

**ARMS PROCUREMENT COMMISSION**

*Transparency, Accountability and the Rule of Law*

**PUBLIC HEARINGS**

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**HEARING ON 9 OCTOBER 2014**

CHAIRPERSON: Good morning everybody. Do you confirm that you are still under oath? Say I do?

MR CRAWFORD-BROWNE: I do.

5 CHAIRPERSON: Thank you. Advocate Cane?

ADV CANE: Thank you, Chair. Mr Crawford-Browne, I want to revert back to a couple of matters, before, during the course of, when I questioned you yesterday afternoon. The one matter pertained to a mistake, in what I put to you. I was corrected in that. So, another  
10 pertains to the [indistinct] accidents in Sweden. I led you, I read to you a list of countries to which the Gripen had been exported and that list was not correct and it is not the evidence, contained in this transcript. The General made a [indistinct] with the issue on the transcript [indistinct] through on 5905 and I just want to correct myself, by referring  
15 to the countries, to which the Gripens were exported. The first such country, after South Africa was the Czech Republic. It then followed exports to Hamburg. That was followed by exports to Thailand. There was then a process by which Brazil selected the Gripen and that, according to General Bain was [indistinct] whilst he was giving his  
20 evidence. Simultaneously with that, there was the decision to select the Gripen amongst all other competitors for the fighter for Switzerland. At the time that General Bain gave his evidence, that decision had to be subjected to a referendum in Switzerland and I can then inform you of the fact that the referendum of the Swiss was against a procurement of  
25 the fighter aircraft. I just wanted to correct that, so that I did not really,

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something that I put to you that was incorrect. I am corrected. Do you understand why I would do that and would you like to comment?

MR CRAWFORD-BROWNE: Yes. Thank you, Advocate Cane. I think, I did correct you at the time, to say that list was incomplete.

5 There is another country on that list that you should, might add. It is the current situation, where they are lobbying extensively in Norway. But, most of these issues are leasing, rather than purchasing. As the affordability study confirms, there was huge pressure on South Africa, as potentially the first buyer to buy the Gripen, so that it would lead to  
10 an export drive, on behalf of the Gripen. That is the, actually the crucial issue and there subsequently being controversies, whenever the Gripen has, has been promoted, as you say, including in Switzerland, where the referendum rejected the issue.

ADV CANE: Mr Crawford-Browne, the point about the export of this  
15 Gripen is that each country would have conducted its own assessment and that the practice as being a successful client from Sweden, which is contrary to your assertion that it would have been an absolute disaster for Sweden.

MR CRAWFORD-BROWNE: If you will, there has also been a huge  
20 controversial case about an Austrian count, who lives in Scotland, I believe, for his involvement in housing bribes to Czech politicians. The, the issue of bribery seems to surface, every time BAE is promoting weapons and the influence they peddle, amongst politicians. Every time, there is controversy. There was controversy apparently in Norway.  
25 There was controversy in Switzerland and I did say, the main issue, as

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far as we are concerned, in South Africa, was the desperation of BAE and SAAB to get South Africa to commit to buy these weapons, because they had been such a disaster in Sweden, before then.

ADV CANE: Mr Crawford-Browne, you raised a number of collateral  
5 issues in that answer. What I want to just emphasize and I want you to confirm whether this is correct, the Gripen were a product of SAAB, which was a Swedish based company. Am I correct in that regard?

MR CRAWFORD-BROWNE: That is correct. BAE bought first a 50,  
10 which was then reduced to 35 per cent interest and took over the international marketing for the project. That was its involvement, when it was being marketed here. You may also recall that in 2011, Swedish TV4 undertook an exposè ...[intervene]

CHAIRPERSON: Mr Crawford-Browne and Advocate Cane, in order  
15 for us to make progress, listen to the question and answer only the question.

MR CRAWFORD-BROWNE: I am confirming that it is made in  
Sweden, but it is marketed by BAE. That is all. Was marketed.

ADV CANE: Let us then proceed, since that issue has been dealt with,  
20 in so far as I wish to correct myself. There was an error you made yesterday, with these, I think it was an error, when you referred to Greece buying the [indistinct], buying the, sorry, the submarines and you made the assertion that they were the same submarines that South Africa had purchased. Now, in that regard, I want to put something to you and give you an opportunity to correct yourself. Greece bought the  
25 type 214 submarine, which is larger than the type 209, which is bought

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by South Africa. Do you accept that?

MR CRAWFORD-BROWNE: My understanding is that they are the same submarine, but nonetheless, the issue is that they came from the same company. But, my understanding was, they were identical to  
5 South African submarines. I, I will stand corrected, if necessary, but that, the point is they came from Ferrostaal.

ADV CANE: And my instructions are that the type 209 differs from the type 214, in that it is a diesel, diesel electric propulsion engine, not an air-independent propulsion. That it is 300 tons lighter and that the type  
10 209 is the most widely operated submarine type internationally, with 61 of them serving 13 members worldwide. Would you then have reason to dispute those instructions?

MR CRAWFORD-BROWNE: The point, however, is the finance paid by, by Ferrostaal, in a plea bargain with the German authorities,  
15 because of the bribes paid, to acquire those, those export contracts.

ADV CANE: And the submarines furnished to South Africa, were supplied by the German Submarine Consortium, not by Ferrostaal.

MR CRAWFORD-BROWNE: Ferrostaal were the management of that.

ADV CANE: They were, in other words, part of the consortium, but the  
20 consortium were the suppliers of the submarines. Do you dispute that?

MR CRAWFORD-BROWNE: That is correct. But, Ferrostaal were the drivers of it.

ADV CANE: Now, I want to, in reference to yesterday, also return to something, which you alluded to in relation to the decision to  
25 recommend the Hawk, as the preferred supplier, over the Aermacchi

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and you referred to a minute of the decision, pertaining to that recommendation. I would like to put the wording of that then to you. It is to be found in a Ministerial briefing minute of 31 August 1998. For the record, Chair, it is located in the bundle of General Steyn at page 337. I

5 read to you, Mr Crawford-Browne, from page 338, paragraph 11:

*“After a discussion, it is decided by the Ministers present that the Hawk should be recommended as the preferred option. This decision to recommend the Hawk was based on the national strategic considerations for the future survival of the defence aviation sector and*

10 *the best teaming up arrangements offered, by the respective bidders.”*

Now, that statement that national strategic considerations weighed with the Ministers for the future survival of the defence aviation sector that is a reason, which you as a pacifist, would not endorse as a valid reason.

Am I correct?

15 MR CRAWFORD-BROWNE: I am sorry, it is irrelevant to the issue. I do not, I have, neither here nor there, on that.

ADV CANE: Very well, you referred to it yesterday. Then, I take it, you have no objection to that particular reason.

MR CRAWFORD-BROWNE: Let us not begin with that.

20 CHAIRPERSON: I have got certain, I did not hear the last, your last answer, Mr Crawford-Browne.

MR CRAWFORD-BROWNE: I am saying that it that it came up as part of the Ministerial discussion, there is neither here nor there, to the terms of reference of the Commission.

25 ADV CANE: Mr Crawford-Browne, I think the Commission will

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determine what is relevant, without your commentary in that regard. You see, I put to you yesterday that you were an evasive witness. I just want to explain the importance of answering my questions, rather than evading them in this type and manner that you did yesterday and you did just now. Unless your allegations can be tested, by the way of questioning and you can actually give a reasoned answer and cite effects for basis, your allegations are not going to carry weight. So, it is really in your own interest, in so far as you are able to answer my questions directly and pertinently. Every time you sidestep a question, or avoid answering it, your evidence is going to have less and less value. So, I really do ask you to try your best to actually address the propositions that I put to you. Let us proceed then, with that in mind. I would like you to turn up your statement, please, if you could open it at paragraph 2.2. Have you managed to find ...[intervene]

15 MR CRAWFORD-BROWNE: I have not yet ...[intervene]

ADV CANE: Found ...[intervene]

MR CRAWFORD-BROWNE: Yes. I have it.

ADV CANE: Thank you. You relied there on a Sunday, Sunday Times, sorry, on a defence web article, which you say corroborates a Sunday Times report. I want to focus on the first part of the quotation, a theme which is also taken up on the next page, pertaining to the long term storage of the Gripen fighter jets. Now, in that regard and I want to ask you whether you informed yourself of the evidence of General Bain, in relation to this issue.

25 MR CRAWFORD-BROWNE: I have been familiar with the evidence he

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has given. I have also been familiar with the evidence that Admiral Green has given.

ADV CANE: Now, the evidence of General Bain pertaining to the storage issue with which he dealt and not Admiral Green was that, initially, because of funding, the proposal was, took place, it is actually that the Gripen into long term storage. But, on consulting with the original manufacturer, which was SAAB, they supported a far more effective and less costly process, which involved, in my layman's terms, rotating the aircraft, flying them sufficiently, to ensure that the cost of storage and maintenance were reduced and that they were systematically used, according to a careful programme. Were you aware of that evidence?

MR CRAWFORD-BROWNE: Again, I would suggest it is irrelevant to the issue, as was highlighted by the affordability study that went to the Cabinet in 1999.

ADV CANE: Do you ...[intervene]

CHAIRPERSON: Mr Browne, the question is simple, were you aware of that evidence, or not?

MR CRAWFORD-BROWNE: I have heard of it. But, I have also heard contradictory reports to that. So, either way, it is irrelevant to the issue.

ADV CANE: Well, Mr Crawford-Browne, you in fact, made it relevant, by including these allegations in your statement. So, what I am doing, is asking you to engage in that intellectual process of answering questions on what you, yourself has, have led, in order to ascertain, whether there is a basis for what you allege and to extent, to which the Commission

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surely, could attach weight to what you say. So, let us begin again.  
Would you like to say something in that respect?

MR CRAWFORD-BROWNE: If I may, if I may. It is not my answers  
that are the problem, Advocate Cane. But, it is your questions that are  
5 irrelevant to the Commission's terms of reference. I do not need to  
elaborate on that.

ADV CANE: No. You certainly do not.

MR CRAWFORD-BROWNE: Maybe I should make it simple.

ADV CANE: Mr Crawford-Browne, do you, did you have knowledge of  
10 Mr Bain's, General Bain's evidence, at the time you prepared your  
statement and gave your evidence under oath in this Commission?

MR CRAWFORD-BROWNE: As I have said, in my testimony, there  
have been conflicting accounts given in Parliament with the accounts,  
given before the Commission. There are those contradictions that are  
15 highlighted in newspapers reports, such as these.

ADV CANE: If you were well aware of this evidence and I am going to  
now infer that you were, but you refuse to actually meet me head on  
with an honest answer. Then, why did you not, at least draw the  
Commission's attention to this and give some alternative basis or  
20 evidence for doubting General Bain, as opposed to simply ignore it, as if  
it did not exist?

MR CRAWFORD-BROWNE: May I refer to, refer you to the preceding  
paragraph? The end of paragraph 2.1:

*"As the Mail and Guardian newspapers records, Admiral Green in  
25 August 2013 denied at the Commission that he had made such remarks*

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*in Parliament. This raises the issue, whether he deliberately misled the Commission and thus committed perjury, alternatively, did Admiral Green deliberately mislead Parliament, or did the Sunday Times newspaper fabricate the story?"*

5 And the same applies to General Bain.

ADV CANE: So, what you want the Commission to accept, if I understand your answer is that General Bain committed perjury in giving his evidence and, or alternatively, he fabricated. Is that what you are suggesting?

10 MR CRAWFORD-BROWNE: I am referring you to the previous paragraph, regarding Admiral Green, with the same kind of argument that pertained to, to General Bain. But, listen, I actually again, it is neither here nor there, relative to the Commission's six terms of reference.

15 ADV CANE: Mr Crawford-Browne I am not going to debate with you what is relevant. That is for the Commission to decide and they will stop me, if I put an irrelevant matter to you. What I then gain from your answer is that, in so far as very senior men of the South African National Defence Force have given answers that do not fit with your thesis. They  
20 must simply be dismissed as perjurers and liars. That would include Admiral Green and General Bain.

MR CRAWFORD-BROWNE: I have no further comment on that. It is well accepted, you do not ask an employee to corroborate a statement of his boss.

25 ADV CANE: Mr Crawford-Browne, the manner of obtaining evidence in

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what is generally accepted in that regard, is really not within your domain of expertise. But, let us move on. I am certainly going to come back to the issue of rates pertaining to Admiral Green. But, for now, I want you to turn over the page and you will see that you again raise the  
5 issue of long term storage. That is something you are certainly making much of. We go to the next page, please, at paragraph 2.8 and since I have already dealt with the preceding paragraphs yesterday, I want to take up with you, this question of the World Cup and the role that that had, in relation to the securing of the air, South African air space. Now,  
10 General Bain gave the evidence that unless the South African government could give an undertaking to FIFA to guarantee the security of the World Cup, which included the securing of the air space around the stadiums, South Africa's bid for that competition would not have even been considered. Do you understand that?

15 MR CRAWFORD-BROWNE: I do and it is neither here nor there, to the implications of why we bought Gripens that were, the recommendation was that the tender should be scrapped, deferred or scrapped. The, the information that went to Cabinet and the affordability study that South Africa was being used as a guinea pig to promote  
20 Gripen exports elsewhere. The fact that they trot out the World Cup, many years later, only compounds the, the foolishness of it.

ADV CANE: Yes. You see, that is what I understood you were saying in paragraph 2.8, that, in fact, there is this childish element, in the pride for these, your words, toys for boys and other irrelevancies, such as  
25 securing the air space, or the capacity to do so, in order that South

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Africa can participate in major international events. Am I correct of my summary of your stance?

MR CRAWFORD-BROWNE: I have no difficulty with that.

ADV CANE: Have a look at your paragraph 2.10. It pertains to the  
5 Agusta helicopters and there you say that you have been informed that they are in storage and unused and or rotting. Now, who informed you of these facts?

MR CRAWFORD-BROWNE: My advocate, Advocate Hoffman received an email, I believe, or a phone call about three or four weeks  
10 ago from someone. I have not met the man, but he contacted Advocate Hoffman and suggested the Commission, if it is in Cape Town, to take the opportunity to go and have a look at Ysterplaat. I do not think I would be allowed to set foot on Ysterplaat. So, I have not personally been there to actually check that out. But, that information came from  
15 Advocate Hoffman.

ADV CANE: Who was the person that gave the information to Advocate Hoffman?

MR CRAWFORD-BROWNE: As I say, I do not know. Advocate Hoffman was contacted by someone, either by email or by telephone  
20 and the suggestion was made, by Advocate Hoffman, that I should invite the Commission to actually make an inspection in loco.

ADV CANE: Are you aware of the fact that the base for the Agusta helicopters is in fact, a military base, just outside of Bloemfontein and that they are then deployed all over the country?

25 MR CRAWFORD-BROWNE: I had assumed that would be the case.

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So, I myself was rather surprised to find, to hear that they would all be at Ysterplaat. But, someone who pretends, who says he has knowledge of the fact, contacted us and said check it out. It is simply a matter of checking it out. Are they, are they rotting, and if so, what are the  
5 conclusions to be reached from that?

ADV CANE: Mr Crawford-Browne, before including this reckless allegation in your statement, did you perhaps trouble yourself with the evidence before the Commission, pertaining to the use of the Agusta helicopters?

10 MR CRAWFORD-BROWNE: In terms of the helicopters, I believe three have crashed. They are presumably used around the country. I have no difficulty in the use of helicopters, for appropriate circumstances. They are very useful equipment if, obviously, if they are properly managed. I think, it was possibly the one of the useful  
15 acquisitions of the Armsdeal.

ADV CANE: Yes. You see, the evidence of General Burger, who is the director of helicopter systems and responsible for the light duty helicopters was that they are frequently used for casualty evacuations. That they are used to train pilots to fly a bigger platform, such as the  
20 Rooivalk or the Linx and Oryx. That they have conducted operations in the DRC, Sudan and the Central African Republic. That they have flown in excess of over 18 000 hours, since entrance into the service in the Republic. In addition, they have been used in numerous other rescue operations. I have you example of air rescuing some 255 people by  
25 helicopter, in relation to the Oceanos incident.

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MR CRAWFORD-BROWNE: If you will, I think, I was the one who pointed that out yesterday, as a use for helicopters for sea rescue operations. It do not think it was actually the Agusta. I think it was prior to the Agusta.

5 ADV CANE: Then, just let me finish please. We also stated that they have been used in the transport operations of anti-rhino poaching. To complete his story, you say they have been through a difficult time of funding. But, as he then, his evidence, they were receiving further monies and were now able to resume as normal. It was also put to him  
10 that there was a moth balling of these helicopters. He denied that and said that they were in use, with sufficient pilots to fly them and to fulfil the constitutional mandate. You did not bother to, perhaps have a look or inform yourself of this evidence?

MR CRAWFORD-BROWNE: As I say, I, I said yesterday, helicopters  
15 are very useful machines, for a variety of reasons, including sea rescue operations. I have no difficulty with that at all. But, it is actually irrelevant to the six terms of reference that the Commission has to examine.

ADV CANE: The sidestep, which you are frequently employing this  
20 morning, concerning relevance, is not going to assist you, Mr Crawford-Browne. You have brought up, what I would term a relentless allegation and you have absolutely no basis for having made it and no basis for pursuing it further. Are you prepared to withdraw paragraph 2.10 on your statement?

25 MR CRAWFORD-BROWNE: Absolutely not. Perhaps I should make it

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simple, Commissioners, for Advocate Cane. There are six terms of reference. One, did South Africa get R110 billion in offsets ...[intervene]

CHAIRPERSON: Mr Crawford-Browne, let us not repeat the terms of reference. We are all aware of the terms of reference.

5 MR CRAWFORD-BROWNE: Very ...[intervene]

CHAIRPERSON: Just answer the question that Advocate Cane is putting to you, without having a lot of other things to do, that have got nothing to do with the question that is being put to you.

MR CRAWFORD-BROWNE: It does not deal with the terms, which  
10 terms of reference does it deal with?

ADV CANE: Mr Crawford-Browne, you are not going to pose questions to me or to the Commissioners, pertaining to the relevance. What I am asking you to do, is answer my question. Do you have any idea what it was?

15 MR CRAWFORD-BROWNE: Yes. Well, helicopters are useful. I said absolutely, they are very useful machines. Very useful, that does not necessarily mean that we should or should not buy Agusta helicopters. There are a number of other helicopters on the market as well.

ADV CANE: No. You are quite wrong. That was not the question.  
20 The question was, whether you were prepared, having been confronted with the baseless and recklessness of the allegations you make, to withdraw paragraph 2.10 on your statement.

MR CRAWFORD-BROWNE: No. As I have told you, Advocate Hoffman received a communication some weeks ago from someone,  
25 who said these Agusta helicopters are rotting at Ysterplaat base. It

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would be appropriate for the Commission to have a look and do an inspection in loco. I have not been to the base, to verify it myself. But, it is one point that the Commission might have an interest in. So, I am not prepared to withdraw it.

5 ADV CANE: Mr Crawford-Brown, let us move beyond the ridiculous submission that you will not withdraw that the helicopter can rot and proceed to the next paragraph 2.11. You say there:

*“Thus, South Africa required four frigates that are reportedly equipped with defective engines.”*

10 Let us pause there. Who reported this? What information are you relying on, in relation to the defective engines?

MR CRAWFORD-BROWNE: As I say, it has been well covered in a number of newspaper articles in the Sunday Times, the Mail and Guardian and others. It has been reported in Parliament, with  
15 contradictory reports, here to the Commission. It is for the Commission to balance the contradictions, here, with the contradictions in, in Parliament. That is not my issue. It is simply a matter of concern, as, as a member of the South African public.

ADV CANE: And certainly one, with which the Commission would be  
20 concerned in, has heard evidence on. Are you unaware then, of Admiral Scholtz’s evidence, when he was confronted with these allegations, I take it?

MR CRAWFORD-BROWNE: I am. I do not know when that was. I might not have been in the country.

25 ADV CANE: He said that this was not correct. That the diesel engines

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used by the frigates were in order and were the same ones, used by 634 ships around the world. For the record, I just note that that is page 545 of the transcript. You would have no basis, upon which to second guess his expert and personal knowledge, would you?

5 MR CRAWFORD-BROWNE: As I said yesterday, I do not pretend to be a technical expert on maritime or air equipment for either the Air Force or the Navy. I suggest that you should speak to Dr Richard Young, who is far better qualified in that, than I am. I referred you to the report from the former Deputy Minister of Defence, who had intel by an  
10 admiral that we had bought the wrong equipment. I think it is appropriate, as a member of the public, to express my concern, when I hear the former Deputy Minister of Defence reports that he had been told, by a senior member of the Navy, that we had bought the wrong equipment. You will also find, obviously, from, from Dr Young, various  
15 complaints about the actual conditions of both the frigates and the submarines. I think, it is well documented, certainly in the media in Cape Town, that the, one of the submarines still lays in the harbour in Simons Town, since 2007 and that the frigates very rarely leave the dock. But, again, it is neither here nor there, to the terms of reference,  
20 other than, that they are underutilised ...[intervene]

CHAIRPERSON: Mr Crawford-Browne, for the last time. Just listen to the question and answer the question. Otherwise, we will not, we will not finish your cross-examination. Listen very careful to what Advocate Cane is saying to you and just answer, only the questions, please.

25 MR CRAWFORD-BROWNE: Sir, I listen very carefully, the questions.

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The, it is not the questions and not the answers that are the problem, but the questions.

ADV CANE: Mr Crawford-Browne, you have again, relied on Richard Young and his website. Your answer certainly contain a concession that  
5 you had no personal knowledge of these issues about which you are prepared to make very broad and damaging statements. Neither have you done any proper investigation of your own. I want to put it to you that pertains also, to your next allegation, which is that the equipment had obsolete Combat Suites. Am I correct in that regard?

10 MR CRAWFORD-BROWNE: Again, you should speak to, to Dr Young. He was the one who tendered to put state of the art South African technology into the frigates. Instead of technology that is acceptable to the United States Navy, the technology was imposed by the Germans and the French, to put obsolete Thomson CSF French technology into  
15 the frigates. This is part, this is part and parcel of the controversy surrounding the frigates that obsolete French technology went in, when South Africa produced, what apparently, is state of the art technology in that respect.

ADV CANE: It is clear to me that you have not actually studied the  
20 statement and evidence of Admiral Kamerman on the issue. Am I correct in that regard?

MR CRAWFORD-BROWNE: I am very well aware of the conflicts between Admiral Kamerman and Dr Richard Young. Admiral Kamerman, subsequently departed to Germany, to become involved  
25 with the suppliers of those vessels and the controversies that have

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arisen thereof.

ADV CANE: Yes. You have again, taken the opportunity to damage another person's reputation, without answering the question. The question was, I take it, you have not actually studied the evidence  
5 before this Commission, nor the statement of Admiral Kamerman, yes or no?

MR CRAWFORD-BROWNE: The issue pertains, if you will, Advocate Cane, to what was the rationale. The rationale was the offsets, would we get R110 billion in offsets. We did not.

10 CHAIRPERSON: Advocate Cane, maybe get to the next question. He is not prepared to answer that question.

ADV CANE: Thank you, Chair and Mr Crawford-Browne, you are very alive to criticism that comes from not answering the questions, because I have explained it at the outset this morning. The next allegation you  
15 make, is that there are three submarines that spend most of their time on the hard at Simon's Town. Now, in relation to the submarines, where does this information come from?

MR CRAWFORD-BROWNE: There is one that has been on the hard since 2007. There is another that has been on the hard for a much  
20 shorter period. There is one, I think, that has really been tied to the key. To a, so one since 2007, one for a shorter time and one that periodically goes for a, for a joyride around False Bay.

ADV CANE: The evidence of Admiral Scholtz, pertaining to the use of the, sorry, he gave the use of the frigates. I need to put to you, the use  
25 of the submarine. Admiral Green's evidence was that, whilst one of the

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submarines had not been operational, because it was being fitted with a new battery, the other two have been operational, actually, on many occasions, both of them were at sea on the same day. That for the record is transcript 152 to 153. You would again, I take it, dismiss that, as not carrying any weight, Mr Crawford-Browne?

MR CRAWFORD-BROWNE: I have no problem that one has been sitting on the hard since 2007. One has also spent another lengthy period on the hard. One of the issues that did arise, right from the onset, was that we did not have the personnel to use these, this equipment. This is one of the issues raised in 1998, 1999 by the Auditor General, that no personnel requirements have been considered. Personnel requirements have not been considered as part of the tendering recommendations, the whole thing. So, we ended up with problems over a variety, because these things were not actually bought for any rational military purpose, but for the bribes.

ADV CANE: And what do you say about Admiral Higgs' evidence that the submarines have been deployed off the coast of Mozambique in anti-piracy operations. The evidence of both Admiral Green and Admiral Higgs that patrolling the economic interests in the 12 mile limit of your national waters and a 200 nautical mile, we are controlling the economic zone with these submarines, was indeed of grave national importance.

MR CRAWFORD-BROWNE: Perhaps we should revert back to the idea of using submarines to protect fish. The issue, at that time, back in 1996 was the Patagonian tooth fish that were under attack. It subsequently became very evidence that all they needed to do was to

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arrest one of the directors, who lived in Bishop's Court, rather than send the submarines down to the [indistinct] in the forties, with the submarine to protect the Patagonian tooth fish. The same thing applies with pirates.

5 ADV CANE: Mr Crawford-Browne, let us stick to fact, rather than fiction, another witness that is ...[intervene]

MR CRAWFORD-BROWNE: That is so and that is fact, rather than fiction.

ADV CANE: Please do not interrupt me. I give you plenty opportunity  
10 to speak and I think, you can extend to me the same courtesy. The evidence of Admiral Scholtz was also, that these submarines were a very important part of the core capability and in fact, Admiral Green expanded on that theme and so did Admiral Howell in stating that they gave a small navy credibility. What must we do with the expert evidence  
15 of all three senior officials of the Navy?

MR CRAWFORD-BROWNE: As I commented in my testimony, one of the Admirals told the defence review, the small Navy gave the, South Africa the ability to give the Americans a bloody nose. Three submarines, to protect South Africa from the Americans, I suggest, we  
20 should make it a better plan. Thank God, the Americans are not about to attack us. But, if they do, we should make another plan.

ADV CANE: Mr Crawford-Browne, given that we have traversed those very allegations yesterday, we would have assumed that you would perhaps have a better answer for me today. But, nonetheless, let me  
25 also refer you to the evidence of Admiral Green. In that regard, if you

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can give me one second. Here it is. Sorry, I have already referred you to what I had in mind, which was the operational capacity of the two submarines. The third submarine, the Manthatisi, had indeed been receiving a new fitment of batteries and it has been published recently in the press, to which I note you have had ample regard, in relation to the equipment, that work has indeed been completed. Are you aware of those press reports and the apparent operational capacity of that submarine?

MR CRAWFORD-BROWNE: It was reported about two months ago that it was about to be complete. I, there has been scanty information since, a few paragraphs here and there. But, yes, about two months ago, I think, it was, they said that they had fitted new batteries.

ADV CANE: Yes. Then, on the 7<sup>th</sup> of October 2014, there was a press release, indicating that that had been successfully completed and that the submarine would now be taking part in a fully fledged naval exercise, starting on the 20<sup>th</sup> of October. You have no reason to contest those facts. Do you?

MR CRAWFORD-BROWNE: In other words, yesterday. No, I have no reason to contest that. There is no problem.

ADV CANE: Let us then, move on to your next allegation, it was paragraph 2.11, which is that there are almost no pilots to fly the Hawk and Gripen. Or you may actually, just be referring to the Gripen aircraft had almost no pilots. So, if you could clarify that and clarify what almost no pilots means.

MR CRAWFORD-BROWNE: The addendum to the minutes of, I think,

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it was May the, May 1999, I think, that we had nine pilots capable of flying the aircraft. That number, I believe, has since fallen further. So, we have bought, well, we bought 28 Gripens. Two somehow, seem to have disappeared between buying and being delivered. So, we only got

5 26. But, we have far too few pilots for all these, all these aircraft that we bought, fully knowing that we did not have pilots for them, or the training capacity to, to develop pilots for them. So, they sit in mothballs, essentially. The Cabinet was warned of this in 1998, 1999 and all of those warnings were ignored and we then embarked on a massive

10 expenditure for aircraft we did not need, when we in fact, already have 50 Cheetah aircraft, many of which, were still lying in crates. It was a huge waste of tax payers' resources.

ADV CANE: Mr Crawford-Browne, if I can just take you up on that last allegation, because you mentioned it yesterday also. From whence

15 does that, that information about the Cheetahs being in crates come from?

MR CRAWFORD-BROWNE: There are references to it in the JIT report. There are references to it in the affordability study. I think, there were references to it in the defence review. It is quite widespread. Of

20 course, they had just been, they had been acquired from Israel in defiance of the UN arms embargo against Apartheid in South Africa. So, they were then being, there were attempts to then export them to countries such as Uruguay. It is essentially our new list.

ADV CANE: You see, the reason why it surprises me ...[intervene]

25 MR CRAWFORD-BROWNE: And Equador, or so ...[intervene]

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ADV CANE: Is because none of the generals that gave evidence, pertaining to the Air Force, mentioned any such thing. I would have thought that General Steyn, who, as you know, had occupied a very senior position in the Air Force, would certainly have mentioned such a  
5 fact, because he made much of this question, of whether the Gripen should be purchased and should replace the Cheetah, at all. But, he made no mention of this allegation of Cheetah being in crates. Does that not surprise you?

MR CRAWFORD-BROWNE: No. It does not, it does not surprise me.  
10 When we have Gripens that are, are in storage, because we do not have pilots, we likewise have Cheetahs that we, we could not use, because we likewise did not have pilots. It does not surprise me. But, it is again, neither here nor there, whether they are in crates or, or [indistinct].

15 ADV CANE: Just explain to me though, other than the JIT report, to which you referred, you would not have any personal knowledge of the Cheetahs. You have not personally seen this phenomenon of Cheetah being stored in crates, have you?

MR CRAWFORD-BROWNE: No. But, it has been reported in the JIT  
20 report, at the defence review, in the affordability study. As you made a lot of it, during your cross-examination of General Steyn, he resigned, because he refused to take account, accounting responsibility for a blatantly obvious inappropriate expenditure of public, of tax payers' money on the, on the combined BAE and BAE/SAAB Gripen package.  
25 He resigned and had the conscious to do so, instead of sprouting

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nonsense that we need Gripens to protect the World Cup, or submarines to protect fish.

ADV CANE: Mr Crawford-Browne, I am having difficulty tracking any trace or sniff, of anything that had to do, remotely, on the question I posed. But, let me move on then and ask you, whether you had any regard to General Bain's evidence, pertaining to the number of air crew members, as at the time he was testifying.

MR CRAWFORD-BROWNE: As at the time he was testifying, I do not know what he said. But, I am very conscious that in 1998 and 1999, the Auditor General reported and then repeated in Parliament, before SCOPA that no consideration had been given to the personnel requirements of either the submarines or the fighter aircraft. This was one of the issues that were raised, before SCOPA, that lead to the whole enquiry, because we were buying equipment with total disregard for the personnel requirement for that equipment.

ADV CANE: Well, then, I am sure you would be pleased to know that some of the evidence before this Commission is indeed, that the choice of equipment was precisely, in order to enable the training of pilots and that indeed, that programme had produced 50 air crew members for the Hawk and 18 air crew members, in respect of the Gripen. Mr Crawford-Browne, since you have no comment to that proposition, let me then take you back to your allegations, pertaining to ...[intervene]

CHAIRPERSON: I am sorry, Advocate Cane, I think maybe, he was not the aware that he will, it was a proposition that was put to him and he needs to comment thereto. Maybe you must give Mr Crawford-

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Browne a chance of commenting to that proposition, I would think.

ADV CANE: As you please, Chair.

MR CRAWFORD-BROWNE: I have no comment to make on it, Sir. It is neither here nor there.

5 CHAIRPERSON: You have no comment to make?

MR CRAWFORD-BROWNE: No. I have no comment to make. As I say, the Auditor General warned Cabinet in 1998, 1999 of the personnel problems and it has already been repeated. It is one thing to train aircrew. How many of them are pilots? How many are appropriate  
10 mechanics? This personnel issue remains. Pilots or, or lower trained personnel, because there is a huge difference between them. This issue is, we do not have enough pilots and the pilots we do have, abandoned the Air Force, to go and fly commercially, because of the difference in pay.

15 CHAIRPERSON: Mr Crawford-Browne, do you understand the proposition?

MR CRAWFORD-BROWNE: Absolutely, I ...[intervene]

CHAIRPERSON: What was the, what was the proposition then?

MR CRAWFORD-BROWNE: That, that more recently, we have trained  
20 so many, so many aircrew. No problem, no problem.

CHAIRPERSON: Advocate Cane, you can go ahead. I am not quite sure what Mr Crawford-Browne is saying. But, then, you can go ahead.

ADV CANE: Thank you, Chair. Mr Crawford-Browne, you mentioned  
25 to the evidence, given by Admiral Green, in this Commission, you have accused him of committing perjury, alternatively misleading Parliament,

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or you suggest perhaps the Sunday Times article, reporting on his report to Parliament was a fabrication. It is to those allegations that I wish now turn. You will find them just above paragraph 2.2. You will get them earlier, return to [indistinct] I might add, so we need to examine them.

5 Are you there?

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

ADV CANE: When Admiral Green gave his evidence in this Commission on the 20<sup>th</sup> of August 2013, you were present at the hearing. Do you confirm that?

10 MR CRAWFORD-BROWNE: I was present for part of it, not all of it, the end of his, of his testimony. I missed most of it.

ADV CANE: And the part of it, for which you were present, towards the end of his testimony, you can see, it pertained exactly to these questions and what was put to him. As a result, you, yourself sought to interject,  
15 because the evidence leader did not, in fact, have the record of the proceedings before Parliament and a record of Admiral Green's report to Parliament. You sought to assist the evidence leaders, by referring them to where they could locate Admiral Green's report to the Parliamentary committee. Do you recall that?

20 MR CRAWFORD-BROWNE: I do. I do. I referred them to the Sunday Times report.

ADV CANE: And so, we know that, in fact, over the, certainly the most pertinent part of the evidence of the day, you were present. Now, that pertinent part is where the evidence leader put allegations that you have  
25 made, to Admiral Green, pertaining to the alleged uselessness of the

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four frigates, the three submarines and seven air craft. Would you confirm you were present?

MR CRAWFORD-BROWNE: Yes. I was present.

ADV CANE: Now, for the moment, I want to draw your attention to  
5 what the Sunday Times article actually says, which is the article you rely  
on as reporting Admiral Green's report to Parliament. If you would like  
to get it out, you will find it at page 262 to 263 of your bundle. I would  
like, for convenience of the Commissioner and for you, to summarise the  
essential allegations, appearing at page 263, which were these that, the  
10 26 new Gripen only clocked 173 hours of flying. That of the four new  
main frigates, only one was operational and of the three new  
submarines, only one was operational. Now, those three allegations  
were not put to Admiral Green by the evidence leader, were they?

MR CRAWFORD-BROWNE: I do not know whether they were or not.

15 ADV CANE: You were present. But, let me remind you, by reading  
what was put to Admiral Green, given that the evidence leader did not  
have the report and as you sought to refer him to the Sunday Times  
article, he indicated he did not have that either. But, what he put to  
Admiral Green, was number one, that there were four frigates, three  
20 submarines, seven aircraft, which were functionally useless. Number  
two, that the Air Force did not have sufficient funds to keep the Hawk  
and Gripen aircraft in the air. Number three, that it was public  
knowledge that the three submarines were not being used, because  
they required repairs, after various mishaps. Number four, that the  
25 wrong engines were fitted into the frigates and would have to be

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replaced at huge expense. Those propositions, for the record, Chair, are at transcript 149 to 150. Now, in dealing with those four propositions, you will see that the allegations in the Sunday Times were not put to Admiral Green. Do you acknowledge that?

5 MR CRAWFORD-BROWNE: I have no problem with that.

ADV CANE: But, you see, I have a problem with it. Because it is on the basis of those propositions that Admiral Green gave his answers and he was never pertinently dealing with the report, upon which you rely, in the Sunday Times. Yet, it is on that basis that you accuse him of  
10 perjury.

MR CRAWFORD-BROWNE: As I say, he tells Parliament one thing, he tells the Commission the other. It is for the Commission to, to try and evaluate the two, which, which makes more sense. But, certainly that the public reporting would indicate that the, the Sunday Times report is  
15 closer to the, closer to the truth.

ADV CANE: But, you see, Mr Crawford-Browne, you are making a comparison, between what Admiral Green reportedly reported to Parliament and his evidence, given in this Commission. But, you have not even checked the evidence, given in this Commission, by looking at  
20 the transcript. You must have known that these allegations were not what Admiral Green was dealing with, because you were present and you, in fact, raised the concern, as to where the evidence leader could find the Sunday Times article. Yet, you recklessly and frivolously accuse a senior naval officer of perjury.

25 MR CRAWFORD-BROWNE: I suggest you had better check out, what

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he actually tells Parliament, together with the, the members of that committee in Parliament, including, for instance, David Maynier, who is the Shadow Minister of Defence. There are a number of occasions, when it has come to light, publically, that the equipment is in very sad  
5 state of affairs. It is one thing to say one thing in Cape Town ...[intervene]

ADV CANE: Well ...[intervene]

MR CRAWFORD-BROWNE: Another thing in Pretoria ...[intervene]

ADV CANE: Sorry. Let me interrupt you. I really do want you to deal  
10 with the issue. The issue is that you have accused Admiral Green of perjury. I put it to you that you have done so recklessly and frivolously. Why did you not check the transcript, you were present on the day, to ensure that, before making such a serious allegation, it was sustainable.

MR CRAWFORD-BROWNE: It is for the Commission to try to balance  
15 the two very conflicting testimonies, not for me. The two are irreconcilable and it is not for me to actually try to balance them. It is public perception, repeatedly reported that the equipment is not being used, under utilised and so forth, which is actually, the second terms of reference ...[intervene]

20 CHAIRPERSON: Mr Terry Crawford-Browne, can you try and answer the question ...[intervene]

MR CRAWFORD-BROWNE: The two ...[intervene]

CHAIRPERSON: It is not the question that Advocate Browne put to you. Just try and answer the question that she put to you.

25 MR CRAWFORD-BROWNE: That, that, my answer is that the two

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testimonies are irreconcilable and it is for the Commission to try and find a balance between them, not for me. I am simply reporting as a member Parliament that these two testimonies in Parliament, as a member of public, that these two testimonies in Parliament and the  
5 testimony to the Commission are irreconcilable.

CHAIRPERSON: Advocate Cane, can you perhaps put the question again?

ADV CANE: Certainly, Chair. Mr Terry Crawford-Browne, you cannot state that the two testimonies are irreconcilable, if they are dealing with  
10 different propositions and the propositions reported by the Sunday Times, were not put to Admiral Green. So, I put it to you again, that you make allegations recklessly and frivolously.

MR CRAWFORD-BROWNE: I deny it. This is a matter of public record, that the Sunday Times has reported that the state of the SANDF  
15 is a disaster. It is repeated elsewhere. It is for the ...[intervene]

ADV CANE: Mr Crawford-Browne, please turn to page 69 of your statement. I want to deal with paragraph 6.94. Paragraph 6.94, do you have it?

MR CRAWFORD-BROWNE: No. Not yet, 69, [indistinct]. 6.94, yes, I  
20 do.

COMMISSIONER MUSI: Just, just hold on.

ADV CANE: You urged the Commission to recommend that the Armsdeal contracts be cancelled and their loan agreements and that the costs and compensation from the European Export credit agencies be  
25 sought. Presumably, you have said then, that the equipment should be

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returned and that would leave the Republic without a capacity to defend and protect, or to fulfil the Constitutional mandate in Section 200 of the Constitution. Do you accept that would be the consequence of your recommendation?

5 MR CRAWFORD-BROWNE: The internationally accepted remedy for fraud is return the, return the goods. The second aspect of that is, that if those goods are returned, it is neither here nor there, because most of the time, they are not in use.

ADV CANE: Now, presumably, if the Republic were successful in  
10 recovering one cent from the parties, to whom you refer, you would oppose that any portion of that, be spent on defence equipment.

MR CRAWFORD-BROWNE: On the contrary. As a member of the defence review in Parliament, we were saying we need a coast guard operation. It is a different thing entirely, from the Navy. That refund  
15 could, in fact, be properly invested on equipment that we need, instead of equipment that has been a complete waste of time and would be acquired, approximately at 10 per cent of the cost.

ADV CANE: You see, now, Mr Crawford-Browne, you are prepared to make very far reaching statements and extremely broad statements,  
20 well beyond your area of expertise. The core force and force designed in 1998 has been described by witnesses, who are experts, before this Commission, as being the very minimum required, in order to have a defence capability. Yet, you are prepared, without expertise, to recommend a course of conduct, on the basis of what you have just  
25 alleged. I am putting it to you that you have absolutely no basis to

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suggest that what was acquired was anything other than the minimum core force and what is required, in terms of our Constitution.

MR CRAWFORD-BROWNE: As came out, during the defence review, the core force list was little more than a wish list and Parliament specifically said, Parliamentary authority would be required, if and when  
5 money became available. We know, from the Treasury analysis, none, funds were not available and therefore, this scheme of offsets had to be created, but in terms of the Constitutional issues, I again, refer you to Section 198 of the Constitution, which sets out the following principals,  
10 regarding national security and they trump issues of equipment that we do not need and we cannot afford.

ADV CANE: Mr Crawford-Browne, again, I must refer you to the countless evidence, before this Commission, of numerous witnesses that the force required, the equipment required was indeed, extremely  
15 modest and that without that very minimum capability, the Constitutional mandate could not be fulfilled. You have no expertise to second guess that, do you?

MR CRAWFORD-BROWNE: The reality is, as we have just been discussing is that the equipment is not being used, because we do not  
20 have the pilots to fly the aircraft, et cetera, et cetera. As we went through the other, the previous day, during Mr Kasril's testimony, there was a long discussion, between him and Advocate Lebala, about the confidence trick to pull on South Africans, because we did not have the money and some scheme had to be fabricated, to pretend that we could  
25 afford it, by way of offsets. That the more we spend the more we get

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back in offsets. So, in R30 billion, we get R110 billion back. That was a confidence trick, pulled on South Africans, to try and disguise the fact, we could not afford this equipment.

ADV CANE: Do you have any recollection or knowledge, at all, as to  
5 what I asked you?

MR CRAWFORD-BROWNE: Absolutely. The core force said we did not have the money, we, that Parliament would have to be consulted, the defence review said Parliament would have to be consulted and the core force, the core force list was little more than, approval in principal,  
10 but would then have required further Parliamentary authority, which was never obtained.

ADV CANE: Mr Crawford-Browne, again, you are giving a speech, which would have absolutely nothing to do with the question. Would you mind listening to the question? Maybe, we would be able draw this to a  
15 close. I put to you that you had no expertise, pertaining to the acquisition, or choice of equipment required, to constitute a core force.

MR CRAWFORD-BROWNE: As you have heard from testimony from Pierre Steyn, he refused to take responsibility for the BAE acquisitions. We have heard, we do not have pilots to fly them. Those were way  
20 beyond the core force approvals, within the defence review, which even themselves, said this is only an approval in principal, because we do not have the money.

CHAIRPERSON: I am sorry, Advocate Cane, can you try for the last time. Put your question for the last time. Let us see if we can get an  
25 answer.

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ADV CANE: Thank you. Let me try once more, Mr Crawford-Browne. What expertise do you have, to assess what equipment constitutes a core force, appropriate to defending and protecting South Africa?

MR CRAWFORD-BROWNE: I was there, as a member of civil society,  
5 where the issue was the eradication of, or at least, that there would be addressing of poverty. That remains the major security issue in South Africa, not pirates or sending submarines up the Congo River. Civil, defence issues go far beyond simply a military mentality and so, that is why civil society was invited to participate in the defence review. We  
10 were saying, human security, not military security should be taking priority, in the post Apartheid South Africa. But, as we had seen the consequences of extravagant expenditures, during the Apartheid era, that in fact, bankrupted the country.

ADV CANE: Mr Crawford-Browne, you had sufficient opportunity to  
15 answer the very simple question and you repeatedly declined to engage it. Let me conclude, when you came to this Commission on the 20<sup>th</sup> of August 2013, you presented an application to this Commission to stop the inquiry and the hearing of any further evidence, on the basis that the allegations that you have made, were sufficient to mean that no further  
20 investigation was required and that the Commission were to, just on the basis of your allegations be in a position to make a report. Today and yesterday, you have refused to engage with the questions. You have your foregone views, which you will not subject to testing. You have persistence, persisted with that attitude, which is exactly the attitude you  
25 have held on 20 August 2013. So, I am going to put it to you that your

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evidence and allegations are really matters, which are, you refuse to be tested. You sidestep the questions and you expect this Commission to simply adopt your view points, contrary to all the evidence to the contrary.

5 MR CRAWFORD-BROWNE: You may wish to take that view. As I say, it is not my answers that are a problem, they are your questions that do not confirm to the terms of reference of the Commission. We did not get R110 billion in offsets. We did not get the jobs. We did not get the technology. The fifth item was, were there any improper influences and  
10 the answer to that is, yes, as the Germans had confirmed, offsets were simply vehicles to pay bribes.

ADV CANE: And finally, in the course of pursuing your agenda, you are prepared to name and shame and cast dispersions against high profile people and you do so recklessly and without due regard to the  
15 evidence before the Commission.

MR CRAWFORD-BROWNE: On the contrary, the whole acquisition project was reckless, as the affordability found.

ADV CANE: Thank you, Chair.

CHAIRPERSON: Thank you. Let me find out, before we get to the get  
20 to the next step, Mr Chowe, for how long do you think you are going to busy with Mr Crawford-Brown?

MR CHOWE: Thank you, Chairperson. I think, not more than 40 minutes.

CHAIRPERSON: Not more than 40 minutes. Advocate Moerane, I  
25 suppose you are going to come and cross-examine.

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ADV MOERANE: That is correct, Chairperson.

CHAIRPERSON: More or less, how long do you think it will take?

ADV MOERANE: Chairperson, I, I have been sitting and listening to the particular witness, with this particular witness, it is very difficult to  
5 know. I think, that is all, I am afraid, at this stage, but possibly, possibly not more than two hours.

CHAIRPERSON: Not more than two hours. Thank you.

MR CRAWFORD-BROWNE: We have a plane to catch.

CHAIRPERSON: Excuse me?

10 MR CRAWFORD-BROWNE: Could I, I have a plane to catch. But, could, may I request that I could leave the room for a few minutes?

CHAIRPERSON: Okay. In that case, we are going to adjourn. Mr Crawford-Browne, unfortunately, we would have to sit to the end, until we finish your evidence. If you can maybe re-arrange your flight back to  
15 Cape Town, that might be helpful, because I want still continue, to finish your cross-examination. We will adjourn now, to give you a chance to do whatever you need to do and we will come back after 15 to 10 minutes. Thank you.

**(COMMISSION ADJOURNS)**

20 **(COMMISSION RESUMES)**

CHAIRPERSON: Mr Browne, Crawford-Brown, do confirm that you are still under oath and if you, say I do?

MR CRAWFORD-BROWNE: I do.

CHAIRPERSON: Yes, Mr Chowe?

25 MR CHOWE: Thank you, Mr Chair. Mr Crawford-Browne, just a few

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issues from the DTI, regarding the issue of offsets, as you politely commented about them and the criticism that you have had. If from your own statement, you suggest, or actually, you do not suggest, you have emphasized that there was no real need for the weapons, or for the arms, if I may use the word, but that there was actually a need to have vehicle for bribes. What informs you?

**MR CRAWFORD-BROWNE:** Okay. The issue is that the offsets are what motivated the acquisitions and offsets have a long standing reputation for malpractices, including bribes.

10 **MR CHOWE:** So, in your view, there was a need for arm manufacturer to pay bribes, nothing else.

**MR CRAWFORD-BROWNE:** There was a need, in the circumstances, for arms manufacturers to find new markets and South Africa became that guinea pig.

15 **MR CHOWE:** So, in your view then, is that there was a need to market arms and in that, use the vehicle of offsets to pay bribes.

**MR CRAWFORD-BROWNE:** Yes. That too much pressure were exerted on our government to buy weapons, by the European arms companies, in conjuncture with their governments and they used offsets as the lure.

**MR CHOWE:** Without repeating what the senior council, that pertains to the details, there is already information before this Commission for the need for the arms and I am not going to go the territory, but I must indicate to you that the DTI would definitely stand by that, this acquisition, this acquisition, being that there was a need for arms.

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MR CRAWFORD-BROWNE: The defence review have found that, yes, there was some equipment needed, but that we had gone, my, my point is that we were way, way beyond both what the defence review is suggested, through the core force and the affordability. We could not  
5 afford it.

MR CHOWE: So, what you suggest is that, you have a serious grudge, to the effect that we went overboard, that is an overkill of buying arms. We would have needed arms. But, we went beyond that.

MR CRAWFORD-BROWNE: We went way beyond. As is the Treasury  
10 memo of 1998 says, we could only naturally afford R1.4 billion a year. Instead we six, two months later, began a package that, even at that point, was R30 billion. So, we went way, way overboard and we dressed it up, with the more we spend, the more we would get back in offsets.

15 MR CHOWE: Now, Mr Crawford-Browne, I had a misunderstanding of your standpoint. I thought you said we do not need arms. So, what actually, your view point is that, we need, we needed arms, but not at the scale that, which we purchased.

MR CRAWFORD-BROWNE: Both. Not at the scale that we  
20 purchases, but more particularly, the kinds of arms that we acquired, were inappropriate. One of the issues was that, for instance, for the Navy, instead of a Navy, we needed a coast guard operation, which was deep fisheries protection, sea rescue services and that kind of thing. It is a, a form of defence, dramatically cheaper and much more effective,  
25 in circumstances, such as ours. So, it would have been far, far cheaper

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than the equipment that we actually bought.

MR CHOWE: Without trying to enter into a debate of the weight of common cause, so it is common cause between, I would suggest, the government, at the time and for instance yourself that there was a need  
5 for arms. But, what then separated you is the scale at which we should buy.

MR CRAWFORD-BROWNE: It is the scale, but there was also the culture. A coast guard, I would suggest, is more of a policing function, than a military function. A military function to deep sea fisheries, for  
10 instance, is a contradiction in terms. So, we will say that a coast guard operation is appropriate for both, for the circumstances and for our financial needs, for our financial reality.

MR CHOWE: Then, going back to, or rather proceeding now, to the issue of the benchmark, which was supposed to be brought by the late  
15 Minister Joe Modise. I do agree with you that, in the opening address, Advocate Aboobaker then put this, as an impossible benchmark. Are you aware that this particular benchmark, in itself, it was just an estimation, which should, and must have been seen as subject to change?

20 MR CRAWFORD-BROWNE: Yes. The benchmark of R110 billion, resulted from Mr Modise's budget speech in March 1999. It was then very soon scaled to R104 billion, instead of R110 billion. But, nonetheless, there was this ratio of how many offsets we would get. One of the components of offsets, for instance, said you would get  
25 R4.00 for every rand spent. That is where, where there is a beginning of

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diversion that, in fact, it was, it was, not only wishful thinking, it was totally absurd.

MR CHOWE: Yes. But the, the centre of what I would like to hear from you, if you would like, is that, despite the fact that the Ministers set  
5 these figures, they were indeed, projections. Do I seem to, to hear you saying, yes, you agree, because they did scale down, as time went on?

MR CRAWFORD-BROWNE: There were projections, yes. But, on the other hand, that statement also says these projections of R110 billion have been very carefully analysed by the Department of Trade and  
10 Industry and others. They certified that these, these are realistic and where, at the defence review will say this is absolute nonsense.

MR CHOWE: Have ever seen a statement of the former Minister, or the late Minister, are you aware of a sentence where he actually mentions that the different State departments involved are working on  
15 these proposals and calculating them. I can refer you to that sentence. Are you aware of that?

MR CRAWFORD-BROWNE: Yes. It is included in his budget speech. I mean, Advocate Aboobaker quoted certain paragraphs of it. I have quoted a few more, in my written submission of June 2012. So, I think,  
20 ja, other departments were also looking at it and he also says that there are people, who are saying this is wishful thinking.

MR CHOWE: Now, having, I do not say, go on to say we have agreed. But, having discussed the issue of the projection that indeed, these were projections is it really fair to say to this Commission these  
25 projections must be the benchmark? They must be the ones, with which

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the Commission must concern itself, if they want to measure the successes of the offsets.

MR CRAWFORD-BROWNE: I think, it would be quite flexible on a 110 or 104 or 90 or whatever. The reality is, we spent a huge amount of  
5 money on equipment that I would argue, we did not need. We could not afford and we did not get any, anything like the offsets that were projected. In fact, as the affordability study pointed out, the offsets were a very risky proposition, it could not be guaranteed and the negative consequences of the acquisitions would be job losses.

10 MR CHOWE: Mr Crawford-Browne in the estimation, which the Minister put forward, would you agree that these estimations were both the so-called DIP's, Defence Industry Participation Programme and the NIP's, they were both included in these estimations?

MR CRAWFORD-BROWNE: That is correct. They were split 84 to 16  
15 per cent, 86 to 14 per cent, between the DIP's and NIP's.

MR CHOWE: Now, I would like to move to your supposition that, for instance, when one has to equate the estimations, which me and you agree, they were estimations, to the person, buying for R30.00 and getting R110.00 back. Do you still recall that?

20 MR CRAWFORD-BROWNE: Absolutely, I used it to illustrate the absurdity of it all.

MR CHOWE: But, Mr Crawford-Browne, is it really, the right equation, which one should draw, with the offsets? Is it really the correct way?

MR CRAWFORD-BROWNE: Well, if the, you would like to amend the  
25 figures to say if you spend R30 billion, you get R30 billion back, the

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same principal would apply. So, it is immaterial, whether it is R110 billion or R90 billion, or whatever. The fact that the, your, you are expecting to recoup your expenditure by more investments that you are spending, just, just does not make any economic sense.

5 MR CHOWE: Let me put another view to your supposition of the R30.00 then R110.00. It has been some practice of certain shops, banks and other trading entities, that they would for instance say, if you buy from me, goods worth R30.00, I would give you loyalty points, worth R10.00. As those loyalty points become more, you are likely to get a  
10 discount from me. I am using that supposition. I am not saying it happens. Is it the same as having purchased for R30.00 and getting your R110.00 back?

MR CRAWFORD-BROWNE: They are not quite. Ja. Because the scales are the other way around and very much smaller, that you might  
15 get a one or a 10 per cent discount in future, not a 400 per cent premium.

MR CHOWE: So, what I am suggesting is that maybe, it is too far, a comparison for you to make, that if you buy with R30.00, you will get a change of R110.00. It is rather closer to say, you buy for R30.00 and  
20 you get credits, which you might use, in future. Is it that, not that closer comparison?

MR CRAWFORD-BROWNE: Even that is inappropriate, because you are, you are comparing, for instance, a retailing issue with loyalty points, whereas a, an arms manufacturer has no expertise whatsoever in, well,  
25 any variety of our industries, from, from silver then to gold producing, to

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gold bullion, to jewellery, et cetera. So, to put it, to pull BAE into a gold milling thing, or submarine producer into a steel mill, there are some huge logistical differences.

MR CHOWE: With regards to the, I am aware of your background as a  
5 banker, Mr Crawford-Browne, if a person, or an individual or a state is asking some companies to invest in his country, in your view, does it mean that those investments must immediately give spin offs, which can be calculated immediately? Or do you suggest that some of these investments might take time to realise?

10 MR CRAWFORD-BROWNE: An accepted practice would be that those investments should be a stand alone issue. It is not a barter arrangement that you scratch my back and I will scratch yours.

MR CHOWE: Alright. Then, let us go to the issue of scratching ones  
15 back and being scratched also. The NIP policy of the South African government, as it stands, are you aware that such policy has been sanctioned by Cabinet?

MR CRAWFORD-BROWNE: It was, it was adopted in November  
20 1997, as the Industrial Participation Programme and there was a history that started off, during the Apartheid era, as a means of sanctions busting and has gone through various different stages, since then. But, yes, the, the National Industrial Participation Project is November 1997.

MR CHOWE: So, having agreed that indeed, it is part of the, the policy of the government, would it be fair to say that, if a policy has been sanctioned at Cabinet, then one cannot use it?

25 MR CRAWFORD-BROWNE: The issue, I would say, or suggest is that

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that policy was incompatible with the Constitution, regarding government procurements and specifically Section 217 (1) and subsequently also, with the Project Finance Management Act, the Public Finance Management Act.

5 MR CHOWE: My difficulty with your answer, Mr Crawford-Browne is that, are you suggesting then, that the Constitution of this country would not allow such a policy to exist?

MR CRAWFORD-BROWNE: Precisely, that is the whole crux of my submission to this Commission that offsets were unconstitutional and I  
10 expect that the, the reality is that they also became fraudulent. But, in the first instance, they were unconstitutional, right from the start, because they did not comply with Section 217 (1) of the Constitution.

MR CHOWE: As me and you sit here, there is no declaratory, to the effect that those policies are in position. Me and you are not aware of  
15 such a court order, or even the decision by any competent body.

MR CRAWFORD-BROWNE: This was the issue, an issue I raised, during the defence obviously, while there and this is the issue I am raising now, at the Commission and why I have appended a legal opinion by Advocate Geoff Budlender, who argues these issues and he  
20 is saying that the offsets failed to the requirement for a [indistinct] and the various criteria like that. He is not saying that that must inherently means they are fraudulent, but they failed the system.

MR CHOWE: Yes. But, what I wanted to hear from you, Mr Crawford-Browne is whether, am I correct to say, as me and you sit here, there is  
25 no declaratory to say that the NIP policy, as adopted, is unconstitutional.

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It still stands.

MR CRAWFORD-BROWNE: That is still the government's policy and, which I suggest is in various of the requirements in the Constitution.

MR CHOWE: And one can only come with an argument of  
5 unconstitutionality, once one has taken steps, either to be an application to the, to the relevant court or to maybe through Parliament or other processes to be declared unconstitutional. That is the only way rid of the policy, I would suggest.

MR CRAWFORD-BROWNE: And this is the issue that I brought to the  
10 Commission, the Commission to consider this and to advise the President accordingly.

MR CHOWE: What I am getting to, Mr Crawford-Browne is that, as we stand, the policy is not unconstitutional. That is the basis of what me and you are exchanging.

MR CRAWFORD-BROWNE: And in trying to be [indistinct] however,  
15 this has been something that has been ongoing, since the defence review, when it was pointed out that it was unconstitutional, that it was not tested. There has been a huge cover up, not only of that aspect, but all of the later things that come with it. The point was made back in, the  
20 1990's that, that it was unconstitutional, but no one would, everyone thought they could brushed it aside and got over it.

MR CHOWE: Have you respected the view of my clients, in this regard, regarding the unconstitutionality or constitutionality of the, of the NIP policy as it stands? Their view is that they were not prohibited by  
25 any law, including the supreme law of this country to actually use the

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offsets. It was never an issue.

MR CRAWFORD-BROWNE: The logic of offsets, I would suggest is totally incompatible with the logic of Section 217 and also the logic of the Public Finance Management Act that sets out that Treasury operations must conform to that section of the Constitution, 217 and so, the DTI has driven this on even, and, and it is not just our own constitutional thing, requirements. Internationally, the World Trade Organisation also has a very, very negative view of offsets, because of the market distortions, the corruption and so forth, that are associated with them.

MR CHOWE: I would agree with you, that those are mere opinions and mere commentary and maybe even negative opinions regarding that. Those, that is how far, in this country we can go?

MR CRAWFORD-BROWNE: The negative opinions, based on experience internationally, and have also formed the familiar foundations of the affordability study that went to Cabinet to say that these whole offset questions are very uncertain. They cannot begin to [indistinct] and was compounded by the fact, that when in the defence review, we asked for details of them, we were told, no. These are commercially confidential and it was not just us, as, in the defence review, this, they were even brought to general.

MR CHOWE: Mr Crawford-Browne, we, we must, be able to agree on that issue and I hear you, on your opinion. But, what stands before this Commission and it has been the evidence of the officials from the DTI that that policy is there and I have given reasons, why it is not

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unconstitutional.

MR CRAWFORD-BROWNE: I would suggest it is unconstitutional, but it, but I would even further that the reality is we did not get the offset promises and that is the proof of the pudding.

5 MR CHOWE: Mr Crawford-Browne, then let us move from the constitutionality or otherwise of the offsets and maybe to the issue of whether the offsets themselves equates to bribery or not, or commissions and so on. My instructions and including the evidence before this Commission is that most of these investments, I do not know  
10 whether should we call them commissions or what. But, let me restrict myself to the offsets investments, that those were recorded, properly so and there is documentary proof to their existence. Would you agree to it?

MR CRAWFORD-BROWNE: There are the reports from Parliament  
15 once a year, with very little substantiation to them. This is part of the problem. As I say, when the Auditor General enquired, during the JIT report, his investigations were blocked on the basis that they were secret, Parliamentarians were blocked. We had a long period, where DTI insisted there was, everything was beautiful. Only very recently has  
20 that begun to change and the audit report has confirmed that standard auditing practices were dismally failed, dismally failed.

MR CHOWE: Mr Crawford-Browne, I hear your comments and your excuse about some other issues collected. What I wanted to know from you and we need to hear you on that, is that will you agree that these  
25 investments are actually recorded and the DTI have records of this? Let

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us, let us restrict ourselves to that. I understand your opinion there on and the negative comment of that, which maybe it is justified, maybe it is justified. But, I am just asking you, whether, do you agree with me that these investments are recorded and there is documentary proof of that?

5 MR CRAWFORD-BROWNE: There are many of those investments that were recorded by DTI. But, the people, who would actually recall it as being offsets, deny that entirely. There is quite a lot of evidence to that effect. It is anecdotal, it is media investigations, because we just could not get anything out of DTI to support the contention that  
10 everything was beautiful.

MR CHOWE: Maybe, let me rather say, you say, some were recorded. At least, you do agree that there was recording. Having conceded to this recording, if indeed, a person or an answering factor, or a government official, or a State department wanted to commit fraud and  
15 bribery, both of which are crimes, why we document such things?

MR CRAWFORD-BROWNE: There were listed offsets, projects and I can cite on particular one, in Durban, where the company was encouraged by DTI to vastly expand its premises, take on new staff, borrow funds, guaranteed by one of the contractors. The contractor  
20 then demanded 80 per cent equity in the company. When the company's, and the company's directors refused to give up that, and give away their company, the LC contract then recalled its guarantees. The bank then, recalled its overdraft facilities. The whole thing collapsed. This is the kind of behaviour that people faced, when they  
25 got involved in offsets. This is one example of it. But, I can number,

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there are many, many others I would like to give you as well.

MR CHOWE: Yes. I hear the, the comments, which you make, Mr Crawford-Browne. But, what I am interested in, is that, maybe let me say this. This question is premised by the fact that, if a person is, if you  
5 have bound to really hide some money and bribery and that, all which is crime. My question is, why would you record that, especially through official government documents and say this is the amount, I received from x, this is the amount, I received from y and z? If really, you wanted to commit fraud, why would you record this? What is your main reason?

10 MR CRAWFORD-BROWNE: The supposition would be, that it would be not be followed up and investigated and when officials are seconded from overseas governments to block such investigations, that is where it becomes hugely, hugely problematical. That is the reality we faced here, that overseas government officials, were there to block any  
15 investigation by the Auditor General, Parliamentarians and others.

MR CHOWE: But, you know, Mr Crawford-Browne, you say the, it is on the supposition that there might not be investigations. But, then it went further, these figures and these documents, were later then, made available, to those who govern us, in Parliament, even to opposition  
20 parties. They were made available to them. If really, the supposition was that maybe there will not be investigation, why go the further mile and even disclose it, if indeed, there was bribery and fraud intended?

MR CRAWFORD-BROWNE: The report says you relayed to Parliament a very, very minimal and skimpy inner detail. I think, it was  
25 probably the first report that was made. When we challenged it, before

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the Parliamentary Committee for Trade and Industry, the response was, the Committee did not have the capacity to follow up. So, even in Parliament, there simply was not the capacity to order an audit, whether we were getting the offsets. Many of the Members of Parliament just

5 shook their head in bewilderment, as to how we were getting sucked into something, we could not audit or manage and this is one of the, the major objections about offsets. They are virtually impossible to manage.

MR CHOWE: What I am getting to, Mr Crawford-Browne is to put this to you, that the Department of Trade and Industry denies that there was

10 ever an intention of offsets being treated as bribery in the cover. They are denying that and before this Commission, there is ample evidence to support that and that, whatever suppositions you have, of fraud, bribery, offsets being used a vehicle, that is baseless, that needs to be rejected by this Commission.

15 MR CRAWFORD-BROWNE: I agree entirely that DTI would have no intention of hanging a sign around their necks to say offsets were a recipe for bribes. But, that is the motivation of the overseas contractors and we have the German report that says so that they were a vehicle to pay bribes. So, it is the overseas contractor, who has in fact, no

20 intention of complying with its offset obligations.

MR CHOWE: So, do I hear you correctly then, to say this Commission must never point a finger at the DTI, or accused of offsets. But, rather, they must be seen as innocent players to a tune of someone, who really wanted to be fraudulent, without their knowledge.

25 MR CRAWFORD-BROWNE: Well, I would use the word naïve. Sadly,

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they were, they were the subject of a massive confidence trick, played by an industry, which is internationally notorious for the use of corruption. DTI fell for that and was naïve, when they swallowed the idea of offsets.

5 MR CHOWE: Then, Mr Crawford-Browne, just go to, I value your knowledge as a banker, if you will assist me. In offsets, I would suggest that the Commission is aware that there are documents in the DTI's bundle, setting out how these calculations were done and so on and so forth. Will you agree that the so-called credit methodology, when you  
10 credit for an investment, it did not necessarily mean that that credit itself is sums in money? Are you aware of it?

MR CRAWFORD-BROWNE: Yes. It, it initiated on the, the initial stages it was on a one to one ratio. It then multiplied as other facts were then introduced and that even compounded the problems further.

15 MR CHOWE: Yes. We will come to that. But, but, me and you are ad idem that, that is indeed the calculations of the credits.

MR CRAWFORD-BROWNE: Yes.

MR CHOWE: That was not real cash, which a company, for instance, will get back, after having invested.

20 MR CRAWFORD-BROWNE: Sure, they will, yes, that is, that is the problem. That is my problem.

MR CHOWE: Maybe, before we go any further. I would like to address the opinion of the learned Senior Council Budlender. That particular opinion, as I read it, it does not say, for instance, that there is  
25 outright corruption in the Armsdeal. It does not say so.

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MR CRAWFORD-BROWNE: He is very, very cautious in this and very deliberately so, to say that offsets failed the requirements of the system, in terms of 217, that they were not transparent, competitive and cost effective. That is the essence of what he was commissioned to investigate. It failed the requirements of the system, in terms of Section 5 217, so which would then make it unconstitutional. The issue of a fraud is a second step.

MR CHOWE: Let us go to the issue of suggesting that the opinion says it is the, the offsets are unconstitutional. Am I correct to interpret 10 the opinion of the senior council to say there must first be a funding, that indeed, there was corruption? Does the opinion not suggest that?

MR CRAWFORD-BROWNE: That is where we moved to the issue of fraud and of course, through civil society, through the DTI and so, through the defence review, we have been endeavouring, since 15 ...[intervene]

CHAIRPERSON: Sir, let us try, I am not quite sure, whether, trying to explain that opinion is going to be helpful at all. It is just an opinion from council and it is not evidence. So, you know, whatever, Mr Crawford-Browne's opinion is about his council's opinion, I am not quite sure if 20 that is going to help us. Maybe, let us get to the next point and leave out the questions of the, of that opinion.

MR CHOWE: Thank you, Chair. That is, I would suggest that is, that is indeed so. Mr Crawford-Browne, in your statement, I only remember that it is in paragraph 1.4, I am not sure which page would be 1.4 of your 25 statement. It would be page 10, Mr Crawford-Browne. Maybe, I can

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just read to the record. It says:

*"I repeat that final sentence. What was actually delivered in terms of the offsets and jobs is therefore, to be tested against benchmark. Predictably, the offsets did not materialise as the Department of Trade and Industry, the DTI, now concedes. The whole process was*

5 *fraudulent. Everything else, including the bribes is a mere commentary."*

The fact that you contend that the DTI has conceded that there was no notarisation of these offsets, where do you get this? Sorry, Mr Crawford-Browne, maybe I must just make it clear. Who conceded

10 these facts, which you are testifying to?

MR CRAWFORD-BROWNE: The reports that, up I think, it was 2011, DTI was claiming that the various contractors had not only met, but exceeded their, their commitments. From 2012 on, there is a very different story from Minister Rob Davies, that in fact, we had not

15 received those, those offsets and that the multiplier of that, in fact, was, was, not an inappropriate, unauthorised in terms of DTI policies. So, this multiplier effect was used to create a, a report to Parliament over many, many years that the offset have been, not only met, but also exceeded. It was from May 2012, I think, when Minister Rob Davies actually began

20 to concede that that, in fact, was false.

MR CHOWE: Maybe, before we go any further, Mr Crawford-Browne, when, I get confused and maybe there is a misunderstanding. When one says there was no materialisation of the offsets, that it, the offsets did not materialise, do you mean that there were no investments at all,

25 or what you intend to say is that the investments might have been there,

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but nothing can be shown?

MR CRAWFORD-BROWNE: As the Audit report that finally came out to the public, earlier this year had found, the documentation of the DTI were such, that there were no, the, the reporting, the whole auditing  
5 system was inadequate. The best assessment, best estimate that we have got to follow offsets we received, at best, was mainly the R6 billion, only a few thousand jobs, instead of the 65 000 jobs. So, if we got any, any offsets at all, they were minimal and even those estimates are challenged, because in many, in many instances they were jobs saved,  
10 rather than jobs created.

MR CHOWE: So, you are not saying that the investment did not, or the offsets did not materialise. You have an issue in that they were minimal. Because your statement says they did not and seemingly, subscribed to the concession made by the DTI. So, that is incorrect.  
15 Must I read it as it corrected?

MR CRAWFORD-BROWNE: No. I think, if we are talking about, we are expecting R110 billion and we get R6 billion, instead, we, well, you cannot. We did not get and the negative consequences that flowed from this whole scheme, not only, had major economic impact, but also  
20 resulted in job losses. Because the NIP, instead of job creation, so, on balance, the whole scheme of offsets, which drove the arms acquisitions had huge, negative consequences for the whole of South Africa.

CHAIRPERSON: Just for my own understanding. Mr Crawford-Browne, just for my own understanding, these statements that predicted  
25 the offsets did not materialise, as the Department of Trade and Industry,

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DTI, now concedes. The question is, who conceded that the offsets did not materialise, when, and what proof they have of, about that?

MR CRAWFORD-BROWNE: We have reports in the media. Yes, in the media of Minister Davies, reporting to Parliament. Even prior to that, 5 the former Minister of Defence, Mr Lekota, conceded that, instead of the 65 000 jobs, we would, at best, we were going to get about 13 000 jobs. So, the whole expectations have been scaled back, since 1999, when civil society, the media, started challenging DTI to produce evidence of offsets. The, the prime one, of course is the Kouga Stainless Steel 10 plant, that is the most recent ...[intervene]

CHAIRPERSON: Just hold on, Mr Crawford-Browne. I was asking, where can we find proof of the fact that Mr Rob Davies conceded that the offsets did not materialise? I want full details about that, because I want to follow it up.

15 MR CRAWFORD-BROWNE: I think, I think, then you will have to look to the media reports of what happened in Parliament in, in 2012. I think, it is May 2012.

CHAIRPERSON: Which media report would reflect that?

MR CRAWFORD-BROWNE: Cape Town, I am familiar with, there 20 would be many other medias, as well, who would have reported that.

CHAIRPERSON: So, I must go and check out all the media reports of 2012, for us to get that, you know, for us to try and determine whether that statement is correct, or not.

MR CRAWFORD-BROWNE: I have quoted one of the reports by 25 Powell, in full, in my written submission in June 2012. The Mail and

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Guardian has also written extensively on this.

CHAIRPERSON: Beside the media reports, you are unable to give us any other proof, which can substantiate the statement.

MR CRAWFORD-BROWNE: This is exactly the problem. When civil  
5 society demanded proof, we were told we could not have it.

CHAIRPERSON: Okay. Thank you.

MR CHOWE: Thank you, Mr Chairperson. Mr Crawford-Browne, the essence of, I would suggest one thing, the Commissioner would like to know, is what you detailed in paragraph 1.4, to say that the offsets did  
10 not materialise. Maybe, without getting into an argument with you, regarding that issue, the evidence before this Commission is that, the offsets did materialise. That is a fact and it has been supported by documentation. Maybe, before you answer, you have referred to a report, which was compiled by the DTI, which shows inaccuracies and  
15 other issues. Can I refer you to page 291 of your bundle, the DTI report? 298 not 291. Mr Crawford-Browne, if you do have that page. Thank you. At the top of that page, I can maybe just read to you, what the report says and maybe then you can comment after. It says:

*"Based on the audit test conducted, it was noted that the NIP credits  
20 awarded to the defence were those, with respect to investments, low costings and net, export revenues were valid, accurate and complete.*

*The conclusion was based on the following assessment:*

- *Accurate. In a sense that they are consistent with supporting documentation, submitted by the [indistinct] and calculations were  
25 consistent with the prescribed paying calculations that were used.*

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- *Valid. That they are consistent with the deliverance, prescribed in the NIP projects versus plans and other decisions that were taken in the IPCC meetings.*
- *Complete. All relevant supporting documentation and information*  
5 *was recorded and attached in the claim files.”*

So, what I would like you to, to comment on is there inaccuracies, which you are putting before this Commission? If this report, let me say, this report was done by the internal audit, by the DTI and you say, it says, it says there were inaccuracies. Can, can you maybe comment, based on  
10 what I have just read into record?

MR CRAWFORD-BROWNE: Yes. If you will skip a few more pages, to for instance, page 296.

MR CHOWE: I am there, Sir.

MR CRAWFORD-BROWNE: Thank you. Under the heading of  
15 impact:

*“The audit team could not confirm credibility of the information, reported on jobs created, as supporting evidence was not collected from job statistics, were obtained from the obligators. The audit team could not establish, whether other deliverables, relating to the NIP objectives*  
20 *were, as stated, in the NIP project business plans were achieved or not.”*

Okay.

MR CHOWE: Mr Crawford-Browne, I note what you are reading. But, my request for comments is for you having said there were inaccuracies. But, now, these comments, which I have just read, and I take note of what  
25 you have read, you have read, now. But, I would like your comment,

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regarding the accuracy that the, given the finality and completeness of the documents.

MR CRAWFORD-BROWNE: Thank you. So, let us move now to pages 292 and 93 and 94, 92 and 93 will do.

5 MR CHOWE: Okay. Mr Crawford-Browne, I thought you read something on the report.

MR CRAWFORD-BROWNE: Have you got it?

MR CHOWE: Yes. I do.

MR CRAWFORD-BROWNE: Okay. Fine. Okay. This is a section,  
10 regarding, this is a section, regarding job creation:

*“Estimates in jobs to be created by implementing NIP projects were included in certain of the NIP project business plans. The number of jobs created.”*

MR CHOWE: Mr Crawford-Browne, the, the passage I read, I would  
15 say, with due respect, relates to certain criteria of the offsets themselves. So, I would suggest that you are more now into jobs than what I have, I have read, which was actually the basic offsets criteria, I have read that. So, what I needed for you to comment in is on those issues. Maybe the jobs might be, if it is possible, and I will deal with it  
20 more, on another which might come. But, I am, I am just restricting myself to those three criteria. I would suggest it is investment, sales both local and otherwise.

MR CRAWFORD-BROWNE: Yes. Investments, sales and exports and  
a prime example of that, as we know, was the stainless steel plant in  
25 Kouga, which was the submarine offset. That, that stainless, stainless

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steel plant never materialised, at all. It was cancelled, during the beginning months. It was replaced by a number of other peculiar projects, including the Presta condom factory and then the teaming up of a tea estate in Transkei. So, those, those investment criteria and particularly with submarines where the offset promises were hugely, 5 hugely inflated. They never materialised.

MR CHOWE: Mr Crawford-Brown, unfortunately, you did address, meet with the, you did not come to comment relevantly to, to the question I posed.

10 MR CRAWFORD-BROWNE: 291?

MR CHOWE: Yes. Because I wanted to, remember what you said, that there were a lot of inaccuracies and you mentioned that this report reflects that and I read that portion, specifically dealing with the three criteria, which were meant for the offsets, for SDPP's. So, that is where 15 I was getting at. I hear your comments, in as far the failures and so on and so on and so on. But, I was inviting you, on this paragraph, Sir.

MR CRAWFORD-BROWNE: Okay. In response to that, let us look at page 295.

MR CHOWE: I am there.

20 MR CRAWFORD-BROWNE: Okay.

*"The audit could not determine if the defence obligors achieved of the deliverables or benefits that were stated in the project business plans, alleging to the objectives stated above."*

CHAIRPERSON: I am sorry. Mr Chowe, please tell me if we dealing 25 with the report of DTI? You are asking Mr Crawford-Browne to give us

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his opinion about this report. We have this report. Some people have testified, on the basis of this report. I am not quite sure, how helpful this exercise is going to be, because Mr Terry Crawford-Browne has got no personal knowledge. He just reads this report and he tries to interpret it

5 to us. We do have this report. Other people, who are authors of this document, have testified. People, who are monitoring these projects, have testified. I am not quite sure, whether it is going to be very helpful to try and ask Mr Crawford-Browne to interpret this document to us. Unless, you were saying that, you know, it is going to be helpful that you

10 think he might interpret it better than the DTI officials, then you can go ahead with that line of questioning.

MR CHOWE: Thank you, Chairperson. I would suggest, what I intended to, to do, was to bring to the attention of Mr Crawford-Browne, that when he refers to the reports, which are saying that there were

15 inaccuracies, maybe he must check his facts first, before he said that. But, I take your, your directions, Chairperson, and you are correct that, indeed, there is a lot of evidence, which has been led, regarding this issue. It might be even unfair, for him to interpret this report. I take that. Mr Crawford-Browne, without maybe finding you directly to your report,

20 one having regard to 4.8, of your statement, paragraph 4.8 of your statement. Thank you, Sir. The, that paragraph 4.8 shall be fair to your, your statement in that:

*“The DTI audit report confirms that previous reports hugely inflated claims of compliance by the arms contractors and that multiplied effects*

25 *were introduced to exaggerate the purported offset benefits and also*

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*disguise their actual non-delivery.”*

Without maybe going back to what the Chairperson has already said, without asking you to interpret this report, did this report confirm anywhere, maybe just in pointing us to the paragraph, where this particular report says it confirms that they were exaggerated?

MR CRAWFORD-BROWNE: Well, one looks at an illustration, if I may, it again, refers to the German, where it says German Frigate Consortium, in fact, it is German Submarine Consortium, again, on page 293 and on the number of jobs that actually were created.

10 MR CHOWE: Without debating with you, I, I should say, it does not support what you are saying. But, maybe, let us leave it there. Then, with regards to the issue of jobs, Mr Crawford-Browne, were you aware that jobs were actually not part of the whole agreement?

MR CRAWFORD-BROWNE: I am sorry, the whole emphasis was that we get not only the financial offsets, but they would create 65 000 jobs, due to stimulating economic development.

MR CHOWE: So, maybe, let me put it clear, that it was not part of the criteria of the offsets.

MR CRAWFORD-BROWNE: The issue was how many jobs would be created. That was the package that was sold to both Parliament and to the South African public, that we would somehow get 65 000, an estimated 65 000 jobs. The jobs failed to materialise.

CHAIRPERSON: Mr Chowe, put the question again. Maybe we might get an answer.

25 MR CHOWE: Mr Crawford-Browne, thanks, Chairperson. What I

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wanted to get from you is that, are you aware that jobs were not part of the criteria of the offsets?

MR CRAWFORD-BROWNE: I, I fail to understand, how you can possibly say that jobs were not part of the criteria. The whole exercise  
5 was job creation, to stimulate the economy.

MR CHOWE: I would have referred you to the specific passages, as they are just for, it could be the same. If one has regard to page 291 of your document, it is very clear what that report says how it calculated or how the offsets are calculated. Maybe, I will leave it there.

10 MR CRAWFORD-BROWNE: If I may, page 291 contribute to job creation in South Africa and to develop community resources in the country. It says that it was part of the extent to, it is on page 291, job creation.

MR CHOWE: Maybe we should leave it there. But, the emphasis,  
15 which I would like to put is that the only three criteria, where investments, local sales and exports.

CHAIRPERSON: Mr Chowe, maybe, let us clarify to Mr Crawford-Browne on [indistinct]. What Mr Chowe is trying to say to you is that, in terms of the criteria of the NIP policy, the awarding of credits was done  
20 on three elements, that was investment, local sales and export sales. That job creation was not one of those elements.

MR CRAWFORD-BROWNE: And that is correct. There are both those three criteria. But, as it goes on from there, to say, there were a number of other that flowed, including job creation. So, there were three criteria  
25 of exports, investment and local sales, yes. But, the motivation was that

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this was that this would stimulate the economic development, including job creation. So, those were the three criteria, but there was a purpose, in order to create jobs.

CHAIRPERSON: Mr Crawford-Browne, just listen carefully. What Mr  
5 Chowe is trying to say, for the purpose of their evaluation of the various projects, they looked only at these three criteria. As I understand the evidence, the question of job creation was not at all, whether that it was not one of the criteria that they used, in order to determine which of the projects are suitable for DTI, or not. It is the point that Mr Chowe was  
10 trying to make.

MR CRAWFORD-BROWNE: It is one of the first, it is one first step and it then moves to the various issues of milestones and whether they achieved the milestones. But, the underlying issue, if we can step back, is, is, it was jobs. But, in the first instance, it is those three criteria. Yes.  
15 And we did not get them.

CHAIRPERSON: Okay. Mr Chowe, I tried to clarify it.

MR CHOWE: Thank you, Sir. In conclusion then, Mr Crawford-Browne, these are my instructions from the DTI, which are inclusive of the evidence, before this Commission and are to the effect that, number  
20 one, as corroborated by other departments, there was a need for arms. It has never been that offsets are the main reasons for the SDPP's. Further that, the NIP policy, which was implemented, at the time, was indeed, sanctioned by this government, in that, in as far as the DTI is concerned, those were constitutional and there is no challenge and we  
25 are not aware of any declaratory that such NIP policies are

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unconstitutional. Further that, the calculations, which were done and were presented before this Commission, were based on documents, which were placed before the DTI personnel, working with this. In actual fact, they deny, as you said, that they colluded in giving  
5 misinformation, regarding the NIP's or the offsets, in general and that your contention in as far as the offsets are concerned, is wrong, inconsistent with the evidence before this Commission and that you have no basis. Those are my instructions. Do you have any comments?

10 MR CRAWFORD-BROWNE: I am not surprised that those were your instructions and that is exactly how DTI and the country have got into this mess, because they have a complete lack of accountability to Parliamentary Committees and others. This has been consistent with what they have said over the years, when challenged, they then back  
15 peddle. It started off with their jobs, within, and that that is the driver. Within a few months, oh no, the jobs are just a nice to have. Where, they then proceed that they have exceeded the milestones, then they back peddle. Whenever there has been an attempt at Parliament or elsewhere to have clarity as to what is actually achieved, there was a  
20 complete lack of, lack of accountability, which is one, obviously, one of the requirements of the Constitution and back peddling when, you know, this is one of the tragedies that we warned DTI. They would not listen and we now ended up with this mess.

MR CHOWE: Mr Crawford-Brown, thank you so much for engaging  
25 with me with these issues of offsets and my final word is that indeed, do

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you know that they, but will leave the Commission to decide on this. Mr Chairperson, those were the questions for DTI.

CHAIRPERSON: Advocate Moerane, can we start at quarter to two? Just hold on.

5 ADV MOERANE: That, that is fine.

CHAIRPERSON: I think you said you will need about two hours.

ADV MOERANE: In all probability, less than that.

CHAIRPERSON: Thank you. I will, we are going to try and hold you to that, less than two hours. Thank you. I think, maybe, let us adjourn, we  
10 will come back at quarter to two. Thank you.

**(COMMISSION ADJOURNS)**

**(COMMISSION RESUMES)**

TERRY CRAWFORD-BROWNE: [s.u.o]

CROSS-EXAMINATION BY ADV MOERANE: Mr Crawford-Browne in your  
15 submission, I am not referring now to the statement but your submission, in paragraph 1.11 on page 76; have you found it?

MR CRAWFORD-BROWNE: Yes.

ADV MOERANE: Where you say:

20 “I have made an application in the Cape High Court in November 2001 [and you mentioned the case number] to set aside the loan agreements signed by the Minister of Finance which give effect to the arms deal contracts.”

My reasoning as a former banker and being that if we would set aside

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loan agreements that would both collapse the arms deal.

That is what you say in the one paragraph?

MR CRAWFORD-BROWNE: That is correct.

ADV MOERANE: In the next paragraph you say:

5           “The Minister of Finance’s responsibility in the Cabinet sub committee  
was the affordability and financing of the acquisitions. He was initially  
known to have opposed the arms deals. Had later circumed to  
pressure by his cabinet colleagues. The eventual judgment against  
me in March 2004 was that the minister was merely implementing a  
10           prior cabinet decision and that I had therefore sued the wrong party.”

That is what you say?

MR CRAWFORD-BROWNE: That is correct.

ADV MOERANE: I would like to refer you to ...; I do not know if you have  
the document in front of you, the bundle which deals with a case ...  
15           [intervenues]

MR CRAWFORD-BROWNE: Is it the bundle for the [inaudible].

ADV MOERANE: Yes, from page 32 of that bundle you have a case that you  
have lodged under the name of Air [inaudible] South Africa and Another. The  
“Another” was yourself?

20           MR CRAWFORD-BROWNE: 31 or 32?

ADV MOERANE: 32.

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MR CRAWFORD-BROWNE: I do not have a 32. [Pause]

ADV MOERANE: Do you have it now?

MR CRAWFORD-BROWNE: I do have it.

ADV MOERANE: On page 48 of that bundle you will see all the parties that  
5 were sued in that case.

MR CRAWFORD-BROWNE: That was in the original papers and then it  
went down to just the first three subsequently. In the finding, initial finding, it  
included the state and public protector and then that was reduced to just the  
first three.

10 ADV MOERANE: Yes, but just for the record the parties that you sued was  
seven. The first respondent being the President of the Republic of South  
Africa. The second respondent being the Minister of Finance. The third  
respondent being the National Government of the Republic of South Africa.  
The fourth respondent being the Speaker of Parliament. The fifth respondent  
15 being the Public Protector. The sixth respondent being the National Director  
of Public Prosecutions and the seventh respondent was the Auditor General.  
Do you confirm that?

MR CRAWFORD-BROWNE: I do.

ADV MOERANE: And I think you have already mentioned that the parties  
20 that actually opposed that application were the first three respondents; they  
are the President of the Republic, the Minister of Finance and the National  
Government?

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MR CRAWFORD-BROWNE: That is correct.

ADV MOERANE: On page 32 of that document the relief that you sought is set out and it reads as follows:

- 5           “1.   Reviewing, correcting and setting aside the decision of the second  
          respondent [the second respondent being the Minister of Finance]  
          made in and during January 2000 to enter into foreign loan  
          agreements and export guarantees in respect of frigates and  
          submarines from Germany, a Grippon fighter aircraft from  
          Sweden, Hawk fighter trainer aircraft from the United Kingdom and  
10           utility helicopters from Italy.
2.   Declaring the decision to be null and void and of no force and  
          effect in consequence of the invalidity of such decision.
3.   Declaring the armaments acquisition program to be null and void  
          and of no force and effect in consequence of the invalidity of the  
15           foreign loan agreements and export guarantees.
4.   Ordering only the second respondent together with those further  
          respondents who opposes the application to pay the applicant’s  
          costs including the cost of two counsel.”

Do you confirm that?

20   MR CRAWFORD-BROWNE: I do.

ADV MOERANE: Please turn to page 44 which deals now with the merits of the review. The following is recorded in paragraph 40:

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“The applicant’s counsel submitted that the real issue in regard to the merits is whether in the light of the warnings presented in the expert advice relied upon by the second respondent at the time, the decision in question and the decision to sign the loan agreements were taken, such decision was rational, reasonable and constitutionally proper. Rationality, they submitted, was the minimum threshold requirement.

The applicant’s counsel accepted that the contracts in question were loan agreements and not export or any other form of guarantees.

The various allegations in the affidavits that the agreements were invalid by reason of particular statutory provisions were not pursued in argument. In support of the test of rationality the applicant’s counsel referred to the decisions of the Constitutional Court in *Pharmaceutical Manufacturers Association*.”

I am not going to read the extract from that; on the next page:

“In the present case counsel submitted were of such a nature that no rational person acting rationally would have been [inaudible] in deciding whether to enter into the loan agreements. The second respondent’s decision [they submitted further] cannot be isolated or severed on the collective decision of the Cabinet. The respondent’s counsel submitted that there are three major flaws in applicant’s attack on the second respondent’s decision to enter into the loan agreements. The first flaw, they argued, is that applicants are attacking the wrong decision. The real effective decision in the

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present case was that of Cabinet to acquire the armaments in question.

By the time the loan agreements were concluded the Cabinet's decision was *au fait compli* and second respondent's role was limited to that of finding the necessary funding in order to finance the acquisition.

The second flaw in the applicant's attack, they submitted, was that applicants have failed to establish any irrationality on the part of the second respondent. It is submitted that any disputes of fact should be determined on the basis of the facts averred in the applicant's affidavits which have been admitted by the respondent together with the facts alleged by the respondent as explained in the *Plascon-Evans* decision. It should point out that the version put up by respondents was in any event hardly disputed by the applicants in their replying affidavit.

The third flaw they submitted is that applicants have not shown that the rights of any person have in fact been injured or have been threatened. The applicants' contention that the socio-economic rights of poor people have been infringed, is based on a simplistic theory and the funds in question, if not spend on arms acquisition would have been devoted to the poverty allegation. That is, respondents' counsel submitted, no prove whatsoever that such a result would have followed or will follow if the relief sought by the applicants is granted. There is accordingly no cause or link between the decision under

attack and the rights of the people that applicants purport to represent.

In my view there is merit in at least two of the principle defences put forward by the respondents' counsel."

MR CRAWFORD-BROWNE: I am sorry I have lost you. [Pause]

5 ADV MOERANE:

“The real thrust of applicants’ complaint in this matter is that massive funds had been committed by a government for the acquisition of arms which this country do not need. Whereas, the funds should have been used for poverty and levitation. That being so, the applicants’ attack  
10 should have focused on the real and effective decision to acquire these arms, namely that of Cabinet. That decision should have been made with to primary object of the review application. In the applicants’ notice of motion there is an alternative prayer attacking the Cabinet’s decision but this is only a consequential attack dependant  
15 upon the invalidity of the second respondent’s decision being established. This approach is with respect putting the cart before the horse.

The primary attack should have been directed against the Cabinet’s decision with perhaps a consequential attack on secondary decision to  
20 raise funds. The applicants’ wrong strategy, I should point out, is not simply a procedural matter. The result therefore is that the merits of the Cabinet’s decision as such, the reasons of the Cabinet decision and all the documents that were placed before Cabinet were not

properly analysed at all in the present review application.

The Cabinet decision was accordingly accepted as having being a valid decision. Once that is accepted the ratio of the applicants' attack on second respondent's decision falls away.

5 There is in view also merit in respondents' counsel's second main defence. Applicants' charge of irrationality is squarely based upon the existence of the warnings contained in the affordability report. These warnings must, however, be read in the context of the document as a whole. They are contained in the report which  
10 purported to provide advice to the government in regard to the affordability of the proposed acquisition. The object of the warnings in the report is to bring possible negative consequences of the decision to the attention of the decision maker. The trust of the warnings is not to advise the decision maker to desist from concluding the  
15 transactions in question.

The real thrust is to inform the decision maker what risks to take into account if he does proceed and entering into the loan agreements. Other elements of the report are quite positive, for example commence on the method of financing referred to in paragraph 24  
20 above. It is relevant furthermore that the affordability report with the warnings was before Cabinet when it took the decision to acquire the arms in question. It must be accepted therefore that Cabinet approved of the arms acquisition with full knowledge of the warnings."

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Just to pause there; will you agree with me that that particular finding in the judgment accords with the evidence of Minister Trevor Manuel which he gave before this commission?

MR CRAWFORD-BROWNE: Yes, I do.

5 ADV MOERANE: Reading further:

“In this case second respondent [that is Trevor Manuel] said that he did apply his mind to the affordability report including the warnings. It is trite law that the test on review is not whether this court agrees or disagrees with the decision in question.”

10 And there is reference to the *Delporto* decision and I quote from there:

“The fact that there may be more than one rational way of dealing with a particular problem does not make the choice of one rather than the others any rational decision. The making of such choice is then the domain of the executive. Courts cannot interfere with rational decisions of the executive that have been made lawfully on the grounds that they consider that a different decision would have been preferable.”

15 The question when rationality is the yardstick is whether the decision is so irrational that no rational persons would have taken it. By mainly  
20 focusing on the warnings applicants have not established such rationality in this case. I am accordingly of the view that there is no merit in the review.”

Then the order appears at the end of that judgment on page 47 and it says:

“1. The applicants’ review application is dismissed with costs including the costs of two counsel

5           2. In the discovery application each party shall be responsible for his or her own costs.”

But because you have raised the question of discovery and the conduct of Minister Trevor Manuel which you regard as fraudulent or dishonest, that you have labelled it as purgery maybe one should also read  
10 what is said in paragraph 50 on page 46:

“In the discovery application this court ordered that the question of cost in that matter stand over for determination in the review application. Counsel for applicants argued that applicants are successful in that application and therefore entitled to their costs. It  
15 seems to me, however, that their success was partial only. They sought discovery of eight categories of documents and they only managed to obtain a discovery order in respect of one of these categories. In the circumstances it seems to that it would be fair if each party is made responsible for its own costs in regard to the  
20 discovery application.”

You confirm that that was the judgment?

**MR CRAWFORD-BROWNE**: Yes, I confirm.

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ADV MOERANE: You also confirm the order that was issued; this is now on page 48:

5 “It is ordered that the applicants’ review application is dismissed with costs including the cost of two counsel that in the discovery application each party shall be responsible for his or her own costs.”

MR CRAWFORD-BROWNE: I do.

ADV MOERANE: Is it also correct that after you have lost that case you applied for leave to appeal from two Judges who heard the matter and that application was dismissed and the order appears on page 49 which reads as follows:

“Having heard the legal representatives for the applicants and having read the documents filed of record it is ordered that the application for leave to appeal is dismissed with costs including the costs of two counsel.”

15 This is an order which was made on 17 May 2004?

MR CRAWFORD-BROWNE: [No audible answer]

ADV MOERANE: On page 49.

MR CRAWFORD-BROWNE: Yes.

ADV MOERANE: Then having failed to obtain leave to appeal you petitioned to the Supreme Court of Appeal and that court on 18 August refused your application as appears on pages 50 and 51:

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“The application for leave to appeal is dismissed with cost.”

MR CRAWFORD-BROWNE: That is correct.

ADV MOERANE: Then you applied to appeal against that decision to the Constitutional Court and on 3 December 2004 the Constitutional Court  
5 handed down the following judgment or order:

“The Constitutional Court having considered the application for leave to appeal make the following order:

The application for leave to appeal is dismissed.”

It is on page 52.

10 MR CRAWFORD-BROWNE: That is correct.

ADV MOERANE: And these orders had a sequel in that government attached a bill of cost and served that bill of cost on you sent to the sheriff and deputy sheriff to find out if you would pay the cost which amounted to about R1 million.

15 MR CRAWFORD-BROWNE: That is correct.

ADV MOERANE: And the sheriff or deputy sheriff could find very little attachable assets.

MR CRAWFORD-BROWNE: Might ...; may I elaborate a little more on that. Very little attachable assets in my name which was in fact the case. They  
20 then tried to attach my wife’s assets.

ADV MOERANE: In any even your wife’s assets amounted to very little.

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MR CRAWFORD-BROWNE: At the time there was a [inaudible] my assets in my wife's name and they then attempted to attach abruptly which she just recently inherited from her parents.

ADV MOERANE: Ultimately, a *nolle bona* return was furnished, which  
5 means that you yourself had no attachable assets?

MR CRAWFORD-BROWNE: That is true.

ADV MOERANE: Thereafter an application for your sequestration was brought because obviously you had not assets, you owed the government R1 million and you did not have assets, any assets to satisfy a judgment debt.

10 MR CRAWFORD-BROWNE: Exactly, by then I was mentally and financially exhausted.

ADV MOERANE: And the result of that application was that the application for your sequestration did not succeed although you were not technically insolvent in the sense that your liabilities has exceeded your assets but the  
15 court held that it would not be in the interest of creditors, it would not be to the advantage of creditors to have you sequestered.

MR CRAWFORD-BROWNE: Absolutely, that is the case; in fact quite at the time my only asset was a rusty Uno [inaudible].

ADV MOERANE: And I take it that your financial circumstances have not  
20 improved ever since then?

MR CRAWFORD-BROWNE: Absolutely not I have been continued to be unemployed.

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ADV MOERANE: And technically insolvent?

MR CRAWFORD-BROWNE: That is so.

ADV MOERANE: But somehow you are able to travel the world, go from place to place in pursuit of this crusade of yours of having arms procurement  
5 set aside.

MR CRAWFORD-BROWNE: Yes, we have been very blessed, very fortunate. My wife is not massively wealthy but she does continue to feed me. She is employed so she is the breadwinner and has been but we have also been very blessed to, as you say, travelled the world. In 2009 we  
10 literally voyaged around the world by sea for four months from Miami back to Miami on board a ship. If someone gives me a ticket I am very happy to go. In that instance I was a lecturer on board of the university's ship and she was running the office. If someone gives me a ticket I am very happy to travel but ...; and my wife feed me.

15 ADV MOERANE: I wish I was in your fortunate position to be a kept man.

MR CRAWFORD-BROWNE: [Laughing]

ADV MOERANE: Now is it correct that this morning at about 06:15 you sent an e-mail which I shall read into the record; addressed to one Diaziem. It refers to the statement by Patricia De Lill. You confirm that you sent that e-  
20 mail?

MR CRAWFORD-BROWNE: That is true; I also sent it to the Commission.

ADV MOERANE: That e-mail reads as follows:

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“Dear Diaziem.

I have no difficulty with Patricia De Lille denying that she told me that Winnie Mandela was the leader of the ANC MP’s who opposed the arms deal.

5 I have received that information from other sources.”

Now did Ms Patricia De Lille inform you that Mrs Winnie Madikizela Mandela was the leader of the ANC members of parliament who opposed the arms deal?

MR CRAWFORD-BROWNE: I said it here that I did not get that information  
10 from her.

CHAIRPERSON: I am sorry I have missed the answer maybe you can just turn that microphone a little bit towards you. That is right. Can you repeat that answer?

MR CRAWFORD-BROWNE: As I have said the letter I have no difficulty  
15 with denying she told me that Mrs Mandela had ...; she denied that she told me. I got that information from other sources not from Patricia De Lille.

CHAIRPERSON: Yes, who are those other sources?

MR CRAWFORD-BROWNE: Bheki Jacobs, the late Bheki Jacobs and a couple of his associates two of them are also now deceased. So I am afraid  
20 those sources are now deceased.

ADV MOERANE: All your sources are deceases and they are obviously as

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such not in a position to come and confirm these allegations.

MR CRAWFORD-BROWNE: That is true there have been a number of deaths associated with the arms deal.

ADV MOERANE: Your allegations, the allegations of the so-called De Lille  
5 dossier are completely hearsay and there is no person who is in a position to authenticate them and verify them?

MR CRAWFORD-BROWNE: And heard from other sources that Mrs Mandela was in fact the leader of the members of parliament who opposed the arms deal. The issues that have come up in the De Lille dossier are  
10 actually a separate issue and they were actually [inaudible] issued the statement to begin with and [inaudible] seems to have jumped to it. It was not an issue the other day when I was forced to disclose those [inaudible].

ADV MOERANE: Well, I am not going to ask you who those other sources are but I will continue reading from the document:

15 “The real issue is that they managed to keep that secret for 15 year until Judge Seriti forced me under threat of contempt to reveal who led those ANC MP’s.”

Let us pause there. Was there a threat of contempt?

MR CRAWFORD-BROWNE: To defy the instruction from the Chairman of  
20 the Commission I would suggest would have placed me in contempt. I did plead with him if I could approach him to advice in confidentially and he replied that it should be done publically.

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ADV MOERANE: But that is not my question, my question is based on what I saw on television I was not present here but I assumed that that footage was accurate, I do not recall any threat of contempt in that question. What was the threat of contempt?

5 MR CRAWFORD-BROWNE: Obviously the words “threat of contempt” was not used but I was instructed by the Chair and I respectfully followed his instructions to publically name Mrs Mandela or to name the leader of the members of parliament. I did so reluctantly having asked if I could tell him confidentially.

10 ADV MOERANE: Yes, but if you had any lawful excuse not to do so you could have indicated what that lawful excuse or justification was.

MR CRAWFORD-BROWNE: I am sorry, would you amplify that?

ADV MOERANE: What I am putting to you is that if you had a lawful excuse or justification for not publically disclosing your source you could have done  
15 so.

MR CRAWFORD-BROWNE: I would suggest that we managed to keep this secrete for 14 years and very, very reluctantly disclosed the fact.

ADV MOERANE: Yes, let us continue with your e-mail.

20 “As Patricia and I well know the importance of the De Lille dossier was not its content but the hysteria it evoked in the government and witch hunt that followed. Patricia has brilliantly used that bizarre document for 15 years to fashion her political career including her present

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position as Mayor of Cape Town.”

A couple of things which emanate from that. Do you regard that document as bizarre?

MR CRAWFORD-BROWNE: Absolutely, when it first came to me I was  
5 absolutely astounded, the authors had [inaudible] some of the papers from  
[inaudible] to the defence alternatives of whom I was one of the authors and  
my name I think does appear on one of the pages but the he grammar, the  
spelling and the logic was bizarre. Three days later ...; and for days I did not  
how I was going to respond to this lot, three days I was called to a meeting  
10 with General Andrew Mathew and as I walked to the door he immediately  
said are you the author of this and before I could know how I am going to  
respond to it he answered himself and he said [inaudible] AK47 with a pen.

ADV MOERANE: Yes.

CHAIRPERSON: I am sorry; I am still trying to digest to what is contained in  
15 this letter particularly where I am alleged to have threatened you. Where it is  
alleged that I have put Mr Crawford-Browne under threat of contempt and he  
seems to suggesting that I forced him to disclose the name of Mrs Winnie  
Mandela. I am not quite sure whether this is what actually happened as  
professed. The second thing I am not sure where does this e-mail emanate  
20 from. Maybe you can just try and help me those two issues so that I can  
truthfully understand the content thereof. Is this from Mr Crawford-Browne  
himself?

ADV MOERANE: Yes, but I think he can confirm it himself. In fact

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Chairperson I think he has confirmed that at 06:15 this morning he actually [inaudible] this together.

CHAIRPERSON: Mr Crawford-Browne are you the author of this e-mail?

MR CRAWFORD-BROWNE: Yes, I am.

5 CHAIRPERSON: Thank you.

ADV MOERANE: Do you firmly subscribe to the views that you have expressed in this document that Ms De Lille has brilliantly use this document which you referred to as bizarre for 15 years to fashion a political career?

MR CRAWFORD-BROWNE: Yes.

10 ADV MOERANE: In spite of the fact that she knew or she must have known that it is a bizarre document?

MR CRAWFORD-BROWNE: I would think that would be your interpretation, my interpretation and I assume her interpretation.

ADV MOERANE: And that is a document which should be before this  
15 Commission and ask this Commission to investigate the allegations in this bizarre document.

MR CRAWFORD-BROWNE: Yes, I was not actually in the country when she testified but I gather there was some difficulties.

ADV MOERANE: Yes, furthermore you made the comment in the e-mail and  
20 of course when it came to testifying before the Commission the De Lille-dossier was revealed as lacking in substance.

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MR CRAWFORD-BROWNE: I think that would in fact be so.

ADV MOERANE: Well, that is an observation with which those instructing me would agree.

MR CRAWFORD-BROWNE: It name names and the more interesting thing  
5 it is a hysteria rather than the content of it, it name names but that was ...; the  
reaction was a hysteria.

ADV MOERANE: Well, unfortunately Mr Crawford-Browne I would actually  
classify your evidence in the same way as this document it is lacking. Your  
evidence to which I have listened is also lacking in substance. It name  
10 names.

MR CRAWFORD-BROWNE: Who did not to conform to rational issues such  
as offsets, irrational issues. So we are taking the substance to this testimony  
I have made here that we did not get the offsets, the whole issue was  
predicated on ...; I assume that is what you are talking about.

15 ADV MOERANE: No, that is not what I am talking about. I am talking about  
you name names of people some of whom are dead when you have got  
absolutely no evidence to support you. I will come to that but I am just  
making that comment apropos what you believe of Mrs De Lille's-dossier.

MR CRAWFORD-BROWNE: May I respond; may I respond? Had this been  
20 investigated back in 1999 when the request was made by Art Bishop Ndikane  
these people would have been still be alive. So it would not be necessary to  
name dead people.

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ADV MOERANE: Yes, I will come to that. I will just give you an advance warning that I am moving in that direction. Let us deal with this e-mail and finish and then we can go to other matters. Then you further say:

5 “I have enormous respect for Winnie Mandela given the horrors she suffered during the apartheid era. That respect is illustrated by the fact that I invited her to address the Russel tribunal from Palestine when we met in Cape Town in November 2011. I took [inaudible] at the time from people who wanted to smear Winnie Mandela at every opportunity. Who better to describe what it was like to live under  
10 apartheid in South Africa. Unfortunately, she had to withdraw a few days before hand and we replaced her with Allan Boesak.

An issue also raises the possible connections between the assassination of Chris Hani and Joe Modise’s connections with European arms companies before the 1994 transition.

15 Here is the link to Maria Ramos’ article in the Daily Maverick in June this year. Also linking into these issues is the fact that Joe Modise and Marietjie De Klerk’s funeral was held on the same Saturday afternoon in December 2001. Winnie was close to Hani and detested Modise. So whose funeral did she attend to highlight the fact. What else would  
20 she in her usual flair for entrance and statement attend Mrs De Klerk’s funeral instead of that of the leader of Unknot Size. More recently Winnie has declared that the ANC has lost its way. It lost its way as we know of course of the arms deal which was driven by Joe Modise. I hope you can give this prominence over the weekend.”

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And all this is in response to a statement which was issued by Ms Patricia De Lille in her capacity as a former member of parliament which states:

5 “I had noted the statement by Crawford-Browne related to the so-called De Lille-dossier and I would like to put it on record that I did not tell Crawford-Browne that Winnie Mandela was one concerned ANC MP’s who handed me the documents.”

10 Mr Crawford-Browne why do you think it is appropriate for you to mention people’s names publically when you do not have the evidence to back the nefarious deeds you accused them of?

MR CRAWFORD-BROWNE: We have pleaded for years and years and years that the arms deal should be investigated. Unfortunately, this has been fib down time and time again. The issue continues to come up as a matter of huge public concern and it is a tragedy that instead of dealing with the issue back in the 1990’s there were attempts to brush this under the carpet and it has only gone worse and worse instead of dealing with it.

ADV MOERANE: Let me give you a concrete example. Was Mr Joe Modise a spy?

20 MR CRAWFORD-BROWNE: [inaudible] but I met Mr Modise several times but he certainly did not tell he he was such but it is alleged. It is in the public meaner that it is alleged and as you know Mrs De Lille used her parliamentary privilege to say he was. Mr Modise certainly did not ...; never confirmed that to me.

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ADV MOERANE: Was Mr Modise a spy?

MR CRAWFORD-BROWNE: I do not know I would suggest it should have been investigated at the time as you know in 1997 there was huge uproar in Parliament when this De Lille made that statement.

5 ADV MOERANE: Why, if you do not know whether or not Mr Modise was a spy, do you repeat the allegations in the public arena?

MR CRAWFORD-BROWNE: Because it needs to be investigated and this is the tragedy instead of investigating things and taking action which is appropriate [inaudible] and it gets worse. It should have been investigated  
10 years ago like the whole issue relating to it.

ADV MOERANE: What has to be investigated about Mr Modise being a spy? What actually would be the purpose of investigating that particular allegation?

MR CRAWFORD-BROWNE: Amongst the inter related issues the assassination are Chris Hani in April 1993 which is you know on [inaudible].  
15 There have been horrendous allegations around that which the enquiries including the Truth and Reconciliation Commission Enquire have not been able to resolve. There has been a lack of will to actually come to clarity on that. There have been allegations made to me and to others linking Mr Modise to that assassination that he was acting on behalf of or it was done in  
20 conjunction with British Aero Space through Rhodesian operatives and so forth and that the white right wing was simply a useful idiot to ...; or Mr Clive Derby Lewis was simply an useful idiot; a tool to blame the white right wing. These allegations and that whole tragedy almost took the country apart and

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yet the tragedy is that we think it will disappear it won't and it gets worse; it gets worse, because we do not deal with it when it comes up.

ADV MOERANE: Who is making or who made those allegations?

MR CRAWFORD-BROWNE: Attach to the document or accompanying the  
5 document, annexed to the document you will see this article in the Daily  
Maverick reporting on a book that was published by a Dutch researcher  
some years ago and which was published in England and South Africa.  
When that manuscript was being considered by the publishers; the  
publishers found authority to publish it but they withdrew because of the  
10 threats brought against them by people related to Braga and by Mr  
[inaudible]'s brother who in turn was employed by people related to the arm  
industry. Consequently Jakana backed off. So it is ...; it has gathered  
further momentum since then.

ADV MOERANE: You are not answering my question. Who made those  
15 allegations against Mr Modise? Please give us a straight answer Mr  
Crawford-Browne.

MR CRAWFORD-BROWNE: Amongst the documentation referred to in this  
article in a book by Eveland Kroning who is a Dutch researcher, anti-  
apartheid activist married to a South African ... [intervenes]

20 CHAIRPERSON: Mr Crawford-Browne please answer that question; whom  
made those allegations?

MR CRAWFORD-BROWNE: They are ultimate public domain and for

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instance when President Mbeki would attend a communist party meeting one of the issues was that they would sing Thabo Mbeki tell us who killed Modise. It is not ... [intervenes]

CHAIRPERSON: Mr Crawford-Browne who made the allegations? The  
5 question is simple and straight forward.

MR CRAWFORD-BROWNE: It is referred to in this book. It is referred to by the South African Communist Party by their many gatherings. It is not any one specific it is a general awareness or concern of these allegations it was repeated then again by Bheki Jacobs who was trained in the Soviet  
10 Union. He himself has had a collision with Mr Modise in Camp Quarto I believe. He somehow rescued from that. Ended up in the Soviet Union, trained as an intelligence operative, came back here in 1994. He was amongst those who have made those allegations but there are others. Yes, there was bad blood between him and Mr Modise and Mr Hani and Mr  
15 Modise.

ADV MOERANE: [Inaudible] the source of these allegations Mr Patricia De Lille who mentioned this in Parliament?

MR CRAWFORD-BROWNE: She, as I have said earlier, raised this in Parliament in 1997 when she attempted to mention 12 names and she was  
20 cut off after 8 and Joe Modise was one of those 8. That was in 1997.

ADV MOERANE: Did President Mandela respond to that allegation publically?

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MR CRAWFORD-BROWNE: I do not know if he did. I will have to check whether he did or not. I do not know.

ADV MOERANE: I put it to you that President Nelson Mandela at the Common Wealth Heads of Government meeting that was held in October  
5 1997 in Edinburgh publically refuted those allegations.

MR CRAWFORD-BROWNE: [No audible answer]

ADV MOERANE: What is your comment?

MR CRAWFORD-BROWNE: That could well be the case. I will accept that. That could well be the case I will accept that. But as I say those allegations  
10 continued after 1997 including in the South African Communist Party's rallies.

ADV MOERANE: On 27 October 1997 the following report appeared:

“President Nelson Mandel on Monday said he had no evidence that members of the Cabinet or other senior African National Congress leaders had been spies for the apartheids security forces.

15 Speaking in Edinburg on the last day of the Common Wealth Heads of Governments meeting he accused an African Congress MP Patricia De Lille of politicking when she made the claim because she was unwilling to repeat her claim outside Parliament where she was not protected by privilege.”

20 It is unnecessary for me to respond to that. It is quite clear that it was just politicking from a politician

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De Lill last week in the National Assembly named several senior figures in the ANC including three Cabinet Ministers as being on a list of alleged spies for the apartheid regime. She said the list containing 12 names was in the possession of Mandela and his Deputy Thabo Mbeki.”

Now are you not aware of that refutation of the allegation by President Mandela?

MR CRAWFORD-BROWNE: I was not aware that Mr Mandela had made any refutation but as I say those allegations continued in the public domain for many years. [Inaudible] Mr Mandela intervention. So these issues continue and as we know there is a whole history of people being alleged to be spies and the witch hunts then followed.

ADV MOERANE: Will you buy a second hand car from Bheki Jacobs?

MR CRAWFORD-BROWNE: [Laughing] I have inherited a very rusty Uno for my daughter. So I was not in the market for one from Mr Jacobs. Mr Jacobs I think though quite seriously was brilliant and people would confirm that he was brilliant but he was very erratic as maybe ...; that is maybe common in people who are so brilliant. So at times we would [inaudible] of what he had to say. The arms deal was only one issue that I was concerned about but he had a variety of stuff and as journalist will confirm they were just astounded at his grasp for detail of these issues. Including when he came to me in June 1999 he asked for a meeting and I was just gobsmacked by issues that he could cover of which normally I would not have expected him to have any

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knowledge including, for instance, the BCCI issue. BCCI was a bank that was noted ...; was known as a bank for crooks and criminals international. He had grasped that detail. He had grasped detail around Prince [inaudible] of Saudi Arabia who was in and out of South Africa all the time. My response

5 ...; my feeling after that meeting was my God if what he says is true we have a problem. If he is destabilizing the country we also have a problem. Either way this has got to be [inaudible]. So I briefed Arch Bishop Ndikane saying I have been approached by this man he says he is an ANC intelligence operative trained in the Soviet Union; all these allegations way beyond

10 anything I have been talking about at the arms deal [inaudible]. The way he was ...; either what he alleged was true or alternatively that he and his colleagues is destabilizing the country something had to be done about it. That was the foundation of Arch Bishop Ndikane's call in August 1999 for investigation into the arms deal. That was brush off. I then introduced them

15 to Patricia De Lille and the next thing we knew was the memorandum to Patricia De Lille's so-called dossier. As I say I thought it was the most bizarre document. I did not know where to turn for days until they brought the evidence. She and I then decided, well, you know this is beyond our judgment ...; beyond our call to make any judgment on this and we then

20 forwarded the information to Judge Heath. Unfortunately Judge Heath's application for [inaudible] proclamation to take this forward was repeatedly blocked in the President's office. So again it festered and it grew and whatever. I think this is a lesson that if you think it will be brushed under the carpet it only goes deeper. That is the tragedy in arms deal.

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ADV MOERANE: Back to Mr Bheki Jacobs I am instructed that he was a confidence trickster any comment?

MR CRAWFORD-BROWNE: That has been the allegation from Mr Essop Paghad that has now been borne out by other people who did meet him, who  
5 may have been bewildered by the extent of his knowledge but after many interviews and contacts with him came to the same conclusion that this guy was absolutely brilliant.

ADV MOERANE: Can you dispute or can you not dispute that the late Mr Bheki Jacobs was a confidence trickster?

10 MR CRAWFORD-BROWNE: The fact is that the basic allegations he made in 1999 have been borne out to be true. Although the ... [intervenes]

CHAIRPERSON: Mr Crawford-Browne please answer that question can you refute that or not without giving long answers?

MR CRAWFORD-BROWNE: He was not a confidence trickster. He was not  
15 absolutely, I am refuting that entirely. I ended up with a huge respect for him in what he was endeavouring to do.

ADV MOERANE: I am also informed that he was an author of the so-called De Lille-dossier.

MR CRAWFORD-BROWNE: Yes, some of the papers I had written as well  
20 for the cohesion for the defence [inaudible]. He [inaudible] some of the stuff, for instance objections to the [inaudible] proposal. [Inaudible] some in his own name. As I say when I saw it I thought we had been conned. I did not

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know where I was going to turn. As I say [inaudible] Naidoo first asked me if I also did [inaudible]. But then they produced the documentation. He was a brilliant man but erratic.

ADV MOERANE: At least we are getting somewhere. We know now the Mr  
5 Bheki Jacobs was the author of this bizarre document called the De Lille-dossier. Notwithstanding that you still believe that he was not a confidence trickster?

MR CRAWFORD-BROWNE: Absolutely not he had a grasp for detail that was just extraordinary.

10 ADV MOERANE: And I put it to you that you also promulgated these bizarre allegations that emanate from the De Lille-dossier.

MR CRAWFORD-BROWNE: Very much on the contrary. What was interesting about the reaction to the De Lille-dossier and which then followed, that was actually more important than the content. The De Lille-dossier has  
15 over the years gathered such a reputation. It was the reaction and a hysteria government who refused to investigate the allegations at that time. Again the crisis and the controversies get deeper and deeper. The foundation stone of Arch Bishop Ndikane's call in August 1999 was specifically to investigate the officers who were driving the arms deals. There were other issues that Mr  
20 Jacobs was involved with including, for instance, the issues surrounding Mr Jackie Selebe and the other things that I was not concerned about at all. But he was tracking those and the consensus of the people who knew him was that he was brilliant.

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ADV MOERANE: Now let us deal with some of the things that you have said about Mr Modise. One of the allegations you have made was that he was poisoned, he was murdered not so?

MR CRAWFORD-BROWNE: This again is something that cropped up about  
5 6 weeks before Mr Modise's death. We were waiting for the JIT report which have been inspected several months earlier and with delays, delays, delays.

CHAIRPERSON: Mr Browne again just answer the question. The question is did you make such allegation or not; yes or no?

MR CRAWFORD-BROWNE: That information came to me about six weeks  
10 before Mr Modise's death from Mr Jacobs in the company with some of his colleagues.

ADV MOERANE: And what was the content of that information?

MR CRAWFORD-BROWNE: That Mr Modise's cancer was not as far  
advanced as would be politically convenient and therefore the process was  
15 being speeded up so that dead man could tell no tales. That it was being undertaken they said by the NIF. Now there was nothing that I can do about it at that time. I remained silent. I was absolutely shattered that coincidentally Mr Modise then dies a week or 10 days after the JIT report is released.

ADV MOERANE: Do you know what is written on the death certificate of Mr  
20 Modise?

MR CRAWFORD-BROWNE: I assume that it was cancer. I mean that was the public announcement but as I say their explanation was that that was

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simply a cover and that he was then poisoned to speed up the process.

MR MOERANE: I am instructed that ... [intervenes]

CHAIRPERSON: Just for my own understanding, Mr Crawford-Browne are you saying the contents of the death certificate of Mr Modise are incorrect?

5 MR CRAWFORD BROWNE: No, I assume the death certificate should say cancer and 6 weeks beforehand they had said to me that Mr Modise's cancer is not as far advanced as would be politically convenient and therefore his death has been speeded up.

CHAIRPERSON: Just listen to me carefully. If the death certificate says that  
10 Mr Modise died because of cancer are you now suggesting that that is incorrect?

MR CRAWFORD-BROWNE: I think that we know that many death certificates are not fully revealing the background and that is fairly common. I do not know what the death certificate said but the point is that Mr Modise  
15 died six week later to my own horror and suddenly I am thinking my God what is happening here are we poisoning people. At the time there was nothing that I could do about it but have we come to this that we are poisoning people.

CHAIRPERSON: Mr Crawford-Browne let me try the last time. It the death  
20 certificate says that Mr Modise died because of cancer are you trying to suggest that it is incorrect he might have been poisoned?

MR CRAWFORD-BROWNE: He might have ...; they would have said that he

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died of cancer. I assume it said that he died of cancer. I assume so. I assume that is what the certificate says.

CHAIRPERSON: If this is what the death certificate says do you have any reason to doubt the correctness thereof?

5 MR CRAWFORD-BROWNE: Yes, because it is alleged six weeks later that it would be [inaudible] and years later it was the Audit General who were trying to justify the JIT report said that the JIT report was unsatisfactory because Mr Modise's testimony before that investigation was unsatisfactorily because he was mentally incoherent because of the medication for cancer  
10 and that simply rang alarm bells because it indicated he would have been mentally incoherent for at least a year. At that point, about in 2004, I began to suspect that possibly there was substance to the allegations that he had in fact been poisoned.

CHAIRPERSON: I hear what you are saying but I do not quite understand it.  
15 You are not a doctor and I do not know on what basis can you possibly challenge the correctness of a death certificate.

MR CRAWFORD-BROWNE: I am afraid ...; I am afraid it is knowledge that many death certificates, for instance, have blurred the fact that people have died of Aids related deceases. It is a very, very sensitive issue and death  
20 certificates very often have not actually reflected the full story. As I say by 2004 when this was made ...; Mr Modise was mentally incoherent for a year I then reported this to the police and asked them to investigate whether there was substance to this. Again it was brushed aside nothing was done. So

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this is the issue that keep coming against tragedies and it is brushed under the carpet and they only get deeper.

COMMISSIONER: MR MUSI: Are you seriously saying that the death certificate should be disbelieved on the basis of the say-so of a dead person  
5 called Bheki Jacobs are you seriously saying this?

MR CRAWFORD-BROWNE: I am saying that not all death certificates reveal the total story.

COMMISSIONER: MR MUSI: Are you talking about the certificate that I am talking about; that of Joe Modise; are you seriously suggesting that it  
10 should be disbelieved in favour of the say-so of a dead person called Bheki Jacobs?

MR CRAWFORD-BROWNE: Bheki Jacobs was still alive at that point in 2004 when I asked the police in Cape Town to investigate whether there was any substance to this and I named him then as a source of the suggestion.  
15 Nothing was done about it. Jacobs himself then died 4 years later.

COMMISSIONER: MR MUSI: It was not investigated; the truth was not established why do you still persist in repeating the allegation?

MR CRAWFORD-BROWNE: Sadly the issue keeps repeating itself including, for instance, this manuscript which looks at the whole linkages of  
20 people within the ANC and the European armament industry from the 1980's including [inaudible] September etcetera. All these linkages that have sucked us into a pipeline.

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COMMISSIONER: MR MUSI: Thank you.

ADV CILLIERS: Mr Crawford-Browne you say you reported this to the police; I think you mentioned that to the Commission in the Western Cape or something like that?

5 MR CRAWFORD-BROWNE: That is correct.

ADV MOERANE: In what form; did you make an affidavit.

MR CRAWFORD-BROWNE: Yes, I did.

ADV MOERANE: And what did you state in that affidavit?

MR CRAWFORD-BROWNE: I said, prompted by comments made at the  
10 [inaudible] conference I have just attended, I would give some of the history of my relationship with Mr Jacobs and said this needs to be investigated.

ADV MOERANE: I am just trying to find out what you could have said in that affidavit which would have prompted an investigation. You obviously did not have any direct information. You are relying on this Mr Bheki Jacobs. So  
15 what ...; what would you have said in that affidavit?

MR CRAWFORD-BROWNE: I have related the history including the allegations made in October, September/October 2001. What happened in March 2004 in the meantime comments around town were, oh, of course Joe Modise was not murdered; isn't this public knowledge. There was a  
20 current of people saying, oh, are you even questioning the issue. Everyone knows Modise was murdered.

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CHAIRPERSON: I am sorry Mr Crawford-Browne are you serious about this allegation?

MR CRAWFORD-BROWNE: I am! Yes, I am this is why I have said this is something that should have been investigated years ago. Like all the  
5 catastrophes that come around, the arms deal was not investigated in the 1990's.

CHAIRPERSON: Yes, but you must have facts to substantiate the allegation that Mr Modise was possible murdered except being told by that person. Do you have any other facts to substantiate that allegation?

10 MR CRAWFORD-BROWNE: It has been said by journalists and [inaudible] I met in Cape Town. Of course everyone knows that Joe Modise was murdered. It is a current ...; I am not going to ... [incomplete] I do not have ...; I do not have documentation or anything like that. But it will allowing this thing to fester and for instance at the Communist Party Mr Mbeki was  
15 harassed with tell us who killed Chris Hani. This is the kind of ...; you know tragedy that we brought upon ourselves.

CHAIRPERSON: Let me just clear this up. You say everybody knows that Mr Joe Modise was murdered. I am one of those who did not know that. So I think it would be wrong for you to say everybody else knows I do not know.

20 MR CRAWFORD-BROWNE: As you know "everyone knows" is a term of phrase. It was common.

CHAIRPERSON: Okay, thank you.

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ADV MOERANE: I have to put this to you Mr Crawford-Browne and it is all sincerity. What I have heard of your evidence today and the responses that you have given to the questions that I have asked you driven me to the conclusion that you are nothing but a rumour monger.

5 MR CRAWFORD-BROWNE: That may be your conclusion it is not mine.

ADV MOERANE: You see everything that you have said here you based on newspaper reports on what is going on amongst people who propagate rumours on the doubtful authority of a trickster. A confidence trickster Bheki Jacobs and you come and put this all before this Commission.

10 MR CRAWFORD-BROWNE: That may be your assessment it is not my assessment or of a number of other people who are respected.

ADV MOERANE: When it comes to agreement on the cogency of the evidence that you have given I think it will be fair to argue that this Commission should totally and completely ignore your testimony because it  
15 is not grounded on fact but it is grounded on speculation, on opinion and on rumours.

MR CRAWFORD-BROWNE: If that is what the Commission wishes to do per your recommendation I am afraid it will only compound to the Commission's already rather fragile credibility.

20 ADV MOERANE: One of the rumours that you have brought to this Commission is that Mr Joe Modise according to the rumour was alleged to have been involved in a conspiracy to murder Chris Hani not so?

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MR CRAWFORD-BROWNE: This is covered in this article here, yes; I have heard that from numerous sources. As I say this comes up, for instance, at the Communist Party meetings where President Mbeki was harassed by people saying Thabo tell us who killed Chris Hani.

5 ADV MOERANE: And what is the source of that rumour?

MR CRAWFORD-BROWNE: I do not know, I do not attend the Communist Party rallies.

ADV MOERANE: So even that; what was said by the Communist Party meeting or rally, is still a rumour. In other words, it is hearsay about hearsay.

10 MR CRAWFORD-BROWNE: Of course it is but it creates a wave of instability that should be addressed and the tragedy is it has compounded and compounded. I do not want to fan rumours but when these things occur they must be addressed and investigated thoroughly.

ADV MOERANE: Chairperson I do not think that any useful purpose will be  
15 serve by further cross-examining this witness so that is the end of my cross-examination.

ADV CILLIERS: Mr Chairman in view of e-mail that has been distributed to us this morning, the one that has been referred to by my learned friend, we have three or four questions on that as well if you will allow us the  
20 indulgence?

CHAIRPERSON: I am sorry before you do that some of the other people might also want to deal with this issue. Yesterday afternoon after realising

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what Mr Crawford-Browne has said in a statement about some of the weapons that the army secured, he referred to Ms Nonsiswe Mdlala and then gave instructions that Ms Nonsiswe Mdlala should be contacted because they are going to call her possibly as a witness or he must give us a  
5 statement because I wanted to confirm or wanted to decide whether to call her to come and testify in the light of what Mr Crawford-Browne has said. She has now given us a written reply. She says:

“My name is Nonsiswe Charlotte Mdlala. I served as Deputy Minister of Defence from 1999 to 2004. In September 1999 I travelled to the  
10 UK on an official visit and I was asked during that time to announce the winning bidders for the arms procurement as part of the strategic defence packages.

Immediately after I have made the announcement one of the Admirals present during the announcement turning to me and said ‘Ma’am we  
15 bought the wrong equipment. These are hardly the weapons of peacekeeping.’

I confirm that I repeated these words to Mr Terry Crawford-Browne as well as several other people. I unfortunately do not remember the official’s name.”

20 So again it is one of those allegations which we cannot follow up because she says that she cannot remember the name of the official. I just wanted to read this into the record and make sure that it forms part of our proceedings. You can go ahead sir?

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ADV CILLIERS: Thank you Chairperson. A very few questions Mr Crawford-Browne. My learned colleague already dealt with it in some detail. Do I understand it correct or the evidence correct that you received a copy of this dossier shortly after Ms Patricia De Lille received it?

5 MR CRAWFORD-BROWNE: On the same day, I think about 20 minutes later in early September 1999.

ADV CILLIERS: And do I gather correctly from what you have written here that you very soon after studying the dossier realised it was a bizarre document lacking of substance?

10 MR CRAWFORD-BROWNE: Names were given and the composition of the document was bizarre, the grammar, the spelling, names were named. One thing did not lead to ...; one conclusion did not lead to the next logically. It was bizarre but this was not unique sadly in subsequent years all kinds of bizarre documents have appeared including from President Mbeki.  
15 Unfortunately, ja, this was my first experience I thought my God what ...; what is this and three days later there was uproar immediately had I written it. I did not.

ADV CILLIERS: I do not want to interrupt you Mr Crawford-Browne but please restrict yourself to the questions. It is late in the day and we would  
20 like to finish today I suppose. Apart from knowing that it was bizarre if I read the content of that specific paragraph it is clear that you have also realised that it lacked substance.

MR CRAWFORD-BROWNE: It lacked proof; put it that way.

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ADV CILLIERS: No, Mr Crawford-Browne you used the words “it lacked substance.”

MR CRAWFORD-BROWNE: Yes, you could not proceed on the basis of this document. The interesting thing was the hysteria about it and not the  
5 document itself.

CHAIRPERSON: Mr Crawford-Browne again listen to the question. Please, don't just tell us a lot of information which is irrelevant to the question. You used that particular words that counsel is referring to, that is all that he is saying to you.

10 MR CRAWFORD-BROWNE: The answer is yes.

ADV CILLIERS: Well, please make it then a short yes if the answer is yes. You knew from the beginning that that document was a bizarre document lacking of substance am I correct?

MR CRAWFORD-BROWNE: Yes.

15 ADV CILLIERS: Yet you allowed that document to be used to create a huge public hysteria am I correct?

MR CRAWFORD-BROWNE: No.

ADV CILLIERS: Did you disclose to anybody at any stage that this is a bizarre document lacking of any substance, in the years that follow were you  
20 one of the loudest critics relying, if not expressly tacitly, on this dossier?

MR CRAWFORD-BROWNE: No, the issue was not the content of the

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document. The issue was who were the ANC [inaudible] to identify them.

ADV CILLIERS: The question will remain Mr Crawford-Browne did you disclosed to anybody that you knew that this was a bizarre document lacking of substance whilst relying in creating this public hysteria relating to the arms  
5 deal?

MR CRAWFORD-BROWNE: Again I did not know what do make of it other than it was bizarre. Certainly I was not the author of it.

ADV CILLIERS: Who asked you whether you were the author of this document Mr Crawford-Browne?

10 MR CRAWFORD-BROWNE: It cropped up three days later with [inaudible] Naidoo.

ADV CILLIERS: Are you really seriously attempting to cooperate in this Commission Mr Crawford-Browne?

MR CRAWFORD-BROWNE: I am, I am attempting to provide background  
15 and context. I did not write the document.

ADV CILLIERS: Mr Crawford-Browne please listen to the question. You knew shortly after you studied the document that it was bizarre and lacked substance. That we know do you agree?

MR CRAWFORD-BROWNE: Yes.

20 ADV CILLIERS: Now please listen to the following question. You knew and you were part of creating a public hysteria relating to the arms deal

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subsequently am I correct?

MR CRAWFORD-BROWNE: The hysteria erupted immediately not subsequently.

ADV CILLIERS: Immediately; subsequently [laughing]. Mr Crawford-Browne  
5 really we are busy with serious business.

MR CRAWFORD-BROWNE: It was not ... [intervenes]

ADV CILLIERS: You knew that this document that you relied on creating public hysteria related to the arms deal was a result of the lacking of any substance am I correct?

10 MR CRAWFORD-BROWNE: I was not the cause of the hysteria.

ADV CILLIERS: The document was Mr Crawford-Browne, if I understand this document of you correctly.

MR CRAWFORD-BROWNE: The hysteria was from the Minister of Defence. There it was where the hysteria originated not from me.

15 ADV CILLIERS: The cause of the hysteria, if I read this correct Mr Crawford-Brown, according to you was this dossier?

MR CRAWFORD-BROWNE: Yes.

ADV CILLIERS: And you allowed that?

MR CRAWFORD-BROWNE: The issue was who were the ANC MP's  
20 behind it and not the content.

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ADV CILLIERS: The question is you allowed that?

MR CRAWFORD-BROWNE: The protection of the identities involved including Winnie Mandela was more important than the rather bizarre document. We had to protect the people who were concerned and that were  
5 our concern at that point and have remained so for 15 years.

ADV CILLIERS: For the fourth time you allowed that am I right or am I wrong?

MR CRAWFORD-BROWNE: It was not in my control to do anything about it

ADV CILLIERS: You did nothing to stop it and/or to disclose the fact that  
10 you knew it was a bizarre document lacking any substance?

MR CRAWFORD-BROWNE: What could I have done about it?

ADV CILLIERS: I am not asking you what you could have done. I am telling you or asking you whether you did anything to disclose what your knowledge was relating to this document?

15 MR CRAWFORD-BROWNE: No, I think a couple of journalists asked me about it and I said it is weird.

ADV CILLIERS: Did you tell them it lacked any substance?

MR CRAWFORD-BROWNE: I cannot remember using that term.

ADV CILLIERS: In general words?

20 MR CRAWFORD-BROWNE: As I say I was just bewildered by it.

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ADV CILLIERS: Mr Crawford-Browne you are dishonest now again.

MR CRAWFORD-BROWNE: Ag please do not call me ... [intervenes]

ADV CILLIERS: You allowed it and you made used of it in order to create this hysteria surrounding the arms deal?

5 MR CRAWFORD-BROWNE: You heard me yesterday I asked you and I ask you again; you stop calling me dishonest.

MR CILLIERS: Please answer the questions then.

MR CRAWFORD-BROWNE: It was totally beyond my control to do anything about it. It was not for me to counter it.

10 ADV CILLIERS: But you knew it lacked substance; within your knowledge it was a bizarre document lacking in substance?

MR CRAWFORD-BROWNE: Exactly.

ADV CILLIERS: Yet you did nothing to disclose those facts to the ...; whether to the media or to anybody. You in in fact did the contrary; you  
15 relied on that document whether expressly or tacitly in order to create this media hysteria that was created?

MR CRAWFORD-BROWNE: That is not so.

ADV CILLIERS: I have no further questions.

CHAIRPERSON: Yes, thank you. Just for my own understanding on this Mr  
20 Crawford-Browne you said Patricia has brilliantly used that bizarre document for 15 years to fashion a political career including her present position as the

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mayor of Cape Town. Am I right to understand this portion to be saying that because of this so-called De Lille-dossier in your view Patricia has used that brilliantly in order for the purposes of her political career; is this what you are saying?

5 MR CRAWFORD-BROWNE: That is how it was termed, yes.

CHAIRPERSON: Thank you. Mr Crawford-Browne it is now 15:30, Ms Ramagaga who would be your next witness?

ADV RAMAGAGA: Yes Chair with your permission I would request that I be permitted to re-examine Mr Crawford-Browne because he is not legally  
10 represented and maybe I should just indicate to the Commission in respect of which points I would like to ... [intervenes]

CHAIRPERSON: You do not have to ... [intervenes]

MS RAMAGAGA: Thank you.

CHAIRPERSON: Just ask him before I close the proceedings.

15 RE-EXAMINATION BY ADV RAMAGAGA: Thank you Chair. The areas in respect of which I would like to re-examine you Mr Crawford-Browne relate to questions that emanated during cross-examination from ... [incomplete]. Please take your seat? From Advocate cane and Mr Chowe respectively. I will start off by asking those that related to Advocate cane. You will see the  
20 document on top it is marked "Odendaal". Do you see that one?

MR CRAWFORD-BROWNE: Yes.

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MS RAMAGAGA: Now yesterday in response to questions by Advocate Kane you indicated or you stated that Bell withdrew from the heat because it refuses to participate in bribery. You also said Bell ought to have won that bid because of one reason or the other. Is that correct?

5 MR CRAWFORD-BROWNE: Not quite. Bell withdrew from the bid whether it might or not have won I do not know.

ADV RAMAGAGA: Right, that is fine. So the evidence that I will bring to your attention is meant to just, you know, sensitise you of the evidence that was led in relation thereto as to whether there was any withdrawal or not. In  
10 particular I would like to draw your attention to page 3 690 of that document marked "Odendaal." Now from lines 9 up to 15, in particular I would like to draw your attention to lines 11, 12 and 13 which gives the military figure of merit. The ranking of the three that had been invited and participating. Now you will see that (A) 109; that is the Agosta ranked as first with 0,96 and then  
15 the second one "EC" that is the Euro Copter, ranked as second at 0,77 and Bell ranked the third at 0,61. Can you see that?

MR CRAWFORD-BROWNE: Yes, I do see.

ADV RAMAGAGA: Right, now I would like you to turn over to page 3 712 of the same document. Now on 3 712 you will also find the ranking of this  
20 equipment. The [inaudible] utility helicopter equipment. Now in this case they are dealing with the normalised military figure of merit. It reflects there "normalised military figure of merit." Now it puts Agosta again as the first one; ranking as the first one with the evaluation at 100. Do you see that?

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MR CRAWFORD-BROWNE: Yes, I do see.

ADV RAMAGAGA: Right, then it is the Euro Copter which is ranked as second at 69.

MR CRAWFORD-BROWNE: Yes, that is right.

5 ADV RAMAGAGA: And Bell at 57 as the third.

MR CRAWFORD-BROWNE: Yes, I see that.

ADV RAMAGAGA: Now please turn over to page 3 713. Now on that page is the ranking of this equipment on initial system acquisition cost. Now Agosta is ranked as the first at the cost of R423 million American dollars. Do  
10 you see that?

MR CRAWFORD-BROWNE: Yes, I do.

ADV RAMAGAGA: And Bell is now the second one at R462 million American dollars.

MR CRAWFORD-BROWNE: Yes, I do.

15 ADV RAMAGAGA: And Euro Copter is the third at R503 million dollars.

MR CRAWFORD-BROWNE: Yes.

ADV RAMAGAGA: Now if you go to lines 12 to 14, on the same page. It is actually highlighted and with this remark that reads: "The Bell and Euro Copter proposals came a marginally higher risk than the Agosta proposal."  
20 Now this actually reflects that Bell participated in the bid in many respects or participated in the bid and it continued to be valued along with the other two

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competitors and the ranking at no point did it reach the level of being the first one in terms of the ranking.

MR CRAWFORD-BROWNE: Yes, as I have said earlier my own knowledge of this is that Bell withdrew.

5 ADV RAMAGAGA: Yes.

MR CRAWFORD-BROWNE: If I could elaborate a bit on that. This issue was covered by a Carte Blanche program in 200

ADV RAMAGAGA: Yes, like I have ... [intervenues]

CHAIRPERSON: Just a moment Mr Crawford-Browne this document clearly  
10 indicates that Bell participated in the evaluation right up to the end?

MR CRAWFORD-BROWNE: [No audible answer]

CHAIRPERSON: It states that Bell participated and was evaluated like all others and in all the [inaudible] Bell and Agosta was ranked first. Now the question is in the light ...; what do you say to this evidence in the light of your  
15 allegation that Bell withdrew because somebody else asked for a bribe from him? That is the question.

MR CRAWFORD-BROWNE: This was the subject of the Carte Blanche documentary in 2001 where Bell Helicopter Executives were interviewed and then made that allegation that that is why they withdrew because of the  
20 suggestion that they were going to get the [inaudible] as bribery payments. The evidence seems to mean that [inaudible] allegation and that is why they withdrew. That is my source for that.

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CHAIRPERSON: Let me try again. This is the evidence [inaudible] is that some documentation were given to the Commission. Now in the light of this evidence and the documents that we have what do you want to say about the allegation that you have made that Bell Helicopter withdrew from the  
5 process?

MR CRAWFORD-BROWNE: That was their own explanation in an interview on Carte Blanche in 2001. I am sure you can access that program through Carte Blanche. It came from Bell Helicopters and not from me.

CHAIRPERSON: Alright, I am not going to get any answer from Mr  
10 Crawford-Browne you can continue with your questions.

ADV RAMAGAGA: Right, thank you Chair. I now want to proceed to the next subject that is the offsets. Let me just try and to explain Mr Crawford-Browne, the purpose of the re-examination is just to clear what arose during cross-examination and any other thing that developed after you have  
15 completed your evidence. All I am doing is just to point you to what the evidence says and you have the benefit of having a copy of the transcription with you. Now the offsets when Mr Chowe was cross-examining you you on several occasions continued to described the offsets as the vehicle to pay as well as the confidence [inaudible] and when Advocate Moerane also asked  
20 some questions and mentioned the offsets you intimated that the offsets were actually ...; it was irrational to factor in the offsets into the acquisition.

Now relying on the evidence of Mr De Beer from Armscor I would like to refer you to just an extract a few references to his evidence. Firstly, at

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page 4 494 where his counsel; Advocate Sibeko, was quoting from his statement. That is Mr De Beer's statement that:

“The concept offsets and counter trade is a worldwide phenomenon.”

He agreed to that statement and confirmed that that is in fact the  
5 position. Do you see that?

MR CRAWFORD-BROWNE: Yes, I do.

ADV RAMAGAGA: And in actual fact this is a reiteration of what you have referred to yesterday when you were reading into the record some extracts of the affordability report do you remember?

10 MR CRAWFORD-BROWNE: I do.

ADV RAMAGAGA: Now at page 4 505; 4 505 are you there?

MR CRAWFORD-BROWNE: [No audible answer]

ADV RAMAGAGA: In particular at lines 13 to 24 ...; 23, I beg your pardon. Mr De Beer is making a point, I will not read through the entire passage but  
15 the point that he is making is that:

“Reciprocal trade is actually the heart of offsets and counter trade.”

Do you see that?

MR CRAWFORD-BROWNE: Yes, I do.

ADV RAMAGAGA: And do you agree that actually that counter trade  
20 manifest itself in the form of reciprocal trade?

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MR CRAWFORD-BROWNE: Yes.

ADV RAMAGAGA: Not in the form of literally exchange of money for the offset?

MR CRAWFORD-BROWNE: Yes.

5 ADV RAMAGAGA: Thank you. Now let me take you to page ...; please turn over to page 4 509 of the record. In particular I would like to take you to lines 10 to 20 on that page. Now again I will not read the entire passage into the record but the purpose for which I am directing you to this is just to show you that in terms of the evidence of Mr De Beer the offsets and counter trade  
10 have been used within the South African Defence industry from as far back as 1960. That is according to his memory. We do not even know whether it goes to even beyond 1960 but according to him he says he would be able to show this Commission that even as far back as around 1960 the offsets were being used in the armament industry of South Africa.

15 Do you agree?

MR CRAWFORD-BROWNE: I think [inaudible] particular emphasise in the late 1970's.

ADV RAMAGAGA: And they continued to be used within the defence industry up to and including today.

20 MR CRAWFORD-BROWNE: Yes, that is so.

ADV RAMAGAGA: Thank you. Now please turn over to page 4 510. In lines 5 to 8 that point that it has been there since the 1960's is repeated. It is

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not necessary to ... [incomplete]. Ja, it is repeated do you see that?

MR CRAWFORD-BROWNE: Yes, I do.

ADV RAMAGAGA: Now will you turn over to page 4 520. Now in particular I would like to draw your attention to lines 13 to 20, still on Mr De Beer. He

5 says in his evidence:

“By February of 2000 counter trade agreements outside of the SDPP’s amounted to R4,7 billion of value and credits were past successfully to that same amount to the local defence industry. All those agreements have since being completed successfully without the need of any

10 punitive measures so we regard those counter trade agreements as being successful and very supportive of local defence related industry.”

Do you see that?

MR CRAWFORD-BROWNE: Yes, I do.

15 ADV RAMAGAGA: Now the reason why I am also pointing you to this portion of evidence is to show that from the evidence before the Commission counter trades were not only used ...; offsets ... [incomplete]. Let me use the correct terminology in this context. Offsets have not only been used for the purpose of the SDPP’s but a huge amount of trade with foreign countries has

20 been made with the offsets being factored in and they are talking here about R4,7 billion. In the light of this statement would you then maintain that the offsets were introduced into the acquisition of the armaments as a confidence

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trick or as a way to procure or secure briberies?

MR CRAWFORD-BROWNE: Up until the 1990's we already talking about counter trade which is much ... [intervenes]

ADV RAMAGAGA: Broader.

5 MR CRAWFORD-BROWNE: A separate [inaudible]. From the 1990's it became a lot more complicated with the difficulties that then followed. The difficulties then [inaudible] and so forth. It was introduced in terms of South Africa although there had been an escape of counter trade in the old era at this were taken to a new level in the 1997.

10 ADV RAMAGAGA: Yes, that is also I think eloquently sketched out in the evidence of Mr De Beer where he talks about the three types of offsets that will be taken into consideration. He says when it was tailored down; when counter trade was tailored down it was tailored down to now, the commercial model of offset. But the question that I am asking is that in the light of this  
15 evidence by Mr De Beer that counter trade has been with the Republic of South Africa over decades but more importantly South Africa is engaged in the offsets also in respect of other trade than arms acquisition.

Now in the light of this evidence, we are just looking at the evidence and saying the analyses as against the evidence that has already been  
20 placed by you through the evidence led, would you then sustain the statement that ...; still maintain the statement that the offsets were introduced into the arms procurement exercise for the purpose of bribes as well as the fact that it was a confidence trick with a view to actually getting bribes more

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than the acquisition of arms?

MR CRAWFORD-BROWNE: By the late 1990's it had moved to another level and Armscor had promoted itself as being mere parties on counter trade subsequently offsets. At the same time internationally through the World  
5 [inaudible] Organisation and so forth. There was an increase in the WTO offsets are specifically prohibited in civil trade arrangements that there is an exception clause made for military suppliers. So this is where offsets have relied on this exception for matters of security issues but then with the civil trade internationally offsets are prohibited from WTR and related [inaudible]  
10 and so forth.

ADV RAMAGAGA: Mr Crawford-Browne what you are now saying about the World Trade Organisation accepting that there has to be counter trade or offsets it is actually discouraged except for in relation the armaments industry and so forth. All that information is already before the Commission because  
15 Mr De Beer dealt adequately and also eloquently with that to a point that I think everyone agrees that that evidence we understand quite well as to what the history is. Who is accepting what are the exceptions and so forth.

The focus of the question is just to say there is this evidence that has been presented which you have also confirmed. It is the evidence that has  
20 been mentioned or presented by Mr De Beer. Now the only question that I am asking you know any one out there listening to the evidence that has been presented someone may gain an impression that the offsets were only introduced at the time of the SADPP's [inaudible] mischievous purposes. Now in the light of the fact that Mr De Beer has stated before the

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Commission that counter trade has been there since for decades but at the same time the offsets now, because the offsets became policy in or around 1997, he says out of the offsets in or around 2000 this is what has happened success R47 billion outside the SADPP's.

5           So I think that evidence seeks to illustrate that the offsets have not only been confined to the SADPP's but it would seem it is something that is ordinarily and normally being applied in the execution of the policy of the Republic of South Africa and in particularly the DTI. In the light of that would you maintain that the offsets were used as a confidence trick with the  
10 purpose of securing bribes?

MR CRAWFORD-BROWNE: Yes, I would and [inaudible] the record of Armscor during the counter trade days is usually problematic as well and one of the issues of the counter trade is the huge disparity between the import and export which allows massive payments for the counter trade promoters.  
15 As we know the [inaudible] of corruption around Armscor in the pre-transaction period. That is one of the issues under investigation at the moment by the Public Protector. With the new situation from 1997 where it became part [inaudible] by then it was a much more complicated and in more difficult needs of auditing and managing. So the opportunities for corruption  
20 would then [inaudible] it obviously not. That may not have been the intention but the opportunities for corruption were hugely expanded at the same time.

ADV RAMAGAGA: May we proceed to the last point that I sought to re-examine you on. Now this is the response, it is a development that came about after you had presented your evidence and that is not in ...

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[incomplete]. No, no, it is not part of the evidence that have been presented but it is something that came about as a result of the evidence that you have presented to Commission. That is the response of the African National Congress to the evidence that you led especially in relation to Mrs Mandela; Winnie Mandela. Now I think you had an opportunity to see the statement, the statement by the African National Congress. In that statement the African National Congress actually denies that Mrs Mandela did leak information to yourself. Further, that she is one of the concerned MP's who leaked the information to yourself about the arms deal. What is your response thereto?

MR CRAWFORD-BROWNE: It is slightly different from the statement that I saw last night from Mrs Duarte.

ADV RAMAGAGA: Maybe for the completeness of the record I should read that statement into the record?

15 CHAIRPERSON: Hmm.

ADV RAMAGAGA: Thank you. Now it is the statement dated 8 October 2014. Now you have a copy of the statement before you Mr Crawford-Browne?

MR CRAWFORD-BROWNE: Yes, I do.

20 ADV RAMAGAGA: Yes, it is dated 8 October 2014 at 11:53 am; do you see the date and time on top on your right?

MR CRAWFORD-BROWNE: Yes, I do.

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ADV RAMAGAGA: Now the heading reads: "The ANC reject acquisitions against comrade Winnie Mandela." The author of that statement is Ms Jesse Duarte.

MR CRAWFORD-BROWNE: That is correct.

5 ADV RAMAGAGA: I now continue to read it into the record:

10 "The African National Congress is outraged by the reports that Terry Crawford-Browne has made. ANC stalwart and NEC member comrade Winnie Madikizela Mandela as one of the concerned MP's who leaked to him information about the strategic defence procurement package or the so-called arms deal. With no fear of contradiction the ANC disputes the allegations as lies being pedalled against comrade Winnie. She has been and remains a loyal member of the African National Congress who continues to this date to serve in the National Executive Committee of the ANC. As such comrade  
15 Winnie has always been an outspoken and fearless member of the organisation who at no stage used proxies or feared to raise within the structures of the ANC any issue that she felt needed to be raised.

20 It is impossible therefore that would leak any information to Terry Crawford-Browne and act as a concerned MP instead of the stalwart and leader of our organisation that we have always known her to be. It is quite evident that now that Terry Crawford-Browne is given an opportunity to substantiate the allegations that he has been making about the so-called arms deal he is found warranty. He is attempting

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to bring credibility of his wild allegations by drawing into the frame leaders of our movement as he has nothing substantive to offer to the Commission.

5 Over years he has fought for this matter to be given credence and the hearing that it has now received and once there he is resorting to outright fabrications and defamations. The ANC stands by comrade Winnie Madikizela Mandela on this matter and we have no doubt that these allegations against her are nothing but a continuing trend to sought divisions within our organisation.”

10 Issued by Jesse Duarte the Deputy Secretary General of the African National Congress. I just want to get to the point where ...; because I just ask you about the denial of the dispute. Now the second sentence on that statement reads:

15 “With no fear or contradiction the ANC disputes the allegations as lies.”

So that is where my question was derived from when I said the ANC denies. Do you have any comment?

MR CRAWFORD-BROWNE: Yes, I have read this ...; I saw it last night on the internet. I did not say the day before yesterday that Mrs Mandela leaked information to me. I said she led the group of ANC members of Parliament who opposed to the arms deal.

ADV RAMAGAGA: Alright, thank you. Jus a final point Commission. In

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your statement it is suggested that Minister Modise ... no, no ... [incomplete]

It is suggested that Mr Hanu was murdered and probably because of the issues around arms corruption or arms procurement corruption. Now Mr Hanu died in April 1993 and the first request for information ... [incomplete].

5 Rather let me put it this way: He died in 1993 at the time when he died the ANC was not yet into power is that correct?

MR CRAWFORD-BROWNE: [No audible answer]

ADV RAMAGAGA: You agree?

MR CRAWFORD-BROWNE: Correct.

10 ADV RAMAGAGA: The first requisition ...; or the request for information was issued in 1997 and 1998 respectively. That is now under the new dispensation; it was in 1997 and 1998 respectively is that correct?

MR CRAWFORD-BROWNE: That is correct, yes.

ADV RAMAGAGA: And the preferred bidders were only announced in  
15 November 1999.

MR CRAWFORD-BROWNE: 1998.

ADV RAMAGAGA: 1998, yes.

MR CRAWFORD BROWNE: 1998, yes.

ADV RAMAGAGA: Now looking at the fact that Mr Hanu died in 1993 and  
20 the process of identifying possibly suppliers commenced in 1997 with the first request for information was issued by he current dispensation are you able to

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explain to the Commission as to why you hold a view or you agree with the view that Mr Hanani was actually murdered amongst others for the arms procurement corruption?

MR CRAWFORD-BROWNE: I think it is pointed out in this article. Mr  
5 Modise ...; the senior of Denel ...; of Armscor to [inaudible] before the transition and it suggested that this kind of contact had in fact began well into the 80's many years before even unbanning the ANC. So it is a lengthy process before the transition and subsequently.

ADV RAMAGAGA: Okay, thank you Commissioners that is all there are no  
10 further questions for Mr Crawford-Browne.

CHAIRPERSON: Mr Crawford-Browne can you repeat the last answer I did not quite follow what you were saying?

MR CRAWFORD-BROWNE: It seems evident from research done by Evelyn [inaudible] and others that the contacts between members of the ANC  
15 in particular Mr Modise long preceded even the unbanning of the ANC let alone the transition. So it was a long process from the 80's on and long before the preferred bidders was announced in 1998. A long process beforehand.

CHAIRPERSON: Okay, let us say it comes from in the early 1980's where  
20 was corruption [inaudible].

MR CRAWFORD-BROWNE: Corruption has always been involved in arms deals.

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CHAIRPERSON: You mean the corruption [inaudible] to the transactions but were investigated. You want to say to me that there was contact between the African National Congress and the arms manufacturers in the 1980's?

MR CRAWFORD-BROWNE: What arrangements were made between them  
5 I do not know but it would seem that there were connections long before the transition and that those associations were then grown from there.

CHAIRPERSON: Do you have any personal knowledge about those associations?

MR CRAWFORD-BROWNE: No, I am not in the arms trade.

10 CHAIRPERSON: So you do not have any knowledge about those associations yet just guessing or you are just speculating?

MR CRAWFORD-BROWNE: I would say that the arms trade is known for [inaudible] arrangements. Not only just in South Africa but worldwide.

COMMISSIONER: MR MUSE: I just wanted to say to you Mr Terry  
15 Crawford-Browne that we should thank you for participating in this process. For coming and testifying before this Commission. You see the allegations that were made about the arms acquisition process that we are investigating they are made and a part of this exercise is to test those allegations. That is why I thank you for coming in order that the allegations do have [inaudible].  
20 Some people seem to be reluctant to those [inaudible] that is why I needed to thank you for coming and participate in this process.

I am worried thought about only one aspect that is the tendency to

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make very serious allegations against people when you do not have the facts to back the allegations up. I think it is a bit worrying I think in future we must be cautious about that otherwise thank you.

MR CRAWFORD-BROWNE: Thank you sir, thank you very much for those  
5 comments there have obviously been suggestions I should not have testified at all. I believe I should have testified but the point I want to make is there are huge allegations of corruption that are way beyond my capacity to investigate so it is essential for a body such as this to actually work these things through and test the allegations. There is a mass amount and this has  
10 been my concern for many, many years but thank you for your comments.

CHAIRPERSON: Thank you, Ms Ramagaga?

ADV RAMAGAGA: Thank you Chair the next team that will be leading the evidence is Advocate Sibeko's team and he is here to can indicate or to address the Commission.

15 ADV SIBEKO: Thank you Chair and Commissioner Musi. [inaudible] and I will lead the evidence of Mr Hennie Van Vuuren on 20 October 2014 and during the course of that week Mr Paul [inaudible] and Mr Andrew Feinstein. As far as I am aware subpoenas have been served on these witnesses and this is of course done after they had gone on national television to make a  
20 press statement to the effect that they had withdraw their voluntary participation. I am aware that Advocate Ndumbe has sent a letter to the lawyers of Human Rights who in the course of these proceedings represented this three witnesses.

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He has informed me that he has not received any response to that letter at this point. The effect of that letter was to notify the lawyers for Human Rights about the scheduled hearing and to seek cooperation from them with regard to arranging consultations and finalising statements. Now  
5 we are at that point as the matter stand but we hope that we will be in a position to proceed on the scheduled dated.

CHAIRPERSON: Thank you we are going to adjourn now until 20<sup>th</sup> of this month and Mr Van Vuuren the first witness

**(COMMISSION ADJOURNS)**

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