

ARMS PROCUREMENT COMMISSION

Transparency, Accountability and the Rule of Law

PUBLIC HEARINGS

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HEARING ON 8 OCTOBER 2014

CHAIRPERSON: Thank you. Do you confirm that you are still under oath, say I do. Thank you. Good Morning, everybody.

ADV RAMAGAGA: Good morning, Chair.

5 CHAIRPERSON: Yesterday, when we adjourned, I said that we will come back this morning, in order to give a ruling, on that, the question of that document that Mr Terry Crawford-Browne referred to. I have prepared a ruling and I will ask my fellow Commissioner to read it into the record.

10 COMMISSIONER MUSI: Thank you. It is a part ruling. It reads as follows:

"In the course of his evidence, yesterday, Mr Terry Crawford-Browne referred to a document, annexed to his bundle of documents, at page 173, being a report compiled by the USA firm of attorneys
15 *Debevoise and Plimpton for their client Ferrostaal, one of the companies, forming part of the German Submarine Consortium, which was awarded the contract to supply the South African government with submarines. The same report had been referred to, in the evidence of a*
20 *previous witness on the 2nd of September 2014 and an objection was then raised to its admissibility, on the basis that it was privileged. I had upheld the objection and ruled that such report was inadmissible. The same objection has now been raised, when Mr Terry Crawford-Browne wanted to refer to it, in his evidence. I indicated that, due to the importance of the issue, I was prepared to reconsider my earlier*
25 *decision and to call for fresh argument to be heard on the matter. Mr*

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Terry Crawford-Brown argued that the report should be admitted, as it contained important information, relating to the allegations of fraud in the SDPP acquisition process. Ms Ramagaga, who led the evidence of Mr Crawford-Browne, also argued that the document should be admitted, on the basis, *inter alia*, that it had already been widely disseminated and had been in the public domain for some time. She submitted that the Commission is not bound to apply the rules applicable to a court of law and further, that it would be in the public interest that the contents thereof be disclosed. Mr Burger, for Ferrostaal, argued that it is trite law that a confidential communication between an attorney and his or her client is protected against unauthorised disclosure and cannot be used in evidence, unless the privilege had been waived. He submitted that the privilege in caso has not been waived, as the document was disseminated, without his client's consent. Now, the protection of privilege is recognised by both the Commissions Act 8 of 1947 as amended and the regulations applicable to this Commission, which were published on the 8th of February 2012. Regulation 8 (1) provides that the only ground on which a witness can refuse to answer questions is privilege. It is undisputed that the report is a privileged document and that such privilege has not been waived by Ferrostaal. The document stands on the same footing, as a stolen document. It stands to reason that this condition would be perpetuating an illegality, if we were to admit it. In these circumstances, the ruling of the 2nd of September 2014 should stand. This, notwithstanding, I indicated that the same report had been furnished to the Commission in

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confidence, not as evidence, but for the purpose of assisting it, in its investigations, by way of providing leads. In this context, the Commission has initiated certain investigations, raised on the contents of the report. I reiterate, however, that it would be the result of the

5 *ensuing investigations that would be used by the Commission and not the contents of the report, as such. In the result, I confirm, my earlier ruling that the report in question is inadmissible and cannot be referred to, in the evidence of Mr Terry Crawford-Browne, or any other witness.”*

Signed 8th of October 2014 by the Chairperson. Thank you.

10 CHAIRPERSON: I think, this will put to rest the question of, of that report and when you lead Mr Terry Crawford-Browne, Ms Ramagaga, just skip [indistinct]. You can proceed.

ADV RAMAGAGA: Thank you, Chair. When we adjourn yesterday, we were dealing with paragraph, the witness was supposed to proceed

15 with paragraph six point, no, no, paragraph 5.25. Now, maybe just, just to, to give clarity for the record purpose, at the time when the issue of this report was raised, it was when the witness was about to deal with paragraphs 5.25 to 5.37 of his statement. Now, that portion was then stood down, so that the Commission, the Commissioners may give a

20 ruling, regarding the use of the report. Then, just in order to save time, what we did was, then to proceed to deal with paragraph 6 of his statement. When he was about to deal with paragraphs 6.33 and, actually 6.33, the Chairperson then raised a concern, relating to the relevance of that information. So, what we would then suggest we do,

25 would be to then complete paragraph 6 and then go back to paragraph 5

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and deal with any portions thereof that do not quote the, the report that Mr Crawford-Browne sought to refer to. Now, it is my understanding that the Commissioners are actually saying that, the Commissioners are saying, the information contained in the report, will be used, or is being
5 used by the Commission, in order to pursue leads, or in order for it to do its investigation. So, may I then proceed to take the witness to page 54, because he will be skipping page, paragraphs 6.33 and 6.34, because they bear no relevance to the terms of reference.

CHAIRPERSON: From what page?

10 MS RAMAGAGA: 6.35 will be on page 54, page 54 of the statement, Chair.

MR CRAWFORD-BROWNE: 54 or 51?

ADV RAMAGAGA: Page 54. And, and the witness will then be starting with paragraph 6.35. May I proceed, Chair? Thank you. Mr
15 Crawford-Browne, have you found page 54?

MR CRAWFORD-BROWNE: Ja. I have, yes.

ADV RAMAGAGA: Yes. Will you please proceed to lead your evidence on six, from 6.35?

MR CRAWFORD-BROWNE: Three, five. Yes. That is correct and
20 6.35:

"The CIEX agreement, a copy of which is in my possession."

ADV RAMAGAGA: 6.35 is on page 54 and it reads:

"The agreement, a copy of which is in my possession, specifically established."

25 MR CRAWFORD-BROWNE: That is right.

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ADV RAMAGAGA: Ja.

MR CRAWFORD-BROWNE: I am just naming the agreement.

ADV RAMAGAGA: Oh. Okay.

MR CRAWFORD-BROWNE: The CIEX agreement. It just says the
5 agreement.

*"It is the CIEX agreement, copy of which is in my possession, specifically established as a priority one the investigation of the Bankcorp/ABSA lifeboat scheme. This was an illegal subvention provided by the South African Reserve Bank, when Trust Bank went
10 bankrupt.*

*I contend and submit that Barclays Bank, in 2005, used the BAE loan agreement and its catastrophic default clauses to strong arm and blackmail Mr Manuel, as Minister of Finance to approve the take over of ABSA and in the process to financially benefit from the illegal
15 Bankcorp/ABSA lifeboat scheme. Consequently, now, all four of South Africa's big four banks were under British control.*

*ABSA and its South African clients have since been milked by Barclays Bank and as payback, Ms Ramos, who is now Ms Manuel, was appointed Chief Executive Officer of ABSA, which currently is in the
20 process of being rebranded as Barclays Africa. The conflicts of interest are glaring. Given the Barclays reputation for corruption and malpractices, it beggars belief that Mr Manuel not only approved the takeover of ABSA, but actually trumpeted that it represented a massive vote of confidence in South Africa.*

25 Meanwhile, the democratic South African government in 1994, have

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inherited an almost bankrupt economy. Reckless military spending estimated to R175 billion in those days, including development of nuclear weapons was the underlying cause of the 1985 debt standstill. Given that reality, the massive acquisition of armaments, as the first

5 *major procurement decision of the new government, was irrational and was thereby unconstitutional. Even worse, it was fraudulently disguised through the offset programme as some unique opportunity to stimulate South Africa's economic development and to create jobs.*

The Department of Finance memorandum, dated the 30th of June 1998, entitled availability of funding for procurement of defence equipment, was jointly signed by Trevor Manuel, as Minister of Finance, with Ms Maria Ramos as Director General of Finance. The statement states, the document states:

10

The Department of Finance has performed a fiscal analysis to estimate the levels of funds that will be available over the next 20 years, for spending on the proposed government-to-government contracts. The Department of Finance strongly recommends the total sum of any contract signed, should not exceed the amount that has been estimated as affordable, as indicated in table one.

15

Table one of that document, projected affordable defence procurements in the year 2001/2002, as R1.4 billion, rising to R5.4 billion by the year 2018/2019. In other words, the Cabinet's approval in 1998 of the Armsdeal expenditure of R29.8 billion completely blew the budget of Treasury had deemed to be affordable, less than five months earlier.

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Within two months, after November 1998 the figure was already R30.3

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billion and by February 2001, the figure was R43.8 billion. The reason is that even the figure of R29.8 billion was massaged to deceive the public, by excluding nine BAE/SAAB Gripen fighter aircraft as a so-called option, maritime helicopters and other sundry expenses.

5 *When Mr Kasrils was examined in June by Advocate Sammy Lebala, we learnt at great length, how the acquisition and offset figures were deliberately manipulated to deceive the public.”*

We went into that yesterday and so, I do not think that needs any further elaboration.

10 *“In her book, Choice not Fate, published in 2009, Pippa Green as Mr Manuel’s biographer quotes an unnamed Treasury official as saying: I do not think Trevor was willing to fight it all away. He gave up, essentially. It was a big defeat for Treasury and I personally, was very sad, the way we got beaten there. Manuel backed off, perhaps,*
15 *because it was clear that Mbeki wanted to go through with it.”*

In Advocate Budlender’s legal opinion, he draws attention to the fact that the PFMA also requires the Treasury to conform to Section 217 (1) of the Constitution. Section 38 (a) (3) of the Act declares:

20 *“The requirement of an appropriate procurement and provisioning system, which is fair, equitable, transparent, competitive and cost effective.*

Like his predecessor Owen Horwood of the Apartheid era info-gate scandal, Mr Manuel closed his eyes, as he signed the foreign loan agreements to give effect to the Armsdeal supply contracts.”

25 Despite my repeated warnings to him that they were fraudulent. Again, it

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comes back to that maxim, fraud unravels everything.

“But the further legal principal applies that the fraudster should not financially benefit from his fraud.

The remedies, in case of bribes clauses, per paragraphs 5.42 to 5.45 give South Africa the rights summarily to cancel the contracts and in addition to claim compensation.

The issue now are the ramifications of cancellation. Advocate Michael Cooper described the loan agreements, signed by Mr Manuel as potentially catastrophic for South Africa, because of the disastrous consequences of the default clauses.

South Africans have been financially raped by the international war business and their governments, albeit with collusion of our government and we are told as citizens we have no recourse against such fraudsters. We are told, we must simply accept that reality, because repudiation of debt would have disastrous consequences.

I do not intend to engage with Mr Andrew Donaldson, the Deputy Director General of the Treasury, whose evidence runs to 532 pages, plus 145 pages of testimony on the 9th and 11th of April 2014, except to dispute his contention that the current cost of the Armsdeal is only R46.6 billion and that inflation over the years has been limited to only three per cent.

The Armsdeal was cost at 6.25 per US dollar. The costs in Rand quickly rocketed from R30 billion to R43 billion. Yet, the Commission was told in April, the cost is now only R46 billion. Not only does that figure exclude finance cost for borrowings, up to 20 years, but the Rand has

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collapsed by almost 80 per cent, against both the Dollar and the Euro. The affordability study, very specifically warned the Cabinet in August 1999 of the foreign exchange risks. The Armsdeal is consequently guesstimated to have cost South Africans well over R70 billion and even

5 *this figure is likely to have been grossly understated.*

Mr Donaldson is merely an official with a job to protect. His evidence confirms that the Armsdeal contracts were financed by:

Commerzbank in Germany for the four frigates and three submarines.

Barclays Bank in England for the BAE Hawk and BAE/SAAB Gripen

10 *fighter aircraft.*

Societè Generalè in France for the Thomson CSF combat suites in the German frigates.

And Mediocredito Centrale in Italy for the 30 Agusta helicopters.

These loan agreements in turn were underwritten and guaranteed by:

15 *Hermes export credit agency in Germany.*

The Export Credit Guarantee Department in England.

The Export Credit Corporation and Export Credit Guarantee Board in Sweden.

COFACE in France.

20 *And SACE s.p.a. the Italian Export Credit Agency.*

These European export credit agencies are all 100 per cent government owned and their function is to underwrite and heavily subsidise financing for major export projects, most especially including arms exports.

The affordability study, gave some inkling into these negotiations. But,

25 *that limited information merely emphasizes the need for the International*

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Office Negotiating Team and Financial Working Group papers, which I have requested the Commission to obtain in February 2013.

The affordability study in paragraphs 2.41 and 2.42 of its executive summary on page 5 declares:

5 *Following extensive negotiations with the ECA's, banks and exporters, almost all of the negotiation objectives have been achieved. Concretely: ECA finance now counts for all the imported content and most importantly, allows payments in respect of those goods to be made from those ECA loans. The need for forex commercial loans has thus been*
10 *eliminated.*

The non-UK agencies have, to different degrees, matched the attractive options that were offered by the UK, ECA, the ECGD.

As a result, the ECA loans now include options to select different currencies, during the delivery period and with the except of the German
15 *offer, there was an option to choose floating interest rates, during the delivery period, with the option to fix at market rates, during the draw down and at the first repayment date, the option to fix the commercial interest reference rate, agreed on loan signature. The ability to fix the CIRR ahead of loan signature for the French and Italian packages is*
20 *now much more liberal, so that a certain amount of hedging against an adverse rate movement is possible to no cost.*

The ECA premia, can now be paid in instalments and financed from the ECA loans for all packages. In one case, Italy, the ECA premium has been reduced.

25 *In the case of Germany, an element of the finance, 13 per cent of the*

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contract value, is now available at CIR rates, rather than floating rates.

The French have allowed 10 repayments for the Corvettes' Exocet missiles, rather than the maximum five years.

Bank margins and fees have been reduced.

5 *These concessions by the ECA's are largely unprecedented. The terms now achieved with the ECA's and banks have substantially improved the financing, in terms of cash flow, foreign risk, foreign exchange risks and have produced substantial savings for the borrowing, amounting to approximately 101.9 million US dollars, or over R600 million.*

10 *The study glowingly reveals that the terms provided by the British were unprecedented. But, does not enquire just why they were too good to be true. Internationally, the British Export Credit Guarantee Department is especially notorious for corruption and for blocking investigations into bribes, paid by its largest customer, BAE. I have provided the*
15 *Commission with a British study entitled Turning a Blind Eye, Corruption and the UK Export Credit Guarantee Department.*

There are numerous other studies, another being by Transparency International UK, entitled Corruption in the Official Arms Trade.

Mr Donaldson completed his testimony on the 11th of April 2014, by
20 *referring to the prospect of cancellation, as raised in provision 1.6 of the Commission's terms of reference. Given the importance of this issue, I now quote Mr Donaldson's testimony from pages 5531 to 5541 of the transcript.*

ADV RAMAGAGA: *Mr Donaldson, one of the considerations the*
25 *Commission should make and recommend, would be a question as to*

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whether the contract should be cancelled or not, the loan agreements in particular. Now, what do you think would be the effect and impact of cancellation, should the Commission advise in favour of the cancellation?

5 MR DONALDSON: *Chairperson, the possible cancellation of the loan debts was the subject of an extended court action several years ago, certainly, at the time, the Treasury's view was articulated in those proceedings, was that there would be very substantial and negative consequences of a cancellation of debt and if I may summarise what*
10 *those consequences would be, governments which do not meet their debt obligations, not only find themselves out of favour with all lenders, and so, governments, which do not honour their debt obligations find that their access to capital is affected right across the financial markets and so, the consequences of not honouring, even comparatively small*
15 *debts are very serious and that is why our Constitution and financial legislation gives priority to debt repayments, treats debt repayments and debt obligations as a first charge on the National Revenue Fund.*

But, of course, the reputation of governments are not just determined by adherence to financial obligations, adhering to contractual commitments
20 *to suppliers are also critically important and so, in addition to the reputation risk, associated with non repayment of debt, the implicit non compliance with purchase agreements or procurement agreements, which would be associated with any interference with these loan agreements would be damaging, not just in financial markets, but also to*
25 *government's relationship with its suppliers and government's broader*

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relationship with its suppliers, whether these are for large procurements, major projects, large construction works or whether these are supply agreements with small businesses, who make a living out of supplying government adherence to and compliance with the obligations to pay, what is due to those, who had made supplies to government, contributes to the reputation of government, to the cost of doing business and indeed, to the relationships and trust, on which an economy rests and the relationship between governments and society rests.

The damage to trust and the damage to the reputation, associated with the reversal or cancellation of the loan agreements to the supply agreements, would be very considerable indeed.

In short, such consequences are precisely what Advocate Cooper, back in 2003, in confirming the authenticity of those Barclays Bank/ECGD loan agreements, signed by Mr Manuel described as potentially catastrophic for South Africa.”

The classic means of enforcement is the clause in the representation covenant and default clauses that:

“The Republic of South Africa will remain a member in good standing and eligible to use the resources of the International Monetary Fund.”

This is the means by which so-called third world countries become increasingly impoverished by the IMF and structure adjustment and similar policies.

“What Mr Donaldson neglected to mention.”

25 ADV RAMAGAGA: Mr Crawford-Browne, where are you reading

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from?

MR CRAWFORD-BROWNE: Oh. This is an insert I put in. I have just written that this, last night. It is not actually in there.

ADV RAMAGAGA: Oh. And, and are there several others?

5 MR CRAWFORD-BROWNE: No. That is all.

ADV RAMAGAGA: Is it the last one?

MR CRAWFORD-BROWNE: That is, I think so.

ADV RAMAGAGA: Is it the last one?

MR CRAWFORD-BROWNE: It is just one paragraph I inserted as, by
10 way of explanation.

ADV RAMAGAGA: Yes. What I would like to know, before I address the Commissioners, is that, is it the last ...[intervene]

MR CRAWFORD-BROWNE: Such ...[intervene]

ADV RAMAGAGA: Insert, such insert that you have, or are you going
15 to be doing other inserts?

MR CRAWFORD-BROWNE: I have an insert on 6.94.

ADV RAMAGAGA: 6.94.

CHAIRPERSON: Ms Ramagaga, maybe let us ask Mr Crawford-Browne, whatever he has added last night, maybe he should give us
20 copies thereof.

ADV RAMAGAGA: Yes.

CHAIRPERSON: Because we are going through our papers, trying to find exactly where is he. Really, we know about the fact there is, he added something last night in his statement.

25 ADV RAMAGAGA: Alright. Thank you, Chair.

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MR CRAWFORD-BROWNE: I understood that. I think it will be picked up, obviously, in the transcript, but ...[intervene]

ADV RAMAGAGA: No, no. Part of why the Commissioners and everybody else has the statement is just to also view with you and we
5 show that what you are reading into the record ...[intervene]

MR CRAWFORD-BROWNE: Sure ...[intervene]

ADV RAMAGAGA: Is actually, what you have furnished to the Commission. So, I, I would then request, how many pages do you have?

10 MR CRAWFORD-BROWNE: It is less than 10, there is about 10 pages to go, about 10 pages to go.

ADV RAMAGAGA: About 10 pages.

MR CRAWFORD-BROWNE: But, that clause is highlighted in the, that clause is highlighted in the OCD agreement, which is EXHIBIT 2, in my,
15 in my bundle of evidence.

ADV RAMAGAGA: So, you are reading from ...[intervene]

MR CRAWFORD-BROWNE: So, that, that clause appears three times in the covenant, representation and default clauses, together with other clauses that are objectionable.

20 ADV RAMAGAGA: Chair, I, I would request that the witness be allowed to continue with the evidence and thereafter, the copies should be made, during the adjournment.

CHAIRPERSON: Okay. Can you just pick up your voice a little bit?

ADV RAMAGAGA: I request that the witness be allowed to continue
25 with his evidence, including reading the, the insert that he has made, or

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that he has introduced and then, you get the copies, during the adjournment.

CHAIRPERSON: We can do that, but then, however, I was just trying to request that, he even told us further things that he has added last
5 night. Maybe, if that is brought to our attentions, so that, you know, and I am sure the interested parties might want to see that.

ADV RAMAGAGA: Alright. Thank you, Chair. You have heard what the Chairperson says.

MR CRAWFORD-BROWNE: We will make that available, during tea.

10 ADV RAMAGAGA: Yes. But, in, at every time you want to refer to the insert that does not part form, form part of the statement that is in possession, just make an indication. Just make the transitional statement.

MR CRAWFORD-BROWNE: Ja. Okay.

15 ADV RAMAGAGA: Thank you, Chair.

MR CRAWFORD-BROWNE: Thank you. So, that takes us to 6.59:

*“What Mr Donaldson neglected to mention is that fraud and the doctrine of odious debt, both override these considerations. The doctrine of odious debt establishes that citizens cannot be obliged to
20 pay for debts incurred, in pursuit of an unjust and exploitative policies and practices, such as bribery, corruption, fraud and money laundering. The Cabinet Sub-Committee for the Armsdeal, chaired by Mr Mbeki, recklessly saddled South Africa with foreign debts to buy armaments for which there was no need. The acquisitions were riddled with bribery
25 and corruptions and the offsets that motivated the purchases blatantly*

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failed the Constitutional requirements of Section 217 (1).

The remedies in case of bribes provision, within the supply contracts, give South Africa the right summarily to cancel the contracts and to claim compensation. Instead of applying these provisions the Cabinet
5 *and government embarked upon a massive cover up of the Armsdeal scandal.*

The European Union's code of conduct on arms exports of 1998, expressly noted in its Criterion Eight, that socio-economic conditions in recipient countries should be considered, before European governments
10 *and arms companies, embarked on arms export drives to countries, such as South Africa. Not only did European governments flout their own code of conduct, but more pertinently, they actively colluded with their arms companies in the payment of bribes to win the Armsdeal contracts.*

15 *The British government in particular, seconded officials to the Department of Trade and Industry ostensibly to ensure the success of the offset programme. In reality, their function was to block investigation by Parliamentarians, the Auditor General and others, on the spurious excuse that the offset contracts were commercially confidential."*

20 ADV RAMAGAGA: Now, on what basis do you state that the reason for the secondment was more for, for the British government to block the investigation by Parliament, rather than just to assist the DTI?

MR CRAWFORD-BROWNE: When Parliamentarians asked for copies and, and upon, this also came up in the defence review, when we said,
25 what are these offset contracts that are supposed to be, are going to

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transform our economy. We would like to see the contracts, both we, as civil society, but more pertinently, the Parliamentarians. Who were told, no, no, they cannot see them, they are commercially confidential. That applied also to the Auditor General, in his request in 1998/1999/2000
5 and again, the Joint Investigating Team, the JIT report confirms again, that he was blocked from investigating those under this secrecy and commercial confidentiality.

ADV RAMAGAGA: Continue.

MR CRAWFORD-BROWNE:

10 *"These European governments, their export credit agencies, as well as, the banks, dismally failed to undertake due diligence to ensure that there was no bribery or other elements of fraud in the awarding and securing of the Armsdeal contracts. For good reason, the City of London is sometimes referred to as:*

15 *The most corrupt square mile, anywhere on the planet Earth. Barclays Bank, HSBC, Royal Bank of Scotland, just how many banking scandals have erupted in London in the past 20 years? After the Barclays Bank LIBOR scandal erupted, British Prime Minister, David Cameron, declared in November 2012:*

20 *I can understand why some people are a bit squeamish about me flying off around the world to help our defence industry to do deals abroad. So, when Britain has a very strong defence industry with 300 000 jobs depending on it, it is right that we should be at the forefront of this market, supporting British jobs and British allies and that is why, last
25 week, in the Gulf, I was pushing for new contracts for Typhoon jets,*

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worth billions of pounds and thousands of jobs.

Similarly the financial services sector contributes one eighth of the government's revenue and taxes and underpins jobs for two million people. Critics want to trash the banks.

5 Yes, some utterly terrible mistakes were made and they need to be addressed properly so that they can never happen again. Those who think that just to trash the banks would end up trashing Britain. I am sorry, those who think the answer is just to trash the banks, would end up trashing Britain. I say, recognise the enormous strength of our
10 financial sector, regulate it properly and get behind it.

The reality, however, is that both the British arms industry and its banking industry are virtually without regulation. They scream vociferously, whenever regulation is suggested. Opening an investigation into the Bank of England/Al Yamamah flush fund or closing
15 down the money laundering operations in the British Virgin Islands or other tax havens that are known as the treasure islands, are not part of Mr Cameron's agenda. There is a revolving door in the corruption of the British banking industry with corruption of the British armaments industry.

20 The BAE bribes for the Armsdeal were laundered through a BAE front company in the British Virgin Islands, called Red Diamond Trading Company, for payments to bagmen, including Fana Hlongwane, John Bredenkamp and the late Richard Charter.

The trust funds established for Fana Hlongwane, to handle those BAE
25 bribes were set up in Liechtenstein and elsewhere, by a lawyer, who for

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years worked for former British Prime Minister Margaret Thatcher and her family.

The realisation of corruption in Britain is institutionalised and goes right to the top, begins to emerge. Prince Charles and Prince Andrew form
5 *part of the involvement of the British Royal Family in lobbying for British arms exports. When Queen Elizabeth visited Cape Town in March 1995, the royal yacht Britannia doubled as a floating British armaments exhibition.*

Long before the transition to democracy and in violation of the UN arms
10 *embargo against Apartheid South Africa, the British were already lobbying to export arms to post Apartheid South Africa, preparatory to destabilising this country. They rationalise in blatantly racist language that if they do not bribe the wogs, to buy weapons, the French or the Germans will.*

Over centuries the British have become expert at finding and using key
15 *people to do their dirty work. Even the British establishment newspaper, The Times, reported last month that London is the money laundering capital of the world. London based banks are estimated over the past 15 years, to have laundered about six trillion dollars worth of corruption*
20 *and criminal proceeds.*

The Commissioners will recall the uproar, when Ms Patricia De Lille in
1997, used her Parliamentary privilege to name the late Joe Modise as
a spy. They will also recall how Mr Manuel, in July tried to bluster his
way out of Mr Feinstein's account in his book, After the Party, about
25 *bribes paid to JM. Mr Manuel is then recorded by Mr Feinstein as*

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saying:

It is possible that there was some shit in the deal. But, if there was, no one will ever uncover it. They are not that stupid. Just let it lie.

Mr Cameron declares those who want to regulate the British arms trade and trash the British banking society, banking industry, want to trash Britain. That is not the case. But, what is imperative is to put an end to an institutionalised system that, for 800 years has plundered the world and does so with British panache. The British war business and the British banking industry are interconnected and have been, since before the Caribbean slave trade.

I say so, as someone born in Ireland, which was England's first colony and which is still not recovered. I say so, as someone who grew up in Libya from the age of three, until I was 17. On our television screens, we almost daily see the devastation inflicted on Libya, by the British, since 2011. I say so, as a South African, by marriage and adoption. South Africa is still dealing with the legacies, inflicted upon this country, by British imperialism in the 19th century. The Middle East, Argentina and the Congo are three more examples.

The countries of Iran, Iraq, Jordan, Saudi Arabia and Israel, were in effect, created by Britain, after the discovery of oil in Persia in 1908. The so-called royal families of the first four were then invented to protect British interests. Britain and the US in 1953 orchestrated the removal of the democratically elected Iranian government of Mohammed Mossadeq. They reinstated the Shah, who ruled until the revolution in 1979, after which, during the 1980's they instigated an eight year war

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between Iraq and Iran.

The West poured weapons, all the weapons into Iraq, which it saddled with foreign debts of over 200 million US dollars. To pay those debts, Iraq invaded Kuwait in 1991, thus sparking the first Gulf War.”

5 ADV RAMAGAGA: Alright. I think, what you are now going through is to illustrate the conduct of, the conduct and attitude of, of Britain, with regard to the armaments and wars. Now, can we, will you please be focussed and let us, let us go to the paragraphs that, that deal with South Africa in particular?

10 MR CRAWFORD-BROWNE: Yes.

ADV RAMAGAGA: And that you will find from page, paragraph 6.81, page 63.

MR CRAWFORD-BROWNE: Thank you. I think there are plenty of examples serving to prove the point.

15 ADV RAMAGAGA: Yes.

MR CRAWFORD-BROWNE:

“These are just some examples of third world debt entrapment, into which Messrs Mbeki, Manuel, Modise and Erwin, recklessly placed South Africa and which represents nothing less than a betrayal of the

20 *struggle against Apartheid.*

The Commerzbank foreign loan agreements for the frigate contracts ran for 13 years and should have been repaid by 2012, whereas the loan agreements for the submarines were for 17 years and would extend until 2016.

25 *The Barclays Bank loan agreements for the BAE Hawk and BAE/SAAB*

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Gripen fighter aircraft are for 20 years and ran until 2019, except that Mr Donaldson's testimony in June suggested these liabilities have already been extended, until the year 2021."

I come back to that dictum fraud unravels everything. The, I think I have
5 to skip the next paragraph, given the ruling this morning.

ADV RAMAGAGA: Yes.

MR CRAWFORD-BROWNE: Okay.

*"Similarly ThyssenKrupp, as managers of the German Frigate Consortium, has, years ago, paid a plea bargain fine of 46 million Euros,
10 after German tax authorities rejected their claims that bribes paid to various bagmen including Mr Tony Georgiades, were tax deductible as useful business expenses.*

*There is no res judicata or statute of limitations or prescription for fraud. I submit to the Commission that cancellation of these loan agreements
15 and repudiation of the Armsdeal contracts, would, in fact, signal the international financial community that South Africans and our government are serious about dealing with corruption. Thus, cancellation of the contracts would therefore boost, rather than undermine South Africa's credit ratings.*

*To this end, it is the European government export credit agencies, which
20 have guaranteed those loan agreements. Let them, not South Africans, suffer the financial consequences of their fraudulent complicities with the Armsdeal contractors.*

*And in recovering the monies, South Africa would also recover the
25 bribes, paid to Fana Hlongwane, John Bredenkamp, Tony Georgiades,*

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et cetera, since obviously, the bribes were built into the prices, paid for the warships and warplanes.

Might I respectfully recommend and suggest that the Commission recommends to President Jacob Zuma that BAE, the German Frigate Consortium, the German Submarine Consortium, Thales and Agusta
5 *should be blacklisted, not only in South Africa, but internationally.*

May I also remind the Commission and the President that Section 2 of our Constitution establishes the supremacy of the Constitution that law or conduct, inconsistent with it is invalid and that the obligations must be
10 *fulfilled.*

In addition, Section 237 requires that all Constitution obligations must be performed diligently and without delay. It is now almost two and a half years, since I made my written submission to the Commission in June 2012 that the Armsdeal contracts were illegal, unconstitutional and
15 *fraudulent.*

The Commission has already exceeded its original mandate of two years and was given a years' extension, which now expires in November 2014.

I suggest an immediate recommendation to President Zuma to cancel
20 *the Armsdeal contract and their loan agreements and to recover the costs and compensation from the European export agencies.*

This will not only meet the Constitutional requirement of Section 237 of diligent performance, but in addition will obviate any reason to extend the Commission's mandate beyond November 2014, at further expense
25 *to the tax payers."*

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COMMISSIONER MUSI: May I interrupt you?

MR CRAWFORD-BROWNE: Thank you.

COMMISSIONER MUSI: Can, can I just maybe get some clarification?

I, I hear you, that you are talking about cancellation and that those
5 foreign agencies take responsibility for the financial consequences.
What about the equipment that they supplied to the South African Navy
and Air Force? What happens to it, in the event of cancellation?

MR CRAWFORD-BROWNE: Well, the accepted remedy is, you cancel
the contracts, you return the goods and you recover the money. And at,
10 and I am afraid, as various reports have confirmed, we ended up with
dud submarines, dud frigates, dud fighter aircraft, with pilots, with no
pilots to fly them. So, return the goods and recover the money.

COMMISSIONER MUSI: And what takes the place of the equipment?
What, what will the Navy and the Air Force use, in the place of the
15 equipment that South Africa returned?

MR CRAWFORD-BROWNE: As, as, I think, the submissions have
pointed out, we bought equipment, as for instance, one of the admirals
informed the Deputy Minister of Defence, we bought the wrong stuff.
We bought stuff that was quite useless for coast guard operations, or
20 peace keeping in Africa. You cannot send a submarine up the Congo
River, or against Lesotho or Zimbabwe. The equipment they bought,
the Gripens were suited for Scandanavian, Swedish purposes, not for
our purposes. We bought the wrong stuff.

COMMISSIONER MUSI: Are you suggesting that therefore, that the
25 Navy and the Air Force should be left without any aircraft, without any

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submarines, without any frigates? Is that what you are suggesting?

MR CRAWFORD-BROWNE: During the defence review, we said, yes, we need a coast guard operation. This is appropriate for circumstances, such as ours. We need a coast guard operation. But, the culture of a coast guard operation is totally different for then, a navy. For and that would include fisheries protection and related issues. But, the culture there, is totally, totally different from a navy that, that is intended to fight battles and fight wars. Similarly, when we have had occasions of disasters, sea disasters at sea, the Oceanos and there are a couple others that sank off, off East London, it was not the Navy that steamed to the rescue, to rescue the passengers. The passengers were air lifted by helicopter from the main land. This whole idea that we need frigates to rescue sinking ships or submarines to protect fish is quite honestly absurd. We need to completely revisit what constitutes defence in the 21st century. The Navy, I regret to say is still obsessed with the idea of being a poor relationships, the poor relations to the British Navy, prior to the Second World War. We have moved on a bit, I would suggest. It is a new era. That whole issue has got to be re-addressed, fighter aircraft are obsolete in this era of drones. Yet, we squandered huge amounts of money that meant that the real issues of security, namely the poverty of our people was, was not addressed. The Constitution in Section 198 ...[intervene]

CHAIRPERSON: Thank you, Mr Crawford-Browne, I have that provision of the Constitution.

25 MR CRAWFORD-BROWNE: Okay.

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CHAIRPERSON: And I think you have answered that question. A last one from me, if we do intend the frigates to go to [indistinct] frigates.

MR CRAWFORD-BROWNE: The frigates would go back to Germany, the submarines to Germany, the Hawks to England, the Gripens to
5 Sweden.

CHAIRPERSON: The Combat Suite?

MR CRAWFORD-BROWNE: Ja. That belongs to France. They can, they presumably can take out of the frigates and return it to France.

CHAIRPERSON: Does the Combat Suite not contain some of the local
10 products, which were manufactured local and not [indistinct].

MR CRAWFORD-BROWNE: No. That, that in fact, was the issue. That in fact, was the issue with Mr, with Dr Richard Young. His Combat Suite was South African, but the Combat Suite that was installed, was French.

CHAIRPERSON: Oh. So, it happens that the, maybe give us, about
15 where some of those parts of the Combat Suite originate from, it is incorrect, then.

MR CRAWFORD-BROWNE: That is the whole issue of Dr Young's complaint that his, his company provides state of the art Combat Suites
20 for the US Navy, but it was not considered good enough for the South African Navy and so, they installed 20 year old obsolescent French Combat Suites, instead of something made in South Africa.

CHAIRPERSON: Thank you for that information, we were not aware of that, because the Navy told us something totally different. Now, you are
25 coming in with a new perspective. Thank you.

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ADV RAMAGAGA: Mr Crawford-Browne, the, the evidence that has been presented by members of the South African Defence Force is to the effect that it takes time to acquire arms. There is a long process that has to be undertaken, before armament can be acquired. Now, if the arms were to be returned to their respective suppliers, how would South Africa, or the South African National Defence Force, be able to continue to carry out its mandate of protecting the citizens of South Africa?

MR CRAWFORD-BROWNE: Since, as we know, the, we do not have pilots to fly the Gripens. The, the Gripens themselves are inoperable.

The submarines have been up for repair, most of their, their existence. The, the equipment we have got, would not serve any purpose if we actually had and thank God, we do not have any conceivable foreign military threat to the country, as the defence review said, 15 years ago. So, this issue, continually raised, your equipment is only insurance. It is a dangerous world out there. The issue is our domestic security problem and we see it daily in our, in protest action all over the country, because of non-delivery of the expectations of 15, 20 years ago. That is our security problem. Our security problem is internal. It is not foreign, Russia, or China, or the United States, about to attack us.

ADV RAMAGAGA: Are you suggesting that South Africa should stay without military equipment for the period, when it would be trying to set up the processes for acquisition, because the acquisition still has to follow the process as, as provided for, in the Constitution?

MR CRAWFORD-BROWNE: Sure. Essentially, the equipment we have, does not serve any purpose. I think, it is, it is imperative to, to

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start applying the, the Constitution imperative of what actually constitutes national security and to retailer or defence strategies accordingly. In terms of, what are known internationally now, is human security, rather than national security. These are the priorities. A police
5 service, not a military, but, as I say, the issues, the security issues that we face are domestic. We, we sadly neglected those, over the last 20 years.

ADV RAMAGAGA: So, you are suggested that, during the period then, of when acquisition is still being put into place, the police should
10 then assume the duties of the army.

MR CRAWFORD-BROWNE: A normal, a normal function of the police, for instance would be a border, border control. That would be a normal police function, not an army function.

ADV RAMAGAGA: Alright. Now, I would like to take you to the, to
15 your submissions, most of, of the information that appears in this submission, also appears in the statement. So, I will just touch one or two things. Actually just one, one thing that appears in your submissions that I would like to get clarity on and that appears on page 83 of the bundle. Should I proceed, Sir?

20 CHAIRPERSON: I am not quite sure. Have we finished with the statement, before we go to, to other issues, because I see here, he has got, prior Section 7, which an addendum, are we, are we still going to deal with that now? Or are we no longer going to deal with that?

ADV RAMAGAGA: Thank you, Chair. The, the addendum is not
25 going to be read into the record, because it, it has no relationship to the

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terms of reference that we are dealing with. So, what I propose to do is to take the witness to the submissions, because they were done under oath and is part of the evidence and thereafter, to then request him to give his closing remarks before and then to leave it.

5 CHAIRPERSON: This addendum forms part of his statement. Am I correct?

ADV RAMAGAGA: Yes. It does form part of his statement, Chair.

CHAIRPERSON: And this is going to be on our website.

ADV RAMAGAGA: The, the witness will then be advised to read the
10 addendum into the record. In actual fact, what happened is that, one was looking at matters that have no bearing to the terms of reference also and, and that is the only reason why it could not be read into the record. But, it will, it would appear that the Commissioners would like that to be read into the record and it will, that will be done. It is not
15 important.

CHAIRPERSON: I think, in all fairness to people who have been mentioned here, it will be unfair to them if we just take this statement as it is and put it on our website, without even reading it out. They might want to, to cross-examine Mr Terry Crawford-Browne. Because he does
20 mention [indistinct], it is some serious allegation that we make. I think, in all fairness to those who were, who are implicated by Mr Terry Crawford-Browne in this statement, Mr Crawford-Browne was doing this statement in public ...[intervene]

ADV RAMAGAGA: Alright.

25 CHAIRPERSON: So that those, who might want to cross-examine him,

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they must be given the opportunity of this.

ADV RAMAGAGA: Thank you, Chair. That will be done. The non-reading it into the record, would not constitute the withdrawal or the extraction of that portion. But, that, that would be done. He will then
5 read that into the record. May I proceed to take him to the submissions, or would the Chair prefer that he concludes his statement and then thereafter I take him there?

COMMISSIONER MUSI: Can I, can I suggest that, if the contents of this addendum are irrelevant to the terms of preference. Why, why does
10 he not withdraw the whole lot?

MR CRAWFORD-BROWNE: Sir, it was simply provided, it is outside the terms of reference. It was provided as further information for the Commissioners. But, it is outside the terms of reference. If you will, I will read it into the record. It is your decision. But, it was simply, that
15 information was provided for your, your information.

CHAIRPERSON: Ms Ramagaga, before we do any other thing. Let us finish with his statement. Yesterday, [indistinct] is going to be on our website. In all fairness to the people, who have been mentioned here, I think, they must be given an opportunity to cross-examine Mr Crawford-
20 Brown if they so wish. Maybe, let us go straight to, to the addendum.

ADV RAMAGAGA: Alright. Thank you, Chair. Mr Crawford-Browne, will you then proceed to, let us get back to page 66 and then proceed to deal with item 7 of your statement. Are you there, page 66, is it?

MR CRAWFORD-BROWNE: I am, I am working on it.

25 ADV RAMAGAGA: Or page 68, I am sorry. I am looking at the old

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statement, page 68. Page 68 a, but it is 69 ...[intervene]

MR CRAWFORD-BROWNE: Page 66?

ADV RAMAGAGA: Ja. 68 a. Ja. On the statement that you signed on Monday.

5 MR CRAWFORD-BROWNE: Ja. But, I made ...[intervene]

ADV RAMAGAGA: It is page 69.

MR CRAWFORD-BROWNE: But, I might, and 66 on the previous, that I have been working through ...[intervene]

ADV RAMAGAGA: Ja.

10 MR CRAWFORD-BROWNE: Okay.

ADV RAMAGAGA: Go ahead.

MR CRAWFORD-BROWNE:

“Mr Joe Modise died in November 2001, a few days after the Joint Investigating Team report was tabled in Parliament. I was told, by the

15 *late Bheki Jacobs, six weeks before Mr Modise died, that he was being poisoned and that his death would be ascribed to cancer. Mr Modise was known to have many enemies. It was also known, there was considerable animosity between him and Mr Chris Hani dating from their times in exile.*

20 *It has been alleged that Mr Hani was on the verge of exposing Mr Modise’s involvement in corruption, relating to the Armsdeal, when he was assassinated in April 1993. It has been alleged that Mr Janusz Walus was ultimately employed by BAE, perhaps by way of John Bredenkamp the Rhodesian/Zimbabwean who was the second largest*

25 *recipient of those BAE bribes. Mr Walus’s older brother Withold is a*

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trucking contractor to the arms industry. In that scenario the involvement of Clive Derby-Lewis was merely a red herring to blame the white right wing and so divert attention away from the British arms industry.

5 *Mr Jacobs also alleged that the JIT report was being deliberately delayed and doctored, pending Mr Modise's death, so that dead men can tell no tales.*

The draft JIT report of 741 pages, now being provided to the Commission perhaps lends credence to such allegations and of
10 *doctoring the JIT investigation.*

There was nothing I could do, at the time. In March 2004, however, the former Auditor General Shaukit Fakie spoke at the IDASA conference in Johannesburg. Mr Fakie volunteered that Mr Modise's testimony, before the JIT investigators, had been unsatisfactory.

15 *Mr Fakie said that because of the side effects of cancer medication, Mr Modise had been severely mentally delirious. It immediately seemed suspicious that Mr Modise would have been mentally incapacitated for a full year, before his death. I subsequently learnt that side effects of cancer medication do not include mental delirium.*

20 *I consequently now, reported the allegations of poisoning to the Deputy Commissioner of Police in the Western Cape. But no action was taken. Bheki Jacobs was the ANC nom de guerre for Hassan Solomon. He had been highly trained in the Soviet Union as an intelligence operative. He visited me at my home in Cape Town in November 2003. He was*
25 *detained at his parent's home about 20 minutes after leaving me. He*

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was then driven to Ysterplaat air force base and on a Saturday, Sunday

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night was bundled aboard a Beechcraft executive jet. It transpired that the aircraft was owned by Brett Kebble and had been chartered for the use of Jackie Selebe, as commissioner of police.

In addition to the Armsdeal issues, Jacobs had been investigating a range of issues, including the involvement of Mr Selebe with organised crime. It is public knowledge, Mr Mbeki went to extreme lengths to protect Mr Selebe, who eventually was sentenced to 15 years imprisonment.

On the Monday morning Jacobs was charged in Pretoria with conspiracy to murder President Thabo Mbeki. The Heever Commission of inquiry was then being publicly televised. Mr Mo Shaik proudly announced on television that one man had already been arrested and that many more people would be arrested within the following 48 hours.

There was apparently a list of about 30 people, including Patricia De Lille, Gavin Woods, Richard Young, Terry Crawford-Browne plus journalists and members of the Scorpions who were similarly to be detained and charged. However, the South African Police in Pretoria, by the Wednesday, realised the whole thing was a hoax. The charges were dropped and Jacobs was released. No explanation was ever forthcoming from the Minister of Safety and Security, as to who was responsible for this abuse of the judicial system. Bheki Jacobs subsequently died of cancer at the age of 46 in September 2008, also in highly suspicious circumstances.”

CHAIRPERSON: Maybe, let us take a tea adjournment. We can proceed maybe at about 20 past 11. Thank you.

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(COMMISSION ADJOURNS)**(COMMISSION RESUMES)**

CHAIRPERSON: Thank you.

MS RAMAGAGA: Thank you chair. When we adjourned, Mr Crawford
5 Brown was done with his statement and I beg leave now to refer him to
the just one aspect in the submissions. Thank you chair, then I will
proceed.

Mr Crawford Brown, please turn to page 82 of the
bundle.

10 MR CRAWFORD BROWNE: 82?

MS RAMAGAGA: 82. In particular I would like to direct your attention
to paragraph 3.16. Do you see it? Page 83.

MR CRAWFORD BROWNE: Yes.

ADV RAMAGAGA: Yes. Now the I would like to direct you to the
15 second sentence in that paragraph which reads:

“It transpired that deputy president Thabo Mbeki as early
as January 1995 give commitments to the German government and
arms companies to buy sophisticated and expensive German warships
against promises of Germany investments in stainless steel plants and
20 other offset benefits.”

Now will you tell the commission as to where you get this
information from?

ADV RAMAGAGA: Certainly. During 1995 the Spanish corvette
proposals were cancelled. The history behind that was that in
25 December 1994 the Germans were informed that they, their proposals

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for that aspect in the pre arms deal issue, their warships were too expensive and too sophisticated for South African requirements. Deputy president Mbeki was in Germany in January 1995, and attended various meetings with [indistinct] and the then German minister of foreign affairs, Claas [indistinct].

At that point the Germans were re-invited back into the tendering process on the basis of the offsets that would flow particularly regarding the steel process, and that the benefits would then come to South Africa in terms of stainless steel exports back to Germany which subsequently became the [indistinct] stainless steel plant.

It was at that point then that Germany was then re-invited back into the tendering process although just a few months earlier they have been excluded because the equipment was considered to be too expensive and too sophisticated for South African requirements.

Now if you will a follow up on that, and this is recorded in some newspaper accounts published in the Cape Time and the Cape Argus in 1995. But if you will in March 1996 we had converted our home in Constantia as one of the first bed and breakfasts which was meant to be our semi retirement business.

I was chair of Constantia Valley Tourism Association. But in March 1996 one of our guests for a ten day period was the former German ambassador to South Africa. He stayed with us for ten days, and one of the first things he said on arrival, he had been the [indistinct] of South Africa for five years and then became ambassador in Washington.

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One of the first things he said to me was that the German government which determined at all costs to win the warship contracts. Now this was prior to the outbreak of what became the home [indistinct] scandal which eventually led to the resignation or [indistinct] scandal about bribes relating to payments to the [indistinct] democrats in Germany.

So it relates back to that and the pressures brought on our government through the German [indistinct] industry and steel industry.

10 ADV RAMAGAGA: Now in your evidence when you testified about the affordability report, you stated that the advice that came from the affordability report was against acquisition. Would you agree that the affordability report when it dealt with offsets it highlighted the benefits as well as the risks of the offsets.

15 It did not just say the offsets would not be a good element to factor into the acquisition.

MR CRAWFORD BROWNE: The offsets off course we know it was split into defence offsets [indistinct] and [indistinct] and they were split 16 percent defence and 84 percent [indistinct]. The affordability study goes into some of the records of offsets internationally and it is how they are being applied in [indistinct] by the arms industry.

20 What they use is a clause that exempts national security from what is a wide spread prohibition on offsets. So this is the clause that which arms companies get around the international reputation of offsets as being a market [indistinct] linked into corruption.

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ADV RAMAGAGA: MR CRAWFORD BROWNE, the question that I have asked is whether you agree that the affordability report makes reference to the successes as well as the risks relating to the offsets. Is that so or not? Or does it just cry out about the risks of the offsets?

5 MR CRAWFORD BROWNE: It makes reference to some of the success factors, one in particular that Finland seemed to have had a fairly successful offset program. But it also says that these are instances with a relatively developed industrial base and but it also points out that there are no means of actually enforcing the promises and one of the
10 problems is that the companies then walk away, they build the guarantees into the prices.

The technology does not flow and that kind of thing.

ADV RAMAGAGA: Right. For the record, I would like to take you directly to the relevant provision pages, 220 and 221 of the bundle.
15 Now in page 220 paragraph 3.3.1 and it reads:

“In the case of [indistinct] projects experienced both locally and internationally suggest that there is a low risk of non-performance in relation to contractual commitments. In other words contract risks be ignored in these cases.”

20 That is what is said in the affordability report. Is that correct?

MR CRAWFORD BROWNE: That is correct, and as we know the emphasis for the [indistinct] was to be placed as a means of resuscitating Denel as a player internationally, and yet the testimony by
25 the former CEO of Denel backed by the DG of the Department of

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[indistinct] Enterprises in parliament in November 2004, said that Armscor had foisted these offsets onto Denel and Denel was losing money on 80 percent of them.

ADV RAMAGAGA: Right. I will take you to several other relevant
5 paragraphs. MR CRAWFORD BROWNE, the evidence that you have presented around Dr [indistinct] and others, is already on record. So all I am now focussing on, is to take you to the relevant paragraphs that deals with the successes and risks around the industrial participation.

I am doing this towards the end, because the main
10 reason why you approached the courts about these contracts, is the use of the offsets and the opinion that you sought from advocate [indistinct] was also a brief relating to the use of [indistinct]. Now turning over to page 221, in paragraph 3.3.3.3 it says:

“On the other hand the size of penalties for non
15 performance has increased significantly between March and August 1999. Increasing the incentive for suppliers to perform on their [indistinct] obligations.”

It is correct. That is what the affordability report says.

MR CRAWFORD BROWNE: That is correct. May I? It also is
20 internationally found that whether a penalty is five percent or ten percent or 15 percent, those penalties are built into the prices for the equipment.

ADV RAMAGAGA: Ja. I have said right at the beginning that I am taking you to these portions, because there seems to be an outcry about the offsets, but for a complete picture to the commission and the
25 audience, we would also highlight the fact that the affordability report did

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not only criticise.

It also highlighted, because it was to advise about the pros and cons. So those pros are what one is now reading into the record, so that at the end there is a balanced information to the commission that is highlighted, as well as [indistinct]. Now in 3.3.3.4 will you please read that into the record?

MR CRAWFORD BROWNE: The offsets had become standard practice in the defence ... [intervene]

ADV RAMAGAGA: 3.3.3.4. I see there are two. The first one.

10 MR CRAWFORD BROWNE: [indistinct] the contract specifies a supplier's commitment to deliver NIP benefits. Other than they simply make their best efforts to deliver this benefits. A weaker approach which is common in the defence industry [indistinct]. Best effort contracts simply require suppliers to attempt to identify and implement
15 NIP projects with no penalty should they fail.

ADV RAMAGAGA: So here what is highlighted is that different from the general approach in respect of the acquisition relating to South African [indistinct] what had been negotiated and had been agreed upon, related to commitment. Commitment were taken as against best efforts.

20 MR CRAWFORD BROWNE: Yes. Commitments were taken. Be it the suggestions that the NIP programs were poorly thought through, but commitments were certainly taken in the case of the BAE. I think it was a list of 26 projects at one stage.

ADV RAMAGAGA: Now in 3.3.3.5 will you read that into the record.

25 MR CRAWFORD BROWNE: The [indistinct] offsets program has

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informed the IT that all of their offset programs had been successfully implemented and the guarantees have never been called. However he [indistinct] this mainly to the fact that Finland has significant purchasing power which means that the supplier would not want to take the risk of
5 alienating Finland.

Thereby compromising future sales. Never the less it is uncertain as to whether this reputation factor in offsets compliance would have the same weight for a smaller economy such as South Africa's.

10 ADV RAMAGAGA: Thank you. Will you then read 3.3.3.6 into the record?

MR CRAWFORD BROWNE: There are numerous examples of successful implementation of defence related offsets. The US government report in 1998 for example analysed offset agreements
15 entered into by US companies between 1993 and 1996. During the four year period 173 new offset agreements were entered into with 28 countries.

The 15.1 billion dollars supporting defence contracts worth 29.1 billion dollars. During the same period US companies also
20 carried out 2277 individual transactions for a total amount of 9.2 billion dollars in 31 countries in accordance with agreements reached in previous years.

ADV RAMAGAGA: Right, thank you. I will not burden the record by referring to the further successes that are highlighted here. We can
25 then get back to your statement. I am aware that you have actually

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concluded to what is contained in your statement. Is there anything else that you want to say in conclusion?

MR CRAWFORD BROWNE: Thank you. Thank you for that. The end of my statement then [indistinct] the urgency of the issue, and of course
5 as we know when I went to [indistinct] in South Africa closes down for Christmas at the end of the month, and are not open for business until February.

Again I think it is necessary to highlight the urgency of the matter and my recommendation of, or I hope you will make to
10 president Zuma, but I would like to simply close with a piece published yesterday in one of the business [indistinct] by [indistinct]. Headed for R12 to the US dollar, here is why and he says:

“The South African economy is speeding headlong into a financial crisis. The result of a perfect storm that is gathering on the
15 horizon which could wreck serious havoc on employment, the value of the rand as well as government revenues. Yet, on the face of this approach in economic [indistinct] we have a government seemingly unaware of worst unconcerned with the flashing amber lights that are warning of great financial instability, rising unemployment and low
20 intensity [indistinct] in lower parts of the country in the form of service delivery protests. The collapsing levels of service deliveries which has long been a part of daily existence in many country towns have now moved to South Africa’s largest metropolitan area of the Johannesburg Pretoria access. What was considered unthinkable even weeks ago, is
25 now said to become ... [intervene]

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CHAIRPERSON: Mr Crawford Brown, with respect, what does it have to do with [indistinct]?

MR CRAWFORD BROWNE: Sir, it has the emphasis of the urgency of the issue. We are possibly facing a perfect financial storm ...

5 [intervene]

CHAIRPERSON: That I understand, but what does it have to do with our mandate?

MR CRAWFORD BROWNE: Sir, the commission's mandate expires next month. It has already had an extension and I would beg you to
10 make recommendations urgently to the president rather than extend [indistinct].

CHAIRPERSON: Thank you.

ADV RAMAGAGA: Right. Thank you chair. That concludes the evidence of Mr Crawford Brown.

15 CHAIRPERSON: Are there any other people who might want to cross-examine Mr Crawford Brown?

ADV CILLIERS: Chair, yes. Indeed we have some questions. I suppose from some of the other counsels also have some questions, but certainly from our side we have some questions.

20 CHAIRPERSON: Thank you. Any other person?

ADV CANE: Thank you chair. The department of defence would welcome the opportunity to put questions to Mr Crawford Brown.

ADV CHOWE: The DTI would also like to put some questions to Mr Crawford Brown.

25 UNKNOWN: [indistinct]. I am the attorney of record for [indistinct]. I

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would just like to bring to the attention of the commission that my client's advocate [indistinct] would be cross-examining this witness. Advocate Moerane has indicated that that would happen by tomorrow morning.

CHAIRPERSON: If Mr Crawford Brown would still be here by tomorrow morning, then we will give them that opportunity. Mr Chowe, [indistinct] finish with MR CRAWFORD BROWNE today then you might have to make arrangements. But then we will come to that.

ADV CHOWE: Thank you chair.

CHAIRPERSON: So there are four people who want to cross-examine Mr Crawford Brown. Any specific order?

UNKNOWN: Chair, I must also indicate that I have instruction also on behalf of the late [indistinct] also be asking questions on behalf of the [indistinct].

CHAIRPERSON: Thank you. Any specific order?

ADV CILLIERS: I have had discussions with all counsel. I have been or I had some discussions with counsel on behalf of the defence department and the request was that I stop, I have no objection to start if you are satisfied with the arrangement and if other counsel does not have other suggestions.

CHAIRPERSON: [indistinct]. I am just saying that, from the previous experience. Thank you.

ADV CILLIERS: Thank you chair. Mr Crawford Brown, I at the outset would request you to listen carefully to my questions. If there is anything that you do not understand or are uncertain about the question, please ask me to clear it up. We will be able to save a lot of time if we

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have clarity on the questions and then [indistinct] to the questions asked.

MR CRAWFORD BROWNE: Yes.

ADV CILLIERS: I want you to turn to your statement, page 33
5 paragraph 5.9. Do you have it in front of you?

MR CRAWFORD BROWNE: I do.

ADV CILLIERS: Now it is rather a startling and if true a very, very important fact or a statement that we make as a fact contained in paragraph 5.9. Do you agree with me?

10 MR CRAWFORD BROWNE: It is quite alarming indeed, yes.

ADV CILLIERS: Well, it states that there is a long history to British government [indistinct] bribery payments by BEA. The British secretary for trade and industry in June 2003 admitted that BEA have paid bribes to secure his contract with South Africa. That is the just of what you
15 state there.

MR CRAWFORD BROWNE: That is correct. That was published in the Guardian newspaper in June 2003.

ADV CILLIERS: Well, that is the aspect that I want to deal with and [indistinct] Mr Crawford Brown, I do not see the factual basis for that
20 alarming statement that you have made, either in your statement or in your submission or in the exhibits that is annexed to your statement.

MR CRAWFORD BROWNE: I think you will find on the Guardian website there is a huge amount of documentation and analysis of bribes paid by BAE not only in 2003, but it goes on through a whole history
25 including the intervention of Mr Blair to [indistinct] the investigation by

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the CEA's fraud office.

ADV CILLIERS: Did you not deem it necessary to [indistinct] your factually [indistinct] that we can go through it and test the veracity thereof?

5 MR CRAWFORD BROWNE: There is 160 pages of affidavits I have annexed by Mr Gary Murphy of the serious fraud office, and [indistinct] Scorpions have detailed why and how BAE paid bribes of 115 million pounds and into which bank accounts in connection with the South African, I have annexed 160 pages. I think that is adequate.

10 ADV CILLIERS: Mr Crawford Brown, I also do not see any quote from what exactly the secretary for trade and industry said according to you, in either your statement or your submissions.

MR CRAWFORD BROWNE: As I say, 160 pages of affidavits as I would suggest quite [indistinct] substantiation. This was covered by the
15 Guardian newspaper in England and there is a huge website devoted by the Guardian to the whole aspect of BAE [indistinct] in the payment of bribes in connection with the, and the involvement of the British defence department in helping to launder those bribes, particularly in connection with [indistinct].

20 There is a long history of this.

ADV CILLIERS: But the question was I do not see, I quote from what the secretary for trade and industry in fact said according to you in June 2003 on which you based this alarming statement.

MR CRAWFORD BROWNE: The current [indistinct] of the trade and
25 industry, Dr Cable of the [indistinct], had asked and he in connection

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with the involvement of the ECTD, and under pressure the then secretary for trade and industry judge Hewitt, admitted that BAE had paid commissions and he used the word commissions to secure the BAE contracts with South Africa and the commissions work within these

5 [indistinct].

ADV CILLIERS: Mr Crawford Brown, please listen to my question.

MR CRAWFORD BROWNE: I am listening.

ADV CILLIERS: Please give me an opportunity. I went through your statement, I went through your submissions. I could not find a quote

10 from what you allege the secretary of trade and industry in fact said in 2003, and that is what I am interested in now. Can you provide us with what exactly the secretary stated in June 2003?

MR CRAWFORD BROWNE: As I say, it was quoted, it was reported in the Guardian newspaper at the time. I do not have to provide copies of

15 every newspaper account.

CHAIRPERSON: MR CRAWFORD BROWNE, just listen to the question carefully and answer the question. Just listen to the question carefully. It is not a difficult question. Just put the question again.

ADV CILLIERS: Mr Crawford Brown, I am interested in exactly what this

20 secretary for trade and industry in fact said, and that is what I am asking you. Are you able to provide us with a quote of what she stated in June 2003?

MR CRAWFORD BROWNE: I have given you the words as I recall that were published in the Guardian newspaper in June 2003. It was in

25 response to a question by [indistinct] and another question by a Welsh

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nationalist MP and his surname I cannot pronounce, Cwyd something or other.

It was in response in fact to [indistinct] question. This admission was made reluctantly.

5 ADV CILLIERS: Is that a long answer to say that you are unable to provide us with a quote?

MR CRAWFORD BROWNE: I have given you the quotes as I recall them from the newspaper. I do not have a newspaper to give you, but I have suggested and I have told you there are 160 pages that
10 substantiate this. 160 pages of affidavits.

ADV CILLIERS: I am not asking you what you think substantiated. I am interested in the quote or should I rather say the misquote that you provided to the commission.

MR CRAWFORD BROWNE: I would differ with you. It is not a
15 misquote, but I do not have a document to give you. As I say it is substantiated elsewhere.

ADV CILLIERS: You did not deem it necessary to provide the factual basis and or the documentary basis for this alarming statement that you have made?

20 MR CRAWFORD BROWNE: Precisely because I provide a 160 pages of affidavits. That I am sure is quite ample.

ADV CILLIERS: I am putting it to you the reason why you did not provide it is because it does not exist. You are dishonest in this remark that you have made in your statement.

25 MR CRAWFORD BROWNE: I deny that.

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ADV CILLIERS: Well, let me read to you the quote from the secretary of trade and industry, Mr Crawford Brown, and I am quoting from the quote that we find in the submissions made by BAE. It is to be found chair in the submissions, on the paginated page 437 and it is to be found in
5 paragraph 6 of that submission and I will read to you the quote according to the submission. It is stated:

“ECGB’s application process requires certain details of agents commission to be disclosed in ECGB in order that it can follow its due diligence procedures. In this case such due diligence procedures were
10 followed and no irregularities were intended.”

That is in fact what the secretary for trade and industry said in 2003 in June. In fact the person stated that the secretary at that stage was according to the quote Patricia Hewitt, a member of parliament.

MR CRAWFORD BROWNE: It was Patricia Hewitt to whom that quote
15 was attributed. So I am told there is a contradiction to what you have there, and what was reported at the time, and it was widely reported and it was also on Guardian newspapers and so forth. As I say I have given you 160 pages of affidavits.

ADV CILLIERS: In the 160 pages that you provided we do not find in
20 any way any quote from what you allege the secretary for trade and industry said. I have read to you now what she indeed said and I am certain you will agree with me that totally differs from what you allege under oath that she stated.

MR CRAWFORD BROWNE: I have heard this on many occasions from
25 members of parliament in Britain. I have also heard it from for instance

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the former minister of in the British common wealth and foreign office that there was no basis, no evidence that BAE involvement in corruption.

The British government, Mr Peter Heyns in fact wrote to me and
5 said there was no evidence. We have had this time and time again, and then we find that in fact there has been complicity with British ministers involved, including the defence department. The record goes back a long way.

It goes back to the 1980's, 1990's. Various scandals. I am sorry,
10 there is a long record of such complicity.

ADV CILLIERS: Which question did you answer now Mr Crawford Brown?

MR CRAWFORD BROWNE: I refer to the long history of British complicity. I am afraid there is a very long history involved [indistinct] in
15 the laundering such bribes. That is, if you will, this was also the reason why BAE was fined 479 million dollars by the United States government for the complicity of the DEO in laundering bribes through [indistinct] in Washington DC.

ADV CILLIERS: I am not interested in that Mr Crawford Brown. I am
20 interested in what you allege the secretary of trade and industry said on 9 June relating to an admission that BAE committed bribery in the contracts with South Africa, which I put to you is a blatant lie.

MR CRAWFORD BROWNE: I put it to you it is not a blatant lie. And in fact I had verbal confirmation of that when I was in London just a few
25 months ago. Six weeks ago. But I have verbal confirmation.

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ADV CILLIERS: Can you then turn to paragraph 5.4. It appears on page 41 of your statement. Can you or let me read it to you. You say although it is common cause, it is written [indistinct] contracts as traversed elsewhere. South African authorities including the former
5 national director of public prosecutions [indistinct].

Do you have that in front of you?

MR CRAWFORD BROWNE: I do.

ADV CILLIERS: Now I first want to ask you what do you understand with the word, under the words common cause?

10 MR CRAWFORD BROWNE: General understanding admissions that for instance in terms of Germany [indistinct] arrangements have been made for the German [indistinct] consortium. We have had the whole [indistinct] as far as BAE is concerned, there are apparently over 500 pages of documentation that was put into the North Gauteng court in
15 relationship to bribes, an estimated 200 million rand paid to Fana Hlongwane.

ADV CILLIERS: Did you hear the question?

MR CRAWFORD BROWNE: I heard the question. I have answered the question.

20 ADV CILLIERS: What do you understand under the term common cause?

MR CRAWFORD BROWNE: That is generally accepted and admitted all round.

ADV CILLIERS: Would you agree with me if you say accepted all
25 round, that it actually means that all interested parties accept that as

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being [indistinct]?

MR CRAWFORD BROWNE: Since in Germany the German [indistinct] more particularly has paid a plea bargain fine of 46 million Euros. I would say that applies there. We have the whole issue regarding
5 [indistinct] and I do not think we should go further into that, and as I say in this very city in Pretoria judge Van der Merwe put 500 pages of documents into the court record, detailing the bribes that have been seized by [indistinct] payable to Mr Fana Hlongwane.

ADV CILLIERS: Mr Crawford Brown, I will try again. Do you agree with
10 me if you say, more so if you say under oath that it is common cause that a certain fact in fact exist, then it actually means that all interested parties are agreed, are in agreement that that fact is in fact the correct position?

MR CRAWFORD BROWNE: BAE inevitably denies any involvement in
15 payment of bribes, or else blames its local agents. This is standard practice for BAE. It creates front companies ... [intervene]

CHAIRPERSON: MR CRAWFORD BROWNE, with the greatest of respect, listen to the question and answer the question. You are not answering the question. Mr Cilliers, can you put the question again?
20 Just listen to the question and answer the question.

ADV CILLIERS: If one makes the allegation, more so if one makes it under oath, that a particular fact is common cause, then what you represent is that all interested parties are in agreement of the correctness of that fact?

25 MR CRAWFORD BROWNE: Okay. As far as Germany is concerned, I

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take it you accept the plea bargain by [indistinct]. As far as BAE is concerned, BAE may not accept it, but everyone else does.

ADV CILLIERS: Well, let us test it on BAE. That is where my interest lies with my client. As far as the BAE situation is concerned, you have
5 now on more than one occasion stated that BAE denies any corrupt activities relating to the South African transaction. Am I correct?

MR CRAWFORD BROWNE: That is always the stand point by BAE, but in fact they established the Wolf commission in 2007, and in a desperate attempt to clean up their reputation.

10 ADV CILLIERS: The question is a simple one Mr Crawford Brown. Do you agree that BAE denies any involvement in any corrupt activities relating to the South African transaction? A yes or a no will be a very good answer.

MR CRAWFORD BROWNE: BAE always denies it. The reality is
15 different.

ADV CILLIERS: The South African authorities deny it as well, not so?

MR CRAWFORD BROWNE: South African authorities have failed to investigate it, despite the evidence. The reason for this commission being established, is a huge volume of evidence against BAE.

20 ADV CILLIERS: Listen to the question. Apart from BAE the South African authorities also deny corrupt activities relating to the BAE transaction, am I correct?

MR CRAWFORD BROWNE: No, they have not investigated it.

ADV CILLIERS: I am not asking you whether they had investigated it. I
25 am asking you, they either admitted it or they denied it. What is the

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correct position?

MR CRAWFORD BROWNE: To my knowledge the South African government or the South African authorities have not confirmed it, nor denied it. They have not investigated the issue despite their volume of
5 evidence about it.

ADV CILLIERS: I thought I read evidence by the previous state president Mr Mbeki, I heard Mr Manuel's evidence, seen Mr Irwin's evidence. I have seen everybody involved in cabinet at that stage is still able to give evidence, denying corrupt activities. Am I wrong?

10 MR CRAWFORD BROWNE: [indistinct] this commission being created.

ADV CILLIERS: I am not asking you what the cause for this commission is. I am asking you what the factual position is. Please listen to the question.

MR CRAWFORD BROWNE: The factual position is many people who
15 have been involved with it, have denied such complicity, but it is for the commission to investigate whether in fact they have been correctly denying it or not. Given the volume of evidence that is available.

ADV CILLIERS: If you now yourself say that many people involved denies it, how can you state under oath to this commission that it is
20 common cause?

MR CRAWFORD BROWNE: Because it is, okay. Maybe I should amend that to say it is general understanding rather than common cause. It is widely accepted that that is the case and there is a vast amount of evidence to confirm it. You might be splitting hairs in terms of
25 common cause rather than generally accepted.

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ADV CILLIERS: So you agree now that your stating that it is common cause, is nonsense. It is absolutely not true.

MR CRAWFORD BROWNE: The evidence leads otherwise. It might not be common cause because it is generally accepted. There may be
5 people such as BAE and others who would obviously deny it. That is always their pattern.

ADV CILLIERS: So should I take it then that you retract now what you stated under oath that it is common cause?

MR CRAWFORD BROWNE: I will amend it to say generally accepted
10 rather than common cause.

ADV CILLIERS: So are you retracting what you stated that it is common cause?

MR CRAWFORD BROWNE: I will say it is generally accepted rather than common cause, but in terms of the Germans let me re-emphasise
15 that even the German [indistinct] consortium has paid a plea bargain fine in [indistinct].

ADV CILLIERS: Generally accepted by whom?

MR CRAWFORD BROWNE: Generally accepted by people who have actually investigated the matter and have perused the evidence.
20 Generally accepted by for instance the people who provided the affidavits from the Scorpions, from the [indistinct] who endeavoured to take the issue in Britain about bribes paid by BAE [indistinct] won the case. The British government then took it to the [indistinct] and the whole issue was [indistinct] on the basis that it is the British
25 government's prerogative to determine what is and what is not national

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security.

This is one of the quotes about circumstances in England, but the case as far as the British court was concerned in London, was that BAE was in contravention of the [indistinct] conventions against bribery of
5 foreign officials. The OECD has itself complained about the British government's lacks it has to its commitments under the OECD.

ADV CILLIERS: [indistinct]

MR CRAWFORD BROWNE: I have it in front of me yes.

ADV CILLIERS: What you stated there is [indistinct] in 2010 and 2011
10 by US authorities. Judge Willem van der Merwe in March 2010 paste some 500 pages of documentation into the records of the North Gauteng high court after the then national director of public prosecutions [indistinct] refused to seize the proceeds of bank accounts in [indistinct] held by Mr Fana Hlongwane.

15 Do you have it in front of you?

MR CRAWFORD BROWNE: I do.

ADV CILLIERS: Now tell me, after more than 30 years in courts and practice, I do not understand what you say there. What do you mean by stating that judge Willem van der Merwe placed 500 pages of
20 documentation into the records of the North Gauteng high court?

MR CRAWFORD BROWNE: There was a vast amount of documentation that had been [indistinct] by both the German authorities and the British authorities, backed up with various affidavits to support the suggestion that [indistinct] had frozen those payments pending
25 seizure by the SA authorities.

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Mr Semilane refused to seize them saying that there was insufficient evidence. Judge van der Merwe reportedly was so dewounded by such response, that he placed this documentation into the court record. That is reported in the Mail and Guardian and as well
5 in the Sunday Times.

ADV CILLIERS: Mr Crawford Brown, it could have been amusing what you stated now if it is not such a serious situation. You are talking absolute nonsense now. On what basis do you make this statement? Have you got personal knowledge of what transpired?

10 MR CRAWFORD BROWNE: As I said ... [intervene]

CHAIRPERSON: Just hold on. Mr Cilliers, can you [indistinct]?

ADV CILLIERS: As you please, my apology.

MR CRAWFORD BROWNE: As I say this is recorded by the Sunday Times and the Mail and Guardian. Are you going to make similar
15 accusations against them as well?

ADV CILLIERS: If they indeed [indistinct] that yes. I happen to be involved in that case personally MR CRAWFORD BROWNE. What transpired there and I put it to you as a fact, was that the NPA approached judge Van der Merwe in chambers in an ex parte
20 application [indistinct] with an application for the restraint of assets.

Are you aware of that?

MR CRAWFORD BROWNE: And?

ADV CILLIERS: Judge van der Merwe did not put anything on record. He was the judge hearing the urgent application which was on an ex
25 parte basis. The documents were handed by the NPA to him and that

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was his involvement.

MR CRAWFORD BROWNE: Perhaps you would like to take it up with the Mail and Guardian and the Sunday Times, but that has been widely reported.

5 ADV CILLIERS: Now do you say [indistinct], then I doubt that. But if they reported that, are you trying to persuade the commission now to accept what you stated in this paragraph?

MR CRAWFORD BROWNE: In fact those 500 pages of documents were then made available to me, which I then provided to my attorneys
10 to keep in their safekeeping. I do not have them anymore, because I did not want to hold on to them, but they should be with my attorney.

ADV CILLIERS: But why do you bring in judge Van der Merwe's name? He had nothing to do with those documents. Why do you [indistinct] on his name to and I will put it to you that what you are doing is throughout
15 your submissions and in your statement, is you are busy with names dropping and trying to involve people with a reputation in order to give credibility to the speculation contained in your statement.

MR CRAWFORD BROWNE: I would think judge [indistinct], yes indeed.

ADV CILLIERS: But why did you rely on his name, why did you even
20 mention his name in your report?

MR CRAWFORD BROWNE: Because he was the judge involved with this issue, I do not see any difficulty in that at all, and as I say 500 pages of documents came through to me and I made them available for [indistinct] with my attorney.

25 ADV CILLIERS: Do you know what the further outcome of that case

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was?

MR CRAWFORD BROWNE: As far as I know there has been no further development.

ADV CILLIERS: Is there a difference between salaries and bribes, seen
5 that you have such a wide definition of bribe?

MR CRAWFORD BROWNE: We are talking about commissions and bribes, not salaries.

ADV CILLIERS: I am asking you is there a difference between salaries and bribes?

10 MR CRAWFORD BROWNE: If that is a question you might ask within your industry, inflated salaries [indistinct] and bonuses that go with it, that is something that the industry must answer for and not me.

ADV CILLIERS: I never used the word inflated. I am asking you do you see a difference between salaries and bribes?

15 MR CRAWFORD BROWNE: The industry is known to pay excessively high salaries, bonuses and so forth. Now where, at what point it becomes, at what point it veers from being a salary to being a bribe, is a matter for other issues. But the industry internationally is well known for inflated monuments to its executives.

20 ADV CILLIERS: So as a starting point we should accept that as far as you are concerned in the arms industry, there is no differentiation between bribes, commission and or salaries and or bonuses?

MR CRAWFORD BROWNE: As I say, the history of the arms industry is the monuments are excessive by any other standards, bonuses and
25 everything else that goes with it. Because it is an industry that is not

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driven by market forces, etcetera, but I think this is not relevant here.

ADV CILLIERS: What is your definition of bribe?

MR CRAWFORD BROWNE: A payment for something that has no rational basis. That is made in order to achieve a promise for which
5 those no proper value that once buying equipment not for any rational defence requirement. Such as the [indistinct], but for the payment of [indistinct]. Pressure brought through the payment of monies in order to get favourable consideration for a particular project.

It is being well, let us leave it at that. It is an undue pressure with
10 monetary implications to bribe someone to take a decision that has no merits in itself.

ADV CILLIERS: We already heard from you that as far as you are concerned, there was no rational for buying for instance [indistinct]. Am I correct?

15 MR CRAWFORD BROWNE: I think the commission has heard at length the whole issue of the non costed option for the [indistinct] and the concerns from the former secretary for defence, after the SAF had specifically rejected in July 1997 the British proposals and that costs were then removed from consideration and then huge pressure was
20 then exerted on our government to bribe weapons, from BAE, that the air force had rejected.

ADV CILLIERS: You did not answer my question. Did I understand you correct that as far as you are concerned, there was no [indistinct] rational for buying any fighter air craft?

25 MR CRAWFORD BROWNE: We already, South Africa already had 50

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cheater air crafts, some of them still in their crates, which confirmed there was no justification for buying the [indistinct].

ADV CILLIERS: Is that a long yes?

MR CRAWFORD BROWNE: Yes, there was no justification for buying
5 those weapons.

ADV CILLIERS: And in your further explanation, do I understand you correct then that because you said in your mind that there was no logic rational for buying any fighter air craft, then any payment relating to such fighter air craft is equal to corruption?

10 MR CRAWFORD BROWNE: The BAE contracts repeatedly failed the tendering criteria. Therefore the means to overcome that difficulty was to provide inducements if you will, to make, to obtain support at a high level to [indistinct] through, even though the BAE had failed the tendering criteria various steps.

15 ADV CILLIERS: But please listen to the question. You already stated that there was no logic rational for buying any fighter air craft. There [indistinct] am I correct?

MR CRAWFORD BROWNE: We are as I have said we have already gotten 50 [indistinct] some within their boxes.

20 ADV CILLIERS: And I just want to understand your logic. I do not ask questions to try and catch you out on anything. I just want to understand. Do I understand it then that because you take the stance that the purchase of fighter air craft, has no logic rational. Therefore any payments relating to the acquisition of such air craft and or the other
25 equipment as well, is it equal to bribery payments?

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MR CRAWFORD BROWNE: The former secretary for defence himself came from the air force, resigned for that very reason. I would think he was fairly competent and qualified to judge that these air craft did not make any rational defence [indistinct].

5 ADV CILLIERS: And therefore any payments relating to those air craft, equals bribery?

MR CRAWFORD BROWNE: Such payments would have gone to manipulate the system to buy air craft that we did not need and could not afford.

10 ADV CILLIERS: No Mr Crawford Brown, such payments were to acquire those air craft.

MR CRAWFORD BROWNE: As I say there are 160 pages of affidavits that detail how and why BAE paid 115 million pounds in bribes.

ADV CILLIERS: Mr Crawford Brown, you also rely in your statement
15 and your evidence it seems to be quite heavily on the views of inter alia the Scorpions. Am I correct?

MR CRAWFORD BROWNE: They were the entity established to investigate corruption, and the last thing that they did, was to raid BAE's premises in Pretoria and Cape Town. BAE's premises and that is where
20 so much of the evidence has come, and in fact it was following those raids that a week later arch bishop Tutu and president De Klerk asked for a commission of enquiry to investigate and to have that evidence checked and tested.

ADV CILLIERS: Are you aware of the correspondence between the
25 Scorpions and [indistinct] relating to this issue?

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MR CRAWFORD BROWNE: No, I am not.

ADV CILLIERS: Are you aware of the fact that the counsel involved with the Scorpions in charge of this investigation was one advocate Le Roux.

MR CRAWFORD BROWNE: No, I am not.

5 ADV CILLIERS: She worked with colonel Du Plooy, he was from the investigating side and she dealt with the legal side. They were the team of the Scorpions. Are you not aware of that?

MR CRAWFORD BROWNE: I am aware of colonel Du Plooy's affidavits which I have provided to the constitutional court.

10 ADV CILLIERS: Now after many years of investigation, let me read to you what advocate LeRoux in fact wrote to the [indistinct] authorities, relating to this issue of Mr Fana Hlongwane that you rely so heavily on.

ADV RAMAGAGA: Chair ... [intervene]

ADV CILLIERS: No direct evidence exist ... [intervene]

15 CHAIRPERSON: Just hold on Mr Cilliers.

ADV RAMAGAGA: Chair, I noticed that my learned friend would now like to refer to a document in cross-examination, and our team has not been furnished with the notice that there are documents that are going to be used in cross-examination, nor have we been furnished with
20 copies of the documents that the Mr Cilliers intends using.

CHAIRPERSON: Mr Cilliers?

ADV CILLIERS: Chair, I have great difficulty in hearing the counsel on behalf of the evidence leaders. If she can just repeat the, maybe in the microphone.

25 MS RAMAGAGA: The, I noticed that Mr Cilliers would like to refer to or

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to rely on documents for cross-examination. Now the documents that he appears to be wanting to rely on, have not been furnished to us. We have also not been notified that there are documents that he intends using in cross-examination of this witness.

5 ADV CILLIERS: The origin of that document that we are referring to is in fact part of the 500 pages that Mr Crawford Brown referred to that was put before judge Van der Merwe, but I have not got it with me. I have got the quotation with me, but we can certainly make it available to the other parties.

10 We found it within the 500 pages that he referred to.

CHAIRPERSON: Is it possible that that [indistinct] can be made available during lunch time?

ADV CILLIERS: I am told that probably yes. My attorney can go to the offices and check for it at their offices in Pretoria.

15 CHAIRPERSON: Would that be in order?

ADV RAMAGAGA: That will be fine chair, but if there are any other documents, at least let us get all the copies. They should not just go for that one copy. If there are any other documents, and that should apply in respect of all counsel that intend using documents that we do not
20 have in the bundles that we are using now.

I hear him when he says that the documents are from the 500 pages that Mr Crawford Brown spoke about, but the reality is that what we have brought today to the commission is the bundles that we are using and nothing more, nothing less.

25 CHAIRPERSON: So what are you saying? I am getting a bit lost. I

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thought that issue was resolved.

ADV RAMAGAGA: Yes chair, you are correct. I accept that, but I am saying even for other counsel, if they intend using documents they should furnish copies in advance, so that there is you know a clear and
5 smooth path for cross-examination.

CHAIRPERSON: Thank you.

ADV CILLIERS: We take note, and if there is further documents, we will see to it that that be provided. Thank you. Mr Crawford Brown, I just want to put it to you what was stated. It is in a memorandum prepared
10 by the Scorpions on 4 August 2009, that is after about ten years of investigation into this matter.

They said no direct evidence exist at this stage that [indistinct] influenced the outcome of the bidding process. We are referring to Mr Fana Hlongwane. What can be confirmed, is that he was close to one
15 of the main decision makers, Mr Joe Modise, at a crucial time of the procurement process. This could have given him access to valuable information pertaining to the bidding process and possibly also enable him to influence the process.

That was their conclusion.

20 MR CRAWFORD BROWNE: And?

ADV CILLIERS: That does not sound to me as if it expressed the view that you rely so heavily on, that the Scorpions found this devastating and dynamite evidence of corruption. It actually contradicts it directly.

MR CRAWFORD BROWNE: On the other hand Mr Hlongwane was
25 originally to be called by the commissioner and it would be for the

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commission to investigate that further. As I say we provided the constitutional court with the means to enquire the [indistinct] of the 160 pages of affidavits, and the admission by the hawks that they had inherited all this evidence from the Scorpions.

5 That was not rebutted. There was no attempt to rebut it at the constitutional court and that is what led to this enquiry.

ADV CILLIERS: Mr Crawford Brown, do you not understand what we are busy with?

MR CRAWFORD BROWNE: I understand, it is a commission of enquiry
10 to investigate. We are simply saying as the public there is a mountain of evidence out there, please investigate it. We as the public are concerned that our constitutional democracy has been abused ...
[intervene]

CHAIRPERSON: Just hold on. Just listen to the questions carefully
15 and answer questions. Just listen to what advocate Cilliers is putting to you and try and answer the question. These long statements and speeches that you are making will not be of any help to us. Just listen to questions which are put to you and try and answer the question.

Can you try and put the question again?

20 ADV CILLIERS: As you please chair. Mr Crawford Brown, you rely heavily in your evidence on the allegation by yourself that the Scorpions supported you in these allegations, and or findings of corruption. Did I understand you correct?

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MR CRAWFORD BROWNE: Their affidavits say so.

ADV CILLIERS: Now what I read to you, is the view that they have put on 4 August 2009 to the [indistinct] authority, stating that no direct evidence exist at this stage. That is now after almost ten years of
5 investigation, that it influenced the outcome of the bidding process.

MR CRAWFORD BROWNE: They would have been quite at liberty and in fact probably should have made that correspondence available to the constitutional court, but they failed to do so.

ADV CILLIERS: What I am putting to you Mr Crawford Brown, is that
10 your reliance of the Scorpions supporting you of having facts available that corruption took place, is clearly misplaced.

MR CRAWFORD BROWNE: I rebut that and as I say there is a whole lot of evidence not only here, but internationally by the abuse by BAE.

ADV CILLIERS: Chair, I see it is ten to one. May I have the opportunity
15 to go through my notes? I think I am almost finished. Can we maybe take the adjournment and start a bit earlier after lunch? Otherwise I will have no objection if somebody else proceed and if there is further questions then I can ask your indulgence to ask further questions.

CHAIRPERSON: [indistinct] we will adjourn for lunch until twenty to
20 two.

ADV CILLIERS: Thank you chair.

CHAIRPERSON: Thank you, we will now adjourn.

(COMMISSION ADJOURNS)

(COMMISSION RESUMES)

25 UNKNOWN: Do you confirm that you are still under oath? Just say I

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do.

MR CRAWFORD BROWNE: I do.

TERRY CRAWFORD BROWNE: (s.u.o.)

ADV CILLIERS: Mr Chairman, we were indeed in a position to hand
5 copies of the document that we had the discussions on prior to the lunch
adjournment, to our colleagues. They have copies. We have discussed
it and I do not think we deem it necessary to hand it up as formal
exhibits, but if you deem it necessary we have extra copies made to
hand up. I am referring now to the e-mail from Advocate Le Roux to the
10 Lichtenstein authorities of the 4th of May 2009.

CHAIRPERSON: I think may we all have a copy.

ADV CILLIERS: I handed extra copies to our learned colleagues. If
you deem it necessary, they can then hand it up to you.

CHAIRPERSON: Thank you.

15 ADV CILLIERS: May we proceed, Mr Chairman?

EXAMINATION BY ADV CILLIERS (Continued): Mr Crawford Browne,
we were also in the fortunate position during the lunch adjournment to
obtain a copy of the Guardian newspaper article that you relied on for
stating ... (indistinct) stating that the Secretary for Trade and Industry
20 admitted that he was involved with bribery. I have in front of me a
newspaper article in the Guardian dated Monday the 30th of June 2003,
dealing with the issue that you raised.

Mr Chair, they are trying to download it on your systems, but
apparently it is a bit slow. I only have it on an electronic format and I am
25 going to read it to the witness in order to save time. We will present you

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all with copies within the next couple of minutes, according to the people busy in the offices.

CHAIRPERSON: Thank you.

ADV CILLIERS: It starts off, Mr Crawford Browne, by stating :

5 “Britain’s biggest weapons manufacturer BAE Systems paid millions of pounds commissions to obtain huge UK (indistinct) to sell war jets to South Africa. The British Government has confirmed the payment which will fuel the ongoing row about corruption allegations faced by BAE all over the world.”

10 We have now received the hard copies. I think it will save a lot of time if we distribute it.

CHAIRPERSON: Thank you.

ADV CILLIERS: Mr Crawford Browne, do you agree with me this is apparently the newspaper that you referred to, the article?

15 MR CRAWFORD BROWNE: Yes, it was. There was a series of articles, but this is the main one and so if you ... if you will... I recall now where the wording came from. As you see this article is written by Bob Evanson and David Lee. I received an e-mail from him at time and stating the words that I have (indistinct)

20 CHAIRPERSON: Mr Crawford Browne, is this the document that you referred to, that is the question.

MR CRAWFORD BROWNE: Yes, it is. Yes, it is.

CHAIRPERSON: Yes, it is. Thank you. Now can you please then refer the Commission to the portion of this article that you relied on for
25 the allegation that we found in your statement relating to the admission

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by the Secretary for Trade and Industry.

MR CRAWFORD BROWNE: Okay. The ... sorry, it is the article of June the 30th right. “Arms firm refuses to disclose (indistinct) confidential agent in South Africa and the Department of Trade and Industry admits it does not know who was to receive the money, despite providing them with the guarantees of the 1.5 million Pound deal. The commission could be more than 160 million Pounds, if it is in line with repayments. The DTI’s export credit guarantees department, ECDG which approved the deal, refused to reveal the amount paid, but it said that it was within acceptable limits. Patricia Hewitt, the Trade Secretary said in Parliament (indistinct) MP, Simon Thomas (indistinct) the process required certain (indistinct) due diligence procedures were followed and no irregularities were detected.

ADV CILLIERS: Where is the admission, Mr Crawford Browne? You state in paragraph 5.9 that was the section that we dealt with in your statement, you expressly state :

“The British Secretary for Trade and Industry in June 2003 admitted that he had paid bribes to secure his contract with South Africa.”

Now where do we find that. Your reliance on this newspaper article being the source of your statement. Now I cannot find it, can you assist?

MR CRAWFORD BROWNE: Yes, I think I can. Over lunch I was reflecting on this issue. As I have said the article is written by Bob Evans and David Lee. A few days after this article appeared, I received

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an e-mail, but I am afraid I no longer have access to that e-mail, but I do remember the wording of it and it came to me via a campaign against arms trading in London, citing the words that the Secretary had admitted that commissions were paid and that they were ... but that they were
5 within reasonable limits, came to me by way of e-mail but I am afraid I cannot produce that e-mail. But it came to me a few days after this article.

ADV CILLIERS: So is the newspaper article now not any more the source of this startling allegation?

10 MR CRAWFORD BROWNE: It is the newspaper article backed up by an e-mail from Rob Evans and David Lee who were the authors of this article and it came to me by way of e-mail from London and it then is substantiated where it says the amount paid, but said that it was within acceptable limits. I have used the term "acceptable limits" many times,
15 as is probably well known that these were commissions, but that they were within "acceptable limits" and it is then accepted that the word "commission" was ... implied the use of bribes within "acceptable limits". But it came to me ... that wording came to me by way of an e-mail from Rob Evans and David Lee, who were the authors of this newspaper
20 article.

ADV CILLIERS: Can you just keep on talking Mr Crawford Browne. The question was a very simple question. Prior to the lunch adjournment and prior to us obtaining the newspaper article that you relied on. You state that emphatically that the newspaper article in the
25 Guardian was the source of this startling revelation that is made. Now

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that we were able to obtain it, your evidence changes all together and all I am asking you, are you now stating to the Commission that the newspaper article that you relied on, is now not anymore the source of the startling revelation?

5 MR CRAWFORD BROWNE: The newspaper article was backed up by the authors of the newspaper article, by way of an e-mail that I received, that fleshed it out a bit further.

ADV CILLIERS: You will agree with me, there is not even a suggestion... not the slightest suggestion of an admission by the
10 Secretary for Trade and Industry in the article that you rely on, to justify your paragraph 5.9 in your statement?

MR CRAWFORD BROWNE: The amount paid was within acceptable limits. In other words this was standard practice for BAE and in their ... if you will investigations that said they were prepared to pay more than
15 this. But this was within acceptable limits. As I say I got that further information from the authors of this article.

ADV CILLIERS: I will ask it again Mr Crawford Browne, the question will not go away.

MR CRAWFORD BROWNE: No, it will not.

20 ADV CILLIERS: Do you agree with me that there is not the slightest suggestion of an admission by the Secretary for Trade and Industry, that BAE were involved in corruption in this article that you rely on?

MR CRAWFORD BROWNE: I do not agree at all.

ADV CILLIERS: Sorry? I did not hear you.

25 MR CRAWFORD BROWNE: I do not agree. That is the admission,

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that these bribes were within acceptable limits.

ADV CILLIERS: Where do we find that, Mr Crawford Browne?

MR CRAWFORD BROWNE: The DTI's export credit guarantees' department which approved the deal were [intervenes]

5 ADV CILLIERS: You must just push your button.

MR CRAWFORD BROWNE: The DTI's export credit guarantees' department, ECDG, which approved the deal, refused to reveal the amount paid, but said it was within acceptable limits.

ADV CILLIERS: And it further states emphatically that due diligence
10 procedures were followed and no irregularities were detected. Now where do you find a suggestion of an admission of corruption by the Secretary?

MR CRAWFORD BROWNE: As I say the authors of this article e-
mailed me a few days later and fleshed out the further details, saying
15 that Ms Hewitt had been under huge pressure and had reluctantly under pressure, acknowledged that commissions were paid and that they were ... but that they were within acceptable limits. So it came as further fleshing out of this article by Bob Evans and David Lee.

ADV CILLIERS: Mr Crawford Browne, please restrict yourself to the
20 question. We are busy dealing with the article now. You brought in the article as the source of your startling allegation that the Secretary for Trade and Industry admitted that corruption took place. Now I am asking you and do not refer to the fleshing out of subsequent documentation that has now unfortunately been destroyed it seems. Let
25 us restrict it to the document that you used, the sole document that you

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relied on and I am putting it to you that there is not a suggestion of an admission of corruption in this document. To the contrary, it is in fact an emphatic denial of any unlawful conduct and differ from me please refer the Commission, to which portion of the document you are referring to, 5 to substantiate your evidence that the Secretary for Trade and Industry admitted corruption?

MR CRAWFORD BROWNE: It states in the fourth paragraph :

“The commission could be more than 160 million Pounds. The DTI’s Export Credit Guarantees Department which approved the deal, 10 refused to reveal the amount paid, but said it was within acceptable limits.”

These were government to government contracts in which there were meant to be no commissions, hence the word “commission” is used as a euphemism for bribes.

15 **MR CILLIERS:** I am putting it [intervenes]

CHAIRPERSON: Just hold on, Advocate Cilliers. Mr Crawford Browne, I am getting a bit lost. When I look at 5.9 of your statement, it is not complicated, it is a simple statement (indistinct) :

“The British Secretary of Trade and Industry in June 2003 20 admitted that BAE paid bribes to secure its contracts with South Africa, but it (indistinct) the commission for which (indistinct) are within reasonable limits.”

I understood your evidence in the ... earlier on I understood your evidence to be that for the purposes of this statement you relied on this 25 article from the Guardian, the Guardian newspaper.

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Now I think what Advocate Cilliers is trying to do, he is trying to find out which portion of this statement that you said relied on, supports the allegations that are made in 5.9 of your statement. Which portion of that (indistinct) statement.

5 MR CRAWFORD BROWNE: The sentence which says :

“DTI’s Export Credit Guarantees Department refused to reveal the amount paid but said it was within acceptable limits.”

The authors of this article then e-mailed me and fleshed out the further details.

10 CHAIRPERSON: So if I must understand your evidence, you are not relying on this document? Because this article does not say so.

MR CRAWFORD BROWNE: It says that the amounts paid, in other words commissions, of which there were meant to be no commissions, were within acceptable limits. There were not meant to be any
15 commissions, because this was a government to government transaction.

CHAIRPERSON: Mr Crawford Browne, does this document support the allegation that you are making. (indistinct) for which you cannot produce now. Before we adjourned I understood you to say that you are
20 relying on this document, you never made any mention of an e-mail.

MR CRAWFORD BROWNE: As I say, Rob Evans and David Lee have had a huge website stored by Guardian, the detail ... the whole network of the bribes paid BAE ... I was in communication with them during this period by e-mail and at the time this article was published they sent me
25 an e-mail which fleshed it out. So I ... this is the written copy, but I did

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have an e-mail. But I am afraid I do not have e-mails... I do not have e-mails dating back to 2003. But I do ... I did remember the wording of that e-mail because I used it at the time. But obviously I cannot produce it. I do not have storage facilities for e-mails for, well 11 years.

5 CHAIRPERSON: Advocate Cilliers, I think let us get to the next question. Clearly Mr Crawford Browne cannot answer this question. Well, I clearly understood him before we went for lunch, but now he is relying on this document and now all of sudden he is adding other e-mails which he cannot find now. I think maybe let us get to the next
10 question.

ADV CILLIERS: Absolutely. Mr Crawford Browne, you are an opportunistic witness. I am sad to say, but you are dishonest man.

MR CRAWFORD BROWNE: I take great exception to that. May I ask you to withdraw it?

15 ADV CILLIERS: Mr Crawford Browne, you did not really expect us to obtain the newspaper article and once you were then confronted with the newspaper article that you relied on and after you read it and saw that you have been called out, then suddenly we learn about the e-mails being sent to you two days later.

20 MR CRAWFORD BROWNE: I take great exception to it. I have seen this article and as I say this corroborates the e-mail and correspondence I had with Rob Evans and David Lee. I take great exception and please withdraw it.

ADV CILLIERS: We have no further questions.

25 CHAIRPERSON: Advocate Cane?

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EXAMINATION BY ADV CANE: Thank you Chairman and thank you Commissioner Vusi. Mr Crawford Browne, I represent the Department of Defence and in the course of questioning you, I want to traverse the aspects of your statement that typically impacted on the Department, not
5 on other elements such as the off-sets, that is not my domain and neither will I address the allegations you made concerning the Executive. That will also be dealt with by counsel representing the Executive.

So the ambit of my discussion with you pertains to issues that do
10 affect the Department of Defence. Now I do want to traverse with you your departure point and your reliance on things (indistinct) and your involvement in it. But prior to that, let me just ascertain the extent of your expertise in relation to arms acquisition and defence equipment, and in that regard which I want to do initially, is to consider the aspects
15 of your evidence which are at variance with the evidence of the various witnesses testifying in relation to the main (indistinct)

MR CRAWFORD BROWNE: Yes.

ADV CANE: And I am going to commence with two matters which you did not mention in your statement, but which you mentioned orally
20 during the course of your evidence. The one you mentioned yesterday and the one today. The first being that you say that the Frigits [?] in Germany failed the criteria. You will recall that yesterday and the second aspect which you mentioned today, pertaining to the Frigits, was that you said that (indistinct) German war ships were too expensive and
25 too sophisticated for South African requirements and you linked the

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acquisition to a visit by President Mbeki to Germany in 1994.

So do you recall those two aspects? Let us begin with the first one and as I say the purpose of the exercise is to ascertain the extent of your knowledge of these issues, and your investigations. In relation to the Frigits being acquired from Germany having failed the criteria, let me just ask you what sort of investigations, if any, did you actually carry out in relation to the criteria and an aspect in the RFI and RFO (indistinct) for critical performance filter.

MR CRAWFORD BROWNE: I relied on the joint investigating team report which ... I relied on the JIT Report where it is stated that at one point Armscor's legal representatives were suggesting that the Corvettes or the Frigits as they later became known, the German Frigit tender should be disregarded, because it failed the various criteria. That is then fleshed out in the chapter in the JIT Report. So we can go back to that and as I have mentioned I have now furnished the Commission with the draft JIT Report, which is a lot more comprehensive. I have not gone into that. I have not had time to go into that. But it was in the original published JIT Report, that revealed that there were quite serious questions raised, even within Armscor's Legal Department on this issue.

ADV CANE: Mr Crawford Browne, are you quite sure that this is not an allegation lifted from the draft Auditor's report as opposed to the final report? Are you quite sure of yourself on that?

MR CRAWFORD BROWNE: It is in the ... it is in the JIT Report. The one that was tabled in Parliament in November 2001.

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ADV CANE: Very well. I will check that. So your source is the JIT Report of November 2001?

MR CRAWFORD BROWNE: Yes, and as I said that has now been fleshed out in greater detail in the draft report, but I have not had time to
5 go over that aspect.

ADV CANE: Are you aware of the evidence in this regard given to this Commission by Admiral Cunningham?

MR CRAWFORD BROWNE: I was not present at that time. So I have not ... in fact I have not read his testimony.

10 ADV CANE: He in fact was the project officer who dealt specifically with this allegation and his evidence was that all the Frigates, from all five of the countries that tendered, failed in the RFI round in various degrees. But you are not aware of that?

MR CRAWFORD BROWNE: I know there were questions raised about
15 all of them, but it was the Germans in particular... the German one that deviated as I say ... it is pointed out in the JIT Report that were questions within Armscor's legal department whether they should be excluded from any further participation.

ADV CANE: You see Mr Crawford Browne, you are actually quite
20 wrong when one takes into account the evidence of the expert on the issue, who is Admiral Cunningham, because during the RFI round, what in fact occurred is that the critical failure or the most severe failure, was that of the Canadians and the Italians and also like the French designs. Some of these were so important in fact that they were rejected for
25 further evaluation, but that did not apply to three of the countries, but

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they continued to be evaluated. I presume you have no knowledge of that?

MR CRAWFORD BROWNE: If I may ... may I suggest for the technical details you should actually be asking Richard Young, rather than myself.

5 ADV CANE: I am sorry, I must state to you (indistinct) would you mind repeating that please.

MR CRAWFORD BROWNE: Might I suggest that for technical details and the involvement of Admiral Cunningham, you should actually be questioning Richard Young, rather than myself. I am not as intimately
10 aware of the technical details. I was relying on the JIT Report.

ADV CANE: The implication of the answer you have just given me, is that when I go to the detail underlying the allegation you make, you are not able to actually deal with it and hold your ground on a logical basis.

MR CRAWFORD BROWNE: On the contrary. As I made available to
15 the Commission, one of the Admirals told the Deputy Minister of Defence, we bought the wrong equipment and it was bought for another agenda, rather than for logical defence requirements and that included the [intervenes]

CHAIRPERSON: I am sorry, Mr Crawford Browne, again listen to the
20 question, and respond to the question only. Listen to question carefully and respond to the question.

ADV CANE: Mr Crawford Browne, let me just take you back to where we were. I have asked you whether you were able to deal with the issue of many of the proposals having failed the RFI round. Some so
25 seriously that (indistinct) and others where it could be condoned and at

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that point you said I should rather address this type of questioning to Richard Young.

I then said to you are you telling me that in relation to any issue pertaining to the equipment, that you are unable to hold your ground in
5 relation to the allegations you have made and that is what you need to address.

MR CRAWFORD BROWNE: It has been discussed at quite some length, that the equipment was not what had been tendered for, but I will not go into the technical details of it. I was not privy to that and my
10 objections were on other issues. So for the technical details I would suggest you should be talking to Richard Young and not myself.

ADV CANE: Now let me just take this one step further into the RFI round and put it to you that the evidence before the Commission is that there were three of the designs that did not meet the critical (indistinct)
15 performance requirements, but were allowed through for full evaluation. Those were the French, UK and German designs. In relation to the French and UK designs, they were allowed through because the defects could be corrected. There was an expression. In relation to the German design, they had actually put up innovative and revolutionary
20 technology, which meant that they had met the performance criteria albeit in a different manner. They had actually proposed something vastly superior to that which had been requested and therefore they were also allowed through. Do you have any comment on that?

MR CRAWFORD BROWNE: Again I... again I would suggest that you
25 speak to Richard Young.

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ADV CANE: In other words in relation to your allegation yesterday that the Frigits acquired from Germany failed to meet the criteria, you would have to withdraw that allegation, because you cannot sustain it once it is actually examined?

5 MR CRAWFORD BROWNE: On the contrary, the legal department themselves had difficulty with it and so it went forth after further consultation, it was allowed to go through, but there were problems and it did not meet the tendering criteria and there were other problems that were raised, but as I say you should speak to Richard Young about this,
10 rather than to me.

ADV CANE: This is an important issue [intervenes]

CHAIRPERSON: Just hold on Advocate Cane. Mr Crawford Browne, (indistinct) are you in a position to deal with the question, or are you refusing to deal with the question and you say talk to Dr Young. But you
15 (indistinct) give us an answer. Try and answer (indistinct) but then talk to Richard Young. It is one of the two. Either you cannot give an answer (indistinct) then (indistinct) of the question. You cannot give (indistinct)

MR CRAWFORD BROWNE: Speak to Dr Young.

20 ADV CANE: And I with respect, I am pressing for something further than that because under oath you have told this Commission that the Frigits acquired from Germany failed to meet the performance criteria. I have presented to you the evidence of the expert on the issue and his evidence is quite the contrary and it is motivated and his (indistinct)
25 evidence, and I am putting to you that in the face of that and if you are

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intellectually honest, you will have to say I cannot sustain from my knowledge or expertise, an allegation that the German Frigits failed the criteria and should not have been selected for that reason.

MR CRAWFORD BROWNE: The information that came to me was the
5 basis of my assessment, opinion if you will, that it failed the tendering criteria together with the (indistinct) information from the JIT Report. I am not involved in the technical aspect of this.

ADV CANE: So on the basis of hearsay information from others, you have put forth something under oath as a fact, you have now been
10 presented with the expert's evidence on the facts and I am putting to you that when you weigh those two up, the expert who did know, who had personal knowledge, versus your hearsay allegations which you cannot substantiate, if you were intellectually honest, you will concede that you cannot sustain that allegation.

15 MR CRAWFORD BROWNE: On the contrary. This is a commission of enquiry not a court of law in which hearsay evidence based on discussions, opinions are permissible to the Commission. It is a matter of general discussion and on the technical aspects, speak to Dr Young, but I think you will find that he also will be highly critical of the
20 involvement of Admiral Cunningham. For the technical perspective, speak to him, rather than to me. But it is hearsay evidence. Hearsay evidence is perfectly admissible I would suggest you are (indistinct)

ADV CANE: Mr Crawford Browne, I am not debating whether hearsay is admissible for the purposes of the investigation, you are raising a red
25 herring. I am putting to you that if you are intellectually honest, when

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faced with the evidence of an expert, you would have to say to this Commission, I cannot rebut that. Mr Young may be able to, but therefore there is no substance in my allegation in the face of that expert evidence, that the Corvettes were incorrectly acquired because they did not meet the criteria. You would have to concede that if you were
5 intellectually honest and I am giving you one last opportunity.

MR CRAWFORD BROWNE: I would dismiss it. I would dispute that and I again take exception to your insinuation.

ADV CANE: Now you mentioned one other factor upon which you rely
10 in your armoury of hearsay evidence, and it is to be found in paragraph 2.5 of your statement, where you refer to an unnamed Navy Admiral, who apparently told or informed the Deputy Minister of Defence that he had bought the wrong equipment. Tell me, did you make any enquiries from the former Deputy Minister as to the qualifications of this Navy
15 officer?

CHAIRPERSON: I am sorry, Advocate Cane, on which page are we?

ADV CANE: Chair, we are on page 24, paragraph 2.5. Sorry, Chair, I am informed it is page 26.

MR CRAWFORD BROWNE: The man involved is an Admiral. What
20 speciality he had as an Admiral, I do not know. He informed the Deputy Minister of Defence. She has raised this on several occasions when I have been present with her and she has confirmed the fact by way of e-mail which has been made available to the Commission.

ADV CANE: You see Mr Crawford Browne, an Admiral does not
25 necessarily have any technical knowledge of war ships. He or she may

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have been an Admiral for instance in the personnel department, are you aware of that?

MR CRAWFORD BROWNE: I am very aware of that and we have a lot of Admirals.

5 ADV CANE: Now what I am putting to you to make it plain, is that you are prepared to rely on an unnamed Admiral, rely on (indistinct) qualifications, in relation to a broad statement apparently made to somebody else, who conveyed it to you, above the expert evidence of a number of people who have given evidence in this Commission. That
10 seems to me to be a tenuous basis upon which to hold a position.

MR CRAWFORD BROWNE: I think it will be a fair assumption that any Admiral who served in front of the Deputy Minister of Defence, would not be an Admiral who shall have informed the Deputy Minister of Defence would not be responsible for human resources, but would have the
15 technical qualifications to still inform the Deputy Minister of Defence.

ADV CANE: Sir, when we are confronted with the evidence of Admiral Cunningham, Admiral Hough, Captain Read, Mr Nortje, (indistinct) Smith, you are prepared to say that all five of those witnesses, who gave evidence as to the equipment and its suitability
20 were lying to this Commission?

MR CRAWFORD BROWNE: I believe this is an issue that has cropped up in the Commission's hearings and again I suggest that you put all these questions to Dr Young.

ADV CANE: Mr Crawford Browne, I indeed will put the questions to
25 Dr Young if and when he comes and gives evidence, but today it is all

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about your answers and what I need to know is why it is you are prepared to rely on an unnamed person, whose qualifications you have made no enquiries in relation to, above the evidence of five witnesses who do know from personal knowledge what they are talking about.

5 Again I put it to you that that is an intellectually dishonest position.

MR CRAWFORD BROWNE: On the contrary. The identity of that particular Admiral is not the issue. I do come from come from an experience where I sat on the Defence Review and I heard such nonsense from Admiral (indistinct) that submarines were the ultimate
10 stealth weapon to protect fish. Would you call that intellectually honest? This is the kind of nonsense we heard at the Defence Review and which helped me form such an opinion.

ADV CANE: Mr Crawford Browne, since you decline to engage with me on the position you hold and its lack of intellectual honesty, I shall
15 move on. Let us deal with the issue you have just raised. The man to whom you refer is Admiral (indistinct), not Kubby. Now he has given me instructions in relation to your evidence. Firstly in relation to the Defence Review, he says he submitted a long list of roles that the submarines could be used for. Do you deny that?

20 MR CRAWFORD BROWNE: Yes, indeed he did. But this was one of the motivations to protect fish.

ADV CANE: And he said right at the bottom of the list, was fisheries protection and in that regard the Canadians were using their patrols at the time, in order to ensure that their sea fishery, that their marine
25 resources were not raped. So it was an issue which he did qualify to

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(indistinct) do you recall that?

MR CRAWFORD BROWNE: I do, indeed.

ADV CANE: And do you recall that he also stated that piracy was going to be a problem in the future and that these vessels were being
5 used for active piracy controls?

MR CRAWFORD BROWNE: I would say that that has also proved to be red herring.

ADV CANE: Yes, he said you made it quite clear when he mentioned the danger of piracy.

10 MR CRAWFORD BROWNE: I did.

ADV CANE: He also says that he did not say that a submarine makes a small navy important. What he said was that it makes a navy credible.

MR CRAWFORD BROWNE: I do not think it was actually Admiral (indistinct) who made that comment. It is another Admiral, but I cannot
15 recall his name at this time. But Admiral Hough made similar comments about a credible navy because of submarines, but it was a different Admiral who made the comment about submarines making small navies important, and that we needed the capacity to give the Americans a bloody nose. It was a different Admiral (indistinct) at the time.

20 ADV CANE: (indistinct) do not (indistinct) so the bloody nose comment you do not attribute to Admiral Hough?

MR CRAWFORD BROWNE: No, I do not. No. It was another Admiral, but I do not remember who it was at the time.

ADV CANE: You see my instructions are that there was another
25 presentation and it was made by Admiral (indistinct) and the then Chief

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of the Navy to the Commander of the Nato Forces. Were you present at that presentation?

MR CRAWFORD BROWNE: No, I was not. The time I heard of it was during the Defence Review in Parliament, not at the Nato Forces.

5 ADV CANE: And he says that what he presented there would have been that large navies would have been wary in relation to a smaller navy that was operating submarines effectively, but in no uncertain terms does he deny that he would ever have said that the purpose of the submarines was to give the Americans a bloody nose. He says you are
10 misrepresenting him.

MR CRAWFORD BROWNE: As I say I was not at the Nato consultation. The occasion was within Parliament itself. During the Defence Review.

ADV CANE: In any event you have accepted that it is not a comment
15 that Admiral Hough made in relation to the bloody nose.

MR CRAWFORD BROWNE: This is [intervenes]

ADV CANE: You cannot remember now to whom to attribute that?

MR CRAWFORD BROWNE: Yes, it was not Admiral Hough. It was another Admiral. As I say there are lots of Admirals.

20 ADV CANE: May we then turn to the second topic to which I referred earlier. It was the question of what you said to (indistinct) that German (indistinct) were too expensive and too sophisticated for South Africa (indistinct). Now since you have no technical knowledge, where did you get that information from?

25 MR CRAWFORD BROWNE: The original tenders when we were still

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talking about Corvettes, called for Corvettes, even from my boyhood knowledge, I knew that a Corvette ranged from 500 to 2,000 tons. The German vessels are approximately 3,500 tons. They are Frigits not Corvettes. So it was a misnomer to begin with to call them Corvettes.

5 ADV CANE: Mr Crawford Browne, as my learned friend remarked earlier, which question were you answering?

MR CRAWFORD BROWNE: About whether I was misrepresenting German vessels as being too expensive and too sophisticated and the reason for that was, the Germans were tendering for Frigits and not
10 Corvettes.

ADV CANE: No, you see, you do not listen to my question. My question was, what is your source for this allegation?

MR CRAWFORD BROWNE: A Corvette is normally defined as between 500 tons and 2,000 tons. The vessels that Germany tendered
15 for, was up to 3.500 tons, which are a different category entirely and they are not Corvettes. They are Frigits.

ADV CANE: Now what you are telling me it is from your personal knowledge. The technical and your boyhood knowledge as to the size of the Frigit versus a Corvette.

20 MR CRAWFORD BROWNE: As you well know from the literature in the early stages all these acquisitions were referred to as Corvettes. More recently that terminology has been changed to Frigits. It is part and parcel of the deception preyed on the people of South Africa.

ADV CANE: Mr Crawford Browne, I want to refer you to the evidence
25 pertaining to how the Germans entered the acquisition competition.

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That evidence before the Commission is that the Germans had refused to participate in any competition in this country, prior to the advent of democracy. Do you accept that?

MR CRAWFORD BROWNE: Yes, at the same time if I may, even in
5 the months before transition, there were lots of European Naval vessels that suddenly came to visit Cape Town as part of an (indistinct) marketing exercise.

ADV CANE: Now what happened according to the evidence is that the the Danish, German and French options were all excluded when the
10 Minister of Defence at the time wanted to enter the Rooi Valk competition in the United Kingdom. Were you aware of that?

MR CRAWFORD BROWNE: I was, yes.

ADV CANE: And so this was a fate that befell those three nations not only the Germans.

15 MR CRAWFORD BROWNE: That is true. But part and parcel of that was that the German vessels were too expensive.

ADV CANE: The evidence then is that Germany and all the five countries, including Denmark, France, Germany, Spain and the UK, that had competed in the round immediately prior to the suspension of the
20 project in May 1995, were all committed to enter the competition when it resumed in 2007.

MR CRAWFORD BROWNE: Except if you will, the tendering for the Corvettes started in 1994, 1995 and was only suspended in June 1995 which I remember because it was the time that the Cameron
25 Commission of Enquiry into Armscor. The forerunners at that point were

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narrowed down to Spanish Corvette and the British Corvette. The Spanish Corvette if you will, hinged on off-sets relating to fish and coal and I used the opportunity to ask one of my former clients at Nedbank to analyse the Spanish Corvette proposal.

5 He came back to me to say that the proposal provided by the Spanish that we would spend R1.4 billion on Spanish Corvettes and received off-sets which were still (indistinct) at that point, would actually destroy the South African fishing industry and Mr Modise in a subsequent meeting in 1996, admitted to me that that would in fact have
10 been the case.

Because of the public uproar about buying war ships when we had such a housing requirement, those initials tenders were then withdrawn, suspended, but prior to that and that is June 1995, prior to that Deputy President Mbeki had visited Germany and had extensive
15 discussions with (indistinct), Mr (indistinct) and also the German Foreign Minister, his surname begins with a “k” and at that point Germany was then invited to re-tender. As I say subsequent to that in 1996, the former German ambassador to South Africa was my house guest and at that point he spilled some of the beans regarding the pressure that had
20 been brought by the German Government on South Africa to re-admit Germany into the tendering system.

ADV CANE: Mr Crawford Browne, thank you for that very long answer. But we are actually going to spend a long time here if we do not limit ourselves to the questions. But let me unpack where we are. You say
25 that the project was suspended in June 1995 and that you say was

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because that is when Defence Review was commenced, as far as I understand you.

MR CRAWFORD BROWNE: No, not when the Defence Review commenced. The Defence Review commenced much later than that.

5 This was during the Cameron Commission of Enquiry. That is why I recall it as the Cameron Commission of Enquiry into Armscor because I was participating on the instruction of Archbishop Tutu.

ADV CANE: Yes, you did say the Cameron Commission so I stand corrected on that score. Now the evidence before the Commission is in fact that Cabinet made that decision on 3 May 1995 and that on 25 May it was publically announced, that there would be a deferent until the national consensus on defence had been completed. So what makes you absolutely convinced that it is June rather than May and why are you taking issue with it in this regard?

15 MR CRAWFORD BROWNE: Because I am stating the time frame of... I stand corrected, I am saying late May early June, but it was that period whereas Deputy President Thabo Mbeki had been in Germany in January.

ADV CANE: Very well. So we are very close to one another. I say it was announced on the 25th of May, are you prepared to live with that, but I did wonder why you were making such an issue between May and June. If Mbeki visited Germany in January of 1996, is that [intervenes]

MR CRAWFORD BROWNE: In 1995.

ADV CANE: 1995, then what you are telling the Commission is that the visit was actually some two years prior to the recommencement of

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this project, Project (indistinct) in 1997.

MR CRAWFORD BROWNE: That is true.

ADV CANE: And what you are saying or let me put it this way, as I have read to you, five countries that competed in the tendering rounds
5 in 1994 and 1995, were all given the chance to compete in the new competition. Those were Denmark, France, Germany, Spain and the UK, and why is it that when all five of them were committed to entering the new competition, you see something suspicious around the German re-entry?

10 MR CRAWFORD BROWNE: Because as I have said the German ambassador told me that the German government was determined at all costs, to win the Navy contract. That the acquisitions had been set up so this, the Navy aspects would go to Germany, the planes would go to Britain and Sweden and the helicopters would go to Italy, irrespective of
15 the criteria of the particular ... whether the particular equipment met the tendering requirements and as I further said this issue became the subject of a major political and financial scandal in Germany shortly thereafter.

ADV CANE: I want you to engage with me. I have put to you that five
20 countries were permitted to re-enter the tender, some two years after Mbeki's visit to Germany. Why is it that that causes you suspicion only in relation to Germany?

MR CRAWFORD BROWNE: Because it was illustrative of the backroom dealing that was occurring around the acquisitions. The
25 decisions were made not on the basis of the capabilities of the vessels,

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but on the political deals that Germany would do so, England would do so, Italy would provide helicopters. So the criteria were overlooked in favour of a backroom deal.

ADV CANE: Mr Crawford Browne, I am going to get to the backroom deal allegation in a moment, but I want you to engage me on why a
5 perfectly logical explanation given by the man in charge of the project, that all five countries were permitted back into the competition in 1997, two years after Mbeki's visit to Germany, if not longer, causes the suspicion in relation to permitting Germany back in? Why is Germany
10 singled out? Other than the fact that you have the benefit of hindsight of knowing that they in the end won, but at this point, why does this create suspicion?

MR CRAWFORD BROWNE: A suspicion confirmed by the information I had received from the German ambassador... former German
15 ambassador.

ADV CANE: Well now I guess I have an answer and I understand the basis for your suspicion. The German ambassador's visit to your bed and breakfast establishment, was in 1996, am I right?

MR CRAWFORD BROWNE: That is correct in March.

20 ADV CANE: And he expressed the view, as all good ambassadors would, that the Germans wanted to win the competition?

MR CRAWFORD BROWNE: At all costs, were the words he added.

ADV CANE: And that (indistinct) determination, that language is sufficient for you to leap, a huge leap to the very serious allegation that
25 the Germans must have won it by way of corruption?

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MR CRAWFORD BROWNE: It was if you will followed up by further contacts I had with German diplomatic staff in Cape Town, who also confirmed that the equipment would be totally inappropriate for South Africa and one of them in fact within five years the Frigits would only
5 (indistinct) and using as artificial crayfish reefs. That was one of the comments by one of the German diplomats in Cape Town.

ADV CANE: Was he correct?

MR CRAWFORD BROWNE: As we know the Frigits have had considerable amounts of difficulties, since their arrival.

10 ADV CANE: No, we do not know that. I would like to know how you know that?

MR CRAWFORD BROWNE: This is the opinion of the German diplomat and based on the fact of the Nigerian experience that bought a similar vessel from Germany and it ended up sitting on the sea bed at
15 the Lagos Harbour only years before it was towed back to Germany.

ADV CANE: Mr Crawford Browne, my question pertained to your allegation that the Frigits were in fact not usable today and therefore this somewhat outlandish statement that they would only be good for crayfish within five years. That is your allegation. What is the source of
20 your knowledge?

MR CRAWFORD BROWNE: The source of that statement was a German diplomat of the German Embassy and Consulate in Cape Town.

ADV CANE: No, sorry, you are missing my point and perhaps I was
25 not clear enough. The question is not who told you about the crayfish.

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The question is, how do you know the operational capability of the Frigits today?

MR CRAWFORD BROWNE: Amongst the statements that have been made in Parliament are those of the difficulties in maintaining them in the Simons Town shipyard. That has come from Admiral Green to Parliament which he then contradicted when he spoke to the Commission and may I refer you then to the Sunday Times report of the SANDF (indistinct) that made that and it was then corroborated by a reporting defence lawyer, about the state of our military.

5
10 ADV CANE: We are certainly going to get to that, you can trust me on that. So your source is Admiral Green?

MR CRAWFORD BROWNE: As reported ... he reported (indistinct) by the Sunday Times in the article, SANDF (indistinct) an article of which I made available to the Commission.

15 ADV CANE: I have seen that article. What I am trying to extract from you, because of course the fact that it is apparently recorded in a newspaper article, does not mean there is another source. I want to ascertain what the sources are for your knowledge, that the Frigits are not operational and you have given me Admiral Green. Are there any
20 other sources?

MR CRAWFORD BROWNE: Again I suggest you speak to Dr Young, since he has much more connection with the shipyard and the Simons Town harbour than I do. I happen to pass through that way from time to time, and I have friends who live in Simons Town but they say these
25 vessels never leave or rarely leave the harbour. They sit there

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unutilised most of the time.

ADV CANE: Alright, so we have three sources now. It is Admiral Green, Young and your friends in Simons Town telling you the Frigits sit in the harbour?

5 MR CRAWFORD BROWNE: They just sit there most of the time and they have obviously the Capetonians can drive by in Simons Town any time they wish.

ADV CANE: Thank you, Mr Crawford Browne. I just want to pin that down before we get there. To complete the ... putting to you the
10 evidence that is in fact before the Commission on this question of the Germans and the participation in the competition, might I put it to you that there was absolutely nothing suspicious at all about Germany taking part in the competition and they were invited to do so on exactly the same basis and for the same reason that Denmark, France, Spain and
15 the UK had done.

MR CRAWFORD BROWNE: I think in some of the documentation that Dr Young may make available to you, is a quite lengthy discussion about why the British withdrew and stepped back from their tenders on the Navy programs to allow the Germans to win, because apparently
20 they were told if they pressed the issue, they would lose on the planes and so it had already been decided that the Navy equipment would be allocated to the Germans, and the aircraft to the British. But there is ... there is quite a lot of documentation and I think Mr Young can make it available to you.

25 CHAIRPERSON: I am sorry, Advocate Cane, I am interested to know

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from you Mr Crawford Browne, when was that decision taken, where the allocation was made that the, you know that the Frigit (indistinct) when was that decision taken and by whom?

MR CRAWFORD BROWNE: The logic to that would be it is a Cabinet
5 decision and the technical people involved actually had nothing to contribute to it. The decision would have been made at Cabinet level and not ... and not either by the Admirals or the technical people. The decision was made at Cabinet level would be the logic to that.

CHAIRPERSON: When?

10 MR CRAWFORD BROWNE: In 1995/1996, that period.

CHAIRPERSON: Who were the members of Cabinet who were part of the decision making?

MR CRAWFORD BROWNE: In particular Deputy President Thabo Mbeki and Mr Joe Modise.

15 CHAIRPERSON: Were you there?

MR CRAWFORD BROWNE: No, I was not there. As I say the logic of that decision would have been a Cabinet decision, rather than a technical decision.

CHAIRPERSON: How did you come to know about (indistinct) at a
20 Cabinet level if you are not a member of Cabinet?

MR CRAWFORD BROWNE: As I said there is quite a lot of documentation... Dr Young, as you know has a whole website dedicated to the whole issue and he has quite a lot of documentation about what was going on at the time.

25 CHAIRPERSON: Mr Crawford Browne, do you personally know what

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happened at that particular at that (indistinct)

MR CRAWFORD BROWNE: I was not in Cabinet meeting then, or ever but that would be as I say, the logic of that, if a decision had been made that war ships would be allocated to Germany and the war planes to
5 Britain and Sweden, the logic of that obviously would be a Cabinet level and not at the technical level.

CHAIRPERSON: It is an assumption? You do not have any evidence to back up this allegation that you are making?

MR CRAWFORD BROWNE: As I say Dr Young has quite a lot of
10 correspondence on his website about it.

CHAIRPERSON: Mr Crawford Browne, do you have any evidence to back up what you are saying now to us?

MR CRAWFORD BROWNE: As I say the German ambassador told me that the Germans were determined at all costs to win the war ship
15 contracts.

CHAIRPERSON: Let us not confuse each other. We are talking about a Cabinet decision (indistinct). Do you have any evidence to back up the allegation that you are making that at Cabinet level, that decision was taken?

20 MR CRAWFORD BROWNE: I am making that declaration on the basis of logic. Who else would make such a decision?

CHAIRPERSON: On the basis of logic? Thank you. Advocate Cane, sorry for having interrupted you.

ADV CANE: Thank you, Chair. I would like to take this line a bit
25 further since the Chair has raised it. Mr Crawford Browne, are you

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aware that of the items (indistinct) purchased, submarines, the Frigits, the maritime helicopter, the light utility helicopter, the (indistinct) in relation to every single one of those items, this Commission has heard detailed evidence pertaining to the evaluation of that equipment. Are you aware of that?

MR CRAWFORD BROWNE: Yes, I am.

ADV CANE: And that every single piece of equipment other than the lift, won the evaluation round. Are you aware of that?

MR CRAWFORD BROWNE: What about the submarines?

10 ADV CANE: Are you challenging that the submarines won the evaluation round?

MR CRAWFORD BROWNE: The submarines it is accepted, were allocated to Germany on the basis of the exaggerated off-sets.

15 ADV CANE: Now what I am putting to you is that the submarines together with every other item of equipment, other than the lift, won the evaluation round, on prescribed (indistinct) are you contesting it?

MR CRAWFORD BROWNE: I think the JIT Report will confirm that the German submarine and tenders came last in that, but they rocketed from last to first on the basis of the off-sets.

20 ADV CANE: Well let us just isolate then the difference between us. Do you accept that the Frigits, the maritime helicopter, the light utility helicopter and the (indistinct) equipment, all won the evaluation rounds?

MR CRAWFORD BROWNE: With regards the light duty utility helicopters I have seen statements by Dell Helicopter for instance, that
25 they withdrew because they refused to pay bribes to a certain Mr Chippy

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Shaik, so that takes care of that one. But it was again predetermined who would ... which equipment will be allocated to which countries.

ADV CANE: Mr Crawford Browne, you have this tendency to sidestep my question with other information, with which I am not dealing
5 (indistinct). You have sat before this Commission, Monday, Tuesday and half of Wednesday, and I have a (indistinct) but of course you are allowed to tell a story, but part of this process is that you need to answer questions and not just re-tell your story and say what you want to say. You have to engage with me and answer the question, otherwise you
10 are not participating in the process in a formal way.

Now my question was simply to try and isolate where you and I differ. We differ in relation to the submarines, so I will deal with that. Do I need to deal with the Frigates, the maritime helicopter, the light utility helicopter or the (indistinct), do you accept there that no matter what
15 happened with Del, the Augusta won the evaluation?

MR CRAWFORD BROWNE: As I say I am putting the matter into context. There were allegations made that Dell withdrew because they refused to pay bribes.

ADV CANE: Will you answer my question? Is there any other item of
20 equipment besides the submarines, of those four, you say did not make the actual evaluation?

MR CRAWFORD BROWNE: No, obviously that would pertain to the Gripens, the Alpha.

ADV CANE: Yes, the Gripens I say won the best military value and in
25 fact the overall evaluation.

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MR CRAWFORD BROWNE: Precisely because costs was removed in what Minister Modise declared to be a visionary approach.

ADV CANE: Really in relation to the Gripens, is that your evidence?

MR CRAWFORD BROWNE: That comes out in the JIT Report and it is
5 a matter of considerable discussion with the former Secretary of Defence, Pierre Steyn.

ADV CANE: Mr Crawford Browne, are you quite sure of yourself, and in relation to the Gripens, costs was removed as a consideration?

MR CRAWFORD BROWNE: The Gripens and the Hawks as you know
10 were regarded as a joint issue. That one came with the other.

ADV CANE: Answer my question. You are sidestepping again. I said are you quite sure of yourself that in relation to the Gripens, they did not win the competition for the best military value?

MR CRAWFORD BROWNE: As we know in terms of the Hawks, the air
15 force preferred the (indistinct). The combination however, was to bring in the Hawks and the Gripens in order to drive the deal to the British and the Swedes, because the British were marketing the Gripen on behalf of (indistinct). You have got to place it in the context, and the combination of the Alpha and the Lift, it was a combination where the price was
20 taken out of consideration in a visionary approach, to award the contract to BAE in part a backroom dealing.

ADV CANE: Let us just get clarity here, because you have sidestepped the question again. You say there was a combined deal were two items came as a package. I may be able to live with that. I
25 am not dealing with that. I am dealing with your allegation that in

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relation to the Gripens they did not win the best military value competition and costs was taken out of the (indistinct). I want to check with you, are you serious? Is that your evidence? Because that is what you said and I am checking. I want to make sure about that.

5 MR CRAWFORD BROWNE: When cost is taken out of consideration, there is no evaluation. It had failed various criteria along the way and [intervenes]

CHAIRPERSON: Mr Crawford Browne, again just listen to the question and answer the question. Just carefully listen to what Advocate Cane is
10 saying, and please try and answer the question. This question is important. It is very very important for us to understand. If you say that (indistinct) costs were not taken into account, say so. Because this is what (indistinct) Advocate Cane is saying.

MR CRAWFORD BROWNE: The tendering criteria were changed. I
15 am not sure if it was twice or three times, after BAE had failed their tendering criteria and eventually costs was removed from consideration, as part of the visionary approach and then BAE with the lack of costs being part of it, was then awarded the contract, which then was intended to combine the Lift and the Alpha.

20 CHAIRPERSON: Advocate Cane, maybe rephrase the question. Mr Crawford Browne is still not answering the question. (indistinct) I do not quite follow (indistinct) or what Mr Crawford Browne is saying. Maybe try and simplify the question, let us see whether we can get a straight answer from him.

25 ADV CANE: Mr Crawford Browne, you have repeatedly said now in

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relation to the Gripens, cost was taken out of account, and I just want to understand are you sure that is your evidence? That in relation to the Gripens cost was taken out of account. I have given you the opportunity to reconsider that allegation. You are standing by as far as I
5 understand, and that is the only thing that I want to confirm, that your evidence is that the Gripens were acquired without taking costs into account?

MR CRAWFORD BROWNE: As you said you could live with the idea of Hawk/Gripen package. That is the package of Hawks and Gripens,
10 where costs was taken out of consideration.

ADV CANE: But you (indistinct) again. In relation to which aircraft were costs taken out of account?

MR CRAWFORD BROWNE: A combination of the two but particularly also with the Hawks, where the Air Force had preferred the (indistinct)
15 which was approximately 50% cheaper. But the whole issue was to promote a package of both Hawks and Gripens for BAE. The Hawks being provided from England and the Gripens from Germany, from Sweden. So it was a package, or a combination (indistinct) the Hawks were 50% more expensive than the Aeromachi's, the same was true for
20 the Gripens.

ADV CANE: But there you have added (indistinct) you said the same is true for the Gripens. Now let us accept that the Gripens and Hawks came as a package with co-operation between Sweden and BAE, that is not the issue that I am discussing with you right now. When you
25 mentioned that last sentence, you implied that the same applied to the

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Gripens. Does that ... do I understand you to be giving evidence that costs was taken out in relation to the Gripen aircraft? That is the way I understand your evidence and I am just trying to actually ascertain what you are saying.

5 MR CRAWFORD BROWNE: The Gripens was by far the largest component of the whole acquisition program.

ADV CANE: Mr Crawford Browne, I am going to interrupt you here, it is not normally my style, but I have asked something very simple and I have put it a number of times. I just want to know is it your evidence that
10 Gripens were acquired notwithstanding cost?

MR CRAWFORD BROWNE: The answer is, yes.

ADV CANE: Thank you. That took a long time and that is all I wanted to know. We will return to that topic. Let us go now to the topic of the submarines which is the point of difference. The submarines constitute
15 the point of difference between us in relation to who won the competition for the best military value.

Are you aware that your allegation that the submarines did not win that competition, would be contrary to the evidence of a number of witnesses who have given evidence before this Commission, including
20 Admiral Cunningham and Admiral Howell and Mr Nortje?

MR CRAWFORD BROWNE: I would suggest that you have a look at the JIT and the chapter that pertains to the submarines. It makes it quite clear that they came last in that criteria and that they were rocketed to number one place, because of the off-sets.

25 ADV CANE: Alright, so your source for this information is the JIT

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Report? No other source?

MR CRAWFORD BROWNE: That is correct.

ADV CANE: Let me refer you to the relevant evidence on the topic.

5 Firstly in relation to this question of price, I assume that your position would be that the Gripen that represents the best value, would generally be the most appropriate acquisition?

MR CRAWFORD BROWNE: No, it was obviously initially that must vary according to ... the cheapest is not necessarily the best. You must put a ... you must make a decision accordingly. So it is not simply a
10 matter of buying on price.

ADV CANE: Yes, that is exactly right. Now in relation to the submarines, the evidence before the Commission is that the German submarine and which was recommended to Cabinet, was R800 million cheaper than the Italian (indistinct) and that it was clearly the best value
15 for money. Admiral Howell gave the evidence that the German submarine, in fact all the goods were technically acceptable to the South African Navy, and in that context the cheapest bid by some 800 million was most definitely the best value for money.

MR CRAWFORD BROWNE: I think we can go back to the JIT Report
20 and confirm the fact that the Germans were selected on the basis of the off-sets.

COMMISSIONER MUSI: Just not to interrupt, but this JIT Report, is it now with the (indistinct) evidence before this commission (indistinct), oral evidence before this Commission? Is the JIT Report going to trump
25 that?

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MR CRAWFORD BROWNE: The JIT Report in itself has some difficulties. As we know it has difficulties and I have provided the draft report which is a lot more detailed. But it was the evidence, it was the area in which the evaluations were made and made public through Parliament. Okay, we rely on that as most of the Commission but there are certainly serious shortcomings in it, very much so. But that was the evidence that was ... that came out of the investigations. It originated from Parliament. It went to ... it went back to Parliament in November 2001. We now have as I have made available to the Commission, the draft report which further implies massive doctoring of the report probably by someone in the President's office. But we have the JIT Report, the Executive summary that exonerated Government, and yet every tendering contract was riddled and severely flawed by tendering irregularities. That comes out in the JIT Report.

15 COMMISSIONER MUSI: My question is, is this JIT Report going to trump the evidence led by this Commission by people who testified under oath and were cross examined?

MR CRAWFORD BROWNE: Sir, as you know I think there is quite a cloud hanging over Admiral Cunningham that he suddenly departed from the Navy to become a lobbyist for the German consortiums.

COMMISSIONER MUSI: Well, I do not think you will be able to answer that question and I will leave it there.

CHAIRPERSON: Mr Crawford Browne, Commissioner Musi what he is trying to find out from you is this : we had people who were involved in that evaluation process. We had people who came here and gave oral

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evidence about their activities during the evaluation process. All Commissioner Musi is trying to find out from you, are you suggesting we should ignore that evidence in favour of the JIT Report?

MR CRAWFORD BROWNE: Emphatically the answer will have to be, yes. The reason being that they say one thing to the Commission and they said the opposite in other venues, including Parliament.

CHAIRPERSON: Thank you. I understand that. I will (indistinct)

ADV CANE: Thank you Commissioners. Mr Crawford Browne, in relation to your statement that the various non-serving officers of the South African National Defence Force have come to this Commission and basically you say lied, I am going to tackle you on that. It is not that I am leaving it alone, it is just being put aside for now. I want to take you to the JIT Report and I am going to indicate to you that your reading of the JIT Report is in fact, perhaps based on a misunderstanding.

15 The summaries are discussed under a section of the report and at page 184, paragraph 6.4.8.9, the statement is indeed made that the GSC came fourth from the overall performance perspective. That is I presume the statement to which you are referring?

MR CRAWFORD BROWNE: Yes, I am afraid I have not brought my copy with me. So I have not got a copy of it, but yes, it came forth in the criteria and the report then goes on to say that because of the off-sets, it was then selected.

ADV CANE: You see that is where you are quite wrong, because the report goes on to say that the lower costs offered by the GSC in relation to the other bidders, resulted in the GSC being the overall preferred

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supplier, over all three components (indistinct) and there we see a table presenting the results and that the submarines won the military performance, the best military value competition.

MR CRAWFORD BROWNE: Chairman, I think this is straining into the
5 (indistinct) Clinton report and the issues that arises regarding the off-sets.

CHAIRPERSON: That is not the position Mr Crawford Browne. Listen to the question (indistinct) from the JIT Report. Just try and concentrate on what she is trying to put forward to you. (indistinct)

10 MR CRAWFORD BROWNE: The JIT Report states that the second tender is allocated to the German submarine consortium on the basis that the inflated off-sets to build a stainless steel plant at Koega. It was going to create 16,251 jobs.

ADV CANE: Mr Crawford Browne, stay with me and engage with me.
15 I am not dealing with off-sets. I told you that in my introduction. I am dealing with the best military value criteria relating to the submarines and I am putting to you that your interpretation of the JIT Report, that the submarines had come fourth, is a misinterpretation and that it only pertains to Corvettes and therefore it did not take into account the best
20 military value competition which Germany won, based on the costs saved of some R800 million.

MR CRAWFORD BROWNE: As you say you are overlooking the issue of off-sets, as we know off-sets drove the issue.

ADV CANE: Mr Crawford Browne, the submarines won the military
25 value competition, that is all I am putting to you, because it was in

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dispute between us. Based on the evidence of Admiral Howell and Captain Reed, and the error in your reading of the JIT Report, are you prepared to accept that the submarines won the best military value competition?

5 **MR CRAWFORD BROWNE**: No.

ADV CANE: You deny that notwithstanding that you have no personal knowledge of the evaluation rounds and you base yourself solely on the JIT Report?

MR CRAWFORD BROWNE: I base myself on the issue of the off-sets.

10 Off-sets drove this.

ADV CANE: Mr Crawford Browne, again be intellectually honest with me. I know you have an issue with the off-sets. I am talking to you about the military value competition and we are only dealing with that at present. My proposition is not (indistinct) because of off-sets. My
15 proposition is that it won the best military value round, and you have no basis to gainsay that?

MR CRAWFORD BROWNE: Let us go back to the hearsay of the report to the Deputy Minister of Defence, from an Admiral who had said to her, Ma'am, you have bought the wrong equipment. That would
20 presumably be from an Admiral's perspective not include the off-sets, but would focus on the technical capacity of the equipment. So even an Admiral whether he was a human resources Admiral or whatever, an Admiral tells the Deputy Minister of Defence you have bought the wrong stuff.

25 **CHAIRPERSON**: Advocate Cane, maybe we must get to the next one.

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I do not think (indistinct) to the question. You have tried this several times and we are not getting any answer. May we get to the next question.

ADV CANE: Thank you Chair. Chair, if I perhaps may refer to
5 (indistinct) but if I may put one other aspect of it to this witness.
Mr Crawford Browne, the evidence of an Admiral before this
Commission is (indistinct) in the German submarine. He was extremely
impressed by its performance. He had known that the German
reputation for building submarines, which was exceptional. He knew
10 that the submarines had been operational all over the world. He
referred to the detail technical evaluation during the RFI stage, in which
the German submarine had come first. This is a submariner with 16
years' experience and in addition to the fact that it was the cheapest by
some R800 million, he had absolutely no hesitation in preferring and
15 recommending the German Submarine and ensuring this Commission
that an excellent vessel had been purchased. Do you still, in the face of
that evidence insist on relying on that unnamed admiral, whose
qualifications, you did not enquire after and whose version was
conveyed you in the curtest of terms and is also hearsay? Is that what
20 you insist on doing?

MR CRAWFORD-BROWNE: The same submarines were sold to
Greece and were proved to be the subject of major bribery payments to
Greek admirals and politicians. Unfortunately, Germany may have had
a long reputation for being, for building submarines. But, I am afraid the
25 reality of the last many years has been that these vessels are sold for

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the bribes, or bought for the bribes and not for the military capacity. I am afraid in, in Greece that has led to a fine against Ferrostaal of 180 million Euros. They, the same submarines that we have acquired ...[intervene]

5 CHAIRPERSON: Thank you. Thank you. That is not what the, Advocate Cane had asked about. Advocate Cane, as I suggested let us get to the next question.

ADV CANE: Mr Crawford-Browne, you have refused answer my question and I will ask the Commission to an appropriate inference
10 against you, for being evasive, in due course.

MR CRAWFORD-BROWNE: If I may, may I interrupt? Thanks, Sir. The issue is, were these vessels bought for the capability or their requirements or for the bribes and the implication from Greece and elsewhere is they bought for the bribes and not for their, for their
15 capacity.

ADV CANE: The world according to Mr Terry Crawford-Browne and not the world according to the evidence before the Commission. Let us move to the next point. You referred to the JIT report that the JIT report, in substantiation for your allegation that the Germans had failed to meet
20 the specified criteria. Do you recall that?

MR CRAWFORD-BROWNE: Yes. It comes up in the JIT report both in terms of the engines for the, the frigates and that all the, all the contracts failed various aspects of the tendering, the tendering procedures.

25 ADV CANE: Mr Crawford-Browne, I am being quite specific with you. I

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am referring to your evidence, given during the cross-examination pertaining to the critical performance filter, where you stated that you have relied on the JIT report to make the allegation that the Germans had failed to meet the performance criteria and I wrote down and I told
5 you it would be checked. Do you recall that?

MR CRAWFORD-BROWNE: I do.

ADV CANE: Well, it has been checked. Let me read to you what the JIT report says. It says:

“Meko A200 GFC failed the specified engine compartment vulnerability
10 separation requirement, due to the Kodak warp design. The design, apparently affords other compensating vulnerability advantages and it did not need to be corrected. Would you like to comment on that?”

MR CRAWFORD-BROWNE: I have no comment to make at all, no.

ADV CANE: Both the areas of reliance that you placed on the JIT
15 report had been shown to you, to be misunderstandings or partial quotations, that supported your thesis that in fact, could be read and mean something entirely different to what you have thought. That is, I put it to you, you have a chance to comment if you wished.

MR CRAWFORD-BROWNE: Well, obviously, I did not, the JIT report
20 finds that every tendering contract was severely flawed.

ADV CANE: Let us turn back to the topic with which I was dealing, which the items and equipment, other than the Hawk or LIFT programme, were items that all succeeded in the evaluation competitions. You have declined to accept that, in relation to the
25 submarines. I have indicated what the evidence is and you, without any

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basis, whatsoever, persist with your allegation that the submarines came fourth. We are now at the place, however, where I put to you the next proposition, that in relation to the five items of equipment that won the evaluation rounds, there was absolutely no change in the recommendation made, all the way up the chain, through the various military bodies into the Subcabinet and Cabinet that those equipment items with their scores from the evaluation rounds had passed up the chain and were all approved for acquisition by, by the Cabinet.

MR CRAWFORD-BROWNE: And?

10 ADV CANE: Well, Mr Crawford-Browne, other than in relation to the Hawks, those five items of equipment, were the items that won the evaluation and so, any other choice of equipment by the Cabinet would have required explanation.

MR CRAWFORD-BROWNE: I would suggest it again, illustrates the use and involvement of back room deals. This was a decision, made elsewhere, to allocate equipment, Navy equipment to the Germans, warplane equipment to the Swedes and British and helicopters to the Italians. These are back room deals and therefore, everything will be massaged, to reflect that.

20 CHAIRPERSON: I am sorry, Advocate Cane, can you put the proposition again to Mr Crawford-Browne? Maybe this time, we might get an answer.

ADV CANE: Certainly, Chair. Mr Crawford-Browne, the proposition is that the politicians actually did not influence the acquisition of five items of equipment. Those choices and recommendations were made in

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evaluation phases, testified to, by the numerous witnesses before this Commission, passed up the chain of the hierarchy of decision making and approved by the Cabinet without any alteration.

MR CRAWFORD-BROWNE: Let us just say, there is other evidence
5 elsewhere, particularly on Richard Young's website and Richard Young
can best talk to this, about the heavy influence to allocate the warship
contracts to Germany, instead of Britain, that Britain was told to
withdraw from that, otherwise they would not get the warplane contracts.
There was a lot of backroom dealing and he, being close to the Navy, is
10 in a far better position to tell you, just how those influences were borne
out, including the involvement of Admiral Kamerman.

ADV CANE: The allegations, made by Mr Young, in relation to that
issue of the British withdrawing from a certain competition has certainly
been traversed in this Commission. The point is, that you, yourself, do
15 not have any basis for contesting that the five items of equipment went
through the chain in the form, recommended by the evaluating bodies
with the same scores, passed by them and accepted without alteration
from Cabinet. You cannot contest that, from your personal knowledge.

MR CRAWFORD-BROWNE: Obviously, I rely on knowledge such as
20 that of Richard Young, who is far closer to the Navy issues than I am.
My issue is the, particularly the offsets, that the whole thing was
fraudulent, that the equipment, the submarines, the planes, were bought
for the bribes and not for their military capabilities.

ADV CANE: Now, it would be remiss of me not to deal with the Hawks,
25 having dealt with the other five items of equipment. There, the evidence

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before this Commission, was indeed, that former Minister Mr Joe Modise required that the evaluation of the Hawks, that resulted on cost not being the decisive factor, those are the minuted words of his instructions. Do you accept that, or must I get the minute out?

5 MR CRAWFORD-BROWNE: Yes. He then linked this into his visionary approach.

ADV CANE: And before the Commission, we have had the evidence that various factors were taken into account that meant that cost was not decisive in relation the Hawks and they included factors like the
10 compatibility of the cockpit being precisely the match for that of the Gripen, so that you could facilitate young, black pilots, who previously had not had the opportunity to fly in these fighter aircraft. You do not know anything about that, do you?

MR CRAWFORD-BROWNE: I have read some of the discussions
15 about that and how it was manipulated. The issue however, of the visionary approach was to use the BAE as the partner for Denel. That was the overriding issue, that Denel would piggy back on BAE as entry into the international armaments industry for the export market.

ADV CANE: What is the source of that information?

20 MR CRAWFORD-BROWNE: The visionary approach and you will again, pick it up in the annexures to the Cabinet minutes in, if, it was May 1999 from the batch of documents, supplied by Jayendra Naidoo and it comes up in, in other places as well.

ADV CANE: Yes. We will have a look at that minute to see whether it
25 bears out your allegation. We have another point of contention between

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us remaining, in this regard and it pertains to the Gripens and whether, in fact, cost was excluded, in relation to the Gripens. Now, I can place the documents before you, that will indicate and they are before the Commission that the Gripens won the competition for the best military value. From your personal knowledge, are you able to contest that?

MR CRAWFORD-BROWNE: The Gripens were as yet, untried, sorry, the Gripens had been a huge political and financial disaster in Sweden and there were huge questions in Sweden about its capability, after several crashes at exhibitions and other test, test arrangements. The Gripens were an embarrassment in Sweden and remained an embarrassment in Sweden. They were desperate for a, an export market to South Africa. South Africa remains the only country that has actually bought the Gripens. They have attempted some lease arrangements elsewhere, but pressure was put on South Africa to buy Gripens, in order to promote Swedish arms exports.

CHAIRPERSON: Just hold on, Mr Terry Crawford-Browne. Advocate Cane, can you try and put the question again? Maybe Mr Crawford-Browne might answer it.

ADV CANE: Mr Crawford-Browne the question was, from your personal knowledge, are you able to present any evidence to this Commission that would indicate that the documents before it show that the Gripen won the best military value competition are for some reason to be doubted? Let me put it more simply, the Gripens won the best military value competition, according to the evidence available to the Commission. Do you have any basis to submit that that is not correct?

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MR CRAWFORD-BROWNE: In July 1997, the South African Air Force had informed the government that the BAE proposals were both unsuited and too expensive for South Africa's requirements, including the fact that the Gripen was specified for Scandinavian conditions and
5 not our conditions.

ADV CANE: Mr Crawford-Browne, you are quite the most evasive witness that I have ever cross-examined. The question was whether you could contest the evidence before the Commission that they won the best military value competition and that is the question I have now
10 posed on a number of occasions and you refuse to answer. So, I am going to move on. You also say that the Gripens were an embarrassment to Sweden and had not been sold to any other country, as I understand your evidence. Is that correct?

MR CRAWFORD-BROWNE: Yes. That was the pressure placed on
15 South Africa to buy the Gripens and it comes through later, if you will, in the affordability study, plus the recommendation to Cabinet that the Gripen proposal should be deferred, or better still, scrapped, because of the circumstances around them, including the costs. That was the recommendation that went to Cabinet in, as I say, May 1999. By August
20 1999, it had veered 180 per cent to an option to cancel. It reflects the back room dealing that went on, with all these acquisitions.

ADV CANE: I am well aware of the minutes to which you are referring and the recommendation, which was not accepted by the Cabinet. I am also well aware of the evidence of Jayendra Naidoo, who fully explained
25 why the Gripens were acquired, when they were and why the financial

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options presented, eventually were accepted. Now, what I want to put to you is that you are quite mistaken about Sweden not having sold the Gripen to any other country. In fact, my instructions are that the Gripen subsequently, to being sold to South Africa, were successfully exported
5 to Chilli, to Greece, on more than one occasion, to Morocco, to Pakistan, to Poland, to Turkey and to the UAE. You do not know of any of that, do you?

MR CRAWFORD-BROWNE: That is not my information at all. There have been lease agreements, concluded with the Czech Republic,
10 Czech Republic, which had been subject to huge investigations and scandals in Europe. There has been, but South Africa was the first acquisition. They then used that, to market it further and each one has had a variety of question marks over the bribes that were paid to, to market the, the plane.

15 ADV CANE: In your, or let me ask you more simply. I understand that you take a pacifist stance, in relation to arms acquisition and your stance is that you do not believe that arms should actually be required at all. Am I correct in that?

MR CRAWFORD-BROWNE: I make no apology for being a pacifist. It
20 is a lot more effective than killing people for profit.

ADV CANE: And one could safely then say that acquiring arms, in your view is really the brightest, evil star in this firmament pacifism.

MR CRAWFORD-BROWNE: I would suggest that there is invariably conflict, both between people and between countries. It is far more
25 effective to find a non violent means, than to use a military use, a

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military response to every source of conflict. We see that, at the present time, in the Middle East, where the military are used, as the only answer to any problem. I make no apology for being a pacifist.

ADV CANE: And neither do I ask you to. What I want to understand
5 though, is that you were involved in the defence white paper of 1996 and I presume you are familiar with its content.

MR CRAWFORD-BROWNE: Yes. I am and if I may say so, preceding that, I was representing the Anglican Church at the Cameron Commission of Inquiry into Armscor, which got us into this mess.

10 CHAIRPERSON: Mr Crawford-Brown, just for the sake of making progress, if you are asked a question, try and answer the question only and do not add other things, which might not, which more than other thing, would not add much value to your answer. Just try and answer only the question. I am sure that we will be in a position to move much
15 faster.

ADV CANE: Could you please turn up paragraph 1.35 in your statement? Do you have it? Do you see that the second sentence refers to the defence white paper of 1996?

MR CRAWFORD-BROWNE: Yes. I do. Yes. I do.

20 ADV CANE: And you refer there to its acknowledgement that the eradication of poverty was South Africa's overriding security priority and that there was no conceivable military threat. Do you see that?

MR CRAWFORD-BROWNE: Yes. I do. I think there is a copy of that available here.

25 ADV CANE: Were you aware of the balancing of interest in the new

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democracy, between the alleviation of poverty and the need to defend and protect the Republic?

MR CRAWFORD-BROWNE: As came out, in the defence, defence white paper and defence review, there was no conceivable foreign
5 military threat to warrant such huge expenditure on weapons.

ADV CANE: Please would you turn up page 26, if you do have the white paper available to you. Chair, I am sorry that, I would like to refer to several paragraphs out of the defence review and indeed, the white paper, but, sorry, the white paper and then the defence review of 1998.
10 I think I can do so effectively, without the text necessarily being before the Commission, for present purposes. I know that you have the document and are well familiar with it and it is simply to indicate the witness's stance, in relation to this quotation or this reference to the white paper, if I may proceed on that basis? If you will not, I can
15 arrange for this to be handed up tomorrow, but I think, I could manage without you having a copy, if you do not mind.

CHAIRPERSON: I think we can proceed, we have seen several copies of the defence review and the defence white paper.

ADV CANE: I am indebted to you. Mr Crawford-Browne, in chapter 6,
20 headed budgetary considerations, you will see there, the reference in the first bullet point, to the urgent need to divert resources to RDP in order to meet basic socio-economic needs. You see it noted that there is no conventional military threat in short to medium term. You will notice that and that is really the passage to which you are referring. Am
25 I right?

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MR CRAWFORD-BROWNE: It would include this, yes. It is, yes. But, there are the other references to this as well. But, it would include that.

ADV CANE: Yes. Now, cast your eye down that column, to the passage that begins:

5 *“At the same times, there are several reason to avoid making radical cuts to the defence budget.”*

And there we see various factors listed. It is the long term capability of the SANDF to fulfil its primary function, the imperative to sustain the core force, to maintain a balanced and modern, technological advanced
10 force and for South Africa to an active role in regional defence co-operation and peace operations in Africa. Now, why is it that you select only the part of the report that suits your pacifist ideology and you do not acknowledge the part of the report that indicates the need for a core force?

15 MR CRAWFORD-BROWNE: For the very reason that we could not afford it. We had inherited a bankrupt economy, because of the massive expenditures in the previous era. That is confirmed by the memorandum jointly signed by Trevor Manuel and Maria Ramos. We did not have the money to buy this. We got it cut, our coat, according to
20 our cloth, including the funds available, when there are some other priorities.

ADV CANE: Mr Crawford-Browne, neither did the Republic, regrettably, have the money to achieve the RDP and a total socio-economic transformation, at that point. Did it?

25 MR CRAWFORD-BROWNE: That actually, is a matter of some

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dispute that the allocation to the RDP, and I do not think this is the right venue to go, the forum to go to that. The RDP was essentially abandoned, in favour of gear. The priority, as stated in the defence white paper and elsewhere, is the, is the issues of poverty and we, and
5 as the Treasury memorandum found, they did not have the financial resources to go on a wild spending spree on weapons, to buy toys for boys.

ADV CANE: And you see, the same point, the same point is made in the defence review, if you have that, you can turn to it. But, otherwise I
10 will read the passage to you. In the defence review, I am reading from page 10 and there, there is the identification of the need to design a peace time force. The need is list, the needs are listed:

*“To have a core defence capability, to promote regional security and to promote international security through participation in peace
15 operations and military co-operation and support of foreign policy.”*

Just to complete those quotations, we then turn to page 120 of the defence review, again, the reference is to the white paper, approved by the Parliament on 14 May 1996 and it lists:

*“The prerogative not to endanger the lives of military personnel
20 through inadequate or inferior weapons, to maintain a core defence capability and to have a force that is capable of the deterrent to potential aggressors.”*

There are other priorities too. But, that is part the national process approved by Parliament, indicating both a priority to allocate funds to the
25 RDP and a concurrent obligation to maintain a core force. Do you

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accept that?

MR CRAWFORD-BROWNE: Subject to the availability of funds. I think, you have forgotten that rider. Subject to the availability of funds and the Treasury, in 1998 has said there was only R1.4 billion available
5 for such acquisitions and consequently, we grossly exceeded that and the defence review, again, emphasis subject to the availability of funds and that the acquisition, any, the, the acquisitions, the core force was a little better than a wish list. That comes into the defence review, which you rather would, would prefer to ignore.

10 ADV CANE: I will take up the question of what constitutes a core force in due course. But, for now, you see, it is not that I am forgetting something, it is that you are forgetting that Section 200 of the Constitution requires that there be a South African National Defence Force to defend and protect the Republic. So, with your constant focus
15 on the procurement requirement in Section 217, you have omitted to give due weight to a concurrent Constitutional obligation, as articulated in both the white paper and the defence review. I put it to you, that is because you have world view, it is a pacifist one and so, arms acquisition of any form is a bright, evil star to you.

20 MR CRAWFORD-BROWNE: Very much, contrary to what you have just pointed out in Section 200 and totally trumping Section 200 is Section 198, which is the governing principals, regarding security services.

"The following principals govern national security in the
25 *Republic:*

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a. *National security must reflect the resolve of South Africans, as individuals and as a nation, to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life.”*

These are human security values, not military security values. This is
5 the security philosophy of the 21st century, not the mindset of, of the old
SANDF that got us into such trouble and which, unfortunately still
pertained, amongst some of the militaries, Section 198, then, I say
trumps Section 200.

ADV CANE: Mr Crawford-Browne, we are not going to enter a legal
10 argument of what trumps what. But, what I want to put to you, or refer
to, is your statement that you were very concerned about the defence
review of 2014 and you stated that, that was because further
acquisitions were to be made and an allocation of GDP was to be made,
to the South African National Defence Force and that disturbed you.
15 Because you said we are going to do the same thing all over again.
Now, I am putting it to you, that whatever degree of armaments,
whatever what, whatever was required for a core defence force, we will
debate that in due course, you would, in any event be opposed to that,
because of your pacifist stance.

20 MR CRAWFORD-BROWNE: Solely, because of my pacifist stance,
quite obviously. But, fashioned by the circumstances that we face in
South Africa, with the widest GD coefficient anywhere in the world and
massive legacies of poverty, inherited from the previous era, when huge
resources were squandered on armaments. We have a legacy that
25 must be placed into that context.

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ADV CANE: And your vociferous opposition to arms acquisition because of those ideological stances you hold, I put to you, results in you, cherry picking from documents, cherry picking what you want to hear and know and turning a blind eye to any evidence that is contrary
5 to your position.

MR CRAWFORD-BROWNE: On the contrary and as pointed out yesterday, when Mr Kasrils testified in June, a confidence trick had to be developed to pull the wool over the eyes of South Africans, in terms of the offsets, the more we spent on armaments, we get, the more we get
10 back in offsets, to generate a hundred, to generate 65 000 jobs. This was the confidence trick of the whole arms acquisition process and we covered that yesterday afternoon. It is not ideologically motivated. It is motivated by a concern for the fact that we have inherited massive issues of poverty in this country, which are the major security concerns
15 that we should all face in South Africa, rather than non-existent foreign military threats.

ADV CANE: Your ideology is, is very firmly before the Commission. But, you see, what it has lead to, if you look at paragraph 1.2 of your statement and 1.6 of your statement, it leads to the kind of broad
20 [indistinct] and perpensity to ignore evidence that is indicated there. If we look at 1.2, it says:

“Contrary to assertions by admirals, generals and officials in the earlier round of hearings, the real rationale for the Armsdeal was not the need in the post Apartheid era to replace obsolete warships and warplanes.”

25 And, you see, what you have to do to get there, in accordance with your

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philosophy is you have to ignore the evidence of General Baine, of General Hechter, of General Malinga, of General Higgs, sorry, Admiral Higgs, of Admiral Scholtz, of Admiral Kamerman, of Admiral Howell, of Captain Reed, of Mr Nortje, of Mr Bower-Smith, of Mr Viljoen and Ms
5 Burger. You have to ignore the evidence, in addition of Jayendra Naidoo and the explanations given to this forum, by former President Mr Mbeki and Mr Kasrils, sweep them all aside, on the basis of uncorroborated hearsay, upon which you rely.

MR CRAWFORD-BROWNE: On the contrary, the real rationale, I
10 repeat, was not the need for new equipment. The real rationale was the offsets, which were simply vehicles to pay bribes and this also comes out, in some of the other documentation that we have. We, the real doubt to that, was the real motivation, not the equipment.

ADV CANE: Mr Chair, I am inclined to continue with the cross-
15 examination tomorrow morning. What I still need to do, is traverse some of the statements, particularly in relation to the equipment, that appears from paragraphs 2.6 to 2.11 of Mr Crawford-Browne's statement and take up with him the allegations, pertaining to the utilisation of the various items of equipment and there also, the allegation that the
20 officials, who have served in the SANDF have perjured themselves before this Commission. I wonder if it would be an appropriate time.

CHAIRPERSON: Okay. I think in that case, maybe we will have to adjourn now, until tomorrow morning.

ADV CANE: Thank you, Chair.

25 CHAIRPERSON: And there is a suggestion that we, tomorrow morning

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we start at 9:30. Can we adjourn until tomorrow morning? Until, and then, we will we start at, at 9:30. Thank you.

(COMMISSION ADJOURNS)

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