patricia de Lille”, on page 6. I would like the Commissioners to go to page 6 of your dossier. Commissioners, you will see that it is a document which goes away from her statement, it is headed... indexed and paginated page 6, headed “Briefing to Honourable Patricia de Lille, Member of Parliament”. The witness is referring to that document.

Now please explain that document in relation to the date of the 9th of September 1999 briefly if you can, and then we will be taking you through that document.

MS DE LILLE: Okay. Thank you, Advocate, and I will look at you. I do not have to address the Honourable Judge. I am going to be Thrown out here today. Yes, I received a phone call from the Members of Parliament about this and it took me two days to make a decision as to whether, first, I wanted to see them, but secondly whether I wanted to be the whistle blower on this and the reason for that, Advocate, was that I asked myself, why me? Why... am I not being set up? Am I not being abused in any way to take this matter forward? But then after two days, I was convinced that it is the right thing to do and then agreed to meet and to receive the document.

I then read the document a couple of times through and then decided, as a Member of Parliament, it is my duty to bring this to the attention of Parliament, which I did on the 9th of September 1999, where I called ... I said to the Speaker that I wished to get noticed at the next sitting of the House, I shall move that the House is of the opinion that the entire 30 billion armaments acquisition should be subject to public debate insofar as it concerns the allocation of the different tender packages to the different foreign arms suppliers and especially after the entire package has, for

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unexplained reasons, been reduced by R6 billion and the absence of logical explanation for the arms acquisition, a total lack of transparency about the offset deals in the arms industry and the notorious reputation, makes South Africa's weapon purchasing programme, a matter of grave public concern and I therefore called for the establishment of a formal judicial commission of enquiry into the arms acquisition and offset process, to determine whether certain officials and public representatives are guilty of criminal conduct, in their dealings with regard to the arms procurement process.

ADV LEBALA: Thank you, Ms de Lille. Now we note the following [intervenes]

MS DE LILLE: Yes?

ADV LEBALA: Now we note the following and we will take you, if necessary, to those papers.

CHAIRPERSON: Sorry Advocate Lebala, the document that Ms de Lille was reading, is it contained here? Can you just refer us to the bundle and the page?

ADV LEBALA: Chair, it is page 6 of the dossier. You will see that... if you look at the index, it will be Ms de Lille's bundle, there is page 1 to 4 which is actually submissions and you will see from page 5, there is a document headed "De Lille Dossier, Arms Deal", that is what the document says. Now she is taking ... drawing the Commission to pages 6 to 15 and we will briefly deal with it, where necessary.

At this stage, Ms de Lille, let us see what you have said and I would like us to make a quick journey and run through your statement. You have just testified that you were approached some Members of Parliament and

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subsequent thereto, on the 9th of September 1999, you made an announcement in Parliament. But let us be specific. Are you able to tell the Commission, the composition of those Members of Parliament who approached you?

5 MS DE LILLE: No. As I have said in the past, I gave my word that I will not mention the names of the people that gave me the document and that is still the position.

ADV LEBALA: Now just us read on Ms de Lille. You state in the self same paragraph that on the 9th of September 1999 you called for a judicial
10 commission of enquiry to probe the arms acquisition programme and the offsets. Now would you like to tell the Commission why the issue of the offsets was mentioned specifically per with the probe for the arms acquisition programme?

MS DE LILLE: If you look at the way this arms procurement was sold to
15 South Africa and I think I have said it about more than 150 times already, I know it by head now, is that we were told as South Africans that as a country we were going to invest R30 billion. In return we will receive R110 billion of investment and it will create 65,000 jobs. That is how it was sold to South Africa and why I mentioned the nibs and the dibs, because on several
20 occasions, several Members of Parliament asked questions about what numbers have been delivered in terms of the nibs and dibs, and up till today and I have not checked recently, I think the ... we have not seen the proof of that 65,000 jobs. I have not seen the full proof of the 110 billion, but that is why I am raising the offsets, because in questions asked by various
25 Members of Parliament including myself, we have not received the right

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amount of 65,000 created.

ADV LEBALA: Okay, we will get there and we will demonstrate what the evidence before the Commission says. I would like us at this stage to part the issue of the offsets and go directly to paragraph 4. May I read it to you,
5 please?

“The basis for my [indistinct]...

We will go back to Ms de Lille’s statement, esteemed Commissioners :

“The basis for my call was a document annexures which were given to me by concerned members of the African National Congress.”

10 Is that what we referred you to on page 6 to page 15, am I right? I would like you to go to the document headed "De Lille Dossier Arms Deal". It starts on page 5 and it goes to page 15. Are you with me Ms de Lille?

MS DE LILLE: Yes, Advocate I am with you, except that it also must include all the annexures.

15 ADV LEBALA: Yes.

MS DE LILLE: Thank you.

ADV LEBALA: Thanks, Ms de Lille. We add that it also includes the annexures. We will get to that document. But let us read further.

“This document became known ...

20 We are on paragraph 4, Ms de Lille, line number 2 :

“This document became known as the De Lille Dossier. I must emphasise that the De Lille Dossier contains allegations which I believed that the Government should investigate.”

Now are you conceding here that these allegations are not something that
25 you had first information of... first hand information of?

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MS DE LILLE: Advocate, like I say in my sworn affidavit, that I have never claimed that the allegations proved the guilt of any person mentioned in the dossier.

ADV LEBALA: I think that says it all, Ms de Lille.

5 MS DE LILLE: Yes.

ADV LEBALA: Let us move on. Let us move on.

MS DE LILLE: Thank you.

ADV LEBALA: Thank you. Let us go to paragraph 5.

*“But I should point out that two persons mentioned in the dossier,
10 Messrs. Schabir Shaik and Tony Yengeni, were subsequently investigated,
charged and convicted of serious transgressions relating to their involvement
in the arms deal.”*

We will deal with these subjects fully when we look [indistinct], let us leave them out for the time being just to lay a foundation.

15 MS DE LILLE: Ja.

ADV LEBALA: *“A further person mentioned in the dossier, President Jacob Zuma was investigated and charges were drawn up setting out various serious allegations.”*

Now to be specific briefly, do you know which charges were they?

20 MS DE LILLE: No, there were just too many. I cannot recall, Advocate.

ADV LEBALA: Thank you. Thank you. Let us read on.

*“Although the charges were withdrawn because of undue interference
the many serious allegations against Mr Zuma, have now been refuted ...*

Commissioners, we are on the next page 2 of Ms de Lille’s statement :

25 *“Or even answered by him. This strengthened my belief that the*

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allegations in the dossier should be investigated.”

Let us pause here, Ms de Lille. Are there a number of persons that the allegations in your dossier, would be referring to? I just want us to lay a foundation. We know that there are allegations... you have been specific
5 that you do not claim that the allegations prove the guilt of any persons mentioned in the dossier. I note that you mentioned Mr Schabir Shaik, Mr Tony Yengeni and we will be referring to particular aspects of your dossier, when we deal with that and you currently mention the current President. Are there other persons that you mention in your documentation,
10 yes or no?

MS DE LILLE: Yes, Advocate. In the briefing document a number of other individuals are mentioned, and I think also organisations.

ADV LEBALA: Thank you. We will deal with that when we get there. We will deal with that when we get there. Page 2, Commissioners, paragraph 6:
15 *“Accordingly almost 14 years later on the 25th of July 2012, I submitted the De Lille Dossier to the Arms Procurement Commission and requested that the allegations therein, be investigated.”*

Now while I appreciate why you started with the concern that you raised to the Chairperson, I think it has become clear.

20 *“I added a caveat that the information was given to me in confidence and I will not reveal the source. I have insufficient personal knowledge regarding the allegations contained therein to assist the Commission by way of oral evidence. I accordingly merely ask for the contents of the dossier to be investigated.”*

25 Let us pause there. Because of the [indistinct] testimony that you give, that I

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think is very critical. I am forced to ask you this question: are you saying that any person, and I am saying it cautiously, any person could come before the Commission and say no, I have got allegations, [indistinct] the first party, I do not claim to prove the guilt of the persons therefore [indistinct], is that what
5 you are suggesting?

MS DE LILLE: I do not understand the question. Can you repeat it?

ADV LEBALA: No, I have read to you what you are saying in the caveat.

“The information was given to me in confidence and I am not going to reveal the source.”

10 MS DE LILLE: Ja.

ADV LEBALA: It is like a person saying I have got allegations, esteemed Commissioners, I will not reveal the source and I am telling you Commissioners that I do not claim that the allegations prove the guilt of any persons mentioned in the dossier. Now you must appreciate that I am
15 mentioning that you have mentioned three persons and there are other persons that you mention in your dossier. Now in line with that and in line with what the caveat says, I am eliciting your explanation that are you saying that any other persons could come and say, I have got allegations. I do not profess to have personal knowledge, please hear me. Am I making sense?
20 Do you understand what I am driving at?

MS DE LILLE: You are not really making sense, but I do not think it is relevant. Because I cannot interfere or say to other people you can also go to the Commission to say I have got some information and therefore I can also make the same claim. It is really not relevant. I mean I state what I
25 state under oath in my document. I do not care what other people do or say.

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ADV LEBALA: I concede that that might not be relevant, but it seems at least I have made a good response. Let us go on. Line number 2 of the caveat.

"I have insufficient personal knowledge regarding the allegations contained therein, to assist the Commission by way of oral evidence. I accordingly merely ask for the contents of the dossier [intervenes]

MS DE LILLE: Yes.

ADV LEBALA: *"To be investigated."* Is it a concession that there are limitations in as far as your allegations are concerned, or do you insist that no, no, I am making sense and I am not "any persons", it has to be investigated.

MS DE LILLE: That is why I asked the question right up front, and I think I also maybe need to answer. By me sitting here the whole day today, the Commission has started an hour late... two hours late, are you going to investigate those allegations contained in the "De Lille Dossier" or not? Are you going to investigate? Because if you are going to investigate it, my understanding of the process of the Commission then is that you have to do your investigation first, before you can conclude your work by making a... findings and recommendations to the President and that is why I wanted to know up front, what is going to happen to this? Because I have attempted at a personal level myself to investigate. But that is not how we do things in a country where you live, where we support the rule of law.

For instance I think we have asked why did you not give this to a Minister or to President Mbeki who is looking for this evidence or allegations to be investigated? You cannot give evidence like this or these allegations,

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to the people that are implicated. You cannot ask them to investigate themselves. That is why under desperation I have actually turned to follow the normal due course of the process of law and that is to go to the police station and to lay a charge, which I did and later on in my evidence, I do not
5 know if you want to hear it now, what happened subsequently to all of the charges that I have laid.

ADV LEBALA: We will deal with that [intervenues]

CHAIRPERSON: Just a moment. Just a moment. Okay, thank you. You can proceed. [indistinct] what I said earlier on. You do have a competent
10 legal advisor next to you. If you want to understand where we are going, what [indistinct] to do, I am sure that your legal representative should be in a position to assist you in that regard.

MS DE LILLE: Can I just say, Advocate, Honourable Judge, I am here to engage and I am sure we all want to get to an outcome whereby in this oral
15 forum today, I can ask [indistinct] from the evidence leader, from yourself, from the other Commissioners and to keep on saying that I must ask my learned friend, or my lawyer next to me, I have done that and I have told you Judge, I have not received a satisfactory answer.

CHAIRPERSON: No, but maybe let us proceed with the leading of your
20 evidence.

ADV LEBALA: Ms de Lille, I think I would like to close this issue by saying the following and I would not like [indistinct] about it. You can ask me outside this forum. The commission of enquiry shall enquire into, make findings, report on and make recommendations concerning these issues. I think we
25 can discuss it outside, but I would like us to shoot on.

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MS DE LILLE: Ja.

ADV LEBALA: You have explained what we see on page 2, paragraph 6.

Let us go on to paragraph 7.

MS DE LILLE: Yes.

5 ADV LEBALA: We will complement that when we start dealing with your dossier. Paragraph 7 of your statement :

“Furthermore I provided the Commission with a case number 572JS39830/01, relating to an investigation conducted in Germany which culminated in an admission of guilt and a subsequent payment of fine by the
10 *CEO of [indistinct] Aerospace in connection with the supply of [indistinct] luxury vehicles to the South African citizens.”*

Let us pause there. Ms de Lille, are you aware that the terms of reference of this Commission deals with offsets? I suppose you do know about that, am I right?

15 MS DE LILLE: Yes. Yes, Advocate.

ADV LEBALA: You also know that the other term of reference looks at whether persons inside or outside Government have been improperly [indistinct]

MS DE LILLE: Yes.

20 ADV LEBALA: The awarding of the Strategic Defence Procurement packages and what should be done to those persons, whether they should be prosecuted and money should be claimed.

MS DE LILLE: Yes, I do know that. In my summons... when you summoned me to come here, you said that the investigation pertains to the
25 allegations of fraud, corruption, impropriety or irregularities in the acquisition

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of ... and then it goes on.

ADV LEBALA: Thank you. Thank you. Short of saying when the Commission summoned you, yes, that is correct.

MS DE LILLE: Ja.

5 ADV LEBALA: But two issues have become clear now. You have mentioned in your introductory part of your statement, the issue of offsets. We know that it is a term on its own. We will still engage with you in your dossier and what the evidence says before the Commission and the issue of what one would call 'irregularities' and or corruption, in as far as certain
10 conduct is concerned. Now let us read on in paragraph 7, line number 1, 2, 3, 4, 5.

*"On 31st March 2007 I laid criminal charges in the Caledon Square Police Station in Cape Town against 29 South African, other than Mr Yengeni, who were the beneficiaries of discounted vehicles. I want the
15 Commission to investigate if these charges were pursued by the National Prosecuting Authority and if not, why this was not done."*

This is taken care by one of the terms of reference that we have just mentioned. We will go on. We will deal with it when we go to the dossier.

Let us proceed. Paragraph 8 :

20 MS DE LILLE: Sorry, Advocate. Should I not at this point in 7, give you some of the evidence related to that case number and what I attempted to do in a chronological order before I laid the charges?

ADV LEBALA: You will see ... thank you. Ms de Lille, thanks for your instincts, they are to the point. But you will see that once we go to the
25 dossier, it starts to make proper sense in my sequence, that we are not all

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over. What we are doing now is that we are laying a foundation. We have qualified the dossier. The Commission is starting to appreciate what are you saying about some of these outlined charges. We are dealing with what I would call the 'main brief'. When we go to the [indistinct] you will give us
5 those documents. We are going to do that.

MS DE LILLE: No, Honourable Judge, then I disagree.

ADV LEBALA: Ms de Lille, here it is my prerogative. I lead evidence and I am saying this with humility.

MS DE LILLE: I also say with humility that since this is a document under
10 oath and we are dealing with a specific court case number, the only thing that I want to do that while we speak about a court case number, is to say to the Commission here now I have got... which is not in my affidavit, a company documentation to show you why I have put it in my affidavit as point number 7. That is all that I wanted to do. Because later on we will not be dealing
15 with this specific case, because this specific case is not in the so called "De Lille Dossier" and that is why I want to deal with it now.

ADV LEBALA: Ms de Lille, you may certainly deal with it.

MS DE LILLE: Thank you, Advocate. I will be making available to the Commission marked "A". As I mentioned earlier on, I went to Germany in the
20 year of 2007. I got the case number from the head of the NPA and then I wrote a letter on the 15th of February 2007, attention Mr Herre Haas in Munich, asking him to humbly request that he supply me with the names of the 31 South African citizens who received the automobiles and then... he then responded. So that is number (a). Then will be the response from the
25 NPA in Munich where they loosely translate it, because it is in German,

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saying that they acknowledge receipt of my letter, and that they cannot accede to my request for information, but they are prepared to share the information with an organ of state. So if any organ of state in South Africa requests the information, they will make it available. So that is in (b).

5 Then on the 5th of March, marked "C", Honourable Judge, I then had wrote to Advocate Vusi Pikoli, in that request to him with the case number, asking him to get the information from Munich. Then what is number (d), I then received a response from Advocate Pikoli, basically where he is saying that he has noted the contents of my letter and the issues raised and :

10 *"I have to advise that in order for this institution (that is now the NPA) to make a formal request for mutual legal assistance, thereby invoking the provisions of international treaties and legislation, we have to satisfy the requested country of the involvement of this institution and for the purpose for which the information is required, in terms of a case where we are dealing*
15 *with it, be it an investigation or prosecution."*

The long and the short of it, he said no. But that ... that is at that stage when I then decided... he is saying that he will look into it if there is a case number. So I then proceeded to lay charges at the Caledon Police Station on the 20th of March 2007 and heard nothing since then.

20 On the 18th of February 2010, I had a meeting with the then Minister of Police, Nathi Mthethwa, complaining to him that I had heard nothing, it is three years later. I wrote a letter on the 2nd of March to the Secretary of Police. That was the 2nd of March 2010, no response. I wrote a letter again on the 11th of July 2014. No response. Finally Honourable Judge and
25 Advocate, I can also attach here an affidavit from Brigadier Governor of the

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Cape Town Central Police Station, that the documents have gone missing, they have disappeared in thin air. Because that is the reason why I laid a charge, because the Advocate says in his letter that you know, if there is a charge I can possibly investigate.

5 So I will make this available as ... for the record to Advocate and then it can become part of my submission to the Commission. Thank you, Judge.

ADV LEBALA: Ms de Lille, I assure you that I have a duty to make it a point that there is something called primacy and recency. I want you to say something at the right time that will stick to the Commissioners' mind. I do
10 not want us to go all over. This is very critical. That part of your testimony it is importance is still going to be demonstrated at the right time. Please hold it. We are going to get back to it, if need be. I would like to remind you of primacy and recency.

MS DE LILLE: Ja.

15 ADV LEBALA: When it is done at the right time, it sticks on them. They hear so many testimony and sometimes they get tired. They are human. I just want them to hit hard at the right time. Pack it. We will get back to it. Let us proceed, paragraph 8 :

20 *“On or about 7 April 2009 I also laid charges against Messrs Bulelani Ngcuka and [indistinct] at the Caledon Square Police Station. Because of the alleged undue influence on the timing of the prosecution of Mr Zuma and which influence led to the decision of the then National Director of Public Prosecution, Mr Mokededi, who appeared to withdraw the charges against Mr Zuma.”*

25 Now the unchanging vernacular of the subject of your testimony, goes to

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sometimes of reference of the Commission, whether people within or outside Government have played some influence. This aspect is very important, we will get back to it. It is being echoed also in the dossier. Let us proceed.

5 *“Yet again I want the Commission to investigate if these charges were pursued by the NPA and if not, why this was not done?”*

I want to assure you of something. Our team looked at the terms of reference and noted something. One of the terms within the terms of reference says the following and I think this will excite you: these terms of reference may be added to, varied or amended from time to time. We will get
10 back to it [indistinct]. Let us proceed. Paragraph 9. We will get back to these things, if need be. Some are very critical of course.

“I have described in summary from the topics covered by the “De Lille Dossier” another matter which I want the Arms Commission to investigate. The list is annexed hereto marked “A”.”

15 Now Annexure “A” you have drawn the Commission’s attention to, that it constitutes three pages. Now let us deal with Annexure “A”, because Annexure “A” takes us to where we kept on saying we will go there dealing with the dossier. Please go to page 1 of Annexure “A”. Esteemed Commissioners, we are at page 1 of Annexure “A”. I would like to be
20 directed by you esteemed Commissioners, as to whether are we going to break and have tea, bearing in mind that we have stolen into our time. I leave that in your hands.

CHAIRPERSON: I think Ms de Lille has already complained that we started two hours late. So I want to make up those two hours by not breaking for
25 tea. We will go on until lunch.

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ADV LEBALA: We are in Annexure "A", you will see the document to your right it is Annexure "A" and at the top it is "De Lille Dossier". [indistinct] I need the Commissioners to give me a nodding as to whether they are [indistinct] from the same page? Annexure "A". Thank you. I think the
5 Commissioners have nodded.

"I have requested the Commission to investigate the following allegations which are contained in the dossier. The price of equipment."

Now let us pause here, Ms de Lille. The Commission has heard evidence which is stubborn standing before it, and I am going to deal with the things
10 without wasting time. You will see that where there is a need for us to confront this testimony by referring to the record, we will. The Commission has heard the following: naval officers came, project officers of the navy came and the air force, and their evidence is simple, they conceded the technical value, the military value, the costs value, that costs had been an
15 issue time and again, and the evidence that is standing before the Commission, addresses the Gripens, the British Hawks, how much was paid. Now the issue that the testimony underpins is simple: costs were always considered. Whether it was high costs, or low costs. But the evidence is that costs were not the only issue. I see you are writing. I will speak slowly.

20 MS DE LILLE: No, it is fine.

ADV LEBALA: Slowly, slowly if need be. And of significance and those... what amazes me and I am taking you into my confidence, part of this testimony has not been challenged raised eyebrows. Critically the testimony also says... what was compelling also was to position South Africa. It was
25 just not only the question of prices. The price could have been cheap for

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instance we could have bought Submarine for a lesser price. We could have bought the Aermacchi instead of the Gripen or the Hawk. That testimony is standing before the Commission.

I am asking you, what are you saying against that?

5 MS DE LILLE: I am certainly happy that they are not elected officials in this country, because if they would understand the history of South Africa where we come from, we emerged from the very same past, where expectations are very high, where the needs are great for health, education and all of those social issues.

10 The critical thing here, we cannot just buy because we think it is a better product. What about affordability? And that is where the political leadership need to come in and say, that because of the total demands of what the expectations are of the people of this country, we cannot afford to buy that right now. Because if you need equipment, the way I see it is that ...
15 and in some of the documents, is that if we need a Volkswagen, but we went out and go buy a Cadillac.

So as political leaders we have to consider affordability. Even in the Bill of Rights it makes provision, it refers to affordability, even though one day I would like to challenge that, but in Government you must consider
20 affordability.

So whether the technical guy says it is the best product and so on, that is not the issue for me. They are not elected. They are not accountable to the people of South Africa, but political leaders are. Thank you Advocate.

ADV LEBALA: But that is where we still [indistinct] issue with you about the
25 stubborn evidence which is standing before this Commission.

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General Shoke, the Chief of the SANDF came here and said the following :

“We actually need more irrespective of the costs.”

He says what we have is inadequate. The naval officers came here and said the price, we considered costs. For instance throughout these negotiations
5 that led to the purchase of this equipment and if need be, I will take you to those relevant portions of the testimony. They said affordability and costs, we have been considering them through thick and thin. Then ironically evidence starts to run throughout this Commission saying South Africa had to have a visionary approach, irrespective of the costs, affordability was always
10 considered. We ought to have had a visionary approach.

Now what does that mean? Un-elected officers came here and said, in as far as we are concerned, we negotiated better. Elected officers were not the negotiators. Un-elected officers say, costs and affordability, we considered it. They are not elected officers. It is stubborn before the
15 Commission. It was not contested. My question is, is that the only way you can deal with it with your response?

MS DE LILLE: Advocate, I mentioned the word ‘accountability’. Now I know as the Mayor of the City of Cape Town, the Municipal Finance Management Act there, is a section... I think Section 79 or 78, that speaks
20 about accountability and I am sure the Public Finance Management Act is also there, but did those officers, those officials when they wanted these nice toys, did they tell us that they are certain threats to our country? Did they tell us which threats they are? Did we have a threat of being invaded by some alien foreign force? Any threat of being invaded from SADEC?

25 They never justified, because before 1994 we had a South African

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Defence Force that has... that was the biggest in the continent, but we all know that that defence force was abused for political reasons against the citizens of the country itself. We remember the wars in the townships when it was troops in, troops out. You could not keep record any more when the

5 troops went in and when they went out. And there was a need after 1994 to transform this SANDF into a more peaceful force and that is what is in the White Paper too, we are not going along to have this defence force that invades Angola, that shoots people in Botswana, and all over doing the race of struggle. The struggle was now over. We had to transform it, and so I

10 have never seen the justification which says because we ... there is this threat, we must now have these equipment and we must buy this expensive equipment.

That is why when it comes to accountability, it rests with the political leadership and they need to tell the officials that this is not affordable, but

15 certainly there are no threats against our country either. Thank you.

ADV LEBALA: Let us go on Ms de Lille. I think there are people better qualified to deal with this subject, if they have to cross examine you. Let us look at Annexure "A", paragraph 1(b) :

"Allegations of corruption."

20 Now we are going to look at pages 10 to 15 of your dossier. Esteemed Commissioners, Annexure "A" 1(b), the paragraph headed "Allegations of Corruption". We have laid the foundation that you could look at corruption as a term of reference on its own in the Commission. Let us go to pages 10 to 15. We will just deal with those relevant aspects.

25 Remember at the outset I said to you that we will get to this

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document? Page 10, Commissioners of "De Lille's Dossier". Page 10 is headed "Let us examine [indistinct] Are you on the self same page, esteemed Commissioners?

MS DE LILLE: Yes, Advocate.

5 ADV LEBALA: You see Ms de Lille, I think the Commissioners will go for my throat if I had to take a chance and try to reopen this testimony. This testimony is common cause. It has been [indistinct]. What has become clear is that the Admirals came and said the following: historically we considered our needs, what the navy needs, the Spanish b has been looked at in the
10 context of history. Some of the naval officers and the project officers say in our point scoring [indistinct] some say Germany was number 1 and that evidence is standing before the Commission. Do you want to comment thereon? It was not contested. Now if we say there was corruption [indistinct] is concerned, the evidence before the Commission proves the
15 contrary and I can take you to specifics. It says the following: some of the naval officers says: oh, if you say Spain was done in, we give Spain number 1, but over all they would not succeed because there were other factors. It was just not only on the question of costs. It was the technical value. They talked of other things that had been considered. I am not going to [indistinct]
20 with that testimony. I started understanding Ms de Lille, that when you look at a submarine or a [indistinct] you do not look at the price only. You look at the spare parts, you look at whether it is amenable to being repaired. You look at its lifespan, how often does it go to service, accessibility, all those things get to be considered. A submarine, they say look at its strength, its
25 capability, escape routes, all those combinations are [indistinct] and they

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started bringing this testimony. I have got to be careful not to testify. I am trying to summarise the evidence before you. All that it means is that that testimony has not been contested.

MS DE LILLE: Advocate, I will repeat you know when Governments
5 procure arms, it is the only time that they go out shopping. Now what I said earlier on is when they go out shopping, you must consider the affordability factor. I will not get into the technical... of the value of the arms that we procured, whether the range is ... I am not competent to deal with that and this illustrates exactly why these allegations must be investigated.

10 You cannot have one version only of these officials. You need to interrogate in fact and investigate whether what they are saying, it is true. It does not mean because nobody has contested what they were saying here before the Commission, that that is the gospel truth. We have to investigate and see whether it is the gospel truth.

15 ADV LEBALA: Now let us be specific about what this paragraph of [indistinct] suggests and it goes back to also the evidence before the Commission. Offsets, jobs, investments. The DTI officers came to testify before the Commission and if I am not mistaken you read the testimony of the former DG, Mr Jordaan, the DG himself, the current DG Lionel October
20 and the officers, they say the offsets irrespective of the estimates, they say the promise that we will have 65,000 jobs, R110 billion in return, were estimates. They say 8,000 jobs were created, but still it exceeded their expectations. They say in closing, that all these were estimates. They had to be realistic and that is standing before the Commission. They say being
25 realistic, it exceeded their expectations. That is Ms de Lille, I assure you,

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that is not me. That is what is standing before the Commission.

MS DE LILLE: My response is they are simply incompetent, inefficient, because you cannot run the country on projections. Again it comes to affordability. You cannot thumb suck something because you want to sell
5 this deal to the country as creating 65,000 jobs. But do they not know there is something called an actuary, that can actually bring you closer to a projected figure? They must have taken some of the leaders for a ride by ... and I am sure our leaders did not question these figures, because they believed that they were given the right information. But it is not wrong
10 projections only. I think they lied. I think they lied to the leaders to say that we are going to make this 65,000 jobs. Because that is exactly what ... why we need this investigation, because of that 65,000 jobs.

We are living in a country where unemployment is very high. Where especially amongst our young people 60% of them are unemployed and then
15 they come with these disguises of creating 65,000 jobs, you are creating expectations from the people who are unemployed and that is why I say, it is not only misleading, I think that they actually lied. Thank you.

CHAIRPERSON: Ms de Lille, just for my own understanding, we were talking about two things. The question of offsets and then the question of
20 jobs. Now when you say that they were lying, do you mean that all those who spoke about jobs and all those who spoke about Investments before this Commission, they were all lying? It is just that I need to understand when you say, they were lying, to which group are you referring to?

MS DE LILLE: Ja. Through you Advocate, what I am saying Honourable
25 Judge is that, because I know how this works in Government, the officials do

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the number crunching and because they... like I hear Advocate saying that is this desperate need for this information, they then projected this large number. So by the time they get to the political leadership to the Committee chaired by President Thabo Mbeki, saying 65,000 jobs, even myself as a political leader would have said, oh this is a good, good investment. I do not then say to them prove to me first. So I am making a distinction here between the ... I am not saying the political leaders lied. I am saying that they were lied to by the officials.

ADV LEBALA: Ms de Lille, in fact the Chair would like something a little bit [indistinct] that would do the opposite responsibility, if need be of challenging you, but we have sat into the night yesterday looking at the records, and something came up in as far as the topic offsets and jobs were concerned. What we saw that there is testimony before this Commission, that says that the question of jobs was just incidental, it was not a requirement for the Strategic Defence Procurement contracts. Now you are saying something which is very critical and I am forced to pose this question to you. I wish you could have challenged that evidence. There might have been realistic obstacles and constraints that made you not to come here, to put these assertions [indistinct], and it would have simplified things. I am just stating as an evidence leader what is before the Commission and eliciting your comments. At this stage I am saying jobs were incidental. They were not a requirement for the Strategic Defence Procurement [indistinct] contracts. That is what the evidence is and it was not contested.

MS DE LILLE: Again it does not mean Advocate, because that has not been contested, that that is correct. It does not mean that at all. All the arms

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deals, and let me say all the crooked arms deals around the world, are structured with these offsets. You can look at the arms deal which was also riled with corruption in I think it was one of the Arabian countries. But all over the world this is how they structure these things, because there are a lot of

5 crooks running around and making deals amongst themselves and gainsaying us these jobs. But now that they have sold it to us and several Members of Parliament, because that is where I operated for the past 15 years also, we have asked questions continuously about the nibs and dibs. I can recall questions that I have asked the Freedom Front. I can recall a

10 question asked by Peco, Honourable Peco to the Minister... the then Minister of Defence. A lot of us asked these things all the time about nibs and dibs, because you cannot wish it away. If now all of a sudden it is not a requirement. So that will be my response, Advocate.

ADV LEBALA: We are still on page 10.

15 MS DE LILLE: Yes.

ADV LEBALA: Let us go to the paragraph headed "Allegations of corruption". Here I have got to read. Commissioners, page 10, the paragraph headed "Allegations of corruption".

"It is alleged that Jayandra Naidoo is involved with Worldwide Africa

20 *Investments [intervenies]*

CHAIRPERSON: Just one moment, Advocate Lebala. Advocate Lebala, there is this question: we understood Ms de Lille to be saying what is contained here is allegations, she cannot prove. She is asking the Commission to look at it.

25 MS DE LILLE: Ja.

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CHAIRPERSON: She does not have evidence to substantiate any of these allegations. This is what we seem to ... it is what Ms de Lille seems to be saying. Now My fellow commissioner is asking me what purpose is going to be served by going through the allegations, which Ms de Lille says it is
5 allegations, I cannot prove that? You know the words that I have here is that these are allegations, I never accused anybody. Now going through the allegations, are you of the view that this will assist the Commission in order to determine who was corrupt, who was corrupted and by who?

ADV LEBALA: Chair, we are here to establish facts, facts, facts.
10 Ms de Lille makes allegations. If these allegations are not tested, there are consequences. Either they are going to be accepted or tested. But we know that if facts are not disputed they become evidence. If they are disputed and they get to be proven, they become evidence. Now what does it mean? Are we going to accept what she says and just accept as it is, without testing it?
15 And that is where the mandate of the Commission comes in, to enquire into established facts and make recommendations. I agree with you [intervenes]

CHAIRPERSON: Ms de Lille, can you switch off in the meantime, because otherwise it will disturb the recording.

MS DE LILLE: Sorry.

20 ADV LEBALA: And that is the difficulty we had with [indistinct] she started, she says, this is not first time detailed information that I have, but her response seems to be informing us that there is a way in which she is willing to give you these allegations and remember if what she alleges and the allegations that she is testifying to before the Commission, are not disputed,
25 it becomes evidence. Or if they are disputed and they are proven, it

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becomes evidence.

COMMISSIONER MUSI: Can I chip in, Advocate de Waal? Maybe there is somewhere where we do not understand each other, or we do not understand the witness, either. My understanding of what Ms de Lille says, 5 is that she was approached by people, let us call them anonymous because she is not prepared to disclose the names of those people, and the people who gave her this dossier that is now called the "De Lille Dossier", containing allegations and what she has done is to say, I want these allegations to be investigated. She is not making the allegations. The allegations are made 10 by some other people in a form ... a dossier which was submitted to her. All she has been trying to do is to get these allegations investigated. That is what she is repeating and I think her submission to the Commission is to the effect that, please investigate these allegations.

It is not her allegations. So I cannot understand how she can assist in 15 relation to these allegations. Maybe we should simply assure her that we will investigate these allegations if we have not already investigated them, and that should be the end of the matter. With respect I do not see how she can assist in those circumstances.

CHAIRPERSON: Advocate De Waal, can I make a suggestion? Maybe 20 think about the issues that your colleague has raised. Let us ... Ms de Lille, I want to make up the two hours lost, we will take lunch of 30 minutes and in the meantime, think about what Commissioner Musi has said and then let us take [indistinct] of that. [indistinct] said to you I am asking you [indistinct] my understanding Ms de Lille to be saying, I have got no facts to back up the 25 allegations. I have never accused anybody. These are the allegations that

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were brought to my attention. This is what [indistinct] but if that is [indistinct] how is she going to help us if we want to determine exactly who was corrupt and by who was the person corrupted. [indistinct] assist us in trying to

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answer that question. If the answer is no, and [indistinct] continue with her evidence. If her answer is yes, then let us go on with [indistinct] Do you want to take [indistinct] in the meantime? Let us take the lunch adjournment of 30 minutes and then you can come and debate this issue again

5 ADV LEBALA: Thank you [intervenes]

CHAIRPERSON: Unfortunately Ms de Lille, [indistinct] your legal representative you can also raise it with him [indistinct] they are here. Your legal representatives are here, and [indistinct] to help us at al. Does she have [indistinct] to back up the statement that she is saying? We know on
10 record that we do have [indistinct] because the figures are about offsets.

They gave us the figures about the jobs that they say have been created. Those are things that you need to think about them and then from there we will reconvene after 30 minutes. Maybe process [indistinct] might find a way of, you know you might make suggestions to counsel [indistinct] Ms de Lille,
15 ask your legal representative, your Advocate, [indistinct]

ADV DE WAAL: Yes, Mr Chairman.

CHAIRPERSON: Advocate Moerane?

ADV MOERANE: Chair, certainly.

CHAIRPERSON: Thank you. Advocate Cane?

20 ADV CANE: Thank you Chair, we welcome you directions.

CHAIRPERSON: Thank you. Mr Chowe?

MR CHOWE: We do welcome, you directions

CHAIRPERSON: Mr Chowe, [indistinct] the legal representatives who are not aware of [indistinct]

25 MR GOLDSTONE: Mr Chairman, my name is Jeremy Goldstone, instructed

by the State Attorney on a watching brief. Those arrangements are convenient as well. Thank you, Mr Chairman.

CHAIRPERSON: Thank you. We will adjourn for 30 minutes. If you feel that you might need more than 30 minutes, just send [indistinct] because we
5 will want to give you enough time to explore... to discuss this issue that we have just mentioned. If it means taking more than 30 minutes, then it will be so. Thank you. We will adjourn.

(PROCEEDINGS ADJOURN)

(COMMISSION REOPENS)

10 CHAIRPERSON: Can you ask Ms De Lille to confirm that she is still under oath?

CLERK: Do you confirm that you are still under oath? Say I do.

MS DE LILLE: I do.

CHAIRPERSON: Thank you. Advocate Lebala?

15 ADV LEBALA: Thank you Esteem Commissioners. We, we have reconsidered our positions and I am going to let it be that our colleagues will address their position. I, I correctly assume and I am saying this with
20 outmost caution that the position that I am stating, you might agree with it. We are unable to uplift and paratude these allegations into facts and evidence. Now, what does that mean? We will go to only positive conduct that Ms De Lille engaged in, after the allegations were given to her. You have heard that she took a trip to Germany. We will take her there, where she has to give us specifics. The opening of cases, she has got to give us
25 specifics. The sending of documents, Judge Heath, she has got to give us specifics. Those are the issues that were taken to and it simplifies this

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roadmap that we are suggesting. We are confident that we might be done with her testimony, shortly.

CHAIRPERSON: Thank you. Advocate De Waal, do you want comment?

ADV DE WAAL: No, Mr Chairman, that is, our understanding is that the way going forward is to restrict Ms De Lille strictly, to what she has got personal knowledge about and that can add to the Commission's work in that regard.

CHAIRPERSON: Okay. Advocate Moerane?

ADV MOERANE: Yes, Chair. I, I think it would help if Ms De Lille would confine her evidence to what she has personal knowledge of. But, not only that, but what she has personal knowledge of, with regard to the terms of reference. It does not help you have personal knowledge of, of matters which are not germane to, to this inquiry.

CHAIRPERSON: Thank you. Advocate Cane?

ADV CANE: Thank you, Commissioners. I agree fully with my learned friends. Moerane

CHAIRPERSON: Mr Chowe?

MR CHOWE: Chairperson, I do agree with my colleagues, on the statement.

CHAIRPERSON: Thank you. So, we have agreed on all.

ADV GOLDSTONE: Mr Chairperson, I agree with the sentiment of council Moerane.

CHAIRPERSON: Thank you. Advocate Lebala, we can, we can proceed.

ADV LEBALA: Chairperson, we find the approach of the Commission very refreshing and of assistance and we are grateful there. Ms De Lille, I am going to refresh you and take you directly to what you have personal

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knowledge of, to elicit some few facts with the few to establish evidence before the Commission. I would like to direct you to where, in your statement, without even locating it, you mentioned that you opened criminal charges at Caledon police station, against 29 members of, who are citizens
5 of South Africa, including Mr Yengeni, do you remember?

MS DE LILLE: Yes, advocate. I remember.

ADV LEBALA: Now ...[intervene]

MS DE LILLE: I open, sorry advocate, I opened, I laid charges against 29 other individuals besides Mr Yengeni that had already been prosecuted then.

10 ADV LEBALA: Thanks for the clarity. I actually mischaracterised what you said, by reinstating the fallibility of your statements. Now, let us be precise, when you opened those, these criminal charges, who did you implicate? Shall I say, do you remember the names that you mentioned? Ms De Lille, you may take your time and, and ...[intervene]

15 MS DE LILLE: Yes. I am just, my apologies advocate. I am just going to get it.

ADV LEBALA: Please, feel free to take your time. I am certain that the Commissioners are not allowing us to adjourn. You may have a glass of water and take your time. Take your time.

20 CHAIRPERSON: Ms De Lille and Mr, Advocate Lebala, obvious, I am going to adjourn. We need to finish. She cannot take all of her time. We need to finish.

ADV LEBALA: I stand to be corrected, Commissioner.

MS DE LILLE: Advocate, may I respond now?

25 ADV LEBALA: Ms De Lille, you give me too, you give me too much credit.

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What I said, look at me, but address the Commission and I think, I am humbled by the Commission's attitude to elevate me higher than them. But, please, look at me, please, address the Commission. Thank you, address the Chairperson and Commissioner Musi. Thank you about that.

5 MS DE LILLE: Thank you, advocate. Advocate, I want to start this by making a reference to an article that appeared first on the 2nd of July 2001, by a journalist, called Jovial Rynfield and Marvin Meintjies. That was for the first time, when a list of names was, was published in 2001. In 2007, after I came back from Germany and with the case number, I then looked at the list,
10 as was published already in 2001 and also, a list that was mentioned by Minister Mosiuoa Lekota in Parliament. From that, take, I took that list and laid the charges against the other 29 people. So, on the, the 20th of March 2007, I laid the complaint with the Caledon police office and a Superintendent Kellerman took down the case on that particular day.

15 ADV LEBALA: Ms De Lille, let us, let us deal now, with your testimony, do you have the copy of the names. You could just mention number one and onwards and we will look at it, because it has to come before the commission. It is very critical, because it addresses one of the terms of references of the Commission. Do you have the names and a copy?

20 MS DE LILLE: Yes. I do have the names and a copy, as they appeared the first time, in 2001 and I can give a copy to the Commission.

ADV LEBALA: Okay. Thank you, we welcome the copy. Then, you also mentioned the opening of the charges against Mr Ngcuka and McCarthy at the Caledon Square. Now, we want to, we have a copy of the, of the case
25 number, the charges, if need be, an example that can be filed that you those

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steps.

MS DE LILLE: Honourable Judge, it was on the, on the 6th of April 2009, when I came to Johannesburg to attend a press conference by the NPA, where they were going to announce what the outcome was of the investigation into charges laid against President Jacob Zuma. First of all, I was not allowed to enter, or attend the press conference. But, afterwards, when I did look at the statement that was released and in the statement it was stated that there was interference with the independence of the NPA, by the two gentlemen. I looked at the NPA Act, which says that it is a criminal offence to interfere with the independence of the NPA. On that basis, I went back to Cape Town on the 7th. I laid the charges against Mr Bulelani Ngcuka and Mr Leonard McCarthy. The, part of the affidavit that I gave to advocate earlier on, from Brigadier Govender confirmed that that case has also disappeared from the, from the records of Caledon police Square. So, it is in his affidavit, to confirm that those cases are also no longer there. Thank you.

ADV LEBALA: You also testified about your trip to Germany in 2007, when you mentioned a case number. Let us break it into incremental questions. We know who you spoke to, but did you implicate anyone, when you were in Germany?

MS DE LILLE: No. I did not implicate anyone. I was accompanied by Judge Willem Heath on that trip and we simply went to Germany to go and find out, how far are they, in Germany with their investigations into some of these allegations. So, I did not implicate anyone, but came back with a case number from Munich and as I was saying, the correspondence that followed between myself and Mr Vusi Pikoli, ja.

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ADV LEBALA: Now, without wasting time, I, if we could direct you to where, in one of your trips to Germany, we are not certain whether it is the self same trip, you mentioned that there was some donation into Nelson Mandela Children's Fund. Now, one, we had tribulations to appreciate its relevance to any of the terms of reference. I would to elaborate on this, to an extent which
5 could assist the Commission.

MS DE LILLE: Yes. Thank you, advocate. It was on the 6th of November 2007, when I moved a member statement in Parliament and I will just read it:

*"Madam Speaker, the allegations that the ANC received money from
10 the armsdeal suppliers has been mere speculation, until today. I can now confirm that on the on the 29th of January 1999, each of the following organisations received R500 000.00 from Thyssenkrupp, the ANC, Nelson Mandela Children's Fund and the Community Development Foundation. This money was paid into an account in Switzerland at Credit Swiss First Boston
15 Bank."*

And then, I just went further to say that this again, illustrates the importance of having an active Parliament that will private political funding and this will be in line with President Thabo Mbeki's response to a question I asked on the 12th of March when he said:

*"Because the matter of private funding affects all political parties,
20 parliament is the appropriate forum for political parties to discuss this matter. The executive would most certainly respect any recommendation that might come from Parliament, with regard to this issue, so that we can have the collectively of all the political parties represented in Parliament."*

25 And then, I then urged other political parties to support the Independent

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Democrats to establish a multi-party committee to deal with the issue of party funding, once and for all. Now, then of course, thereafter, there was a response again, in Parliament by Minister Mosiuoa Lekota, which I do not have the record before me, Honourable Judge. But, and then, in that same

5 year, in the Mail and Guardian of the 14th to the 20th of December 2007, they reported, however, and I will just read it briefly, Honourable Judge:

“However, the German document reveals that in raid on the house of Christoph Winnings, the top Thyssen executive involved in the South African bid, investigators discovered photocopies of three cheques for R500 000.00

10 *each to the ANC, the Nelson Mandela Children’s Fund and the Foundation for Community Development.”*

And it says:

“The letter is a Mozambican charity, funded by Graca Machel, Nelson Mandela’s wife. Independent Democrats leader, Patricia De Lille, last month,

15 *revealed the existence of these payments, saying Thyssenkrupp had made them in January 1999.”*

So, then again, I am requesting, this is what I said in Parliament and I am requesting if the Commission will see it fit to also investigate this allegation of what I said in Parliament and the Mail and Guardian article. Thank you.

20 ADV LEBALA: You also took part, when these issues were unfolding with Mr Andrew Feinstein in a television programme, called Interface. Am I right?

MS DE LILLE: Yes, advocate.

ADV LEBALA: And the, the subject of the discussion or [indistinct] of that programme involved the arms procurement packages. Is that not so?

25 MS DE LILLE: Yes. It did involve the arms procurement packages with an

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emphasis on that if we do investigate, or if finally, there will be a judicial commission of inquiry appointed and some people are found to be, having been guilty of corruption, whether we should then not say give them amnesty and just close it. So, that was more or less the substance of the debate with

5 Andrew Feinstein. But, it was never aired by the SABC.

ADV LEBALA: Were there any names that you raised, during that interface discussion?

MS DE LILLE: Advocate, it is a very long time ago. I cannot remember. I would have loved to see a copy of that, if possible.

10 ADV LEBALA: The Scopa meeting of the 17th of February 2009, are you refreshed when I mention the, the date and the forum, the Scopa meeting of 17 February 2009, Ms De Lille?

MS DE LILLE: Yes, advocate. Again I went to a Parliamentary Committee Scopa meeting and the NPA appeared before them then. In Parliament I
15 accused them of lack of will to investigate and as, I accused them that there should not be political interference. I made reference then, to the charges that were laid in 2007 and the charge that I laid in 2009, which is in my affidavit that subsequently now, had completely disappeared. That failure of the NPA to investigate, because the least i expected, Honourable Judge, was
20 that the NPA to investigate and then make a decision whether they are going to prosecute or not. That was never forthcoming. Thank you.

ADV LEBALA: And, does the name Advocate Gerda Ferreira and Advocate Grossman ring a bell to you?

MS DE LILLE: Yes, Advocate. I remember Advocate Gerda Ferreira.
25 When I was subpoenaed by the State, she was one of the advocates that

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interrogated me on the allegations contained in the De Lille Dossier.

ADV LEBALA: To be precise, am I correct to say, Advocate Gerda Ferreira was the first person, within the National Prosecuting Authority to investigate the arms procurement packages?

5 CHAIRPERSON: Advocate Lebala, I am not going to allow that question. How is it going to help us, whether she was the first or the last? I am sure Ms De Lille would not know, not at all, how the NPA operates. Let us go to the next question.

ADV LEBALA: During, well I accept the Chair, it is also relative and
10 evaluative, the relevant sequence can come at a later stage, if need be. During your, your interview with Advocate Gerda Ferreira, did you mention names of persons involved in the arms procurement packages, in the context of irregularities and improprieties?

MS DE LILLE: Advocate, we went through the very same document that is
15 before the Commission today and my consistent response was that these, it is a briefing document that I received and I want these allegations to be investigated. In fact, the transcript of that interview is available, because I, I do have a copy of it.

ADV LEBALA: Let me direct you to the positive steps that you took in giving
20 and handing documents to, to individuals whose names I will mention. One is Mr David Maynier, who is going to be a witness, coming to testify before the Commission. You are not disputing the fact that you handed documents to Mr David Maynier. Am I right?

MS DE LILLE: When I resigned, as a member of Parliament on the 9th of
25 September 2010, I had looked at members of Parliament, serving in the

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Defence Committee that could continue with the probing and advocating to have these allegations investigated. I asked Mr Maynier, when I vacated my office at Parliament that the information needs to be documented, it needs to be put in chronological order. I have got piles of press clippings and that and
5 then, handed him the documents, not for his keep, but to sort it out for me and for him to use. I inferred the request for a further investigation. Thank you.

ADV LEBALA: If I were to ask you to be specific why Mr David Maynier? Would you like to qualify your response, if you can in the context of his title,
10 his functions that he was doing within Parliament?

MS DE LILLE: He was a representative of the Defence Portfolio Committee and that is why I handed it to him.

ADV LEBALA: One of the issues, which came out, during the testimony of former President Mr Mbeki was the issue, pertaining to Judge Heath, who
15 headed the SIU. Did you hand any documents to Judge Heath?

MS DE LILLE: Yes. I did hand over some documents to Advocate Willem Heath, when he was still the head of the SIU. I think it is November 1999.

ADV LEBALA: Now, let us be specific, I would like to conflate the documents that you handed to Judge Heath and the, and the Mr David
20 Maynier. Were they similar?

MS DE LILLE: No. No. The documents I handed to Mr Maynier, were documents that I have compiled over the years, from September 1999, until I left Parliament in September 2010.

ADV LEBALA: And the documents you handed to Judge Heath?

25 MS DE LILLE: The documents I handed to Judge Heath, included the De

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Lille dossier. It is now dubbed the De Lille dossier.

ADV LEBALA: Now, were there specific reasons that compelled you, or that made you to consider the documents, specifically to Judge Heath? We know why you handed them to Mr Maynier, according to your explanation.

5 MS DE LILLE: The reason why I handed it to Judge Willem Heath, as the head of the SIU, because if you look in terms of the SIU Act, the one that was established, that in fact, it is the only organisation or structure, within government that in the event that they find any wrong doing in any contract, they are able to cancel it. So, it was the only organisation with the legal
10 mandate to cancel contracts. That is why I selected the, the SIU, knowing full well that they also have to investigate first and then, apply for a proclamation from the President, before they could actually proceed to finalise the investigation. Thank you.

ADV LEBALA: I think I have got three remaining questions. But, let me
15 direct you to two of the remaining questions, by specifying names of individuals, who testified before the Commission and your testimony pertained to documentation, particularly with the term of reference, whether the persons inside. Do you think government and outside government have been properly influence in award of the SDPP packages? What should
20 happen to them it is found that they have been influenced, including whether legal proceedings should be pursued and monies claimed against them? Now, the context in which I am asking these questions pertains to the documents of where to corruption and impropriety, that will be the next phase of Commission. Former Minister of Defence Mr Lekota says that he kept on
25 asking you to provide him with evidence that signifies that there were corrupt

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activities. He states that you have not provided him with that evidence.

MS DE LILLE: Well, if Minister Mosiuoa Lekota did not understand his Constitutional brief and mandate, I certainly did. You do not give information to a Minister, if you wanted that investigated. You go and lay a charge with
5 the police and the police must investigate it. In any case, you cannot give information, implicating some people and then, ask them to investigate themselves. I have heard this for the past 16 years, 14 years, I have heard the same thing. Do they not realise that they do not have a mandate to investigate, or to be given information. Information must go to the police.

10 You are looking at a country, where they have to respect the rule of law. It does not mean because you are minister, you must get the information.

ADV LEBALA: And we, we heard the testimony of former President Mr Mbeki, positively accepting that, that is what, throughout his term in office, the government has requesting give us evidence that demonstrates that
15 there has been corruption, particularly. President Mbeki was specific. If need be, we can take you to the relevant portions, particularly within the ministers, who were members of the IMC, which stands for Inter Ministerial Committee. He says that, up to the date when he left office as President, he has not received even a single grain of evidence, signifying that.

20 MS DE LILLE: Advocate, in the year 2000, I think towards the end of 2000, the then attorney general, auditor general, Auditor General Fakie, if I remember correct his name, he submitted a report to Parliament to show that there was irregularities in the procedures. People did not adhere to the procedures of procurement. Now, I am sure somebody around the President
25 must have alerted him to that, because on the basis of that report, the JITT

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was established, the Joint Investigating Task Team, consisting of the auditor general, the head of the NPA and the public protector. The special investigating unit was excluded from that JITT task team. Now, even with the JITT task team report, if you go to some of the recommendations and some
5 of the findings, Honourable Judge, even they said, in some of those things that things did not go procedurally right, in terms of the procurement process. So now, I do not know if, Honourable President Thabo Mbeki does not see that as evidence. Or what exactly does he mean, when he wanted to see evidence. But, that is what I can recall and this has been in the public
10 domain for a number of years. Similarly, there was the Scopa investigations, where the then leader of government business, President Jacob Zuma, he was then the Deputy President also, received some of these reports from Scopa. So, there were a number of proof, if I could call it that, where it was shared with government all the time, by, you know, by structures like Scopa
15 and the JITT report.

CHAIRPERSON: Do you still have any questions, Sir, Advocate Lebala?

ADV LEBALA: Just one question, Chair. I would like to, to read certain portions of the transcripts of former President Mbeki and can you comment on them, especially with regard to the subject of improprieties and correction.
20 Before I do that, I am left with ...[intervene]

ADV DE WAAL: Mr Chair, I hate to interrupt at this point. But, we had a firm understand that what Ms De Lille will speak about, after lunch are matters about which she has personal knowledge. That was after the suggestion was made earlier that it does not help to come back to the same argument
25 again. She has called for these allegations to be investigated. She cannot

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take it further. She said it over and over. Now, is it now suggested again, that Ms De Lille must repeat that? Or are there going to be a question to her about matters, which falls within her personal knowledge? I just want to place that on record.

5 ADV LEBALA: I thought my learned friend would have waited for me to pose the question, because he would realise that its relevancy is so realistic, it would blend like a thug and make such noise. May I be permitted to put the question? Actually, I could lay the foundations.

CHAIRPERSON: I think maybe, before I can rule whether I am going to
10 allow the question or not, let us, let us first hear the question.

ADV DE WAAL: No, of course.

CHAIRPERSON: Thank you.

ADV LEBALA: You remember, you testified that you gave Judge Heath documents.

15 MS DE LILLE: Yes. Yes, advocate.

ADV LEBALA: And I suppose ...[intervene]

MS DE LILLE: Oh, sorry.

ADV LEBALA: We also know that you travelled with him to Germany.

MS DE LILLE: Yes, I did.

20 ADV LEBALA: And am I right to say, you did discuss the issues of this strategic defence procurement packages with him?

MS DE LILLE: Yes, advocate.

ADV LEBALA: Particularly the, particularly the subject of the improprieties and irregularities.

25 MS DE LILLE: No. We discussed a lot of things, including, maybe, but I

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cannot recall all of it.

ADV LEBALA: Now, here comes my question. Former President Mbeki makes an analogy as follows and I am going to simplify it for you, without wasting time. It is very critical, because it lays the foundation to the next term
5 of reference, which is very important. All terms of reference are very important. But, the next term of reference, the Commission is going into, it is so important. It deals with the same improprieties. Short of saying, he says:

*“If an agent in an arms procurement scenario goes to the service provider, like Thyssenkruppe or German Frigate Consortium of Voss and
10 Blohm say I think I could link him with the South African Government, they might need artillery. Permit me to start the processes of making that relationship and the agent goes to the South African government and says this is the equipment, consider, I think you might need. Or the agent might have heard that the South African government is considering to purchase.”*

15 Short of saying further:

“There is nothing wrong if the agent gets his or her commission, on one condition, the agent must not corrupt members of the government, particularly those who make decisions.”

If you make your notes, here I am going to say, take your time, show me that
20 you are finished making your notes, with the permission of the Chair. Do you follow the thing of what I am saying?

MS DE LILLE: Yes.

ADV LEBALA: Now, President Mbeki confirmed what became, we start on his evidence that way.

25 *“There were lower committees that considered the prices of the*

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bidders, performance of the equipment. It would go up to another body.”

There is a body called Softcom, it is called the [indistinct] considers office, dominated of main participants of Armscor, which was a procurement wing of the South African National Defence Force and from there, it pushes further to the Inter Ministerial Committee that made decisions. The decisions are now
5 of variables strategic positioning of South Africa, visionary approach, costs, affordability, all those things come into the basket. That is what we have.
President Mbeki says:

*“Instead of being [indistinct] that any of members of the Inter
10 Ministerial Committee, who made the important decisions on these bidders, were corrupted by the agents.”*

Now, I would like to hear your comment on that.

ADV DE WAAL: Yes, Mr Chair, this is, with respect again ...[intervene]

CHAIRPERSON: Ms De Lille?

15 MS DE LILLE: Yes. I must put it off, sorry.

ADV DE WAAL: He calls for a comment on a matter that Ms De Lille cannot possibly have personal knowledge about, with respect. So, we would object to that line of questioning, especially after what we agreed to, after lunch. Ms De Lille wants to comment, she is just presenting a view and an argument.

20 CHAIRPERSON: I suppose I should agree with you. That was the views of the former President Mbeki that are, he understood the issues. Ms De Lille might be having a different position. One of them might be right, or both of them might be right, or both of them might be wrong. Advocate go to the next question and ask her about what she personally knows, not about how
25 the former State President Mbeki, understood the corruption or bribery to be.

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MS DE LILLE: Honourable Judge, if you may allow me, as an ex-member of Parliament, I do understand only the procurement process, in terms of the tender, regulations, as to how any government department procure and how any government department must always go out and receive a competitive
5 bid for something like that. So, that is my view on the matter that the government is very prescriptive. I know, as the mayor of the City of Cape Town that we have to follow it to the letter. As a mayor, I had received a clean forwarded, last year, I know exactly the requirements for, for tenders. Thank you, Judge.

10 CHAIRPERSON: Thank you. Advocate Lebala, let us go to the next question.

ADV LEBALA: Something advised me that you could respond to this question. Now, you testified about the JIT. Do you remember? You testified about the JIT, the joint investigation team, briefly you did. Do you remember,
15 Ms Lille?

MS DE LILLE: Ja.

ADV LEBALA: Okay. Can you response on record?

MS DE LILLE: My response on record is already recorded in Parliament. As a member of Parliament, I made it very clear that I am not accepting some
20 of the findings and recommendations of the JITT. I called it a white wash, at the time, because I felt strongly that they should have included the special investigating unit. Thank you.

ADV LEBALA: In actual fact, I was just laying a foundation for the question that follows. That was not my question. You, you remember that the JIT
25 team, excluded Judge Heath. I would like your response to be on record, Ms

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De Lille.

MS DE LILLE: I still think it was wrong to exclude, maybe they had problems with the judge, but I think the unit itself, established by an act of Parliament, should have been involved. Thank you.

5 ADV LEBALA: Now, here comes the relevance of the question, in anticipation of an objection. President Mbeki testified also, saying and here we just want to hear your factual comment. President Mbeki says:

“The exclusion of Judge Heath was not intended to prejudice him or to undermine him. Actually, it is the Constitutional Court that said that Judge

10 *Heath cannot assume that function.”*

I would like to hear your comment.

MS DE LILLE: Well, that is the opinion of Mr Mbeki and I respect his opinion and I am sure he will respect mine too. Thank you.

ADV LEBALA: You are not responding to my question.

15 ADV DE WAAL: Mr Chairman, she is asked a legal question. Mr Mbeki, as I understand it was saying that ...[intervene]

CHAIRPERSON: Thank you. I understand where you are coming from. Mr Lebala, can we get to the next question. Ms De Lille’s opinion on the impact of that decision that Mr Mbeki referred to are not being [indistinct] about

20 much. Let us try and find another one, what is in her personal knowledge. Legal implications and legal effect of any judgment, we can leave that for, for argument.

ADV LEBALA: Chair, we leave it for argument. But, may the record reflect that this witness testified, gave the Commission document, attempted to give,

25 assist the Commission about evidence, pertaining to corrections and

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improprieties and these are aspects that President Mbeki traversed. But, we will leave it for argument. Perhaps, it is an appropriate time to ask you the following, Ms De Lille. Is there anything that actually, before I ask you? Is there anything that you want to say before you excommunicate the platform?

5 Ms De Lille, there are documents that, throughout our consultation with you, you never handed to us. I am aware, because I saw some documents for the first time, this morning. Are there any other documents that you have, that you did not give to our team? Of course, that, not any, not any other documents, any other document that would assist the Commission.

10 MS DE LILLE: Honourable Judge, as far as my knowledge goes, I have now given all the documents where I had personal knowledge of, to the Commission. I have submitted the De Lille dossier, which I received from concerned members of the ANC. There, I did make it very clear that I only call for investigations and I am not accusing anybody, or finding anybody
15 guilty. So, I think, if there is anything else that you might think I might have, if you can write to me and I will certainly see, because this happened to long ago. I wish we had this inquiry 10 years ago. It would have been much better for all of us. Thank you. But, may I also use the opportunity to, to thank Judge Willie Seriti and Commissioner Musi for this opportunity to share
20 my knowledge with you. I also want to put it on record that I am prepared to work with the Commission further. If there is anything that you need me for, if you want me to come back again, I certainly will too. I wish you luck with your work. I know it is not an easy task. But, for me, after 14 years, I must say it is like a sign of relief that finally, I could sit in a judicial commission of
25 inquiry that had been called for, for so many years. So, thank you very

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much. Ke ya leboga.

CHAIRPERSON: Thobela, any cross-examination?

ADV CANE: Thank you, Commissioner, the Department of Defence wish, welcome the opportunity to cross-examine this witness. I anticipate that the
5 cross-examination for the Department of Defence would take approximately half an hour, pertaining to that.

CHAIRPERSON: Any other person who might be keen to cross-examine?

ADV CHOWE: Yes, Commissioner. The public protector just to, would just like to pose one question, cross-examination question to Ms De Lille, maybe
10 ...[intervene]

CHAIRPERSON: Only one question then? One?

ADV CHOWE: Maybe I must say, that is one subject, it might be easier. Thank you so much.

CHAIRPERSON: Thank you.

15 ADV MOERANE: Chairperson, Commissioner, on, on behalf of former President Mbeki and members of the IMC, we do have a few questions to ask.

CHAIRPERSON: A rough estimation, how long do you think that may take?

ADV MOERANE: Depending on the answers that we get, possibly not more
20 than 20 minutes.

CHAIRPERSON: Not more than 30 minutes. Can we take a break for 10 minutes, then when we come back, we will continue until we are finished.

ADV DE WAAL: Mr Chairman, I, can I just enquire at this point, I have not been here before. So, I am just sticking to what the direction is saying. It
25 says it seems like one has to meet three requirements, before being allowed

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the opportunity to cross-examine and that the last two entails, identifying the issues, in respect of which the witness is to be questioned and whether the questioning will arise new issues. If not, why the questioning should be permitted and then, there appears a threshold enquiries, to establish whether
5 the evidence of the witness, Ms De Lille, directly relates to the evidence of another witness, or implicates another person. I have not been here from before, so I am at a bit of a disadvantage. Are these issues dealt with, because the way read it, is that an application is made for cross-examination and you identify the issues that you want to deal with and say why it
10 implicates another person? Then, perhaps I can take instructions from Ms De Lille, as to whether she, she wants me to contest that right to cross-examine.

CHAIRPERSON: Thank you. I think it is a fair question. May you let me start, by saying that the question of cross-examination, it is at my discretion.
15 I must take the decision. It is because I know already what has been said. That is why. Parties who stood up and said they want to cross-examine, I was not surprised. They have to cross-examine. One of the reasons is that, this, let us talk about offsets. DTI gave extensive evidence about offsets. If she says that in her office they are working [indistinct] I want to cross-
20 examine on that one. Was that, they place certain evidence before, before cross. Do you know what I mean? Place certain evidence before us, which deals with the rationale, which deals with the [indistinct], it deals with the DIP, which is part of the offsets. Ms De Lille gave evidence about a, which seems to contradict what their clients have said. Mr Moerane represents the former
25 President and the Ministers. If she says certain things, which contradicts

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what their clients have said, for that reason, all three or four of them, I think, are entitled to, to cross-examine. Then lastly, ever since I started this Commission, I cannot remember where I have turned down an application of one party, saying that they want to cross-examine. In all fairness, I think they
5 are entitled to, to cross-examine Ms De Lille and that is why I have granted them application to do so.

MS DE LILLE: Honourable Judge. I certainly do not mind. But, it is just the time constraint, because of the flights back. So, if, I do not know, I need to leave for the airport, no later than half past three.

10 CHAIRPERSON: Ms De Lille, unfortunately, we will have to sit until we are finished with you. I think it will be convenient to everybody, you get cross-examined today and then we are finished with you. I can tell, the last time with Mr Mbeki, we sat her until six o'clock, because they wanted to finish with evidence. Seven o'clock, in fact, Ms De Lille. So, if your time is going to take
15 only about cross-examine you, it will be cheaper, easier for everybody and we still go on for another two hours. You get cross-examined. You are done. Then you no longer have to come back and you can go and run Cape Town more efficiently.

MS DE LILLE: It is, it is fine, Honourable Judge.

20 CHAIRPERSON: Thank you. Thank you. Let us adjourn for 15 minutes.

(COMMISSION ADJOURNS)

(COMMISSION REOPENS)

CHAIRPERSON: We need to agree about the order of cross-examination.

ADV CANE: Mr Commissioner, I have discussed with my senior colleague,
25 Mr Moerane and he has indicated that he would prefer to cross-examine last.

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I am willing to commence.

CHAIRPERSON: Good. Thank you.

ADV CANE: Ms De Lille, will you please turn to ANNEXURE A to your statement and [indistinct]. As I understand you, these are the allegations that
5 you have identified, from what is now called the De Lille dossier, as requiring investigation.

MS DE LILLE: Yes.

ADV CANE: So, that when the Commission were to investigate the issues, you have listed on these two pages, as far as you are concerned, they would
10 have adequately covered the allegations contained in the De Lille dossier.

MS DE LILLE: Yes. As I am saying in my affidavit, I have insufficient personal knowledge, regarding the allegations contained therein, to assist the Commission, by way of all of the evidence. Accordingly, I merely ask for the contents of the dossier to be investigated. That is what I said in my affidavit.
15 But, then, I was still called here, today. So, in the questioning here, I expressed my views on the range of issues that were asked to me. But, they did not take it away from the fact that I, I only wanted the allegations to be investigated.

ADV CANE: Yes. Thank you. That is what I have understood. But, we
20 were only dealing with the request for the investigation from your part, precisely because you do not claim to have the personal knowledge of wrong doing.

MS DE LILLE: That is correct.

ADV CANE: Now, there are two aspects, of your proposed issues for
25 investigation, which concerned the Department of Defence. The Department

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of Defence, wishes to assist the Commission's investigation, by providing whatever documentation it has, which may be relevant to the allegations of concern. Now, in order to do that, the Department of Defence needs to understand the allegations and what they pertain to. They are quite difficult
5 to understand in your forms. So, I am going to ask you to assist, by clarifying, and defining the alleagations. The purpose of that, as we go through them, so that they can be investigated and so that the Department of Defence can do its part, in assisting the Commission. So, let us look at the two issues that concern the Department of Defence. You will that there is an
10 issue a, which is in the price of the equipment, that you say that are dealt with in pages 8 and 9 of the De Lille dossier. Then b, under allegations of corruption, there is one issue that, this maybe concerns the Department of Defence and it is just stated to be the Spanish bid. Do you see that? Let us begin then with the Spanish bid, as the first issue, with which the Department
15 of Defence is concerned. You will agree with me that the only way we can begin to understand what is meant by that, would be to go to the De Lille dossier at page 10? So, if you look, please open that up. You will see that page 10 is headed, let us examine bids and number one is headed the Spanish bid. Are you with me?

20 MS DE LILLE: Yes.

ADV CANE: Now, the first three words go like this, it says:

"Three years ago, Armscor and the South African Navy wanted to spend R1.7 billion on four Spanish Corvettes."

Let us pause there. This document, as I understand your evidence,
25 emanated during about September 1999.

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MS DE LILLE: That is correct, the 9th of September 1999.

ADV CANE: So, when we deal with the intention to procure four Spanish Corvettes, three years ago, we are actually dealing with an earlier period, call it 1995, 1996. Would you agree with that?

5 MS DE LILLE: Well, I had said and I can just repeat, that I want these things to be investigated. I do not have sufficient personal knowledge about this. I further said earlier on, Honourable Judge, that even though I said that, I was still called here. In the questioning for the advocate, I made it clear that those are my views. So, I am not in a position to verify the dates with you.

10 ADV CANE: Ms De Lille, I am not going to press you for any accurate dates. What I am going to press you for is the definition of the issue, which remains to be investigated. Because you cannot shirk the responsibility of calling upon, very publicly indeed, the Commission to investigate an issue and then refuse to define what that issue is in any way. Now, I put it to you
15 that three years ago, would be quite some time, prior to 1999 and I said to you, it would pertain to period, broad speaking, 1995, 1996, where we are faced with a potential acquisition of four Spanish Corvettes. You see, if we cannot even place this proposed acquisition at a point in time, how do you propose that the Commission is to go about this investigation?

20 MS DE LILLE: I propose that the Commission investigates all the allegations contained in the De Lille dossier. I said it and I will repeat that I have never claimed that the allegations proved the guilt of any of the persons or companies, mentioned in the dossier. So, I really do not understand what it is that you really want me to say about it, Advocate.

25 ADV CANE: What I want you to say, Ms De Lille is what it is you want

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investigated. You see, what we have here, in the De Lille dossier, are very broad allegations, sometimes virtually incomprehensible allegations. In fact, this allegation pertained to the proposed acquisition of four Spanish Corvettes appears to be some three years before the SDPP. Therefore, well
5 outside the mandate of this Commission.

MS DE LILLE: Can I repeat myself, if you can look at the first pages of this document? It states very clearly that this is a briefing document. Page 6, it says:

“A briefing to Honourable Patricia De Lille, Member of Parliament.”

10 So, this was information given to me. I still maintain that all of the allegations, contained in this dossier, must be investigated. It was given to me, so you cannot expect me now, to say to you about 1995 or that. So, I am just repeating again, I am not in a position to tell you 1995, or whatever. Because the De Lille dossier, what is now dubbed the De Lille dossier, came
15 as a briefing to me, from concerned members of Parliament.

ADV CANE: Let me understand that answer. Is it a briefing from concerned members of the ANC who were also members of Parliament?

MS DE LILLE: That is what the briefing document says on page ...[intervention]

20 ADV CANE: May I? I think you are looking for page 50.

MS DE LILLE: 15, five [indistinct].

ADV CANE: Oh. One, five.

MS DE LILLE: That is the list of the concerned ANC MP's.

ADV CANE: Okay. And is it your evidence. Oh. Excuse me. Is it your
25 evidence that you were given this information by members of the ANC, who

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were also members of Parliament?

MS DE LILLE: Yes.

ADV CANE: So, they are members of the ANC, who are members of the Parliament, at that time, who would not, themselves make these allegations.

5 But, were prepared to use you to make them and do so, even to this day.

MS DE LILLE: Well, that could certainly be your understanding. I did it, like I said in my introduction, where I consider, whether to do it or not. I did it, because I do care about our country and about any allegation of corruption in our country and that is why I did it.

10 ADV CANE: Ms De Lille, I have never suggested anything other than an honourable motive from your side. But, from our side, we need to take these allegations further and subject them to investigation, if it is at all possible. I am seeking your assistance to make that possible. That is why I ask you, for information about the Spanish bid and whether you agree that it pertains to
15 something that happened, some time ago in about 1995, 1996. Because if we cannot even agree that it relates to an historical event, a point in time and you have absolutely no knowledge that could place it in history, it makes it an impossible task.

MS DE LILLE: Well, I, I still think that the Commission must investigate
20 every allegation, contained in the De Lille dossier and make their recommendations and finding in the end, to prove what this, prove your point.

CHAIRPERSON: I am still not getting. Ms De Lille, I understand where Advocate Cane is coming from.

MS DE LILLE: Ja.

25 CHAIRPERSON: You say that this allegation that you made, that the

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Commission should investigate. It might be something, which happened long before the SDPP's, which falls outside our mandate. She wants to determine that whether this incident that you are referring to, more than, when it could have taken place, in order to determine, whether is it something that this Commission is interested in or not. I think, that is what basically, she is trying to, to find out. Are you in a position to assist us with that, in order to know that this Spanish bid that you are referring to is something that happened in 1962, 1988, 1971? Basically, that is what she is trying to find out, or 1999, when the, these bids were, more than anything when these bids were evaluated.

MS DE LILLE: Honourable Judge, I said it under oath and in my affidavit and I have been repeating myself four times now. All the allegations contained in the De Lille Dossier, I have insufficient Knowledge of that. Now, what more must I say? I cannot answer the, the honourable advocate. We are really going around in circles, I have been saying this five times now.

CHAIRPERSON: The reason being, I also did not quite understand. That is why I was trying to tell you, exactly Advocate Cane is trying to say. I am still confused about this Spanish bid. I will not know what to investigate and where to start.

MS DE LILLE: And certainly, I will also not know, because this document has been given to me as a briefing document, by concerned members of Parliament, the ANC.

CHAIRPERSON: Thank you, Ms De Lille.

ADV CANE: Ms De Lille, in the allegations, which you request to be investigated, there is no suggestion whatsoever that this acquisition of four

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Spanish Corvettes, in fact, took place. Do you agree with that?

MS DE LILLE: I will repeat, that I asked the Commission to investigate all the allegations contained in the De Lille dossier and that I do not have any personal knowledge, because this information was given to me, by
5 concerned members of Parliament.

ADV CANE: Very well, you have repeated that answer many times. Frankly, it is unhelpful. What we do have before the Commission, is evidence from Admiral Kamerman, who was the project officer responsible for the acquisition of the Corvettes. We have his evidence that, by 31
10 January 1995, offers from Brazan and Yarrows have been received and subjected to evaluation. We have his evidence that the offer of Brazan, Spain was assessed as superior to that of Yarrows of the UK, both technically and commercially. We have his evidence that it was recommended for acquisition. That was then taken to the Naval Board and
15 presented to the Minister at the time, during May 1995. The evidence on record is that the Minister declined the request for the acquisition of four Spanish Corvettes, on the basis that a defence review, first had to be completed. He took the view that there was to be a white paper on defence strategy, followed by a green paper on required force structure and there had
20 to be national process, giving rise to the defence review, prior to any further acquisition for arms. So, I said to you, that in so far as, any sense you made from these allegations, they have already been investigated by this Commission, through the evidence of Admiral Kamerman.

MS DE LILLE: Honourable Judge, I must emphasize that the De Lille
25 dossier contains allegations, which I believe that the government should

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investigate and this Commission should investigate. I have never claimed that the allegations proved the guilt of any person mentioned in this dossier.

Thank you.

ADV CANE: Ms De Lille, the point I would like you to please address, rather than repeating mantra, which you have now adopted for about 10 times. Is whether you agree that on the current information and based on the allegations, as difficult as they are to understand, pertaining to the Spanish bid, you would have to concede that the issue has already been investigated by this Commission.

10 MS DE LILLE: I must emphasize that the De Lille dossier contains allegations, which I believe that the Commission must investigate. I have never claimed that the allegations prove the guilt of any of the persons, mentioned in the dossier.

ADV CANE: Ms De Lille, do you have those words written out in front of you?

MS DE LILLE: Yes.

ADV CANE: In bright red letters, that they come out so ...[intervene]

MS DE LILLE: Yes. I have it ...[intervene]

ADV CANE: No matter what the question ...[intervene]

20 MS DE LILLE: I have it in my affidavit that you have got to. Thank you.

CHAIRPERSON: No. Ms De Lille, can we wait for the advocate to finish her. Let us wait for the advocate to finish her question and from there, you will be given an opportunity to, to answer. Advocate Cane?

ADV CANE: Thank you, Learned Commissioner. Ms De Lille, I was in the process of saying, that the answer that you now repeated so frequently and

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so word perfectly, is obviously written out in front of you that what indicates your repetition of it, is that you are unwilling to actually engage with me and answer questions in an intelligent way.

MS DE LILLE: I will repeat. I must emphasize the De Lille dossier contains 5 allegations, which I believe that the government should investigate. I have never claimed that the allegations proved the guilt of any of the persons, mentioned in the dossier. Thank you.

ADV CANE: Yes. You read rather well. Ms De Lille, you see the point here is that, unless there is some content to the allegations and unless the 10 allegations fall within the Commission's mandate. Then repeating that phrase is unhelpful. Let me take you to another issue, though. To some extent the validity, authenticity and indeed weight of the allegations, depends on who makes, who made them. You said they were made by members of the ANC, who were members of Parliament, at the time. I do want to say to 15 you that it is rather odd that members of Parliament, who are also members of the ANC, were not even able to spell the current Deputy President Thabo Mbeki's name correctly.

CHAIRPERSON: Advocate, who are you referring to?

ADV CANE: May I refer you to page 12, paragraph 4 and if you cast your 20 eye on the second line, you may pick up the spelling, to which I refer. Are you there, Ms De Lille, page 12, paragraph 4, second line?

MS DE LILLE: Yes.

ADV CANE: Now, there have been allegations in the press and I would like you to comment on this, please, that you attended a funeral of a person 25 known as Bheki Jacobs. Apparently, he also went by the name Hassen

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Solomon and there is comment that was attributed to you, which indicated that you accepted, or named him, as the person responsible for much of the information in the De Lille dossier. Is that correct or not?

MS DE LILLE: Honourable Judge, I must emphasize that the De Lille
5 dossier contains allegations, which I believe that the government should investigate. I have never claimed that the allegations proved the guilt of any persons mentioned in the dossier.

ADV CANE: Ms De Lille, you see, what you have just done, has just
underscored the point I made, you know, that you are actually unwilling to
10 engage with me and answer my questions. I am going to ask you to answer the question I made, not repeat the same phrase that you have already repeated many times.

MS DE LILLE: Honourable Judge, I will certainly not be told what to do. I
will repeat that phrase, until it sinks in.

15 ADV CANE: That will ...[intervene]

CHAIRPERSON: Ms De Lille, with the greatest of respect. You are not
answering the question. You know, if you try, whatever question that they
ask you, you answer the same phrase. That is not being helpful at all. Just
listen to the last question very carefully and try and answer it, because that
20 answer you have advanced earlier, it is not helpful at all. Advocate Cane, if you do not mind, can you repeat that question, unless if Ms De Lille will answer that question.

ADV CANE: Thank you. I certainly will repeat it. Ms De Lille, the question
pertained to my, in fact, to my, I put it to you that the allegations' weight and
25 authenticity is important, when you seek for this Commission to investigate

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them. So, I have to put to you that there were reports that you have attributed much of the information in the De Lille dossier to a person that when by the name of Bheki Jacobs and Hassen Solomon, who apparently had more than one name. You said that he was responsible for much of the
5 information and I asked you to say whether that was correct or not.

MS DE LILLE: Honourable Judge, can I have a copy of that report? Can I see what you are talking about and then I will respond later?

ADV CANE: Ms De Lille, you do not need a copy of a press report, because all I am saying to you is that there were reports. The content was in
10 effect that you attributed a lot of the information in the De Lille dossier to a certain person, Bheki Jacobs and I asked whether, in fact, you ever did that.

MS DE LILLE: Honourable Judge, can I have a copy of the report and I will verify and read the report and then respond? You are talking here about years ago. Can I see the report there, please? Thank you.

15 ADV CANE: Let me ask you this. Did you attend the funeral of Bheki Jacobs, during about September 2008?

MS DE LILLE: Yes. I did.

ADV CANE: And did you speak to the press, on that particular occasion?

MS DE LILLE: I would like to see the report that the honourable advocate is
20 referring to, before I comment, Honourable Judge.

ADV CANE: Ms De Lille, I will hand my learned friend, who appears for you here today, a copy of that report. Where [indistinct] in the balance of my questions and then we will have to return to this issue, once you have had the opportunity to have a look at it. I do however, find your refusal to engage
25 with me on very simple questions, quite unacceptable. But, let us move on

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then to the next topic. That would pertain to the other set of allegations, which you require this Commission to investigate and you will find those in your ANNEXURE A to your statement. It is paragraph 1a, mainly price of the equipment. Have you managed to locate it?

5 MS DE LILLE: Yes.

ADV CANE: Then you list a number of questions and really, what I am seeking your assistance to clarify, so that you could make investigations sensible and possible. The first thing is stated as follows:

10 *“The Gripen, which sells for 32 million dollars per plane, were sold to South Africa for 65 million dollars.”*

Now, did you ever consult with anybody, who had this kind of knowledge, of what other countries have purchased the Gripen for and if not, where did you get this information?

MS DE LILLE: Honourable Judge, it says:

15 *“I have requested the Commission to investigate the following allegations, which are contained in the De Lille dossier.”*

And then it says a, the price of the equipment on the pages 8 to 9 in the dossier, whether the Gripen sells for that and whether the British Hawk and whether this sells for that. I have asked the Commission to investigate it.

20 Thank you.

ADV CANE: Well, as I understand it, then all that is required is to check what South Africa actually purchased these items of equipment for and if they are going to have that evidence, as to what South Africa paid for the equipment. It would substantially address your concerns. Am I correct?

25 MS DE LILLE: Yes. Yes, advocate.

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ADV CANE: You said, because in these questions, seems to be the implication of knowledge of what this type of equipment generally sold for. If that is the case, that that is the investigation you require, then in fairness, you do need to say, sold to whom and was what was sold the same equipment, as purchased by this country. Because you would be well aware, if you followed the evidence before the Commission that these items of equipment, were specifically adapted, according to our own South African National Defence Force's requirements.

MS DE LILLE: Honourable Judge, I have requested the Commission to investigate the following allegations, which are contained in the De Lille dossier, under a, whether the price of the equipment on pages 8 to 9, whether the Gripen, it sells for 32 million per plane, were sold to South Africa for 65 million. I have asked that that be investigated. Thank you.

ADV CANE: Ms De Lille, if you would not have a mind, having a look at the fifth bullet point in this list, pertaining to cost of different items of equipment. You may there see the difficulty with which we are, are faced. Agusta helicopters have cost R55 million and the Bell helicopter would have cost R12 million each. I am sure I do not need to say to you that is a virtually incomprehensible complaint. One requires from you some clarification as to whether the allegation is that all the Agusta helicopters in total cost R55 million. Or whether each Agusta helicopter and if so how many of them cost R55 million, so that the comparison with the Bell helicopters that are alleged R12 million each have some value.

MS DE LILLE: Honourable Judge, again it refers to the price of the equipment on page 8 of 9, contained in the De Lille dossier and I asked the

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Commission to investigate, whether that is in fact so. Thank you.

ADV CANE: You see, the complaint is that pages 8 and 9 do indeed, contain a list of complaints list of complaints similar to what you articulated in your ANNEXURE A. Since you have restated the complaints, one could
5 reasonably have expected you yourself to apply your mind as to what is meant by the complaint. It appears to me that you have absolutely no understanding, whatsoever, of the content of the complaint.

MS DE LILLE: Honourable Judge, I have transferred that information into my question, where I request the Commission to investigate the allegations,
10 contained on those pages. Thank you.

ADV CANE: Ms De Lille, that really leaves the Department of Defence in a position, where it is extremely difficult to ascertain what it is that you require to be done, that has not already been done. It is extremely difficult to ascertain, whether were further documents that have not already been
15 provided to the Commission. Indeed, in the absence of your assistance in defining and clarifying these requests, there is really very little that the Department of Defence can do, to take these matters further in assisting the Commission in its investigation. So, I must say, on behalf of the Department of Defence that your approach, in responding to my questions is
20 disappointing. Be that as it may, I will leave it at that for now and pick up my cross-examination with the learned Commissioner's leave, once you have had an opportunity to examine the press article, to which I referred to earlier. Thank you, Commissioners, we are willing to intend to have copies made of that article and distribute it as the cross-examination proceeds, in order not to
25 waste any time.

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CHAIRPERSON: So, are you suggesting that somebody else can cross-examine, whilst you make copies?

ADV CANE: Yes, Commissioner.

CHAIRPERSON: Good. Thank you. Advocate Moerane?

5 ADV CHOWE: As the Commissioner pleases, Chairperson. Maybe before Advocate Moerane proceeds, because he said he would like to be last, can I just maybe hop in the middle?

CHAIRPERSON: I am sorry, I thought you only have one question.

ADV CHOWE: I suggest I may refer to one issue here.

10 CHAIRPERSON: Oh. I see. You may certainly do so.

ADV CHOWE: As the Commissioner pleases. Ms De Lille, as I have already indicated to the Commission that I need us to deal in one issue and that issue is specifically covered in, on page 6 of your statement, the first paragraph, which relates to the issues of the NIP, if I may call it. Having
15 taking queue from the that you are indicating that you are not accusing anybody of being fraud, or any kind of a impropriety, but just that you would like the Commission to investigate. I just want to go to this particular issue. With regards to the offsets, of 110 Billion rand and the 65 000 jobs, will you
20 dispute the fact that these particular figures were projections?

MS DE LILLE: Honourable advocate, what I did say, was that, and I can admit that I did not do an assessment of what was finally delivered on the NIPS and DIPS, except the, the questions that we have asked in Parliament. So, I am not aware about the final, the final figures as, or the latest figures as
25 of now. I was, because I was expressing my view, making also that there is this perception out there that not all the NIPS and DIPS have been delivered.

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ADV CHOWE: Yes. Indeed, I understand you, Ms De Lille. But, I was just trying to find out from you that you accept that these were indeed, projections.

MS DE LILLE: The, the projections of the NIPS and DIPS, or the 65 000 jobs?

ADV CHOWE: Yes. It is the projections of the total NIPS for the jobs and also for the investments.

MS DE LILLE: The projections for the 65 000 jobs, the, I have said that the 65 000, as far as I know and with the last information that I have checked that when I was still a Member of Parliament that we, we did not reach that figure of 65 000. I further said this morning ...[intervene]

CHAIRPERSON: Ms De Lille, I am sorry. Just listen to the question very carefully. The question is, do you accept that these figures were projections, at that time. That is why, the question indicated to you.

15 MS DE LILLE: Yes.

CHAIRPERSON: Do you accept that these were projections?

MS DE LILLE: Yes, I accept that, they are with that.

CHAIRPERSON: Thank you.

ADV CHOWE: And have you accepted that these are just projections, you have indicated in your evidence that these particular projections are a lie, by officials, to the principals. Do you admit that you said that?

MS DE LILLE: I admit that I said that, Honourable Judge, and I would like to withdraw it. Thank you.

ADV CHOWE: So, it is withdrawn that ...[intervene]

25 MS DE LILLE: Yes.

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ADV CHOWE: This was a lie.

CHAIRPERSON: Mr Chowe, Ms De Lille said that she would like to withdraw that statement. That statement is withdrawn. It did not exist.

ADV CHOWE: Mr Chairperson and Ms De Lille, I must say that is how far I
5 would like to go. As the Commission pleases.

CHAIRPERSON: Thank you. Thank you. Thank you, Mr Chowe. Advocate Moerane?

ADV MOERANE: Thank you, Chairperson. Referring to the same page, Ms De Lille.

10 MS DE LILLE: Yes. Which page?

ADV MOERANE: Page, page 6. Have you found the page? Yes. It says:

“On November 18th 1999, Cabinet approved the core force equipment, subject to the available of funding.”

Do you see that sentence?

15 MS DE LILLE: Sorry, just, I did not hear the last part, advocate?

ADV MOERANE: You confirm that sentence in, in the so-called De Lillie dossier?

MS DE LILLE: Do I confirm the sentence?

ADV MOERANE: Do you see it?

20 MS DE LILLE: I see the sentence, but I am not confirming it. I am saying that I accept that the 65 000 was projections. Am I understanding you correctly, advocate?

ADV MOERANE: No, you do not understand me correctly. I am not asking you about the ...[intervene]

25 CHAIRPERSON: Ms De Lille, can you switch off?

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MS DE LILLE: Mine is off.

ADV MOERANE: Yes. It is now off.

CHAIRPERSON: It is now off.

ADV MOERANE: Yes.

5 CHAIRPERSON: Okay. Thank you.

MS DE LILLE: Ja.

ADV MOERANE: No, no. I am not asking you about the projections. I am not asking about the 65 000 jobs. I am just asking about the very first sentence. That is all. In other words, the sentence that reads:

10 *“On November 18th 1999, Cabinet approved the core force equipment, subject to the available of funding.”*

That is all I am asking you about.

MS DE LILLE: That you want me to confirm that, that sentence?

ADV MOERANE: Yes. That is all.

15 MS DE LILLE: But, I cannot just confirm one sentence in this document, when I have asked and I have said in my introduction, that I have insufficient personal knowledge, regarding the allegations contained therein and to assist the Commission, by way of oral evidence. That is still my view, honourable advocate. I accordingly seek, ask the contents of the dossier to be
20 investigated.

ADV MOERANE: Ms De Lille, this is not a trick question. Let me ask you in a different way. Is it correct that, on the 18th of November 1999, the Cabinet approved the core force equipment, subject to the available of funding?

MS DE LILLE: I am going to repeat, Honourable Judge, that this page 6 is
25 part of the De Lille dossier, in total and I said before, that I have insufficient

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personal knowledge, regarding the allegations contained in this document and therefore, have asked that they be investigated by the Commission.

ADV MOERANE: As on the 18th of November 1999, no, in fact, do you know when Cabinet approved the core force equipment? Do you know the
5 date?

MS DE LILLE: I have said that I have insufficient personal knowledge of the information contained in this document to assist the Commission by way of evidence and accordingly have asked for the contents, the complete contents of this document to be investigated. Thank you, Judge.

10 ADV MOERANE: Well, let me assist you. It is common cause and there has been evidence, before this Commission that on the 18th of November 1998, not 1999, 1998, Cabinet approved force equipment, subject to affordability. Are you in a position to remember that? Now, not relating to this document, but just relating to what you know of the arms procurement
15 history?

MS DE LILLE: I will repeat again, I did not follow, everyday the submissions by whoever in this armsdeal Commission and deliberately so, because is I sent my submission to the Commission, stating full well that the only thing that I want from this Commission is that I have insufficient personal
20 knowledge, regarding the allegations contained in the complete dossier. Therefore, I asked the Commission to investigate. If, in the end, the Commission comes to the finding, or recommendation, that in fact, what you say, Advocate Moerane, is correct, then so be it.

ADV MOERANE: The problem, Ms De Lille is, is that you, out of anticipate
25 and you expect that it is a trick question. Yet, it is very simple. Now, do you

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know who the President of the country was, on the 18th of November 1998?

MS DE LILLE: Oh, no. That, that we all know is our beloved Tata Madiba.

ADV MOERANE: Precisely. Now, he was part of the Cabinet that approved the acquisition, subject to availability of funds. Not so?

5 MS DE LILLE: We are going the same route, where I have to repeat that I want all the allegations, of which the sentence that Advocate Moerane is asking about, it is part of the De Lille dossier that I want the Commission to investigate the whole dossier. That is what I am asking for, Honourable Judge.

10 ADV MOERANE: Ms De Lille, I think it is common cause, that as that date, 18th of November 1998, President Mandela was the President of the country. He was also head of the National Executive. Now, it is simple.

MS DE LILLE: I was a Member of Parliament. Yes, he was.

ADV MOERANE: Thank you, very much. Now, are you making any
15 allegation, whatsoever, that President Mandela, or any member of his Cabinet, were guilty of any fraud or corruption, relating to the arms procurement decision?

MS DE LILLE: I have said in my affidavit, that I have insufficient personal knowledge, regarding the allegations contained in the dossier, to assist the
20 Commission, by way of oral evidence. It is very clear. I further said, Advocate Moerane, having said that, I was still called to come here, which I did and I complied with the summons. Then, some of the questions I made this morning were really some of my views that I express around the issues. But, the official position is, that I have asked the Commission, the Judicial
25 Commission of Inquiries to investigate, all the allegations, contained in the

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De Lille dossier and that includes what Advocate Moerane is asking me now.

Thank you.

ADV MOERANE: In other words, I understand you to be saying that you are not making any allegations that President Mandela, Deputy President
5 Mbeki, Minister Joe Modise, Deputy Minister Kasrils, Mr Lekota, Minister Trevor Manuel, you are not making any allegation that they are guilty of any fraud or corruption, relating to their roles in the arms procurement.

MS DE LILLE: Honourable Advocate Moerane, the document says briefing to Patricia De Lille, honourable Member of Parliament. That is the document
10 that I have submitted to the Commission, asking that all the allegations contained in that document, be investigated and that I do not have personal knowledge of the allegations contained, because the document was given to me.

ADV MOERANE: Thank you. Now, let us, let us go to that aspect of the
15 document being given to you. Now, I do not quite follow your evidence, regarding to the circumstances of how you came to be in possession of this document. In fact, I do not know what your evidence is. Did one human being give you this document?

MS DE LILLE: A human being with two legs and two arms and hands, a
20 normal human being, advocate.

ADV MOERANE: Now, was this particular human being a Member of Parliament, or was that particular human being not a Member of Parliament?

MS DE LILLE: The document was delivered to me, or given to me, by concerned members of Parliament. Thank you.

25 ADV MOERANE: You see, that is why, that is why I am confused by your,

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your evidence. At one stage, you were given this document by a human being with two legs and two arms. In the next breath, you were given this document by members, concerned members of the ANC. What, what is the correct version?

5 MS DE LILLE: Now, I have responded, Honourable Judge, to honourable Moerane's question about a human being and I simply wanted to describe a human being. He said a human being and I said a human being with two arms and two legs, because that is what the honourable advocate asked me about. But, the document says, which I have asked and I have placed before
10 the Commission that this was a briefing to Honourable Member Patricia De Lille, coming from concerned members of, members of Parliament of the ANC.

ADV MOERANE: Yes. The document might have said that. But, the question was not what the document says. The question was who actually
15 physically handed this document to you? Was it one person? Or was it a group of people?

MS DE LILLE: The document was handed to me, by a group of concerned members of Parliament from the ANC.

ADV MOERANE: Who are those people? What are their names?

20 MS DE LILLE: I also said, in my affidavit on page, if I can just assist, on page 2 of my affidavit, honourable advocate, under page 6 that the information was given to me in confidence. I will not reveal the source. I have insufficient personal knowledge regarding the allegations contained therein, to assist the Commission, by way of oral evidence. I accordingly,
25 merely asked for the contents of the dossier to be investigated. Thank you.

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ADV MOERANE: Ms De Lille, why do you not want to disclose the names of these so-called concerned ANC members?

MS DE LILLE: Because my word is my honour, advocate Moerane. I had promised them that I will not do so. Thank you.

5 ADV MOERANE: I think you have stated to the Commission that you attended the funeral of Bheki Jacobs, of course, who goes by other names. Now, did you know him personally?

MS DE LILLE: I did not know him personally as a friend or an acquaintance, no.

10 ADV MOERANE: In what capacity did you know him?

MS DE LILLE: I know him that, in the beginning when the, I met with the ANC members of, concerned ANC members of Parliament and they handed the document to me, they made reference to him. But, I did not know him.

ADV MOERANE: What reference did they make to him?

15 MS DE LILLE: I have said, honourable advocate, on page 2, that the information was given to me in confidence and I will not reveal the source.

ADV MOERANE: I am not asking you to, I am not asking you to reveal the source. All I am asking you is that, what did they say, concerning Mr Bheki Jacobs?

20 MS DE LILLE: I am not prepared, like I said before, to reveal names of the members of Parliament and what they said about Mr Bheki Jacobs.

ADV MOERANE: In your interactions with Mr Bheki Jacobs, did he tell you about the arms acquisition?

MS DE LILLE: No, advocate.

25 ADV MOERANE: Did he give you any documents, this Mr Bheki Jacobs?

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MS DE LILLE: No, advocate.

ADV MOERANE: Did you know that Mr Bheki Jacobs was a well-known confidence trickster?

MS DE LILLE: A what, advocate?

5 ADV MOERANE: In short, he was a conman of note.

MS DE LILLE: No, I did not know that, advocate.

ADV MOERANE: Now, moving on to the, the Kahn, Advocate Kahn issue. Remember, you told the Commission that you spoke to Advocate Kahn.

MS DE LILLE: Ja.

10 ADV MOERANE: Concerning a document, which later was handed to former Minister Maduna and President Mbeki.

MS DE LILLE: What, what I said, advocate, was that Advocate Kahn invited me to his office. He was together with senior council. I only know that he is from Bloemfontein, but I cannot remember the name.

15 ADV MOERANE: Let me help you.

MS DE LILLE: Yes.

ADV MOERANE: It was Advocate Jan Lubbe.

MS DE LILLE: That is correct. That is correct. Thank you for that. What Advocate Kahn informed me, was to say that he has been asked, by Minister
20 Penuell Maduna that President Mbeki wanted to know, whether this dossier contained any prima facie evidence and that he must sit, the two of them, him and Advocate Lubbe must sit with me and they must work through the document. So, almost like all of the, the same answers that I gave today, I informed the two, Advocate Kahn and Advocate Lubbe that these, this
25 information was handed to me. That was after I was subpoenaed by the

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NPA and I was interviewed by Advocate Gert Ferreira. Then they said and they asked a lot of questions. I cannot remember all the detail anymore, but finally at about three, four hours, I was released and they were then going to give a report to Minister Penuell Maduna, which claimed that he wanted it on behalf of President Thabo Mbeki. Now, when I make reference to the, to the Business Day report, I have asked the evidence leader, Advocate Lebala earlier on, if they have got a copy of the, of that report that appeared in the Business Day and I am still waiting to, to get a copy from them. But, basically, what it was saying was that the, that Advocate Kahn advised the minister that in fact, there was a need to investigate the, the document, but that the President, when the President spoke on national television said that he was advised that there was no evidence, or no, no, there was not need to further investigate, or there was no prima facie evidence. I cannot recall for that, then. That was what Advocate Kahn disputed. Then asked the Department of Justice to, to correct it, failing which, he will then publish this article. The article did appear in the Business Day. I do not know if advocate has got a copy of it. I am trying to get a copy, just to refresh my memory. I did also, mention it to the evidence leaders, when I had one of the interviews with them and asked them to get us a copy of that article. That is my recollection.

ADV MOERANE: I take it, for obvious reasons, you do not have access to and you never saw the report that Advocates Lubbe and Kahn furnished to Minister Maduna.

MS DE LILLE: Yes. You are correct, advocate. I have seen the Business Day article.

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ADV MOERANE: So, if one were to suggest to you that, in the report, that which President Mbeki, there was no allegation of the facts in that dossier, amounting to a prima facie case. You would not be in a position to dispute that.

5 MS DE LILLE: You are correct, advocate.

ADV MOERANE: Thank you. Let us move on. Now, you also had certain things to say about the JIT report. I think you used the word, white wash. Do you recall that?

MS DE LILLE: I did say it was a white wash.

10 ADV MOERANE: And that was a report, furnished by the former public protector, former auditor general and the office of the National Prosecuting Authority.

MS DE LILLE: Yes, advocate.

ADV MOERANE: In that report, was there any finding of fraud or
15 corruption, attributable to the Cabinet, or any member of the Cabinet?

MS DE LILLE: If I can recall, advocate, the, the key, there were key findings and some recommendation on also, procedural issues. But, the jest of the report, really, was that there was no wrong doing or irregularities in the primary contracts, with the primary contractors and those are the primary
20 contractors that government engage with directly. The, the report did suggest that there was some wrong doing with the secondary contracts, you know, with subcontractors in this. That, that to me is what I understood the basis of the report to be.

ADV MOERANE: Yes. You are quite correct.

25 MS DE LILLE: Ja.

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ADV MOERANE: Quite correct. Yes. And then, why would you then regard that as a white wash?

MS DE LILLE: I did that, advocate, because of the exclusion of the special investigating unit. As you can recall, there was quite an issue around that
5 exclusion. In fact, as members of Parliament, we questioned why and I was one of the people that did not really accept some of the reasons, that were given, as to why that particular important structure was excluded, because that is the only structure, as far as I know, at the time, that was able to cancel
10 contracts, if there were found to be any irregularities.

ADV MOERANE: Is it correct, that at the time, the criticism was directed at the exclusion of former Judge Heath?

MS DE LILLE: It was directed at the exclusion of the SIU. Judge Heath was the head, but the SIU is governed by SIU act, I just cannot remember exactly the act, but we wanted the, the organisation of the SIU to be involved.

ADV MOERANE: In particular, you, Ms De Lille, did you not want, in
15 particular, Justice, as he then was, Heath, to be part of the investigating team? I am now distinguishing between the unit and, and Judge Heath. Did you not want him to part of the investigating team?

MS DE LILLE: Well, as you can recall, advocate, I also said that in
20 November, November of 1999, I also gave some documents to Advocate Heath. But, he was representing the SIU, not as an individual. So, it was never about excluding the individual, it was about excluding this mechanism that we have got, within an act of Parliament that could have assisted with the investigation.

ADV MOERANE: No, Ms De Lille. I am referring about you personally, did
25

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you not want him, as a person, to be involved in the investigation, Judge Heath.

MS DE LILLE: No. To me, it is not about the person, advocate. Really, it is about what the law prescribed. He was the head of the organisation, but the
5 act is clear, as to what is the legal mandate of the SIU.

ADV MOERANE: You are, no doubt, aware of the Constitutional Court judgment in the South African personal injury lawyer's case, which said it was inappropriate for the judge to head that unit.

MS DE LILLE: Well, that, that certainly did happen, but we are not talking
10 about that now. That came afterwards. Before that, before the establishment of the, it was not before the establishment of the JITT. I think that came afterwards, if I recall correctly.

ADV MOERANE: Yes. Now, let us come to the question of the German prosecutors. Would it not be correct that, you were informed by those
15 German prosecutors that there was nothing they could do about the allegations that you wanted them to investigate?

MS DE LILLE: I, I did not ask them to investigate all of this. I knew that they had asked South Africa for legal assistance and I wanted to know what you are investigating. There is certainly record that they have asked South
20 Africa for legal assistance. Also, so did the serious fraud office, in the UK, also asked South Africa for legal assistance to, to investigate. That is why I went from Germany to the UK.

ADV MOERANE: I see. You went to the UK and did you speak to the serious fraud office people?

25 MS DE LILLE: Yes. I did speak to them, advocate and at that stage, they

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were awaiting a reply from, I do not know whether it was our Foreign Affairs Department, or our Justice Department, but they have shown me the, the letters that they have written to South Africa to, for us for legal assistance.

ADV MOERANE: So, did you get any joy from them?

5 MS DE LILLE: No, I did not get any joy from them, advocate. It was merely to find out what they could share, in terms of their investigation into all of these allegations, surrounding the procurement package that I was interested in.

ADV MOERANE: Now, you also referred in your evidence to an approach
10 by Minister Lekota. Is it correct that he asked to share with him, any information you heard, you had, with regard to any fraud or corruption, relating to the arms acquisition.

MS DE LILLE: He made that request in Parliament. I responded to that earlier on, advocate, by saying that it is not to give information to a head of
15 state or a minister, if you want investigations. It is for that reason that I did not want to give them any information, but instead opted to go lay charges.

ADV MOERANE: But, my question is, did you actually respond to Minister Lekota? Did you, did you, he approached you directly. Did you respond to him directly?

20 MS DE LILLE: No, he never approached me directly. He never even wrote me a letter. He was saying that in, in Parliament. No.

ADV MOERANE: Did you respond?

MS DE LILLE: I could not respond, because he never put an official request to me. He only made that in his, he only said that in his speech in
25 Parliament.

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ADV MOERANE: Well, my instructions are that Minister Lekota was, up to today, waiting for a response from you.

MS DE LILLE: I, I can assure you on that, advocate. He must show you the letter that he has written to me. What I do recall too is that there was
5 another question put to Minister Lekota, by somebody from the Freedom Front, related to, also, some of these allegations, also in Parliament, and then the Parliament record.

ADV MOERANE: And in any event, you have already indicated to the Commission that you did not submit this information to President Mbeki, then
10 President Mbeki. But, did you not think that if you were to do this, he might have appointed a commission of inquiry?

MS DE LILLE: Honourable advocate, when you are a Member of Parliament, you have to work within the rules of Parliament. What I did on the 9th of September, was to go to Parliament and call for a judicial
15 commission of inquiry. So, that is on the record of Parliament. So, the, the President was part of Parliament. He came to Parliament quite often to answer questions. We had a leader of government that was in Parliament, honourable Jacob Zuma and they had to take that request to President Mbeki and then, President Mbeki could have then said, but give me more
20 information so that I can establish a judicial commission of inquiry. So, that is the procedure that had to be followed.

ADV MOERANE: The final issue. You also mentioned the case of Mr Tony Yengeni. I think it is common knowledge that he was convicted in, in respect of accepting, unlawfully accepting a discount and not disclosing that to
25 Parliament or something to that effect. Now, did, on your knowledge, Mr

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Yengeni's activities, in any way, influence the process of the decision, relating to the acquisition of the arms?

MS DE LILLE: Just repeat that, advocate?

ADV MOERANE: Did Mr Yengeni, in any way, influence the decision, in
5 other words, did he influence the Inter Ministerial Committee or the final decision maker, Cabinet, in their decision to acquire these arms?

MS DE LILLE: Mr Yengeni was convicted by a court of law in South Africa for a criminal offence. Like all of us, are equal and subject to, to the law. His, his arrest and prosecution, is a criminal matter and I am trying to
10 understand how you are linking this criminal ...[intervene]

CHAIRPERSON: Just hold on, Ms De Lille.

MS DE LILLE: Yes.

CHAIRPERSON: I am going to ask Advocate Moerane to repeat the question.

15 MS DE LILLE: Ja.

CHAIRPERSON: And just listen carefully to the question, so that you can give him an appropriate answer. Advocate Moerane, can you just repeat your question?

ADV MOERANE: Oh. Yes. Yes, Commissioner. Now, did Mr Tony
20 Yengeni, influence the decision to acquire these arms?

MS DE LILLE: Mr Tony Yengeni, as the Chairperson of the Portfolio Committee of Defence, having had an oversight role over the executive, could have possibly influenced the, the procedures, because as Members of Parliament, we had to provide oversight, over the executive. But, I do not
25 have any proof of that. I say he could have possibly influence it.

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ADV MOERANE: Well, I take it, you followed his trial. As far as you are concerned, from the evidence in the case, was there any evidence at all, of him influencing the decision to acquire these arms?

MS DE LILLE: Then I, Advocate Moerane, I did not follow the trial. In fact, I
5 remember there were a number of delays, before the trial was finally concluded. I did not also, look at the record of the court.

ADV MOERANE: I see. You also mentioned certain amounts of money, which you said were paid to the Nelson Mandela Children's fund. Do you recall that?

10 MS DE LILLE: What I was saying, advocate, that on the, on the 6th of November 2007 and I did read earlier out, earlier on the statement that I have made in Parliament to the Commission, about the R500 000.00 to three organisations. Then, I made further reference to the Mail and Guardian report on the 14th to the 20th of December 2007, where they also made
15 reference to the, the three, the three payments.

ADV MOERANE: Yes. But, do you have any personal knowledge of such payments?

MS DE LILLE: Advocate Moerane, when I was in America, America, in Germany, in consultation with the head of the prosecuting authority there,
20 they showed me the cheques. I did not get copies of the cheques. I just saw them. I did not get. They did not want to give me copies. But, I saw them.

ADV MOERANE: Yes. You saw cheques, but what I am asking you is, is whether or not, you personally know, personal knowledge of payments to the Nelson Mandela Children's fund, to the ANC, to Ms Graca Machel's
25 organisation. Do you have any personal knowledge of that? It is one thing,

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having sight of a cheque. A cheque does not actually tell you to whom, who actually received the money.

MS DE LILLE: No, advocate. What I am saying, what I said in Parliament that this money was paid into an account in Switzerland and also, the name
5 of the bank that was given to me. I did not see personally that it got into the banking account and out, you know the normal money transfers. But, this is what I was shown.

ADV MOERANE: Thank you, Chair. No further questions.

CHAIRPERSON: Thank you, Advocate Cane?

10 ADV DE WAAL: Mr Chairman, can I just ask whether Ms De Lille can read the report that was given to us and she take a few minutes to read it quite carefully, before the questions starts around this article.

CHAIRPERSON: Come again?

ADV DE WAAL: I would like Ms De Lille to have an opportunity, a few
15 minutes, perhaps, because this newspaper report has become of some importance for her to read it, perhaps two or three minutes for her to read it carefully, before Advocate Cane resume with her questions.

CHAIRPERSON: So, you are asking that we then, to adjourn for some few minutes?

20 ADV DE WAAL: No. No. We would like to get on with it, Chair. But, she can just sit and read it for a few minutes, before the questions start.

CHAIRPERSON: In that case, we will adjourn for five minutes.

ADV DE WAAL: And if we could be informed who the reporter is that is the author of this article as well, that is on record.

25 CHAIRPERSON: Thank you. We will adjourn for five minutes. We will

come back after five minutes. Yes, Advocate Cane? Oh. I am sorry.

(COMMISSION ADJOURNS)

(COMMISSION REOPENS)

CHAIRPERSON: Do you confirm that you are still under oath?

5 MS DE LILLE: Yes, I do.

CHAIRPERSON: Thank you. Thank you.

ADV CANE: Thank you. You do not have questions? Alright. Ms De Lille. I want you to, in general, on aspect that we have encountered in the past. It is very quickly, in the light of your acceptance that you did not, or that you
10 withdrew your allegation that officials of the DTI and had [indistinct] to the leaders of our country. Do you accept the same, in relation to the officials of the Department of Defence, who were involved in the armsdeal? In other words, are you prepared to accept that your allegation that they too, lied to the leaders of our country, would not be correct?

15 ADV DE WAAL: Sorry, Mr Chairman, I do not understand that question. I must be honest. In what context was the complaint, do the Department of Defence officials lie to the leaders of the country?

CHAIRPERSON: Mr De Waal, I understand the question.

ADV DE WAAL: Okay.

20 CHAIRPERSON: And I am going to allow the question. Mind you, the [indistinct] system in the NIPS and DIPS, that is what your client is referred to. DIPS are being dealt with, by both Armscor and the Department of Defence. The job estimations were done by both Armscor and the Department of Defence. I think Ms Cane is entitled to ask that question.

25 Advocate Cane?

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ADV CANE: Thank you. Can you answer that question, Ms De Lille?

MS DE LILLE: Through your Honourable Judge, what I said, that I am accepting that the 65 000 jobs was at projection. That is what I said. Thank you.

5 ADV CANE: Ms De Lille, when you gave evidence that officials of the, let me rather rephrase it in the way that it is already been recalled to request. In fact, officials who participated in the procurement of the armsdeal had lied to the country's leaders and taken them for a ride. As I understood you, you were prepared to accept that that allegation was not based on personal
10 knowledge and you withdrew it.

MS DE LILLE: In relation to what I respond to the DTI, you want me to respond in the same way to the South African National Defence Force? Then I would do the same. Thank you.

ADV CANE: Yes. Indeed, if I understood you correctly.

15 MS DE LILLE: Yes.

ADV CANE: And I am grateful that you will do the same.

MS DE LILLE: Ja. Thank you.

ADV CANE: Now, in the same vein, you made a comment that was taken, or could be taken to be a derogatory comment and I am not sure you actually
20 intend it to be derogatory. It may have just been a careless comment. So, we may be able to deal with it very quickly and it pertained to the officers of the Department of Defence, wanting these nice toys. Now, clearly, the equipment they wanted, was, it is a matter, which was both in fulfilment of the Constitution imperative and in recognition of what was anticipated in the
25 defence review. So, similarly, are you prepared to accept that that would be

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inappropriate?

MS DE LILLE: I have referred to toys, because of the perception that these arms, armoury were unnecessary, or over and above that what we really needed and that is why I made the reference to toys. But, if you are not
5 happy with the word toys, that is fine with me. I can replace it with armament.

ADV CANE: Yes. Thank you. I, if you are happy to accept that those, to make sure that being equipment or armament, we have now moved past that. Otherwise, I must go through with you the Constitution and quote and
10 take you to the relevant aspects in the defence review, which was passed by Parliament, as I understand it, while you were an MP and question why, you are so derogatory about the acquisition, as such. So, it is really your choice. If you are happy to drop those words, then we can move on.

MS DE LILLE: Through you, Honourable Judge. I have just said that, if you
15 are not happy with the word toy, we can replace it with armaments, whatever suites you.

ADV CANE: Ms De Lille, you stated earlier that you had briefed the press on the occasion of your attending Bheki Jacob's funeral. You also gave evidence that you did not know him personally, that he was not a friend or
20 acquaintance of yours. You gave the evidence that the ANC members of Parliament, who have brought the document, upon which your De Lille dossier is based, have made reference to Bheki Jacobs. But, you were not prepared to answer the question, as to what they said about him. Now, my question to you, had alleged the article that you insisted on seeing, is
25 whether, in the face of all of that, are you going to deny that you gave the

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press information, at the funeral, or shortly before it, during which you intend to pay Bheki Jacobs the compliment of having provided you with information that you had used in the De Lille dossier.

MS DE LILLE: I certainly did not compile the De Lille dossier. So, I did not
5 use any information from anybody in the De Lille dossier. I have said it before, that this document was delivered to me, by concerned ANC members of Parliament. I gave it to the Commission and said I do not have enough personal knowledge of the content, to, insufficient knowledge of the contents and therefore, I am asking the Commission to and like I repeated to you
10 about five times, I think, earlier on. Now, coming back to the statement, the headline says:

“The man described as the main source for De Lille dossier, which raised questions all over South Africa’s armsdeal died in Cape Town on Monday.”

15 Then it goes further to say:

“The man, described as the main source for the De Lille dossier.”

It does not say by whom, described by whom, which raised the questions in Parliament over kickback, died in Cape Town on Monday.

Then the next sentence just made reference to the family and then it says:

20 *“Speaking on her way to his funeral, Independent Democrats leader, Patricia De Lille said it is very sad. I knew he had cancer, but he was still very young.”*

Then there is a sentence, which is not attributed to me, where it says:

25 *“He was the source of the dossier that she tabled in Parliament in 1999, when still with the Pan African Congress.”*

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Then the next sentence says:

“De Lille said his death would not affect ongoing attempts to resolve allegations of bribery and corruption in the deal. He has done a lot, a lot of information is out there that he is responsible for. He was just really
5 *protecting his country. He wanted to see his country to succeed.”*

And then they quote me, she said. Then, the article goes on:

“Honourable judge to make reference.”

Now this is in September, now the 8th of September, the staff reporter, there is no name. Then, it goes further to the, can I just ...[intervene]

10 ADV CANE: May I interrupt you?

MS DE LILLE: Oh, sorry.

ADV CANE: If I may interrupt you at that point. You may read the rest of it later. But, let us just pause to the point that you have actually progressed to in that article.

15 MS DE LILLE: Yes.

ADV CANE: What it is referring to and it gave you context, which was that you were attending the funeral of a person who is neither a friend, nor an acquaintance. You did not know him personally. Is that correct?

MS DE LILLE: Yes.

20 ADV CANE: You were attending a person whose funeral you accepted, the members of Parliament had made reference to, at the time they handed you the De Lille dossier.

MS DE LILLE: Yes.

ADV CANE: But, you would not say what they said about him. The
25 inference that I put to you is that the only reasonable explanation for your

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attendance, pertained to the information he had given you, to the fact that you wished to pay him tribute and we see it reflected in your work. He was really just trying to protect his country. He wanted his country to succeed. I said to you, in the face of that context, did you deny, having paid him this
5 tribute? That is the question I want you to answer, before you read something entirely different to my question.

MS DE LILLE: If you did not interrupt me, I was going to say to you, like I said earlier on, that sentence is not ascribed to Patricia De Lille. It simply says, he was a source of the dossier that she tabled in Parliament in 1999,
10 when she was still with the Pan African Congress. I am saying that that is not [indistinct] to what I said. I do acknowledge that, what I said that De Lille said and that is what is in the article:

“De Lille said his death would not affect the ongoing.”

And then it goes on to quote De Lille:

15 *“He has done a lot.”*

Because that paragraph ends with she said.

Then they went on to what was written in August. This is now in September. In August they then went to go and cut and paste also what I said in August in my newsletter. So, what I want to say, Honourable Judge, this article does
20 not attribute that, to me, it is a tribute to a source. It says he was the source of the De Lille, of the dossier that she tabled in Parliament. But, it does not say that I said so. I certainly, I can tell you now, judge, I did not say so. I will, I will go and find this source this source of these documents, the journalist. We have to interrogate him and find out, you know, because if I had seen the
25 article, I was going to, I was going to question this. So, it is not attributed to

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me. It does not say by who, both the first sentence and the, the sixth sentence, the paragraph, in this document. Thank you.

ADV CANE: Ms De Lille, let me deal with that answer, one step at a time.

The sentence that is very squarely attributed to you, is the one saying:

5 *“He has done a lot. A lot of information is out there that he is responsible for. He was just really protecting his country. He wanted to see his country succeed.”*

MS DE LILLE: Yes. I see. Yes.

ADV CANE: Now, since that is attributed to you.

10 MS DE LILLE: Yes.

ADV CANE: Do you not, do you not allow that kind of statement, words to that affect?

MS DE LILLE: If you would listen, honourable advocate, I have said, that I did say those words. The query here is that, you, the question around the
15 head line. The head line says:

“The man described as the main source for the De Lille dossier.”

And then the sentence, where it also said:

“He was the source of the De Lille dossier.”

I am saying that that sentence is not attributed to me. My name is not there,
20 but you can see, the next sentence is attributed to me, because it is De Lille said. Then the next sentence is attributed to me and De Lille said and that is correct. That is what I am saying.

ADV CANE: May I summarise then what I would think you would expect the Commission to accept, it would be that you attended a strangers funeral.
25 That you had words to speak about him, pertaining to information out there,

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that pertained to the protection of his country and wishing his country succeed. But, that you would deny that there was any link between him and the De Lille dossier. Is that you want this Commission to accept?

MS DE LILLE: We are dealing here, Honourable Judge, with a media
5 release, which clearly, there is no any sentence here, about that he was the source attributed to me. But, the other sentence or paragraphs attributed to me. I accept that I said that and yes, I do, I did go to the funeral.

ADV CANE: You see, Ms De Lille, it leaves one with a very improbable
10 scenario and it is this that notwithstanding that you went to a stranger's funeral, a person whom you did not know personally, as a friend or acquaintance. Notwithstanding that, on your own version, you stand to request, the emanation he was responsible for in the context of allegations of bribery and corruption in the armsdeal. Notwithstanding all of that, the Commission must disregard the balance of the article that links him to the De
15 Lille dossier and that part only, they must reject as accurate, according to you.

MS DE LILLE: The Commission can decide whatever they want to, come with their findings and I will respect that. Thank you.

ADV CANE: Ms De Lille do you know that Mr Andrew Feinstein writes
20 about Bheki Jacobs, as having been the source of the information for you. Do you know that?

MS DE LILLE: No, Advocate, I do not know that.

ADV CANE: Now, it ...[intervene]

MS DE LILLE: Sorry.

25 ADV CANE: It, thank you, it seems that, unlike you, or perhaps that is

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unfair, he, like you, when and spoke to Bheki Jacobs and he writes about it. I would like to read to you what he writes and I would like to ask you a question at the end of it, if you would not mind just listening. I will try and make it short and strapped. For the record, it appears at page 169 of the

5 book entitled, After the Party, by Andrew Feinstein. If I may paraphrase to place in the context, he understands that this man Bheki Jacobs is the source of the information from you. He goes to find him and speak to him and meets with him. He says that he then, over the next three hours spoke, Bheki spoke almost without pause. He claims the armsdeal had been plotted

10 during the World Trade Centre [indistinct] and he goes on to say that he alleged that the ANC was full of murderers, drug dealers and common criminals. When I, and I quote him:

“When I eventually emerged, punch drunk and exhausted by his verbal onslaught, it gradually occurred to me that over the past few hours,

15 *almost the only people in the ANC, Bheki [indistinct] and myself. Were there any elements of truth in what Bheki had said about the armsdeal, or was it part of a vast sprawling fantasy that he had woven in his head? This was after all, a man who], had in both juniailed briefly for plotting to kill the President and virtually, at the same time, accused of being Mbeki’s master*

20 *spy. My instinct was there were kernels of truth embedded amidst the flamboyant verbally and some outright fabrication.”*

And we end it there, what would you say about his instinct that there were some kernels of truth, that must that it was flamboyant type verbally and some outright fabrication.

25 MS DE LILLE: I think, I think you should ask the question, honourable

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advocate, to amplify its author of the book and also the context in which he said it. I cannot answer for him. Thank you.

ADV CANE: I have understood that you have had your own conversations with Bheki Jacobs, or was I incorrect in that understanding?

5 MS DE LILLE: I said, but it is in Andrew's book and what he has written must, he must clarify for what he has written. I am not in a position to clarify for what he wrote. Thank you.

ADV CANE: I think you may have understood me, Ms De Lille. I was not suggesting that you had, or have had conversations with Andrew Feinstein. I
10 was asking you whether my understanding of your evidence is correct. That understanding was that you had had conversations with this person called Bheki Jacobs, yourself.

MS DE LILLE: But, how does that relate to what Andrew is writing in his book? I think you must still ask Andrew Feinstein here, honourable
15 advocate, to explain to you what he has written in his own book.

CHAIRPERSON: Ms De Lille.

MS DE LILLE: Yes.

CHAIRPERSON: Just listen to the question carefully.

MS DE LILLE: I do.

20 CHAIRPERSON: I am sure you are in a position to answer it. Look, I understand the question. It seems to be a simple question and you have reason to answer something else.

MS DE LILLE: No, I am not answering something else.

CHAIRPERSON: Can I ask Advocate Cane to repeat the question? Then,
25 let us try and answer the question.

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MS DE LILLE: Ja.

CHAIRPERSON: Advocate Cane, can you just repeat that question.

ADV CANE: Yes, certainly, Commissioner. Ms De Lille, the question is, have you spoken to Bheki Jacobs or not?

5 MS DE LILLE: The question that I have spoken to Bheki Jacobs, yes.

ADV CANE: And did you assess, in your conversations with him, whether or not, his allegations, pertaining to the armsdeal were reliable?

MS DE LILLE: I did not do that assessment, that is in the book of Mr Andrew Feinstein and you must ask him. Thank you.

10 ADV CANE: Did your discussions with Bheki Jacobs, pertain to the armsdeal?

MS DE LILLE: My discussions with Mr Bheki Jacobs pertained to the armsdeal, yes.

ADV CANE: Ms De Lille, then, you see, the reasonable inference, from
15 your refusal to answer the second question, out of those three, is that notwithstanding that you spoke to Bheki Jacobs about the armsdeal, that you are not prepared to make any assessment of whether the allegations have merit, or came from an authentic source, before you released it in the form of the De Lille dossier?

20 MS DE LILLE: We are going back to the first question, Honourable Judge. The De Lille dossier came to me, as a briefing document and that briefing document, I have then put before the Commission to investigate. I have also said in my affidavit, under oath that I do not have enough personal knowledge on the allegations, contained in the De Lille dossier and therefore,
25 I am asking the Commission to investigate. That is still my position.

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ADV CANE: You see, Ms De Lille, you went to a great deal of trouble over the years, in order to cover size the allegations in the De Lille dossier and press for the investigation. All I am saying to you is that a person in your position should and could have made some reasonable investigations, as to
5 the basis and the authenticity of these allegations.

MS DE LILLE: Can I hear, what did I do to put up this information to the public? Because I went to Parliament, at least in a public area, to ask for a judicial commission of inquiry as a Member of Parliament.

ADV CANE: Ms De Lille, you are not entitled to require me to answer
10 questions, but all I would do, in closing, is say to you that the evidence leader took you through a number of steps that you took, to try and show that these allegations were investigated, including the travel to Germany, the briefing of Mr Heath and so on. So, I put it to you that it would have been reasonable for a person in your position and with that interest, to have investigated, to
15 some extent anyway the allegations, to ascertain, whether there was any authenticity and certainly any reasonableness in them.

MS DE LILLE: Well, certainly, it is not my duty, as a Member of the, a Member of Parliament and public representative, I certainly raised these issues and as such, as I explained earlier on, I even attempted to go and lay
20 charges, so that these things could be investigated and people be afforded the opportunity to state their side of a case in an open court of law. That is my role.

ADV CANE: So, can I conclude then, that you accept fully that you make no independent enquiries, regarding your source and that you are prepared
25 to be used as a mouth piece, without making independent enquiries, into very

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serious allegations.

MS DE LILLE: For the sake of my country, I am prepared to do it, because it was serious allegations, referring to people in very high positions. As a Member of Parliament I used the legal mechanism, available to me, to go to Parliament and call for a judicial commission of inquiry. If asked to do it again, I will do it again. Thank you.

ADV CANE: Thank you, Learned Commissioners, I have no further questions.

CHAIRPERSON: Thank you. Any re-examination?

10 ADV DE WAAL: I will be very brief, Mr Chairman. Just on the last point, Ms De Lille, you started your evidence, by referring to paragraph 5 of your affidavit, at page 1, where you say that:

“You should point out that two persons mentioned in the dossier, Mr Shabir Shaik and Tony Yengeni were subsequently investigated, charged and convicted of serious transgressions, relating to their involvement in the armsdeal.”

And then you mention a third person. Then you go on to say:

“This strengthened my belief that the allegations in the dossier should be investigated.”

20 Is that your primary argument, because this is the only argument? The reason I am asking you is, this is the only argument that you mention here, which you suggest, gives the dossier some credibility.

MS DE LILLE: Honourable Judge, yes, that is indeed the case.

ADV DE WAAL: Then I just want to go back, briefly to the cross-examination of Ms Cane, when she started and you can keep at page 2 of

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the affidavit, because at the bottom of page 2 of the affidavit in paragraph 9, you say that:

“You described in summary form the topics covered by the De Lille dossier in other matter, which I want the Arms Procurement Commission to
5 investigate.”

And you list them in ANNEXURE A, thereto. Some considerable time is then spent on trying to analyse these bullets and if I may cut to the chase, it was suggested to you that it is an impossible task to investigate the allegations as put here. The first issue that was raised was the Spanish bid. Now, can I
10 just go to ANNEXURE A and you see there (i) Spanish bid and then you say there:

“The allegations of corruption was whether Jayendra Naidoo was involved with World Wide Investment Limited WWIL and whether the Spaniards promised WWIL [indistinct]. But, then Advocate Cane took you to page 10 of
15 the numbered pages, under the heading let us examine the bids. She spent, what felt to me like a long time, but I am sure for you, even longer, a long period of time, discussing number one, the three paragraphs under there and you deal with Spain that refers to a period of three years earlier. But as I understand what you are saying, you wanted to investigate, is not that. It is
20 under allegations of corruption, which Ms Cane did not refer you to, at all, under the heading allegations of corruption. Is that right?

CHAIRPERSON: I am sorry, council. I did not quite understand the question. Can you perhaps rephrase the question?

ADV DE WAAL: Yes.

25 **CHAIRPERSON:** So that I can understand what you are requiring from the

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Ms De Lille.

ADV DE WAAL: Yes. Mr Chairman, I am trying to find out that the suggestion to Ms De Lille was that the allegations that she wants to have investigated, which fall outside the scope of the Commission, because they referred to the Spanish bid and that bid took place, a period three years, before 1999. What I am asking Ms De Lille is whether she wants that is whether she wants that to be investigated, or whether she wants the statement, referred to in ANNEXURE A, which is that Jayendra Naidoo was involved with World Wide Investment LTD and that the Spaniards promised [indistinct], which one of the two does she want to be investigated?

MS DE LILLE: Can I answer, Judge? Yes. Like I said in my statement under oath. Just switch off. Ja. Okay. Is that I want all the allegations, contained in the De Lille dossier to be investigated.

ADV DE WAAL: But, if I can just ask you, on the ANNEXURE A, what you say there is that you want to have the connection of Jayendra Naidoo and his involvement with WWIL investigated.

MS DE LILLE: Yes, Judge.

ADV DE WAAL: Then, if I can keep you at ANNEXURE A, there is a second issue, which was mentioned and that is that the allegation about the Agusta helicopters having cost R55 million and the Bell Helicopter only cost R12 million each is on the face of it, not capable of being investigated, of being investigated. Because one would need to know whether it is R55 million each for the helicopters, the Agusta helicopter, as I understand it, or whether the total price was R55 million. Can you recall that?

MS DE LILLE: Yes, through Your Honourable Judge, I, I did, do you want

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to switch off? Yes. Yes, Honourable Judge, I did say that the allegations on page 8 to 9, all of that must be investigated. I did also ask the question as to whether those differences in prices are correct, and whether that can also be investigated.

5 ADV DE WAAL: Ms De Lille, if I may repeat it, just slightly differently, it was suggested to you that these allegations of yours, or they are not of yours, of the De Lille dossier, are confusing and incapable of investigation, because one would need to know, whether the R55 million, relates all the Agusta helicopters, or whether it was each. Can you recall that?

10 MS DE LILLE: You, you, Sir, if you, Judge, you make reference to the question by Honourable Advocate Cane?

ADV DE WAAL: Yes. Yes.

MS DE LILLE: Ja. I have repeated, Advocate De Waal, I want and I requested, or the, the Commission of Inquiry to investigate all the allegations
15 contained in the De Lille Dossier.

ADV DE WAAL: Yes. That would, that would make sense Ms De Lille, because, if you go to page 9.

MS DE LILLE: Oh. Sorry.

ADV DE WAAL: If you go to page 9, then in the second sentence there it
20 says:

"The 40 Agusta helicopters will cost R55 million each, whereas as a Bell helicopter will cost R12 million."

So, it does actually make it clear, if there is any confusion, if there is any confusion for the Department of Defence on that particular issue, you would
25 refer them to the dossier.

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MS DE LILLE: That is correct, Advocate De Waal.

ADV DE WAAL: Then, just a final issue, Mr Chairman. You said, in your response to Advocate Moerane, that you have never seen the report compiled by Advocate Kahn and Lubbe, as I understand it. You have only
5 read what was said about that, in the Business Day. Now, would you like to see that report and would you like the Commission to consider the report that was compiled by Kahn and Advocate Lubbe.

MS DE LILLE: Advocate De Waal, I did, in one of the two meetings, I held with the evidence leaders, make reference to that report. I asked them if they
10 could get me that copy of the report, for the purpose of the inquiry. I even, earlier on, made enquiries if that report is there. I will certainly go and get the report and then, I do think that that needs to be investigated by the Commission. The report or, and then, link to the article in the Business Day.

CHAIRPERSON: I am sorry, let me just understand that we are expected to
15 investigate. We must investigate the report by the, or, by the attorney general, or what are we expected to, to investigate? What will be the link between that report and our mandate. Maybe Advocate De Waal can just explain that to you. I am getting a bit confused now.

MS DE LILLE: Honourable Judge, what I am saying is that there is a report,
20 compiled by Advocate Frank Kahn that was given to the Minister. Now, I say that I did not see that report. I have seen the article in the Business Day. So, if the Commission wants to verify, whether what was written in the Business Day, is the same that was in the report, that is why I asked the evidence leader if we could get the original report from Advocate Kahn,
25 because I have only seen the Business Day report.

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CHAIRPERSON: Ja. I do not understand why we should get this report. You know, just that I am trying to find out, how relevant this report is to our mandate, because we are told that, no, we must try and get this report. Advocate, if you can just try and assist me there.

5 ADV DE WAAL: Mr Chairman, the relevance is that Advocate Kahn was a head of public prosecutions in the Western Cape and his assessments of the evidence in Ms De Lille's dossier, would be of some persuasive, I would suggest, as to whether it is credit worthy and needs to be investigated at all, since we have already spent about 15 minutes, or 20 minutes to try and
10 identify the source of the De Lille dossier in an attempt to suggest that it is not a credible source and that there is nothing credible in the De Lille dossier. So, I would suggest from that point of view, it could be useful to have regard to the views of Kahn and Lubbe.

CHAIRPERSON: Okay. I hear your views. Maybe, let us just continue. I
15 hear what you are saying.

ADV DE WAAL: Yes. Just to end off. Ms De Lille, you said you will get the report, or would you like the Commission to provide you with a copy of the report?

MS DE LILLE: I would certainly, would ask the Commission to find the
20 report and provide me with a copy of the report, if possible, Honourable Judge.

CHAIRPERSON: I will find the report where?

MS DE LILLE: The, sorry, Honourable Judge?

CHAIRPERSON: I say, we should find the report where and what shall we
25 do with the report?

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ADV DE WAAL: Again, Mr Chair, I, I do not want to answer on Ms De Lille's behalf, but it was suggested earlier that the, under cross-examination that the persons here, representing Cabinet, have the report and it would be fair to make the report available again, to obtain Advocate Kahn's view on what was
5 contained in the De Lille dossier. To put that matter to bed, as to his views on whether there is was a prima facie case, or whether it needed to be further investigated and all so on.

CHAIRPERSON: Advocate Moerane?

ADV MOERANE: Chair, I think, what would be more profitable is to find the
10 authors of the De Lille report. Then, they will be able to explain what they meant.

CHAIRPERSON: Thank you. Advocate De Waal, we have heard what you have said. Thank you.

MS DE LILLE: No, but that is not. I did not author any report.

15 CHAIRPERSON: Ms De Lille?

MS DE LILLE: I did not author any report. We were speaking about a report that was authored by Advocate Frank Kahn.

CHAIRPERSON: Ms De Lille, you misunderstood what Advocate Moerane was saying.

20 MS DE LILLE: Now, can he repeat himself, please, Judge?

CHAIRPERSON: Okay. Thank you. Advocate Moerane, can you repeat that?

ADV MOERANE: Chair, what I said, is that what would be more profitable, is for the authors of the De Lille report, or the dossier, to be approached and
25 come and explain to the Commission for what they meant by that De Lille

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report and what their information was.

MS DE LILLE: Now, Advocate Moerane, you are sarcastic, but you are also confused, because this is not the report that we are referring to. The report that we are referring to, is the report done by Advocate Frank Kahn. So, you
5 are just sarcastic and confused, I think.

CHAIRPERSON: Thank you. Can we move on to the next one, before we become to personal , Advocate De Waal?

ADV DE WAAL: No. No further questions, Mr Chair.

CHAIRPERSON: Thank you.

10 ADVOCATE SNYMAN: Chairperson, if I may, I do not wish to cross-examine Ms De Lille, but I do wish to debate two statements that were attributable to my client ...[intervene]

CHAIRPERSON: Madam, [indistinct] there are two things that we can do here, either you cross-examine or re-examine. There is no speech making,
15 only statements. Your client has been subpoenaed, when he comes and testify, you can deal with whatever issue that you want your client to deal with. Otherwise, you are going to have a lot of people saying that I just want to comment, I just want to comment and we are going to run into difficulties. If there is any statement that you want to clarify, your client had been
20 subpoenaed, or your client is supposed to come and testify. You can ask your client to deal with that issue, at that stage.

ADVOCATE SNYMAN: Thank you. Thank you, chairperson, but the one thing that I wish to clarify is ...[intervene]

CHAIRPERSON: Thank you ...[intervene]

25 ADVOCATE SNYMAN: Not the comment to Ms De Lille, but the comments

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attributed to Mr Feinstein, by my learned friend, Advocate Cane ...[intervene]

CHAIRPERSON: Thank you ...[intervene]

ADVOCATE SNYMAN: As I understand [indistinct] I seek to clarify ...[intervene]

5 CHAIRPERSON: You will be given an opportunity to, your client will testify. He will deal with those issues. I am not going to allow you to do that now. Thank you. Advocate Lebala?

ADV LEBALA: Chair that is the testimony and evidence of Ms De Lille.

CHAIRPERSON: Thank you. Ms De Lille, no, it is not yet time to go. We
10 are done with you. Thanks a lot for, for giving your evidence and I heard you talking about the German investigations. We are fully aware of that investigation. You spoke about the investigation by the British. We are fully aware of that investigation. We are also in touch with them. We know exactly what they did, what they did not do. You can rest assured that that
15 evidence will come back with the Commission too. Then, we it will be almost finished. They started with that process more than two years ago. So, we are fully aware of those two investigations. In fact, we are even aware of other investigations and other jurisdictions that they sent this to. There are two other jurisdictions to where the investigations, we are fully aware of it.
20 Thanks a lot for, for giving the evidence. But, then, you are now going to just sit there until I am finish and when I stand up, only then, do you go out. Thank you.

MS DE LILLE: Thank you, Honourable Judge and as I was saying, I am prepared to co-operate with the Commission. If you want me on anything
25 else, I will be ready to help. Thank you. Also to Commissioner Musi.

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CHAIRPERSON: Thank you. Thank you. Advocate De Waal, is it or Advocate Sibeko, or Advocate Mphaga?

ADV LEBALA: Chair?

CHAIRPERSON: Direct us to the way forward?

5 ADV LEBALA: Direction, at this stage, could be given by Advocate Mdumbe.

ADV MDUMBE: Chairperson and Commissioner Musi, we have received, I have received emails and other correspondence from the witnesses who are scheduled to appear before the Commission. Some of the correspondence
10 confirms their legal representatives, wherein they deal with among, other issues, directives of their clients to give evidence before the Commission. That correspondence has been brought to the attention of the teams that have been assigned by the Commission to lead their evidence. Those, the teams, they are all here, Advocate Lebala, Advocate Ngobese, Ms
15 Ramagaga, Advocate Mphaga and Advocate Sibeko. The teams and myself, we have applied for [indistinct] to the reasons, set out in the correspondence. I think they are [indistinct]. I do not think that the reasons merit consideration by the Commissioners and the teams have formulated their opinions. They have, they are going to make recommendations to the Commission. The
20 next person, who was supposed to appear, is Mr David Maynier. Fortunately, Mr Maynier is also represented by Advocate De Waal and he is here. He will probably confirm a date for the Commission that we are going to put before the Commission. A letter that we have received from Mr Maynier's attorneys, I have given it Advocate De Waal. The rest we do have
25 it, then we will make, that we have made a submission to the Commission. A

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letter of recommendation, [indistinct] Advocate Lebala will then be followed by Advocate Mphaga and Ms Ramogaga and Advocate Sibeko will deal with the readiness of Mr Feinstein, Mr Paul Holden and Mr Hennie Van Vuuren. I am happy that, that Advocate Snyman is here. She is aware of the
5 correspondence. She will probably confirm that, everything that we are saying to this honourable Commission. Thank You, Chair.

CHAIRPERSON: Advocate Lebala, we are all waiting for you. You are supposed to be leading Mr Maynier tomorrow.

ADV LEBALA: Chair, may the record reflect that I would like to have a co-
10 operative David Maynier, as a witness of this Commission. I, our team, do not want to loose control of any witness. David Maynier has put it on record that he is not amendable to testify before the Commission. He is giving a number of reasons. We gave our view, as a team, to Advocate Mdumbe. Now, we have the letter, from David Maynier, stating that he will need
15 additional two weeks, because he was in hospital and he has been going through parliamentary duties. I am re-stating it and I am not saying this with precision, I have got to be cautious. Let me look for a paragraph that details the [indistinct] so that the Commission should appreciate it. It is a paragraph, headed paragraph 6. The letter says:

20 *“An altogether different matter is that our client wishes to refer to a draft report on factual findings, one dated 2nd September 2006 and entitled the State versus Jacob J Zuma and others. This report is available on the website of the Mail and Guardian newspaper and has been so available for a considerable period of time. Our client wishes to know, from the evidence
25 leaders, whether these documents, this document may refer to freely, during*

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his testimony, or whether any reference made to it, will expose him to criminal prosecution.”

Now here comes what I have been addressing you about, paragraph 7:

5 *“There is a consultation that took place between our team, Advocate Ngobese and Ms Riena Charles. I could not be in that consultation, because of illness and Advocate De Waal was present in that consultation.”*

Paragraph 7 of the letter says:

10 *“It became clear, during the course of the consultation that considerable time will have to be spent, preparing our client to present his testimony. He was given the, he was given the Commission statement, more than a year ago, in July 2013. The Commission requested to meet with him, for the first time, now, during the course of this week, some ten days, before he is supposed to give evidence.”*

15 That is not true, but let us not go into that. We have been requesting to see him earlier than that. Paragraph 8:

“our client conveyed to you that he recently spent some time in hospital. He now has to deal with urgent matters in Parliament, which will require much of his attention, until 23rd July 2014. After that, he can attend to preparation full time.”

20 We know that Parliament is sitting, the budget speeches, I am alive of that. I was supposed to be in Parliament myself chair, actually, representing my entity that I chair. But, I am here. Paragraph 9:

25 *“In the circumstances, we request a postponement of his testimony for a period of two weeks. Please indicate as a matter of urgency, whether you are agreeable to postpone his testimony, if so, until when.”*

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Now, I am going to be tramping on the toes of the Commission. Our considered view is that we would like to give him two weeks and have the co-operative David Maynier. What we did also, we drew the attention of Mr Mdumbe, that when we lead the testimony of Mr Maynier, we would like to do something that we thought we would do with Ms De Lille and of course, wisdom prevailed in the Commissioner and he halted us. We wanted to demonstrate, we will demonstrate to Mr David Maynier what the testimony says before the Commission. It is the best way to deal with that ...[intervene]

CHAIRPERSON: I understand that, Advocate Lebala. Can you tell us the date, to which the evidence of Mr David Maynier will defer to? What is rather the date?

ADV LEBALA: Chair, two weeks from now. I am happy that Advocate De Waal is here and he could confirm the availability of Mr David Maynier to come and testify. Two weeks from hence. That is the request that they made.

CHAIRPERSON: Yes. Yes. That I understand. We are prepared to give them that you refer. I thought maybe, you know, you would have agreed on a specific date, because we need to know. Advocate Mdumbe?

ADV MDUMBE: That is indeed, yes, that is indeed correct, that David Maynier said that if he could, if he could have his way he will happy with two weeks and I asked if what he said, what other date would they be comfortable with, if they could have. In the end we agreed that postponement for the week would be sufficient. We therefore and I submit that he mentioned and we [indistinct] that we postpone it on the 4th of August. The 4th of August if there is no objection thereto from that side. We think that

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his evidence, having looked at the evidence, either way, represents [indistinct] also finds on this one. We have received Mr Maynier's statement and some other documents. I think that three days that on the submission, so from the 4th to the 6th August, Chairperson.

5 ADV DE WAAL: Sorry, Mr Chair, I just noticed, I am not available on the 4th, can it be the 5th to the 8th. Is that a possibility? 5th to the 7th I mean?

CHAIRPERSON: Or can you give me, because I do not know what your program says, will the 5th to the 7th be okay?

ADV MDUMBE: Ja. We have this problem. Chairperson, we, we are okay
10 with the 5th and the 6th.

CHAIRPERSON: 5th and the 6th?

ADV MDUMBE: Yes.

CHAIRPERSON: Advocate De Waal, I suppose this should suit your client.

ADV DE WAAL: Thank you, Mr Chairman.

15 CHAIRPERSON: And I am going to bring his evidence to the 5th and the 6th of August on one clear condition, we are not send him again with a subpoena. Can we take that your client will be bound by this [indistinct]? Otherwise if the answer is no, then he will have to come here tomorrow, so that he can be officially excused.

20 ADV DE WAAL: Yes. Mr Chair, I am a bit hesitant, because I do not know whether he has another commitment that he absolutely cannot get out of, but I will certainly say that we will be able to tell you in the next 10 minutes, whether that is the case. I doubt whether it is, because Mr Maynier as I recall that his availability is quite good, during this period now, leading up into the
25 middle of August. So, unless, there is certainly no need for a subpoena to be

issued again, Mr Chair.

CHAIRPERSON: Advocate De Waal, I am prepared to say to you that there is no need for your client to come, to come to Pretoria tomorrow. We are prepared to meet him halfway, but then he must also meet us halfway. If you
5 try and give us an undertaking that on the that we are going to carry on, that your client will be here, then he does not have to be ...[intervene]

ADV DE WAAL: Yes. Certainly, I can do that Mr Chair, I can give you that then.

CHAIRPERSON: So, your client will be here on the 5th and the 6th of August
10 to testify.

ADV DE WAAL: Yes, Mr Chair. I have not checked those specific dates with him. I must, I must tell you, but I, I cannot foresee a problem. I must be honest. That is why I said, if, if, unless I am inform you otherwise, in the next five minutes. Mr Chair, the part of the problem is that we heard for the first
15 time, this morning, or just now that there is a postponement of two weeks. If this was taken up with me before, I would have gotten instructions and would have, would have been able to answer you immediately.

CHAIRPERSON: Advocate, the question of postponements of deferments of evidence, came as a result of a request that we have from various
20 witnesses. I then said to the evidence leaders, let us meet the witness halfway, what the plan to defer there evidence, on condition that they will not expect us again, with the subpoenas, because if everybody that was subpoenaed, up to, expects us to serve them again with a subpoena before they come here, they will only come here around about September. We have
25 got time only up to November. That is why we, I told you that we will meet

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your client halfway, when I said, he should not come tomorrow. We will expect him also to meet us halfway. The fact that he has got a busy diary, I do not think it is a good enough reason. We have served him with a subpoena. If we cannot a commitment from him that the day that we are

5 going to arrange, he is going to be available, we will insist that tomorrow, he must be here, unfortunately, but then I thought that we will be in a position to, I do not know whether you should call and say, we will meet you halfway, your client does not have to be here. But, at the same time, we have got, you were given a particular day, make sure that your client is here.

10 ADV DE WAAL: Mr Maynier's instructions were to us, he wants it to be postponed and on that basis I will agree that he will be here. I have got no idea about what his commitment is on the 5th and 6th. But, he will have to make an arrangement then to, to get over that.

CHAIRPERSON: Ja. This makes our operations very, very difficult, you

15 know. We thought we will meet Mr Maynier halfway, but I, even though when he will ...[intervene]

ADV DE WAAL: Mr Chair, but the difficulty is, if the evidence leader is just came to me, in the break, just now, he said to me, what about the 4th, what about the 5th and the 6th, then it would have been necessary for this debate.

20 But, if you can stand the matter for two minutes and I can make a phone call, I can give you an instruction. Well, I can get an instruction.

CHAIRPERSON: I think we will have to stand the matter down, because otherwise, if you cannot during the day.

ADV DE WAAL: No.

25 CHAIRPERSON: Unfortunately, Mr Maynier will have to be here tomorrow.

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But, then, we are prepared to meet him halfway, then he can attend to his other commitment. But, he must give us an undertaking that he will be here, because we would like all the witnesses to come and testify. So, we will take a five minutes adjournment and try and sort out the question of the date in the meantime. Thank you. I will tell you later then, what time am I going to excuse you [indistinct]. You will not be involved with any of the witnesses? And you are not going to get an application from me that you want to cross-examine and you are not available on that particular day.

ADV DE WAAL: Certainly not, not Mr Maynier, no.

10 CHAIRPERSON: No, not Mr Maynier, the other witness that are going to testify. We are going to set up a whole programme. Remember that I have told you, what we are trying to do. If at all, we end up [indistinct] on that particular day, unfortunately, you will have to fit in on those dates.

ADV MOERANE: Certainly, Chair.

15 CHAIRPERSON: Thank you. Can we try and find out, besides Mr Maynier, is there any agreement about the other witnesses?

ADVOCATE MPHAGA: Thanks, Chair, Dr Woods has confirmed the fact that he [indistinct] on Monday, he could not testify, but he has clear confirmation in the form of an email yesterday that he will be here on the 25th of August, to give evidence, 25 August.

CHAIRPERSON: So, Dr Woods will testify on the 25th of August.

ADVOCATE MPHAGA: That is correct, Chair.

CHAIRPERSON: Thank you. Any other witness [indistinct]?

MS RAMAGAGA: Yes. Thank you, Chair. Ms Taljaard is supposed to be, 25 to give evidence on the 29th of July, which is next Tuesday. She is not

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available on that day. She has committed to be available on the 4th and 7th day of August and we have confirmed the 7th day of August already for the presentation of her evidence.

CHAIRPERSON: So, Ms Taljaard is the 7th of August.

5 MS RAMAGAGA: That is correct, Chairperson.

CHAIRPERSON: Thank you. Advocate Sibeko?

ADV MDUMBE: Chairperson, Mr Terry Crawford-Browne, on the 23rd of June, he sent us an email, indicating that he will be out of the country from tomorrow. He will be back on the 16th of August. The date agreed to, for his
10 evidence is the 20th of August.

CHAIRPERSON: Mr Crawford-Browne, 20th of August?

ADV MDUMBE: Yes.

CHAIRPERSON: Thank you. Is that all?

ADV SIBEKO: Chair, Mr Andrew Feinstein, Paul Holden and Hennie Van
15 Vuuren are supposed to give evidence as from the 4th to the 6th of August 2014. Under cover of an email sent to Advocate Mdumbe, Ms Sello and I, there is a letter, which sets out certain facts, in terms of which, the jest of which is that these three witnesses, as a result of certain facts, would need more time to prepare. Mr Holden has to be issued with an approved visa
20 before he can leave the UK. In terms of an agreement that was reached with the legal representatives of the three witnesses, it was spelt that it would be ideal for these witnesses to give their evidence in succession of each other. Now, we were also furnished with rough draft statements of their evidence, which Ms Sello and I must consider, so as to establish which documents
25 should be given to these witnesses, in order to finalise preparation of their

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statements. They have also furnished a list of documents that they wish to
rely on, some of which will indeed, need to be declassified in. As a
consequence thereof, it does appear and a request is made in a letter that
has been sent to us that these three witnesses would not be ready to testify
5 on the dates of 4 to 6 August 2014. Preparation will also be intended by
Holden's current visa situation in the United Kingdom, which does not allow
him to leave the country until his visa has been approved. In order to prevent
unnecessary request, or hearing time and trouble and accommodation and
services, we propose that our client's evidence be moved until a delayed and
10 convenient basis. Accordingly, no dates have been agreed between
ourselves and the legal representatives of these witnesses. During one of
the adjournments earlier, I had a chat with Ms Snyman, who represents one
of the witnesses and it does appear that we would need to have a further
meeting with, with them, in order to agree on possible dates for these
15 witnesses and evidence to be tendered. But, one, one of the material issues
in Mr Holden's situation and his visa requirements.

CHAIRPERSON: So, if I understand you well the three witnesses, the three
of [indistinct] are unable to testify on the dates that we had allocated to them.

ADV LEBALA: That is correct, Chair.

20 CHAIRPERSON: Ja. I think it makes things very difficult for us. In any
event, they did not at all say they are unable to testify. I suppose it is
[indistinct]. Probably you will have to try and see if you can talk to them and
see if you can arrange a date, if you can come to a mutually acceptable date.

ADV LEBALA: That is what we intend to do with Ms Snyman.

25 CHAIRPERSON: And the other thing that I thought I am going to mention is

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that there are one or two witnesses, or I would say one witness, who it became clear to us, if you are going to call that witness, his testimony would only come around about October. Maybe, it is expired early November. So, it means that in the trial, we are going to have to accommodate those

5 witnesses, for instance, Dr Young, who it appears to us he will only be ready to look at this matter, either towards the end of October or early November. In order to accommodate them, we are going to apply for an extension of about three to four months, so that we can be in a position to accommodate all the witnesses that we want them to come, that we warned that they should

10 come and testify. I hope that those, who have not as yet testified, they will be adequately covered by the extension that we are going to seek. We do not have an extension as yet. Judge Musi and I have just decided, really, during lunch time that maybe, the best way of dealing with this issue is to try and get an extension, of a mandate, of a lifespan, just to make sure that we

15 accommodate everybody, who we think that might be in a position to assist the Commission with this matter. We just started this, we will let you know. Lastly, I see the representative of Mr Maynier is not yet here. I think we are going to adjourn. We will hear Mr Maynier. Oh. He is here.

ADV DE WAAL: Mr Chair. Mr Chair, I have obtained an instruction from my

20 attorney that it is in order, the 5th and 6th of August.

CHAIRPERSON: 5th and 6th of August?

ADV DE WAAL: Yes.

CHAIRPERSON: Thanks a lot. You can let me, you can let me know, regarding our schedule. I think that we have said whatever we wanted to

25 say, unless, if you want to say something. Ms De Lille, lastly, thanks a lot

again. We are not going to see you for a very long time. Thank you for coming to the Commission.

MS DE LILLE: I was going to ask, can I just shake your hand.

CHAIRPERSON: When we adjourn. Thank you.

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(COMMISSION ADJOURNS)

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