

ARMS PROCUREMENT COMMISSION

Transparency, Accountability and the Rule of Law

PUBLIC HEARINGS

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HEARING ON 3 SEPTEMBER 2014

CHAIRPERSON: Yes.

ADV CANE: Good morning, Commissioners. While we are just waiting for the witness to take the stand, may I mention, as a courtesy that the
5 deceased Minister, the former Minister of Defence's widow and daughter and son-in-law have come to make an appearance at the Commission. They have been seated in the front row, because Ms Modise would value the opportunity to put a few questions to the witness. Regrettably, she is not represented and this comes somewhat as a surprise. We do not have
10 the relevant mandate in place. But, she is going to do the necessary, without legal representation.

CHAIRPERSON: Thank you. Can, can the witness take the stand?

ADV CILLIERS: Mr Chair, if I can assist I went outside they are not there I understand they might went down to the coffee shop, somebody went
15 down to try to locate them.

CHAIRPERSON: Thank you Adv Cilliers, I think, rather than for us waiting for them, sit here and wait for them, maybe let us adjourn for another five, 10 minutes and as soon as they come, then we will reconvene. Thank you.

(COMMISSION ADJOURNS)

20 **(COMMISSION REOPENS)**

CHAIRPERSON: Good morning, everybody. Can the witness confirm that he is still under oath?

DR WOODS: I do, Chair.

CHAIRPERSON: Thank you. Who, who is going to start with the cross-
25 examination?

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ADV CILLIERS: Mr Chair, we had discussions and then it appears that the consensus is that I will start, if you are satisfied with the arrangement.

CHAIRPERSON: Thank you. You can go ahead.

ADV CILLIERS: Dr Woods, you testified yesterday that in your
5 submissions and in your evidence, you attempted to build a picture, or a case, indicating that widespread, or that corruption, in fact, took place, relating to the arms procurement deal. Did I understand you correct?

DR WOODS: You are mostly correct there, through the Chair. I attempted to build a picture to show the probability of corruption. But,
10 nowhere do I actually tender that there was corruption.

CHAIRPERSON: I am sorry, Dr Woods, I did not quite understand the last portion of your answer.

DR WOODS: Chair the, the picture, I attempted to build, through the provision of evidence and through three fundamental arguments, was a
15 picture which suggests that there was a strong probability of corruption, as opposed to there being corruption. I was very careful, not, at any point to imply that my picture indicates that here was corruption.

ADV CILLIERS: That is very interesting, Dr Woods. So, as you sit there, it is not your evidence that there was, indeed, corruption, relating to the
20 arms procurement transaction. All you say is that, in your view, there is a probability of corruption.

DR WOODS: That, that is correct, Chair. I think, and I stressed this in my introduction, yesterday and I stressed it in the conclusion and I referred to the building of a case, to show that there was a probability. I never went
25 beyond that.

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ADV CILLIERS: You then further testified that you provided the Commission with a compelling picture and you mentioned and further, you stated that you handed pretty hard evidence to the Commission in this regard. Is that correct?

5 DR WOODS: That is correct.

ADV CILLIERS: That is, of course, in your view.

DR WOODS: Of course, yes.

ADV CILLIERS: Well, I think, let us then, investigate the basis of, of the view that you express. The first issue is, of course, I understand the
10 common cause that you never claimed that you have personal knowledge of any of the facts that you rely on.

DR WOODS: That is correct. I never claimed publicly to have any evidence and I never made allegations in public that I, that there is corruption.

15 ADV CILLIERS: Mr Moerane, yesterday, referred to it as direct evidence. I prefer to refer to it as personal knowledge. But, you agree with me, you have no personal knowledge, relating to any of the facts that you have been dealing with, in your submissions, and or, in your evidence.

DR WOODS: No. I do have personal knowledge of a number of the
20 issues that I referred to yesterday. But, none of them were, there were issues, regarding circumstances that, in my building the picture, they helped to accumulate, together with the secondary resources, I referred to, to suggest this, this probability.

ADV CILLIERS: Well, relating to the allegations, factual allegations of
25 secret payments of certain amounts, being paid to people. Allegations of

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that nature, the R30 million that you referred to, going to President Mbeki, those type of facts, referring to specific payments and or advantages that went to any person, you have no personal knowledge of.

DR WOODS: No.

5 ADV CILLIERS: We can summarise your evidence to say that, all that you actually did, in that regard, was to present the Commission with certain newspaper articles and or emails, suggesting unlawful conduct in that regard.

DR WOODS: I think that is an unfair way of putting it. Again, it appears
10 that one tries to dismiss this on the basis of newspaper articles. These newspaper articles were the vehicle, which carried some important information, I believe. For example, I referred to investigations, which had particular findings, which were acknowledged by supply companies. So, there is a strong factual basis. It is not simply just, you know, any old
15 newspaper article.

ADV CILLIERS: But, it remains newspaper articles.

DR WOODS: There were a great number of newspaper reports that I used in my testimony. That is correct.

ADV CILLIERS: Well, the fact is, Dr Woods, is that your submissions and
20 evidence, you will certainly agree with me, will only have value, in so far as we accept the correctness and reliability of those facts, contained in these newspaper articles and or in the emails. We will deal with them.

DR WOODS: Is that suggestion yesterday the, the statement I made in
the case that I attempted to build, by way of that statement. I was hopeful
25 that it would be useful to, to the Commission and that it would give them

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some perspectives, give them some leads, which, which they, with their powers, would be able to follow through with, if they so chose. So, I do not think I, I attempted to do anything more than that.

ADV CILLIERS: No. But, you have not answered my question. Please
5 answer the question?

DR WOODS: I do apologise. Would you repeat it, please?

ADV CILLIERS: Your submissions that evidence in that regard will only have value in so far as we accept the correctness and the reliability of the facts, contained in those sources that you relied on, the newspaper articles
10 and their emails.

DR WOODS: Yes. But, in addition to, also I hopefully have value, because of the analysis I make of those, of those reports that I referred to.

ADV CILLIERS: Are you referring now to the inferences that you draw from those sources and are you referring to that now as an analysis?

15 DR WOODS: Yes. In academic research that is know as analysis.

ADV CILLIERS: That is fine. So, what you say, in addition to the newspaper articles and the emails, you also presented the Commission with your opinions and inferences, which you drew from those sources.

DR WOODS: In as far as they suggested probability in some cases, yes.

20 ADV CILLIERS: Well, it is easy, Dr Woods. If a particular newspaper articles has stated the correct and or true facts, that will have a material influence on the reliability of your submissions.

DR WOODS: You are correct that it would have an affect that I, I tried to present more than one newspaper article, to support critical, critical issues.
25 So, if one looks at the totality of my supporting documentation, I think, a

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document here and there that might contain evidence, I do not believe would detract from my overall analysis and conclusions.

ADV CILLIERS: That is a very interesting approach. Would you say that is a scientific approach to follow, that if two newspapers state something,
5 then it must be true? If the only one states the fact, there may be a problem to accept it, but if two newspapers state the fact, then we should accept that as true.

DR WOODS: Not exactly, as I repeatedly told you yesterday, these newspaper reports were chosen very carefully, with regard who wrote
10 them, what the source of the information was, what they had done to corroborate that information, who they had spoken to. So, if there are two newspapers saying more or less the same thing, I would look at to see whether they had exercised independent minds.

ADV CILLIERS: That is very interesting. So, what you say is, if certain
15 journalists present a newspaper article, you can accept it as true, others would you doubt.

DR WOODS: Ja. One, one could not go as far as saying you, you accept it as true. But, but, one does evaluate the article and, and try to assess the likelihood that it is accurate, by, by the ways, in which I have already
20 mentioned.

ADV CILLIERS: That is ridiculous, Dr Woods. You say that you already confirmed that you have no personal knowledge, whatsoever. You can now evaluate an article, making factual allegations, as to facts that you have no knowledge of and then decide, without knowledge that it is true or
25 not true.

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DR WOODS: Could you remind me of the factual allegations I have made?

ADV CILLIERS: No. Dr Woods, you must listen to the question. You say, you just testified that you evaluate the article and you carefully
5 selected the articles. Did I understand you correct?

DR WOODS: You heard me correctly.

ADV CILLIERS: Now, what I am putting to you, it is ridiculous to suggest that you, without any factual knowledge, you already admitted to that, can now evaluate a press article, in which simple facts are stated and then you
10 evaluate it and decide whether it is true or not true. On what basis can you do that?

DR WOODS: Well, perhaps we should have a look at a few examples. I get press, press reports, regarding the Serious Fraud Office investigation in the UK into BAE. There is, they quote the findings, as do a number of
15 other newspapers. BAE accepted the findings. I believe that constitutes a good secondary source of information to support the case I am building. I refuse to allow you to take me beyond that.

ADV CILLIERS: Dr Woods, with the greatest of respect, where did BAE ever accept the allegations of corruption?

20 DR WOODS: You know, I, I quoted yesterday from the Hansard in the UK Parliament, from a minister who accepted. Why do you not get the Hansard and check for yourself?

ADV CILLIERS: Dr Woods, you are, you invited me to look at an example. Please turn to page 86 of your bundle? Now, that is
25 ANNEXURE GGW12A, on which you rely for the allegation that my client

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received secret payments of up to R200 million in commission, relating to the sale of the 26 Gripens. Am I correct?

DR WOODS: Sorry, could, could you repeat that please?

ADV CILLIERS: I stated to you that on page 86 of your bundle, we find
5 exhibit, oh, ANNEXURE GGW12A. Am I correct?

DR WOODS: You are.

ADV CILLIERS: And ANNEXURE GGW12A is one of the two sources that you relied on for the statement that you have made in paragraph 20 of your submissions that you stated that Hlongwane received secret
10 payments of up to R200 million, in commission, relating to the sale of 26 Gripens. Am I correct?

DR WOODS: Those were two statements that I made reference to, yes.

ADV CILLIERS: Is the answer to my question then, yes?

DR WOODS: Well, when you say rely on, I am not sure what you mean.
15 It is the, so, I will just say I used them as reference points, as you can see for yourself in my statement and there, amongst others, many other reports are referred to, as I say, hopefully allowed me to accumulate secondary source evidence and to build a case.

ADV CILLIERS: Dr Woods, now, look at the newspaper article GGW12A.
20 Is that a newspaper article that appeared in the Sunday Times, if I heard it correctly? Or if not, then can you tell us where did you find this article?

DR WOODS: I, I recorded, I think, as, as a SAPA produced article. I do not think I have noted where exact this statement came in to be.

ADV CILLIERS: It is apparent from this article that the source of the
25 article was a press statement, issued by Saab. Am I correct?

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DR WOODS: By reading of the article it does not say expressly that Saab issued the statement.

ADV CILLIERS: It does not say expressly, Dr Woods. But, it is clear from the comment he makes, he relies on the press statement issued by Saab.

5 It comments in the first paragraph to say that:

“Swedish defence group Saab yesterday, admitted that millions were paid to clinch the South African contract for fighter jets, but said the erstwhile British partner BAE system had paid the bribes.”

DR WOODS: You are reading from the article correctly.

10 ADV CILLIERS: Well, that is indicative of me saying that this article, it relates from the press statement issued by Saab.

DR WOODS: I would tend to agree with you.

ADV CILLIERS: I suppose it becomes more evident even, about the words. But, thank you for agreeing that the press statement from Saab
15 was issued on the 16th of June 2011 and it appears at this article, was dated the 17th of June 2011, according to, to the note written on it. Am I correct? Just have a look at the handwritten note, on page 86 on the article itself. I suppose you may have it there.

DR WOODS: Are you referring to the date?

20 ADV CILLIERS: Yes.

DR WOODS: What I see there is the 17th of the sixth month and I am not quite sure what the year is, because it appears the article has maybe, so, it is either 11 or 14, or I do not know.

ADV CILLIERS: Okay. My copy is better than yours, Dr Woods. It is
25 absolutely clear. It is 17 June 2011.

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CHAIRPERSON: Maybe, if I can also help. The copy that I have, clearly stated 17 June stroke 11, it does not say 14.

ADV CILLIERS: Absolutely.

CHAIRPERSON: It is stroke 11.

5 DR WOODS: Thank you, for your assistance. I accept what you are seeing there.

ADV CILLIERS: Now, have you ever seen or read the Saab press release?

DR WOODS: No. I have not.

10 ADV CILLIERS: Please switch off your microphone. Are you telling the Commission that you have included this article, relied on a press statement by Saab, making extremely serious allegations, without checking, what the press release, in fact, stated?

DR WOODS: What I do recall is that, on the issue of the Saab
15 investigation that there were a number of press releases, which I had in my possession. As, as I told you earlier on, we would select a few, which hopefully captured specifically the point that I wish to make in my statement. I recall ...[intervene]

CHAIRPERSON: I am sorry, Dr Woods, can you speak directly into the
20 mike? I am battling to hear you.

DR WOODS: Chair. I am speaking directly into the mike. I think we need to get some attention to the system.

CHAIRPERSON: It sounds much better now.

DR WOODS: The, and of those collection of articles, I have in this
25 instance, regarding the Saab investigation, I do recall, I believe I recall

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parts of the statement. No, I have never seen or received or possessed a copy of the full statement, as was issued by Saab.

ADV CILLIERS: Must I take that for a, no?

DR WOODS: If your question says I have seen the original statement or a
5 copy thereof, then, yes, you could take that as a, no.

ADV CILLIERS: So, are you telling the Commission that you are including in your submission, allegations of the worst kind, where allegedly the partner of BAE stated, without any doubt that BAE systems paid bribes and you did not take the time to check on the press release by Saab, to
10 make sure that that was indeed what Saab said?

DR WOODS: Firstly, as I said, I had a number of reports, on, on the Saab investigation, all of it here, I read. I felt from those and from the two, I have included in this bundle in my view, it was sufficient to make the point that there was an investigation and that there were certain findings, which
15 had been acknowledged. I thought that was, that was sufficient for the type of case and the type of method I was using it in.to build that case. And you can try and take down all sorts of roads, it is not that type of case I was trying to build, conclusive evidence and getting into the [indistinct] of, of these reports.

20 ADV CILLIERS: I would really appreciate you answering the questions straightforward, Dr Woods. So, what you say and what I infer from this long answer again, that you made these serious, defamatory statements and included that in your submission, without checking the source of the article, to ensure that it has been correctly reported.

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DR WOODS: I made no serious defamatory allegations. I simply referred to these press articles and my statement is I built my case, you know. You do not want long answers, but, you sometimes compel me to repeat myself and repeat myself. I am not going to change my story.

5 ADV CILLIERS: Dr Woods, you accused Mr Hlongwane, in your submission and you repeated it under oath yesterday, that he received secret payments, relating to the sale of 26 Gripens. Am I correct? Is that part of your submission and was that part of your evidence?

DR WOODS: Once again, you are not correct. My statement simply
10 refers to some press articles and in this case, that say certain things. Advocate it is not, I am not going to be able to bring it into the first person. You must read my statement and see how it composed.

ADV CILLIERS: Dr Woods, what I found very difficult to understand is that the Saab press release was easily available. Would you agree with
15 that?

DR WOODS: Actually, I could have gotten hold of it quite easily.

ADV CILLIERS: You could have asked the evidence leaders, because it is before the Commission already. It was part of Mr [indistinct] submissions.

20 DR WOODS: And you are informing me, are you?

ADV CILLIERS: What I am further informing you, is that this article is outrageously scandalous, because there is no basis for the very first paragraph, suggesting or alleging that Saab, in Fact, accused their British partner, BAE systems of receiving or paying bribes.

25 DR WOODS: You refer to commissions that were paid.

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ADV CILLIERS: I can read to you what they said, in this regard. They said:

“In this regard a person employed by BAE systems has without Saab’s knowledge signed for us an unknown contract.”

5 And from that, the reporter stated that:

“A Swedish defence group Saab yesterday admitted that millions were paid to clinch the South African contract for fighter jets but said its erstwhile British partners BAE systems had paid the bribes.”

10 I put it to you that this article is scandalous and outrageous in miss-stating the facts.

DR WOODS: You are entitled to your opinion.

CHAIRPERSON: Just hold on. Dr Woods, is that proposition correct or not?

15 DR WOODS: Chair, I would do, go into a bit more detail before I conceded that I had included a press report, which was not, that was not altogether accurate. I, I cannot, without engaging the issue into a little more depth.

ADV CILLIERS: What I attempt to do so, Dr Woods is that you relied on
20 sources that are clearly miss-stating the facts and that is to do so to you, when I dealt with your evidence to say that it has only got value, in so far as there can be a finding that the facts contained in these sources are absolutely and unconditionally correct. Now, I have indicated to you that, in fact, your sources are scandalously, scandalously miss-stating the facts.

25 DR WOODS: I hear what you are saying.

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ADV CILLIERS: I would like to hear your comment.

DR WOODS: No. I do not have a comment. You are exercising your opinion with, with some very strong adjectives and I am listening.

ADV CILLIERS: Well, I am I not surprised that you cannot comment on
5 that, because it goes to the very root of the value of your submissions and
your evidence Dr Woods.

DR WOODS: Oh. That is your opinion again.

ADV CILLIERS: For the same proposition, you relied on a second
source, if you can just turn to the page that is ANNEXURE GGW12B that
10 we find on page 87 of the same bundle. Am I correct?

DR WOODS: You are referring to GGW12B? Yes, I have it in front of
me.

ADV CILLIERS: I, I stated to you was that the second source that you
included, with reference to paragraph 20 of your submissions was
15 GGW12B. You will find that on page 9 of your, of your submission.

DR WOODS: I think you are correct.

ADV CILLIERS: Now, let us evaluate ANNEXURE GGW12B. I want you
to go to the fifth line, where it starts off with a quote, starting with:

"The consultant who received."

20 Do you have it in front of you?

DR WOODS: Sorry, can you just point out the paragraph again, please?

ADV CILLIERS: The fifth one from the top:

"The consultant who received the secret payments."

DR WOODS: I am almost there, thank you.

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ADV CILLIERS: Now, if you keep your finger there and you turn to page 9 of your submission in paragraph 20, you will see that paragraph 20 actually emanates from this paragraph in GGW12B.

DR WOODS: I believe you are correct.

5 ADV CILLIERS: Well, it is almost word for word the same. Paragraph 20 reads:

“Hlongwane received secret payments of up to R200 million in commissions relating to the sale of the Gripens. I refer in this regard to GGW12A and GGW12B.”

10 The paragraph in GGW12B reads:

“The consultant who received the secret payments is reportedly Fana Hlongwane, who was an advisor to the former Minister of Defence Joe Modise and was alleged to have received up to R200 million commission, relating to the acquisition of 26 Gripen fighter jets from Saab/British
15 Aerospace.”

Am I correct?

DR WOODS: Yes, you are.

ADV CILLIERS: Now, it appears, from what we read, or I have just read to you from GGW12B, is in fact, a quote from something that Mr Maynier
20 has said. Am I correct?

DR WOODS: I do not have a clue what Mr Maynier said.

ADV CILLIERS: But, what you can do, Dr Woods, in your scientific approach, is to just look at the document. It is clear from the document that what I have read to you now, is a quote from something that Mr
25 Maynier said, not so?

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DR WOODS: I do not know if he said this one.

ADV CILLIERS: Dr Woods, do not play games with me. It is clear that it is a quote and it is clear, after the quote, it is states Maynier said. Now, what, what else can you infer from that, Dr Woods?

5 CHAIRPERSON: I am sorry, Dr Woods, this is a document that we got from you. After that quotation, it says Mr Maynier said. Now, how can you possibly say that you do not know what Mr Maynier said?

DR WOODS: He has only just pointed out to me that that is at the end of that sentence. But, yes, I acknowledge that that it is quoting him. I thought
10 he was initially referring to Mr Maynier's evidence before the Commission.

ADV CILLIERS: I do not think that is ingenious now. It was put to you under oath.

DR WOODS: It seems the only person who is critical and insulting, like you were yesterday.

15 ADV CILLIERS: Dr Woods, now, we know Mr Maynier testified approximately two, three weeks ago in this Commission and he unequivocally stated to this Commission that he has no knowledge of these facts, nor can he stand in for the reliability and or the correctness of any of the documents that he referred to. Are you aware of that evidence?

20 DR WOODS: Are you referring to Mr Maynier's evidence before the Commission?

ADV CILLIERS: Yes.

DR WOODS: No. I am not aware of that evidence.

ADV CILLIERS: Well, I put it to you that is what he testified. Do you
25 accept that? Or we will do it, must I show you the evidence?

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DR WOODS: I, I take your word for it.

ADV CILLIERS: Now, if we then evaluate your submissions, the basis of the allegations against my client, Mr Hlongwane, needs to be found in paragraph 20 of your submission. You refer to a few sources that will
5 substantiate what is there. The one is GGW12A, which is a scandalous article, miss-stating the facts in all material respects. The other emanates from a person, who testified under oath in this Commission that he has no knowledge of any of these facts and he does not stand in for the reliability and or the correctness of any of the documentation, in this regard.

10 DR WOODS: I, I take your point and one cannot make excuses for the pressure we are placed under to, to put this together and put the bundle together. I realise, I would have served my case better, by including a number of the other reports, the reports that refer to this matter, including one which says Saab has admitted that a contract was signed, between its
15 subsidiary Saab and Hlongwane to pay Fana Hlongwane R24 million and that they payment was an inducement for Fana Hlongwane to secure the Gripen deal, that amongst many other statements, I should have included them.

ADV CILLIERS: Dr Woods, I cannot deal with material that you decided
20 not to include. So, please, let, let us stick with the facts, and or the documentation that you decided and prefer to put before the Commission, please.

DR WOODS: I agree with you.

ADV CILLIERS: You will agree with me, that if one has then regard to
25 your submissions and evidence in this regard, relating to the, this serious

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allegation against my client, it is completely valueless, if we base it on your submissions and your evidence of yesterday.

DR WOODS: No, completely valueless is a, is a value judgement. So, I do not really know what you mean by that.

5 ADV CILLIERS: Well, let me explain. You do not have any personal knowledge of this allegation, or the facts contained in this allegation. Am I right?

DR WOODS: You are right.

ADV CILLIERS: The sources that you relied on, is clearly not worth the
10 paper it has been written on. Do you agree with that?

DR WOODS: It is when you use this colourful language that you loose me a bit. You know, if you could just speak straight in a measured tone, I am sure I would be more responsive. But, the paper that it was written on, what do you mean by that?

15 ADV CILLIERS: I mean, Mr, Dr Woods that the sources that you relied on, does not corroborate what you stated in paragraph 20.

DR WOODS: I would, I do agree it falls short, the two items that are included, fall short of, of the type of secondary source evidence and the value thereof, that I wish to include in this, in those relating to paragraphs
20 20 and 21.

ADV CILLIERS: Dr Woods, I put it to you, one can take a couple of days to illustrate to you that what I have illustrated by this example, by this basis allegation against my clients, holds actually true for your whole submission.

DR WOODS: And, I think, only time will prove you correct or incorrect.

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ADV CILLIERS: With reference to your allegations and or evidence yesterday, stating that BAE acknowledged that they paid money to agents, without them having done anything to, to in fact, justify the payments, have you ever taken the time to read these submissions by BAE to this
5 Commission?

DR WOODS: No. I have not. I was not aware there were any BAE submissions.

ADV CILLIERS: Because, what I can put to you, Dr Woods, is that BAE even in great detail explained exactly the reasons for involving agents and
10 for payments to the agents, absolutely the contrary, to what you alleged, yesterday.

DR WOODS: Okay. Well, I am sure the Commission will, will indulge that information, together with my report and will make up its own minds and together with other submissions on the subject.

15 ADV CILLIERS: The other submissions now would be newspaper articles that you included in your submission.

DR WOODS: No, I, I am, I suspect that there will be further submissions on the subject. I sure a speaker or two, will be more substantive than I was.

20 ADV CILLIERS: Well, I stand to be corrected, Dr Woods, but I am not aware of any person, who testified before this Commission, making their allegation from knowledge that, in fact, bribes had been paid.

DR WOODS: The statement I just made refers to future people who will testify. I said I suspect that amongst their testimony that there will be more

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evidence submitted in this regard. I will certainly forewarn them that they are likely to come under attack from yourself.

ADV CILLIERS: And I have no objection that you forewarn them, Dr Woods. Are you agreeing or have you not got knowledge of the fact that
5 what I put to you is that there was not a single, as far as I know, allegation from a person with knowledge, personal knowledge, in this regards that any bribes had been paid, relating to the arms procurement transaction?

DR WOODS: If you referring to those witnesses, who have testified thus far, I have not read through their complete submissions, but, you know,
10 when I was, I had switched off this armsdeal years ago, until I had this surprise subpoena from the Chair, the reason for which I have never understood. I am not [indistinct] gave evidence or made any allegations. So, I have had to, in a very short space of time, try and compile something that would be useful to the Commission. I qualified that yesterday, in
15 explaining my approach in great detail and, and, so I am still in a process of capture. I probably have, at least, 2 000 documents I never had the opportunity to go through. In this particular instance, as I have said, I probably have a number of, I do have a number of more documents. I probably have, I have to guess, but scores of, of reports on Fana
20 Hlongwane receiving monies and so, there is a lot, there is a lot, I wish I had time to, to take into account in a more considered way. But, I am accepting that the two reference documents, I have used here, are not sufficiently adequate.

ADV CILLIERS: Your submissions on [indistinct] being sufficiently
25 adequate, Dr Woods, is completely unacceptable, based on objective facts.

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DR WOODS: That is your opinion.

ADV CILLIERS: Dr Woods, I want to put it to you that your submissions and evidence, in fact, provided this Commission with not a single fact that is either admissible or reliable or to be believed, in any way whatsoever.

5 DR WOODS: You know, that is a simply outrageous and that just demonstrates very clearly where you are coming from and how desperate you are to serve your client, which is, I suppose your intentions are.

ADV CILLIERS: I have no further questions, Mr Chair.

CHAIRPERSON: Thank you, Advocate Cilliers. What was the
10 agreement? Who is supposed to be next? ADV CHOWE?

ADV CHOWE: Thanks, Chairperson. I will be next. Dr Woods, if you turn to page 31 of your statement, if you indeed, having regard to paragraph 74 of your statement. You seem to suggest that the DTI has not given any kind of business plan, or maybe suggesting that they did not consider any
15 business plans for the projects, which were approved, or which were done for the NIP. There is evidence, which is before the Commission, it is to the effect that before a project could be approved, business plans were supposed to have been given. Do you have any evidence which suggests that, that kind of evidence before this Commission is incorrect?

20 DR WOODS: As I explained yesterday, and with respect, I did it in some detail, what they referred to, as business plans, which they required to be submitted by the seller, in order to gain approval by the NIP implementing mechanism of the investment project, required, had, had a few requirements, four, in fact. What I am saying is those four in very short,
25 what is accepted in the business world as a business plan and in no ways

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do these requirements, these requirements ensure that the NIP's that are being proposed have been properly researched that they NIP, which in most cases, is a business initiative would, would be profitable. Where market surveys were done and all the other many, many projections and demographic studies that were required to, to constitute a proper business plan. My direct evidence here is that in my, one of my discussions with Aermacchi, I asked them to take me through, how they compile theirs and it confirmed these, exactly what I am saying that the requirements are very few and far between. If you look at the, the DTI report earlier this year, you know, the consequences are quite clear, as the reasons for so many of these of having been failed, or having been exchanged or having been, for, for other, other ideas, or where they simply had not materialised and, you know, with nothing in there, because of an inadequate business plan. So, that is what I am trying to capture in this paragraph and what I did explain yesterday and I hope I have answered your question for you.

ADV CHOWE: Yes, Dr Woods. What we would like to hear from you is whether, indeed, there were business plans. So, is your answer that there were, indeed, business plans, but according to your whole view, they were not adequate?

DR WOODS: Yes, that is my view and I think, I am, it is a view I can substantiate, without too much trouble, or we could get it independently substantiated. Frustratingly, both the Auditor General and he makes reference to it in the JIT report, his forensic guys were refused access to the business plans. I requested copies of them in Parliament and Minister Erwin, under something called commercial confidentiality consistently

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refused to give anyone access to them. I tried to use Section 56 of the Constitution, which gives our entire team to have access to any document. But, at that point, the majority of the Committee outvoted me and saying we do not want, the Committee does not want to see those documents.

5 So, I am telling you this, no, I have not, you know, personally seen the business plans that were of the winning, from contractors.

ADV CHOWE: So, if you have not seen, yourself, the business plans, is it fair for you to assume that those business plans did not, or conform to the requirements?

10 DR WOODS: No. I am assuming they did conform with the requirement, but that the requirement was grossly inadequate.

ADV CHOWE: Maybe, if we can move forward to page 32 of your statement. One having regards to paragraph 36 and the statement you made there is that the cost, in the deal of Hawks and Gripens appeared to, 15 to indicate in such, a loading of price. This is actually as an example that the, the NIP performance was loaded in the prices, for instance, I would suggest that the overpricing was set in armament. Do you have any kind of proof to suggest the actual price of the Hawks and the Gripens?

DR WOODS: No. I do not. If I had proof, I would not have said it 20 appears to indicate such a loading. I do not explain that it appears to be [indistinct]. I explain that the affordability study suggest that this is probably what happened. I think the JIT report suggests it, as well. As I told you, amongst confidential documents, which I have, certain of which would constitute direct evidence, that would say, which I erred on the side 25 of caution, by not including in my bundle, or as reference to. But, I did tell

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you, I do have copies of the costing, which I got from Chippy Shaik on the Hawks and Gripens and after many questions, he was unable to explain what certain add on amounts were. He tried to deceive me, after consultation with the Air Force on the case of the Hawks. Where he said
5 that certain large amount of development costs constituted a glass cockpit and that they, I was able to prove that the original price actually included that in, in the Hawks on a very similar specification that was bought most clearly the year before, had a glass cockpit included and they paid a price, I am open to correct, but like 40 per cent less than what we paid. So, I was
10 not able to get an explanation as to what these huge add on prices were. So, in fairness, I think that to me, appears to be what the affordability study was concerned about.

ADV CHOWE: In your own knowledge, you have no proof of the actual prices of the Hawks or Gripens. You cannot testify to say these are the
15 actual amounts and these amounts, there is a difference of the inflated amount, which you looked at them then.

DR WOODS: That is correct.

ADV CHOWE: Thank you, Dr Woods. So, Chairperson, I have no further questions.

20 CHAIRPERSON: Dr Woods, would I be correct to say that if you do not know what the actual cost of the Hawk or of a Gripen should have been, you cannot make a statement and say, you know, the prices that have been paid they were, have been paid more than what we should have paid.

DR WOODS: Chair, I do not believe I made the statement that we paid
25 more than what we should have paid.

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CHAIRPERSON: Is the word excessive the word that you used here?

DR WOODS: I did not hear you. I beg your pardon Chair?

CHAIRPERSON: Did you, which word did you use, excessive or the prices were loaded, the words that you have used in the paragraphs on
5 your statement that the costs were loaded, which I thought it means the one and the same thing. That is your words that the prices were loaded.

DR WOODS: Chair, are, are you referring to the discussion I just had with the previous questioner? Are you?

CHAIRPERSON: That is right.

10 DR WOODS: Yes. In that discussion, I referred to my sighting of the costing, of which I have copies and in my attempts to try and substantiate certain amounts, which were added on to the price of the aeroplane and I mentioned that the response I got, proved not to be correct. I explained why I believed so and, and by deduction and I believe this would be, any
15 reasonable person's way of thinking, what I had, would have appeared, it would appear that, that there was a loading of, of prices, in the absence of any other explanation from the military.

CHAIRPERSON: Dr Woods, do you know, have you any idea how much we would have paid for one Hawk and how much would you have paid for
20 one Gripen?

DR WOODS: Chair, I have not got that information with me. But, yes, there was a shelf price. There were prices of all the other Hawk deals that have taken place within the same time. One had to be very careful on that. Specifications were often very different, like the, the Hawks than the US
25 Navy bought. It could not really be compared. But, ja, through that source,

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I also received details of the specifications of, of the Australian Hawk and I thought it was constituted a reasonable comparison, seeing as it being bought the year before and because the specifications were that similar. But, I just made the point that the prices were that different. But, so, I have
5 got that information. Once again, Chair, and you know, how much information should I have brought before you?

CHAIRPERSON: Dr Woods, it is for you to decide what information you should give us, because you are the one who knows what information you have or just constitute as simple question. You are talking about over the,
10 about the loading of price. I am just trying to find out a simple question. How much did we pay for the Hawk and how much should we have paid for the Hawk according to you? It is true, of course, the next question will be you are talking about the specifications. Are your specifications the same as those Australian specifications, if the answer is, yes, then you would
15 have to take us, how do you come to that conclusion.

DR WOODS: Chair, would you go away and do an exercise for you?

CHAIRPERSON: No. I am talking about what you have said before us. If you are try, you do not have any information to substantiate what is contained in this, in some of your, your evidence, say so. I do not want
20 you to go and do a research. You will not do the research. I thought what you, what is contained in your statement that is what you know. I do not want you to go and do a research.

DR WOODS: Okay. Let me take a short cut then, Chair. I refer you to the JIT report. There is quite a lot to be said on the price and whether it
25 was excessive or not.

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CHAIRPERSON: Okay. Thank you. ADV CHOWE, I do not believe you had finished your cross-examination.

ADV CHOWE: I did, Chairperson.

CHAIRPERSON: Thank you. Apparently Ms Modise?

5 MS SEDIBE: Thank you very much, Your Honour. I have heard for years baseless allegations about Joe Modise. These allegations have been going on, as I have been saying, even yesterday. Such allegations have cost my family a great deal of suffering. I have heard yesterday that Dr Wood has said that Mr Modise has benefitted from the armsdeal. I just
10 would like to know, what is it that he has benefitted, according to you? Not only that, what evidence do you have, except from the newspapers that we had been reading for years, concretely that you can put here, that this is what Modise has benefitted? thank you.

DR WOODS: Thank you, Ms Modise and firstly, I do regret the situation
15 and the pain that you have gone through. I am aware there have been a lot of speculative allegations about the late Minister Modise. Ja, I was asked a question yesterday about who of the Cabinet, at that time, who I believed had received money. I, I did say that, you know, according to the information I had, I only had references to Mr Modise having received
20 money. I was appalled last night that the very inaccurate and irresponsible report on e-tv, which claimed I had said he was the biggest receiver of bribes.

MS MODISE: And the most corrupt.

DR WOODS: You know, I can only ask you to look at the transcripts that
25 come out here and see for yourself what I actually said, because I did say

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that, according to my own information, yesterday afternoon I produced, once again, it was, it was a report, a media report. But, what it did include was a copy of a bank statement of a considerable sum of money and the bank statement going to the account of Joe Modise. I offered that, the

5 Chairperson also challenged me yesterday on, on what else I had on Mr Modise and I have a few other things, there was a prosecutor, by the name of Gerda Ferreira, who compiled a dossier on the allegations concerning Mr Modise, which made some fairly strong findings, but I do not have that. I cannot present it. But, I just want you to know that there, this has, has

10 been looked into. There is information record. One of the areas is Mr Modise's chair acquisition of Conlog. But, to the best of, of my knowledge, it was not a majority shareholding firstly, and secondly, it was suggested that he paid for those shares through a, a loan from a friend in Germany. Whether that is true or not, I do not know. But, part of the, as I recall from

15 the public, from the prosecutor's investigation, brought into question the connection Mr Modise had with BAE around about this time and the fact that, that was plain as a bat anyway, that Conlog, after his acquisition of shares received, I think it was the biggest NIP from BAE. I think that was looked into and there was another issue, regarding another BAE NIP,

20 which went to the MK war veterans association, of which, I believe Mr Modise was patron, at the time. That is all I know. But, I do not think what I said yesterday went beyond that and certainly, you know, well, hopefully nothing that I said was, was irresponsible or inaccurate.

CHAIRPERSON: Just hold on, just hold on, before you proceed. Dr

25 Woods, I heard you talking about bank statement. Are you now saying that

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there are bank statements available to the bundle that you have given us?

If so on, on what page will the bank statements be?

DR WOODS: Chair, I, if the evidence leader does not mind. I see he has it there. It appears to be GGW31. It is a copy of the bank statement, 5 which is contained in a report, page 130, I believe, Chair.

ADV CILLIERS: Chair, I do know whether my bundle is not correct, but I have no bank statement on page 130.

CHAIRPERSON: Dr Woods is it a small bank statement on page 130.

ADV CILLIERS: It appears to be a deposit slip, definitely not a bank 10 statement.

DR WOODS: Ja. You are correct. It is a deposit slip of money being allegedly paid into his account, my use of the wrong term there.

CHAIRPERSON: this the newspaper report? Is this the newspaper report?

15 DR WOODS: Yes, Chair.

CHAIRPERSON: Okay. Thank you.

MS SEDIBE: My second question is about the Conlog shares that you are talking about. Is it also included in this report?

DR WOODS: No. No. I did not include it in this report. It was not 20 something that I was pursuing. As I said, it is simply in reply to a question yesterday, I made the remark that I did.

MS SEDIBE: Okay. What you have been saying, Dr Woods, with all due respect, is what you have also get that from the newspapers and the media. We have all been reading about that. I want a concrete evidence 25 of the benefits that Modise has received and you mentioned, I think, what I

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have read many years back, from the newspapers. Is there something that you can show to us that here is concrete proof? I can see this is another media press cuttings that you are referring to.

DR WOODS: Madam, by all means, if you write to me and make that
5 request and I will see if I can get into Gerda Ferreira's, get information out of Gerda Ferreira's files and I also made further enquiries. You know, I had no obligation to do that, but I would like to try and do that for you.

MS SEDIBE: You know, Dr Woods, this is a matter of public record. I have got it yesterday, from the media that Joe Modise is the only one that
10 has benefited, according to you. I was saying can you give me a list? You are talk about some things that you did not even submit here. But, I also read, many years back and I am trying to say to you, all what you are talking about, you have got it from, it is just statements from the media [indistinct] and unsubstantiated.

DR WOODS: One of the points I had to make yesterday. I remember the
15 occasions that media has uncovered many instances of fraud and corruption over the years and in virtually every case, it is proven to be correct. There are very few instances of where, you know, be it leases on buildings or Nkandla or whatever else, where the investigative journalist
20 proved to be incorrect. So, I, I would urge you not to just dismiss it as a media report. And secondly, again, I feel, I feel terrible that the media have reported it in the way they have. But, I want you to look at the truth, the truth that will be on the records of this Commission, their transcripts and if I understand correctly, they appear to be on the internet. So, I fear,

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we first need to know what I did say and what I did not say. Then, if you had an issue, a problem and I will go out of my way to resolve that.

MS MODISE: Through you, Mr Chair, my name is Boipuso Modise. I am the daughter of the late Minister Joe Modise. I would request permission to
5 ask Dr Woods a question?

CHAIRPERSON: You can go ahead.

MS MODISE: Thank you, Sir. Dr Woods, my question to you is a simple one. You have over the course of this morning, re-hatched media report, told us your opinion of those media reports. But, we have asked you a
10 simple and clear question. What concrete evidence do you have of Joe Modise's involvement in corrupt activities, or benefits from the armsdeal that were undue to the process? If you cannot provide concrete evidence to that end, please withdraw that statement, because it is defamatory and it is unsubstantiated.

15 DR WOODS: And you, you are not listening to me, are you? Withdraw what statement? You do not even know what the statement was, that I made?

MS MODISE: In yesterday's oral evidence that you, that you submitted, you suggested, or said that Joe Modise received benefits from the
20 armsdeal. The first question that my mother posed to you today was what benefits are you referring to and the second question was what concrete evidence you have of those benefits. If you cannot answer those two questions, relating to the oral evidence that you submitted yesterday, to this Commission, please withdraw those statements. They are untrue.

25 DR WOODS: Young lady, I do not take instructions from you.

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MS MODISE: Sir, you are speaking to this Commission ...[intervene]

CHAIRPERSON: Just hold on. Dr Woods, just listen to that carefully.

She has to make a proposition, if she is correct in her proposition, then of course, you will have to withdraw the statement. If at all, she is not correct
5 in the proposition that she has made, you do not have to withdraw your statement. It is not a question of her giving you instructions. She is making a proposition. If you do not agree with the proposition, please say so.

DR WOODS: Chair, I am going to repeat for the umpteenth time, what
10 was the statement that you want me to withdraw? What did I say *verbatim*? You know, we have to begin from a premise of fact.

CHAIRPERSON: Maybe, at all, you did not understand the proposition. Can I ask the young lady to put again the proposition to you?

MS MODISE: In Mr Wood's testimony yesterday, in his oral testimony, he
15 said that Joe Modise benefited from the arms deal. These were his words. We would like to know what benefits he is referring to and what concrete evidence he has of these benefits.

DR WOODS: As explained, there was a question, there was a discussion, which you also participated, Chairperson, and as is the nature,
20 as I qualified everything I said before I started, I am not here with concrete evidence. I make reference to reports that I believe are, had substance and are well argued and well sourced.

MS MODISE: Through you Mr Chair. So, in sum, Dr Woods, what you are saying is you have no concrete evidence.

25 DR WOODS: I never claimed to have concrete evidence.

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MS MODISE: Thank you.

CHAIRPERSON: Thank you. Advocate Cane?

ADV CANE: Thank you, Mr Chair. Mr Chair, I am aware of the fact that it has gone already past the tea adjournment. But, I assume, by your
5 invitation that I should continue and ...[intervene]

CHAIRPERSON: Unless they want tea. Advocate Mphaga, should we take a tea adjournment, or should we continue?

ADV MPHAGA: Chair, it would depend on how many questions she has. If she has two, three questions maybe it should be allowed. But, if it is
10 more than three, we need to adjourn for tea.

ADV CANE: Chair, so it would be more than two or three questions. I anticipate taking a balance of the hour, up to lunch time, if I proceed, at this stage.

CHAIRPERSON: And in that case, maybe we just take an adjournment
15 for about 10 minutes or so.

ADV CANE: As you please.

CHAIRPERSON: Thank you.

(COMMISSION ADJOURNS)

(COMMISSION RESUMES)

20 MS KHUMALO: Do you confirm that you are still under oath?

DR WOODS: s.u.o.

CHAIRPERSON: Thank you.

ADV CANE: Thank you chair. Chair, I am advised that [indistinct] Modise that she in fact goes by the name of Ms Sedibe and I tender my
25 apologies to her for that, but the reason for mentioning it at this stage is

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that she would like your leave to ask one more question before I proceed with my cross-examination.

MS SEDIBE: It is not a question, but I think it is for the sake of record. I just want to also remind Dr Woods that CONLOG was not part of the
5 Arms Deal, what do you call it, package or maybe in short I would like to say CONLOG never benefitted from the Arms Deal. That is all. For the sake of record.

DR WOODS: Thank you chair. In the BAE IP's agreement, it lists CONLOG as the biggest recipient of an industrial participation initiative.

10 CHAIRPERSON: Thank you. Madam, I suppose you are done. Thank you. Advocate Cane.

CROSS-EXAMINATION BY ADV CANE: Thank you chair. Dr Woods, I represent the Department of Affairs. I have understood that the main thrust of your evidence yesterday was a point you made and I took it
15 down. You said that your point is that dubious money was paid by Arms Dealers. Now in relation to that, let me firstly place on record. That if any amounts of money were paid in connection with the Arms Deal that should not have been paid to any individual, the Department of Affairs with you would also want appropriate action taken against that individual
20 if there were any real evidence of such conduct.

But the point where we depart, is that you seem to cast the net very widely and taint every aspect of the Arms Deal, say for one which I will indicate to you in a moment, with the probability of corruption, and that is the issue I want to debate with you on behalf of the Department
25 of Defence.

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Let me as a starting point just outline that there were fixed items of equipment procured, presumably you are aware of that.

DR WOODS: I am.

ADV CANE: And in fact say for the maritime of helicopters you actually
5 mentioned the other five items of equipment in your statement, and I
take you to those passages and I want to traverse them with you. The
maritime helicopter we have evidence before this commission from
Admiral [indistinct] was provided by UK Westland and that is also the
company that won the evaluation place for the best military value. I
10 presume then you have no issue in relation to that item of equipment.

DR WOODS: If you could just assist me, the maritime helicopters were
those that were bought to go on the [indistinct]. Is that correct?

ADV CANE: Yes, I am willing to assist you. They were, and in fact they
were bought about a year after.

15 DR WOODS: Thank you. I concur.

ADV CANE: Good. Then let us begin with the sub marines. Now look
on your statement, page 12, paragraph A. Are you there?

DR WOODS: Yes I am sorry.

CHAIRPERSON: Advocate Cane, which page are you referring to?

20 ADV CANE: Chair, I am referring to page 12 of Dr Woods's statement.
Towards the top of the page there is a heading A, the submarine deal.

CHAIRPERSON: Thank you.

ADV CANE: Dr Woods, have you perhaps read the evidence before this
commission presented by Captain Reed or by Admiral [indistinct]?

25 DR WOODS: I am afraid I have not, no.

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ADV CANE: It is to your credit that you immediately agree that you have not read it, because they describe in detail the evaluation process and what they also dealt with, were the issues that were raised in the [indistinct] reports and they gave evidence as to why there were certain
5 changes during the course of the evaluation process, and that the outcome mainly that the GSC submarine won the best military value competition, was entirely in accordance with a fair and proper evaluation process.

You cannot dispute that, can you?

10 DR WOODS: Not without reading the documents and evaluating against other documents which I have.

ADV CANE: You see Dr Woods, even if you were to do that, you would have no personal knowledge of the facts of which they have testified, would you?

15 DR WOODS: No.

ADV CANE: And so when you deal with the submarine deal and you refer to in fact I took your words down in relation to paragraph 30, this is what you said. You said the nature of the process is how to achieve a predetermined result. That is in fact not a statement that you can
20 without having considered their evidence, and without any personal knowledge of the facts, responsibly make, is it?

DR WOODS: Just to remind you of my methodology that I lined up a number of arguments in a number of documents, and it is how they cross-reference to each other. Whether it is the red flags on what can
25 happen in procurement deals and how people can predetermine. It was

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at the stage when I was going to give you examples yesterday when the chairperson ruled that I could not do that.

Otherwise I would have been able to show you, so that it is not to helpful just to pick around little issues concerning one part of my
5 statement. My statement is about integration of a number of arguments and how they all speak to each other, but of course I will oblige and entertain as best I can your questions.

ADV CANE: Dr Woods, your thesis is that a whole lot of factors hang together and hanging as they do, together, they would indicate
10 corruption, but that not one single item on its own would be sufficient to sustain corruption. Do I understand you correctly?

DR WOODS: If you understand that by all the information coming together it accommodates all the information in all three of the arguments together with two other documents which I submitted.

15 ADV CANE: I understand then that you are agreeing with me.

DR WOODS: I do not believe I necessarily agree with you.

ADV CANE: Dr Woods, it is a simple proposition. I need to understand what your evidence says in order to analyse it from the Department of Defence perspective, and in that regard I am concentrating on the
20 equipment types as I have mentioned. The reason for doing it is because you present arguments pertained to each equipment type and then as a whole you say all of this adds up to create a probability of corruption.

Now if I have not understood you correctly, would you please
25 indicate in what respect?

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DR WOODS: You seem to be and correct me if I am wrong, only referring to references I made in the second argument. Those have to be interfaced with the nature of established cases of corruption in the Arms Industry as we interfaced with the document I produced on warning signs and procurement. Has to be interfaced with types of breakdowns there were in process and why those breakdowns were in many cases serious and what the consequences of them could have been.

So you have to look at it all the way across as opposed to simply the second argument. But if I misunderstand you, then please correct me.

ADV CANE: Yes, I think we are making some progress. Essentially I have indicated I am dealing with the items of equipment, because they constitute one vital aspect of a whole argument you have put together. I do understand the other aspects of the argument. But for my purposes I need to deal with the aspect that pertains to the equipment.

I need to break it down one by one and we need to go through it together. Are you with me?

DR WOODS: I am.

ADV CANE: Coming back then to the submarines, I have put to you that given that Admiral Howell and Captain Reed have given evidence before this commission, in which they have explained the issues that were indicated by the [indistinct] report, and they have given [indistinct] the best was procured for the navy in accordance with the policies prescribed by [indistinct] and that they were satisfied that the valuation

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report achieved the objective of putting forward the best submarine which was the GS.

Given all of that and that you have not even considered that evidence, surely you have to accept that whatever you submitted in this
5 statement, has not taken into account a very material body of evidence.

DR WOODS: You would be correct in as far as the reports that I refer to here, I have not taken account of that report, that evidence you suggest. If I had known of that, I would have liked to have seen it, but I am very cautious because there been many contradictory opinions. Usually very
10 defensive opinions from the side of the department and which in cases as I recall proved not necessary to be correct.

I think the report offers you another example of where they were misinformed and of course that Admirals that you speak to would have to defend the deal, the way you say it was established.

15 ADV CANE: Do I understand then that you have a basic scepticism towards any of the DOD [indistinct] and you approached the subject matter on the basis that their evidence is not worth taking into account?

DR WOODS: I am not sure the reason for your exaggerated statement. I think one has to look at all evidence, as I attempted to do on the
20 reports. I submitted and I again explained that over and over again to see who wrote it, where they got the information from etcetera.

And but I do not necessary write off just anything that the defence of course says or claims. I consider it as well, and if I do not have the expertise, I try to [indistinct].

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ADV CANE: If you had been aware of the evidence of Captain Reed and Admiral Howell you would know that the submarine that they recommended was 800 million rand cheaper than the next closest contender, and that it was clearly best value for money, but you did not
5 know that, did you?

DR WOODS: Assuming what you say it is factual or it wasn't factual, I did not know about the statement you just made.

ADV CANE: And now that you do know, is it not the most probable inference to draw that the South African government procured the most
10 appropriate submarine?

DR WOODS: I would have to look into it, and as I say I do not necessarily accept what you are saying as facts. I just cannot take your word for granted, because I will not take other people's words for granted.

15 ADV CANE: Assume that, and I cannot necessarily say they will, but I do not want to be presumptions. Assume that the commission will accept the evidence of Captain Reed and Admiral [indistinct], but in fact the submarines procured were 800 million rand cheaper than the next closest contender.

20 Then they would be perfectly entitled to dismiss any probability of corruption. Surely you do not dispute that.

DR WOODS: If the commission were to look at the competing arguments and I am sure they will be in future, if the commission were to look through the evaluation system and point scoring and draw the

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same conclusions that you drew, I would expect them to agree that this choice was made.

ADV CANE: Dr Woods, then let us look at the next item in your statement. It is on the same page and it comes under letter B headed
5 [indistinct]. So that is also page 12 of your statement. Are you there?

DR WOODS: Yes.

ADV CANE: Now in relation to that, I want to ask you if you have considered at all the evidence of Admiral Kamerman?

DR WOODS: There was a time way back in 2000 where I discussed
10 certain issues with admiral kamerman, and I am aware here since you testified before this commission. I am not aware of the more recent evidence that is presented.

ADV CANE: So if I understand your answer, you have not actually read his statement or the transcript of his evidence for this commission?

15 DR WOODS: You are correct.

ADV CANE: One of the issues he dealt with, was the participation of the Germans in the competition to provide the frigates to South Africa and he described that there had been a process in 94 or 95 which was aborted because the then minister of defence had decided that a
20 national consensus was required to be achieved and instituted the defence review.

Were you aware of that?

DR WOODS: I do seem to recall reading that somewhere.

ADV CANE: You see, that is an aspect where I would have expected
25 you to perhaps have personal knowledge, because you were a member

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of parliament and the defence review was certainly an issue before parliament.

DR WOODS: You know, that is an unfair statement. It appeared before the two defence committees of which I was not party, and there is still
5 some argument about whether parliament adequately considered or not, but I certainly was no party to it. I will be quite honest with you, I have no interest in the military.

Never have had. So I would not have gone out of my way to see what the defence review was about. I would not have understood it.

10 ADV CANE: Then you also would have understood that subsequent to the defence review, the contest for the [indistinct] was reopened and that all the countries, including Germany, in fact all five of them that had participated in the [indistinct] were invited to a game compete in a fresh round of competition.

15 You were not aware of that?

DR WOODS: Yes, I was. It appears in the JIT report.

ADV CANE: I am sorry, I did not hear your answer. May you please repeat it?

DR WOODS: I was aware of that from having read the JIT report.

20 ADV CANE: If you were aware of that, then you were also aware that Germany had been a party to the first round prior to the defence review, and the second round of competition that began again in about 1997, as part of a number of other countries competing. Were you aware of that or not?

25 DR WOODS: Yes, I was aware.

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ADV CANE: Now were you also aware of the fact that Germany had declined to participate in the competition for the frigates prior to the April 1994 elections?

DR WOODS: I cannot recall having been aware of that.

5 ADV CANE: Let me ask you one other thing. Were you aware that the predetermined evaluation process consisting of a military evaluation and a NIP and DIP, and a finance evaluation, resulted in the German [indistinct] consortium winning the evaluation? Were you aware of that?

DR WOODS: Winning the over all, becoming the preferred bidder. Is
10 that what you are referring to?

ADV CANE: It became the preferred bidder at a later stage, as a result of the cabinet recommendation, but much earlier on in the initial stages of evaluation according to predetermined processes, the German consortium came out as the first contender. Were you aware of that?

15 DR WOODS: I seem to recall there being a sequence of events, referred to as such in the JIT report, but I also seem to remember it being disputed as well.

ADV CANE: When you refer to the disputes you have not yourself looked into the evidence of any of the witnesses with firsthand
20 knowledge who participated in that evaluation process, have you?

DR WOODS: As you are well aware I have explained my methodology over and over again.

ADV CANE: Yes, your methodology is to rely on press reports that indicate what you are, that support your thesis and to avoid evidence
25 which does not support your thesis.

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DR WOODS: I disagree with your accusation.

ADV CANE: Dr Woods, can I ask you to explain that. That you are prepared to come before this commission and make allegations relating to these items of equipment that would indicate that there was a
5 probability they were tainted by corruption. Yet you have not even considered the evidence of the witnesses who had personal knowledge of these processes.

DR WOODS: I once chaired the very extended committee SCOPA and had a lot of evidence first hand from the witnesses, including [indistinct]
10 but I took their submissions very seriously, as I did other parties. So then I think your statement once again is flawed.

ADV CANE: May I understand that? Are you saying that you chaired Scopa and that in fact you gave Admiral Kamerman the opportunity to appear before you and deal with the issues raised in relation to the
15 Arms Deal?

DR WOODS: We had many representatives from the military and its three Arms and Armscor, the very big hearing which [indistinct] a large amount of press coverage and we asked a number of questions. Wide ranging issues concerning the Arms Deal. That was in the year 2000.

20 I cannot anticipate every question, one might get an occasion like this. So I cannot recall exactly what Mr Kamerman said at that time or not, but I did meet with him and in fact when I called for a lot of confidential documents they were delivered to my office by him personally who drove from Pretoria with them and then [indistinct].

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So I have tried to listen to all sides, but I am agreeing with you that there could be other things that he could have said that would have enlightened me.

ADV CANE: Dr Woods, my instructions from him is that you are correct
5 that he delivered a large mass of DOD documents to SCOPA whilst you were the chair, and much of which he delivered himself, but he says that you have not taken him into account in your statement.

He also says that you refused to see anyone from the Department of Defence, in relation to the allegations.

10 DR WOODS: I disagree with that last statement. At that time we could not get enough of people within the department to help clarify issues around the concerns that were brought to our attention by the Auditor General concerning the Arms Deal.

ADV CANE: In paragraphs 33 and 38 of your statement, they deal with I
15 presume the issue of the combat suite.

DR WOODS: Can ... [intervene]

ADV CANE: You refer to Thompson, Shabir Shaik, FBS, ADS connections, in both paragraphs you mention FBS. What is FBS?

DR WOODS: Ja, I think that could be a small error. There was often
20 confusion about ADS and FBS who had largely the same directors and they had a connection. I think if I am correct Mr Shabir Shaik headed up both of them once upon a time, and the allegation of Augusta paying certain amount of submarines, and I think the FBS, no, I cannot recall the detail. Forgive me.

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ADV CANE: Maybe the difficulty is of course in the absence of you being able to explain your own statement. It is very difficult for me to deal with it, but we will take it up hopefully by somebody who has personal knowledge of these issues. But let us go to the substance of the paragraphs dealing with the combat suite.

Were you aware of the fact that ADS was the only company in South Africa that was able to supply the combat suite for the frigates?

DR WOODS: Yes, this is not what I had been made aware of. Just to go back to your previous question. If you want an FBS stands for Future business systems?

ADV CANE: Yes, thank you. Let us just [indistinct] the answer you have just given, which it was before that you said it is not what you had been led to believe.

DR WOODS: Yes.

ADV CANE: In other words we are dealing with ADS and then the only South African company able to provide combats [indistinct].

DR WOODS: Yes, you want me to repeat my response?

ADV CANE: Yes, please.

DR WOODS: That the information [indistinct] way back when you suggested otherwise. So I am not aware if what you say is true or not.

ADV CANE: Dr Woods, if you had read the statement of Admiral [indistinct] or heard his evidence, or even considered the documents he provided to you, you would know that Young himself has recognised this and I will read what Dr Young said in this regard. In his note of 5 August 1999, he states that:

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“Although ADS is a South African registered company, it is now foreign owned. However we recognise that there is no other signal company with the requisite experience to take its place.”

What then gives you the ability to question the award of the sub
5 contract for the combat suite to ADS as being possibly tainted by
corruption?

DR WOODS: You know, once again assuming that you are Mr
Kamerman and he is correct in what he says, I made no reference to Mr
Young. So I would ask you to be careful with just drawing assumptions.
10 Thirdly I am referring to a press report, GDW21. If you look, read and
see what it says in reference to my paragraph, you will see how far I will
go on this matter.

ADV CANE: Now I mentioned Dr Young’s statement in that regard
precisely because he competed combat suite that the award to ADS
15 was tainted by corruption, and so for him to have made that concession,
makes it even more outrageous for you to contain the [indistinct].

But let us progress then on this issue of the sub contracts and
GDW21. Tell me, are you complaining about the award of the local sub
systems or the foreign sub systems?

20 DR WOODS: I am not complaining about anything. I am referring you
to a press statement and whatever that, whether that is referring to the
[indistinct] or local sub systems is irrelevant to the way and the method I
am using to propose that there is a probability of corruption.

ADV CANE: You see Dr Woods, [indistinct] to simply brush everything
25 with the taint of corruption, there are a number of different sub systems,

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some of which were local and some of which were foreign and they were awarded to different contractors as a result of a competitive bidding process, but you cannot even tell me where you make your issue.

5 You cannot even say there is a particular sub system which I suspect was tainted by corruption. You just say it does not matter.

DR WOODS: I never said it does not matter in such a general sense. I said that point I believe is not relevant to the big picture that has been constructed through the many references I make, second resource
10 references mostly and to my analysis thereof.

ADV CANE: Well then all I, you see, then that leaves the commission with this thesis from you, which is that if you can paint the brush widely enough, there is no need to dig down into the detail, and even be specific about your allegations. You just leave this general sense that
15 everything is somehow tainted.

Is that what you intend to convey?

DR WOODS: I do not believe I am as immoral as that. What I intend to do here, in the short time that the commission gave me to do it, having come from a basis and not having looked at a single Arms Deal
20 document for many years, is to be helpful to the commission and suggest that this statement of mine, and the way I have analysed it, would have perhaps give some direction to the investigation that needs to take place to see whether the probabilities I refer to do in fact have grounds or not.

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ADV CANE: You see Dr Woods, if you [indistinct] as a pointer to indicate areas of concern, it would have been quite a different statement from the one you signed. For instance in paragraph 13 of your statement, the last sentence, you say I deny that there are
5 impossibilities of corruption in the SDP's by the former members of the executive who have appeared before this commission is incomprehensible.

Now that is quite a strong statement from somebody who has not kept track of the evidence or up to date with the investigation.

10 DR WOODS: I think you are a little disingenuous. The point which I am clearly making here, is that in the face of what can happen in big procurement deals, and the bigger the deals, the higher the risk, and more especially big deals in the military for a number of reasons, that
15 me it was incomprehensible that the members of the executive that I refer to could have simply dismissed the impossibility in any form or any degree of corruption that remains incomprehensible, as it does to a lot of other intelligent people.

ADV CANE: Yes, well they spoke from personal knowledge, and they have no knowledge of corruption and you yourself have accepted that
20 the majority of the cabinet including the witnesses before the commission, were not men who enriched themselves through this Arms Deal, and so it is not at all incomprehensible, speaking from personal knowledge.

I will go to the next item of equipment which pertains to the
25 hawks. Now page 14 of your statement, the letter C, you deal with the

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BAE deal and what you capture there under seems to me to pertain to the acquisition of the hawks. In regard to the hawks, I presume that based on the answers you have already given, you have not considered the evidence given by former deputy minister of defence, Mr Kasrils.

5 DR WOODS: No, in my experience of Mr Kasrils, utterances would make me very cautious.

ADV CANE: Now in relation to ... [intervene]

CHAIRPERSON: Just hold on. Dr Woods, just answer the question. Have you considered that statement or not?

10 DR WOODS: No.

CHAIRPERSON: Thank you.

ADV CANE: You see Dr Woods, not having considered the evidence, it really does not lie within your domain to argue for a credibility finding against Mr Kasrils. Surely you do accept my word of caution in that
15 regard.

DR WOODS: I agree that the more evidence you can consider and incorporate into your arguments you produce, and this applies to you as well the better.

ADV CANE: Now just before the lunch adjournment, you transgressed
20 into a discussion about the price of the hawks as compared to the price of the hawks procured by the Australians. You suggested that the Australians have paid a lot less than South Africa, and I presume you intended that to be another reason from which we should infer corruption?

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DR WOODS: Those are your words. You can assume that if you so wish, but I would not say that.

ADV CANE: Let us just take a step back and test what we are dealing with here. You would accept I am sure that a comparison of two
5 different military's equipment is very difficult, because they generally do not share all the information pertained to the specifications and logistic support.

You would accept that surely?

DR WOODS: I would not accept that, but on the other hand I was very
10 surprised and in my consultations with senior officials from Ermarchi and from the [indistinct] as to do not ask me how much information they all had on each other's rivals and deals and specifications and the pricings.

So once again I [indistinct] to where I saw the information from and what and how that formed the basis of certain assumptions.

ADV CANE: I lay that foundation actually against myself, because the
15 information that I have is at best superficial and I do not have that very detailed comparison, but the information that I have Dr Woods, is that South Africa paid 3873 million for 24 hawks. The Australians paid 5780 million rand for 33 hawks, and by just doing the very elementary
20 exercise of dividing the South African rand amount by 24 and the Australian price by 33, one comes out with a comparison that indicates that in fact South Africa paid 161 million rand per hawk and Australia paid 175 million rand per hawk.

Those are my instructions. Do you have any reason to dispute
25 that that is accurate?

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DR WOODS: How can I dispute it if I have not seen it? I need to see the details. If you [indistinct] of how the many components that went onto the basic price, I am sure the same applied in the Australian deal. One would have to compare apples with apples. It appears that the information that I received differs to that, that you have at your disposal, which is right and that [indistinct].

ADV CANE: Yes, and the important point is that to compare apples with apples would take quite a detailed exercise and here we have to be assured of receiving full information. Do you agree?

10 DR WOODS: In the case if I were to say we [indistinct] hawks and which has been suggested from another importer, you know I would need to base that on a fairly detailed assessment, especially if I was saying and coming to that conclusion when comparing it to the Australian deal. But if you go back to my earlier statement, the point you are making is not the point I was making.

ADV CANE: You are correct. It was not a point in your statement, it was something you said before lunch, and I just want to check then that you are not actually alleging because you have not done sufficient work to enable you to allege it, that South Africa paid far more for its hawks than any other air force.

DR WOODS: This is no doubt as with many of these issues as you proved earlier on today, that I am being quite open about where I get information from. Why I consider that information. I have a lot more information I could have incorporated, but I did not have time. We also had the unfortunate incident as my evidence leaders will tell you where

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a lot of my documents somehow misplaced a few days before this hearing, and it was quite difficult to try and find copies, to try and re-establish them.

Sorry, so I left your question behind. Could you just repeat it for
5 me?

ADV CANE: Yes, certainly. Dr Woods what I said to you is based on your evidence before lunch, it is not an issue in your statement you are correct on that. You are not saying because you have not done the necessary analysis to enable you to respond that South Africa paid
10 more for its hawks than other countries paid for theirs.

DR WOODS: I am saying on the information that I do have, that would appear to be the case. I will accept there could be more information. I think with many of the statements you are making, I wish I can ask you some questions, because it appears that you are being very selective
15 yourself.

ADV CANE: Dr Woods, if you ... [intervene]

CHAIRPERSON: Just hold on. Dr Woods, you cannot ask the council questions. Counsel is here to ask you questions and you must answer those questions.

20 DR WOODS: I apologise to you. I withdraw my question.

CHAIRPERSON: Thank you.

ADV CANE: Dr Woods, I was only interested in the first part of your answer, not the second. I was interested in the first part of your answer in which you said you were in fact making the allegation that South
25 Africa overpaid or paid more than other countries. Now would you then

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detail the exercise that you have undertaken, in order to enable you to responsibly make such an allegation?

DR WOODS: If I could have anticipated this question, I would have brought documentation which comes from the international military establishment which suggested that to be the case. Also refer to the information that I was able to obtain regarding the Australian deal. So on those indirect sources I make a point.

But I still do not recall but I am open to be corrected, that I made that statement. It is certainly not made in my statement, but maybe it was made verbally here in answer to a question where you claim that I said we overpaid for the hawks. I just want to make sure that I did in fact say that.

ADV CANE: Dr Woods, it is not really a memory test and I am not trying to catch you out. I actually want to understand what you are saying so that I can deal with it. I can only deal with what you are saying, and the evidence what you have brought to this commission. So let us be straight with one another.

Are you saying that South Africa overpaid or are you not?

DR WOODS: I am saying I have noted arguments and opinions which suggests that to be the case. As I said, if we did overpay then I would have to [indistinct]. I made a point all along. I have made no accusation of corruption. Working towards trying to present the commission with a body of information that suggests it is efficient, there is a probability so that they in terms of their [indistinct] and the obligation to conduct an enquiry, can take these issues forward where they agree.

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ADV CANE: Well, what you do say. Have a look at paragraph 83 of your statement. Look at the last sentence of it, and they conclude that the evidence presented to substantiate this situation and talking about what has been proper in the procurement, is almost irrefutable. That is
5 a strong statement.

It goes well beyond what you now suggest. Which is just have a look at these errors that have caused me a little bit of concern. It is much stronger than that.

DR WOODS: Well, with the generals' briefing on this point. If he
10 wanted to ravish everything in the JIT forensic work, if he wanted to ravish the testimony of Lieutenant General Pierre Steyn, then he would challenge me, because I am referring here to the management control and executive oversight for the procurement process.

I supplied a lot of fairly strong evidence and I believe that
15 evidence substantiates the situation and it is almost irrefutable. So it is a strong statement. It will get on track as to where it comes from.

ADV CANE: Alright, we will return to that theme, but I suggest to you that you have made serious allegations in your statement that go well beyond simply indicating where corruption could be and needs to be
20 investigated, and that is why I am going through it in detail and let us have a look at the issue of the now costed option of requiring the hawk.

We are still dealing with the hawk. Now in that regard were you aware that the cockpit fitted in the hawk was designed to emulate that of the Gripen?

25 DR WOODS: Yes, I was.

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ADV CANE: And were you aware that enabled the training of fighter pilots in a three tear system in the best way possible?

DR WOODS: I recall the proposal for the three tear system which I think was later changed to two.

5 ADV CANE: You can take it from me that the evidence has been categorical from a number of witnesses, including General [indistinct] and a number of others that in fact it changed for a short period to the two tear system and back to the three tear system, prior to the acquisition of the hawks and the Gripen.

10 So what we are facing is a three tear system. Were you aware of that?

DR WOODS: My memory fails me. I do not know. Sorry.

ADV CANE: That is okay. Now in relation to the hawk, the other one of the other major attractions to it was that it enabled, it was capable of
15 engaging in combat. Not merely training. Were you aware of that?

DR WOODS: I recall reading that somewhere yes.

ADV CANE: And so when the former president Mbeki and former deputy minister of defence, minister Kasrils gave their evidence with reference to written recordals of their reasons for acquiring hawks,
20 which included some of those that I have given to you, you surely do not suggest that they are lying and misleading this commission as to the true reason for making the decision to acquire hawks?

DR WOODS: The first reasons given were the reason for the superior offset deals that the [indistinct] offered on the hawks. When he was
25 challenged on that, his reasons were later changed to say that it was the

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migration from the hawks as a trainer air craft to the Gripen as a fighter air craft.

It made sense as opposed to the [indistinct] to the Gripen. Of course in the report there are three opinions that the forensic guys got
5 that [indistinct] that the view of [indistinct] itself who showed in some detail that the migration from the [indistinct] to the Gripen was far smaller than the migration from the then impala to the cheetah.

So one gets all these contesting views and I appreciate where you are coming from and where your view comes from. I have to look at
10 it more widely.

ADV CANE: In getting the contesting views, surely one defers to the view of the person entrusted to make the decision at the time, and surely if that is made on a rational basis, one would be irresponsible to then cry corruption.

15 DR WOODS: Well, I do not know who is crying corruption. I certainly am not. Then you have a tendency to rely on officials within the DOD and ask me to respond to their opinions as if they are facts. I cannot do that.

ADV CANE: Dr Woods, I accept that you cannot do what you have just
20 described, but it is not what I am seeking to do at all. I am presenting to you a summary of the evidence which I submit you should have read, emanating from the former president and former deputy minister.

That done by minutes from ministerial committees in which they described their reasons for acquiring the hawk, and I am saying to you
25 that you cannot possibly suggest from your advantage point, that their

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reasons were irrational or so irrational as to indicate corruption, can you?

DR WOODS: I could not and I would not.

ADV CANE: The next item in your statement, is page 15. D the
5 Augusta deal. We are now dealing with the light utility helicopters. In fact it means that we have progressed through the list of equipment. Now in that regard General Viljoen gave evidence, and his evidence was that there was no tampering with the evaluation process or the value system.

10 That the Augusta was the type of equipment that [indistinct] the best military value. You cannot contest that, can you?

DR WOODS: No, I cannot, but once again I have to take into account opposing views and in this regard I am hopeful that the chairpersons succeed in getting [indistinct] because the strongest contesting views is
15 in their book.

ADV CANE: Yes, and if you have read the evidence you would know that the various officials with personal knowledge have been confronted with the allegations in Van Holden and Van Vuuren's book and they have dealt with those allegations, but you are not aware of that, are
20 you?

DR WOODS: I think that from your advantage point it would appear in every case that your officials have dealt with a situation in giving honest answers. I do not necessarily accept that.

ADV CANE: Now the other interesting aspect in some of the answers
25 you have given, is that you rely on it seems meeting that you had with

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users, people who lost out on the tender process and so for instance you referred to the [indistinct] Italians when I was dealing with the hawks, and now you seem to rely on evidence of Bell who lost out in the [indistinct] with Augusta.

5 Did you not see that you are relying on the people who are the losers in the tender process?

DR WOODS: Yes, I am very supportive of the point you are making, as happens in a number of procurement deals. Losers are often agreed [indistinct]. Hopefully I do try to take that into account.

10 ADV CANE: Thank you. Then the sixth item of equipment does not appear in the same order in your statement. It is the Alfa or the [indistinct], the advanced fighter air craft. Now in that regard the evidence before the commission has been that the Gripens were one contest for the best military value.

15 In other words they satisfied all the military's technical specifications and were the most economically priced. In those circumstances one would not generally look for a probability or occasion of corruption, because when South Africa procured the best priced equipment.

20 Do you differ with me?

DR WOODS: No, I understand. I think from what I recall of going through the detail of the evaluation and selection process, that the Gripen was most likely a deserved winner.

ADV CANE: Then if I may ask you to turn to page 21 of your statement,
25 where you deal with General Pierre Steyn's evidence. May I ask the

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same question again. There may be a different answer to this once since you have quoted from him. Have you read his statement and his evidence before this commission?

DR WOODS: I have not read the full statement.

5 ADV CANE: Where did you actually procure these quotations that are set out in page 21 and 22 of your statement?

DR WOODS: I cannot recall exactly. I would imagine I am got them from the commission's website.

ADV CANE: The commission published a summary of his evidence to
10 forewarn people prior to them having an interest in his evidence prior to him giving his evidence. Do you think you have procure these quotations from there?

DR WOODS: I could be incorrect, but I begin to think I might have got the statement from my evidence leaders. They will correct me if I am
15 incorrect.

ADV CANE: Alright. I do recognise in fairness to you, some of these quotations that has been taken from his statement, but I could not find all of them which is the reason for my questioning. I could not locate the source of all of them in General Steyn's statement, but be that as it may.

20 Then let me go back to my first question. Have you read that statement or do you not recall?

DR WOODS: I read the statement that was given to me, but I suspect it was not the full statement.

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ADV CANE: Now when you rely on General Steyn, I understand it to be one of the pillars of your overall thesis that there was corruption in the Arms Deal. Is my understanding perhaps too superficial?

DR WOODS: Firstly my thesis does not conclude that there was
5 corruption in the Arms Deal. May I correct you just once again on that. No, Pierre Steyn's references that I include here and which I elaborated on yesterday, are just another source. It tends to agree with the JIT's observations and then earlier Auditor General's observations.

That the processes were weak to the point that all sorts of
10 opportunities or any number of irregularities and even corruption were possible. I do suggest that this third of the three references that I made to Lieutenant general Mr Steyn does carry some authority. He was the secretary for the defence.

He was present. I also mentioned yesterday that I interviewed
15 him way back then, made my own notes. So I was aware of a number of these observations that he had made. I also referred you to an interview that was conducted with him by the JIT forensic people, which was in the first draft which was mysteriously absent from the final draft in the JIT report about two sentences.

20 ADV CANE: Dr Woods that was a long answer but let us come back to the question, you have not read the evidence of Mr Steyn in this commission and neither did you read his cross examination or the documents upon which he relied in relation to which he was cross examined that is the current state of play. I am right?

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DR WOODS: Obviously the document that I did receive it is not the full testimony then u will be correct on the first point and but you certainly correct on the second point I never saw any supporting documentation that you referred to.

5 ADV CANE: And you have not read the transcript in which his oral evidence was given and he was cross examined before this commission, have you?

DR WOODS: you correct.

ADV CANE: you see because it is really I submit irresponsible of you to
10 have as one of the pillars of your thesis of corruption the evidence of a person when you have not read their testimony and you have simply opportunistically extracts snipers from what seem to be a summary of a statement.

DR WOODS: for the empties time it is not thesis and corruption I think
15 you really need to get that straight secondly you words of calling this a pillar I don't refer to as pillar I don't present it as pillar so I don't know why are you using that exaggerated word for what effect thirdly you said I have extracted, I extracted nothing I was given a document, this is the document.

20 ADV CANE: Dr Woods, let us have a look at your own words in paragraph 66 in page 26 of your statement in the last sentence of that paragraph you said the following "in the case of SDP exercise the PWC and Lieutenant General Steyn have clearly destroy the illusion of compliance which government presented" now that I submit to you in the

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absence of having considered his evidence is in fact an irresponsible statement.

DR WOODS: I disagree with you and I believe I have an expertise in this field which you don't have.

5 ADV CANE: Now if you would please indicate to me in what respect it is that General Steyn's evidence would indicate that the was merely an illusion of compliance and will assist you in drawing your conclusions that this was an a farce contrived predetermined decision were been made and it was appalling exercise in decide, that was your allegations
10 what was General Steyn say that makes you believe that to be the case.

DR WOODS: to unravel you manipulation of my words and you made the number points I hope I can recall them all, to single out Lieutenant General Steyn's reference here is disingenuous I put together in a package with SDP's exercise and PWC's forensic exercise and I say
15 those together maybe Pierre Steyn and my assessment was [indistinct] apart and it destroys the illusion of compliance because as we mentioned earlier on the Minister insisted that the were total compliance that the deal and the process and the structures and the practices were perfect the was no chance of anything going wrong and that is on record
20 from the ministers you then jump to first paragraph of 66 where I am not talking necessarily about the arms deal I am talking generally about something that continuously happen which the Auditor General often refers to which all witness at our own way when see expose come that it appeared in the big procurement deal all the boxes were ticked but we
25 learn how devious people can be in given that illusion of compliance

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were in the end there was no compliance and were corruption took place or big mistake happened now I can give you any number of examples on that as Auditor General if don't agree to that you are right.

ADV CANE: Dr Woods I want to bring you back to the question and I
5 apologise if the question was too long let make it a lot simpler , we are dealing with General Steyn and he is employed in your statement as part of the reason you would say or indications of corruption and my question was what in particular does General Steyn allege you to that causes this concern?

10 DR WOODS: I picked your question but this time to leave out the words that this allure into corruption it is not it alluding to the failure and weaknesses of systems can you get that straight maybe we can make some progress.

ADV CANE: that its a helpful answer thank you, so General Steyn's
15 position and authority is not been used to indicate corruption it is been used to indicate merely a breakdown in process you say.

DR WOODS: read my statement please

CHAIRPERSON: Just hold on, Dr Woods the question is simple, please answer the question, it simple and straight forward.

20 DR WOODS: it is in my statement

CHAIRPERSON: Dr Woods a proposition was made to you it is correct or it is not correct?

DR WOODS: I have made a point few moments ago which suggested was not correct I have said as much ...intervene

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CHAIRPERSON: Thanks you that are all I wanted to understand, so you say the proposition is not correct.

ADV CANE: thank you Mr Chair, what is in your statement Dr Woods is paragraph 61 which appears immediately below the heading dealing
5 with Pierre Steyn let me read it to you “the above evidence of SDP procurement exercise have been open to manipulation is indisputable this is however further reinforced by the testimony of the former defence secretary to the commission” so what I understand you are saying it is that merely indicates the breakdown of process we are not dealing with
10 a corrupt manipulation ,it’s my understanding correct?

DR WOODS: sorry, you are bit too quick for me there, I missed the paragraph that you are referring to so I was unable to follow you.

ADV CANE: if you could turn to paragraph 61 are you there now?

DR WOODS: thank you

15 ADV CANE: now you indicated to me that you were merely indicating a breakdown of process I wrote down your words and not a corrupt manipulation so when I read paragraph 61 that it’s all I must understand by your words.

DR WOODS: obsolete but you early referring to and you speaking to
20 paragraph 66 and you were quoting from there but the same point I made there applies to 62 as well.

ADV CANE: Then I know what we are dealing with, now the evidence of Mr Steyn pertaining to minute keeping which we dealt with. Pertaining to the acquisition of the hawks because they were more expensive than
25 the aramachi which was traversed before this commission.

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But there was a very important part of his evidence. He made it clear that he did not make any allegation that Mr Modise was in favour of any particular contractor or product such as the hawk. Were you aware of that?

5 DR WOODS: No, I was not aware, but I have no reason to doubt it.

ADV CANE: And you went further and denied that there was no impression that he had that any member of the procurement team was in favour of any particular contractor. So he had no such impression. Were you aware of that?

10 DR WOODS: I am not aware of him making that statement, no.

ADV CANE: Just for the record chair, it appears in the transcript, page 6753, lines 8 to 15. The transcript referring to is transcript page 6753 lines 8 to 15. Dr Woods, Mr Esterhuizen made a similar statement. He was asked and I quote:

15 “Do you have any impression that minister Modise had any type of informal or behind the scenes relationship with any other UK equipment manufacturer?”

His answer was I have no indication of such a relationship. You were not aware of that, were you?

20 DR WOODS: I was not aware that that statement was made, but what I can say chair, it would amount to hearsay. That in my interview of Mr Steyn, he did tell me that there was a friendship between the late minister Modise and senior executives of BAE. He never made any accusations, but he did suggest there was a friendship and he told me

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that at time I think the air force had to fly Mr Modise over to the UK just to meet with his friends there.

ADV CANE: Sorry Dr Woods, I perhaps did not hear you correctly. Who gave you this information?

5 DR WOODS: Lieutenant General Pierre Steyn.

ADV CANE: Yes, well it is not his evidence under oath. Would you please turn to page 29 of your statement. It is the page on which you have your diagram of the process for selecting equipment, starting with the evaluation stage and ending with the cabinet. Are you there?

10 DR WOODS: I am, thank you.

ADV CANE: May I ask you do you have any personal knowledge of General Nayanda's position or role?

DR WOODS: At that point he became head of the defence force. Am I correct?

15 ADV CANE: Yes, he became chief of the defence force. Did you have any personal knowledge of his role in the acquisition process?

DR WOODS: No, I do not and strangely his name has never really featured much in the large volume of the material that I have.

ADV CANE: My instructions are that he played no role in the acquisition process other than to sit as a member of the AAC. You dispute that?

DR WOODS: No, I do not.

ADV CANE: Let us do the same exercise in regard to Mr Chippy Shaik, what is personal knowledge if any to his in the acquisition process

DR WOODS: again my sources are secondary I would refer this
25 numerous references and the forensic work by [instinct] from numerous

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minutes of various meetings whether they from sofcom whether they from the combined meetings between AAC, ASB from the cabinet subcommittee where Chippy Shaik used to do the minutes I gathered lot of information which give lot of insights in to his role.

5 ADV CANE: Dr Woods do you know what position he held?

DR WOODS: not sure exact but the head of acquisition which that effect

ADV CANE: Yes he was the Chief of acquisition, would not therefore be entirely right and proper as the chief of acquisition to be heavily involved in the acquisition process?

10 DR WOODS: in terms of international best practice that would not be advisable.

ADV CANE: you suggest that you should not have a person with responsibility of been chief of acquisition?

DR WOODS: that it is a silly statement but the point been here that in
15 numerous documented cases of corruption in procurement, one [instinct] decisions actually been make at the bottom then sold upwards for that reason you have divisions of responsibility which serves as checks and balances for one person to have been had some involvement at evaluation stage to chair sofcom most of the time because Mr
20 Oosthuizen often was not there and to be doing the presentation from PowerPoint presentation all the way up including into cabinet, places [instinct] very very strong position so I am not accusing Mr Shaik of been corrupt I am just saying in the section of this statement which proceed this diagram that this is just an illustration of how , you know
25 was the word careless I am not sure am everybody was regarding

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having the best practice and place best procedures in place and the keeping the divisions the way they are because that were establish internationally for a very good reason and they were establish for very highly experience.

5 ADV CANE: may I outline a set of facts to you I want you to assume them to be correct I am painting a scenario, the scenario is that Mr Chippy Shaik, had no role in the bottom evaluation phase in your diagram, so the photo of diagram the evidence there people with first-hand knowledge of the process describe that he had no influence or role
10 in that process at all the scenario I then paint is that he coordinated the results from the evaluation phase and the evidence says that those results that he coordinated as chair of sofcom matched the results from the evaluation teams and did not change at any point in the chain upwards if that were the truth in the scenario in the evidence were to be
15 accepted by this commission you would then accept that Mr Shaik, role as chief of acquisition was not an improper influence over the process.

DR WOODS: even if that was correct I would still say in terms of universally accepted best practice it won't be a good thing it will be considered improper but I could just refer you on the first point you
20 made to the JIT reports were they indicate that Chippy Shaik did intervene in the nip and dip evaluations and in fact imposed the evaluation methods from sofcom which took the place of the original evaluation methods whether you correct or the forensic guys are correct I am open to learn.

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ADV CANE: The evidence has been that Mr Chippy Shaik did not intervene in this evaluation phase and there was no manipulation of the results to which you have referred. What is it then that you find objectionable, given my scenario? In mention to Mr Chippy Shaik as well. Would you be specific?

DR WOODS: The only thing I find objectionable is that best practices were not applied, and as best practices which I did describe somewhere in my report, are the you know are the collective experience of many countries who have established what the rules should be.

10 What the practice should be and these have been established for very good reason. When we depart from that, as the Auditor General pointed out let me leave out Pierre Steyn, as I am trying to point out in an illustration here, and I do say this is an illustration. I could have perhaps compiled a number of other individuals to show that perhaps
15 they bridged the committee structures that is ill advised. I don't go beyond that.

ADV CANE: Thank you Dr Woods. Those are my questions. Thank you chair.

CHAIRPERSON: I suppose Advocate Cane was the last person to
20 cross-examine?

ADV DRIMAN: Mr Chair, I did consider yesterday that I would consider cross-examination, but it seems that there would be no purpose to that after the evidence given this morning.

CHAIRPERSON: Thank you. I suppose there is no other person wants
25 to cross exam. Thank you.

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ADV MPHAGA: Thank you chair. That concludes the evidence of Dr Woods. Chair, I will just mention that the next witness will be that of Dr Crawford Browne and we would appreciate if the commission could postpone the earliest date to be announced.

5 CHAIRPERSON: Thank you. First of all let me thank Dr Woods for coming to the commission and testifying. You want to say something?

DR WOODS: If I may, just as a concluding comment to thank you for this opportunity and I wish you had given me more time to further strengthen my statement. I hope my statement is of some use to the
10 commission. But perhaps my biggest thank is to yourself and Advocate Mdumbe is the person who really deserves thanks.

For the three evidence leaders that were assigned to me, they have been an absolute pleasure to work with. They have taught me a lot. Their commitment, their hard workingness, their professionalism
15 and also I thank just the great human beings that they are.

Thank you very much.

CHAIRPERSON: Thank you. For your kinds words Dr Woods, we must also thank you as a commission for your assistance and for agreeing to come and give evidence. I hope all you have said today will help us to
20 try and determine exactly what happened. Secondly Advocate Mphaga as I understand you are saying that the next witness is Mr Crawford Brown.

You are still trying to arrange a date?

ADV MPHAGA: We are trying to arrange a date and also prepare his
25 statement.

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CHAIRPERSON: Thank you. So if we adjourn now, we are going to come back on the date to be arranged.

ADV MPHAGA: We are unable to give the date, we will appreciate a date in the near future.

5 CHAIRPERSON: Thank you. We will now adjourn to the date to be announced, as soon as there is an agreement between all the parties. On which Mr Crawford Brown will testify will make public announcements. Thank you, we will adjourn.

HEARING ADJOURNS

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