

ARMS PROCUREMENT COMMISSION

Transparency, Accountability and the Rule of Law

PUBLIC HEARINGS

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CHAIRPERSON: Thank you. Good morning.

ADV SIBEKO: Good morning, Chair, Commissioner Musi. As we indicated, when we adjourned, on the previous occasion, today we will
5 be leading the evidence of Admiral Alan Green and Mr Masizakhe Zimela of the DTI. Both these witnesses will be tendering some supplementary evidence, which was brought about, by a request that the Commission sent to the Navy, as well as the Department of Trade and Industry. Without wasting any further time, I would beg leave that
10 Admiral Green be sworn in.

ALAN GREEN: (d.s.s.)

ADV SIBEKO: Thank you. Admiral Green, you have become accustomed to the drill at the Commission that every time I speak, or you have to speak, one of us have to have the mike on, for the
15 recording to be captured. Do you recall that?

ADM GREEN: I do.

ADV SIBEKO: As your statement indicates, perhaps, starting from the beginning, you have prepared a two page statement, which has been headed supplementary statement of Admiral Alan Green. Does that
20 statement, if you have regard to it, contain your signature at the bottom of page 2 thereof?

ADM GREEN: Chairperson, that is my signature.

ADV SIBEKO: You also confirm that you have testified previously, that is on the 20th of August 2013, before this Commission.

25 **ADM GREEN:** Chairperson, that is correct, more than a year ago.

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ADV SIBEKO: It is also correct that the contents of your statement is based on an email that was sent to the Department of Defence, by the Commission, in terms of which, some information was requested.

ADM GREEN: Chairperson, that is correct.

5 ADV SIBEKO: Now, the information that was requested in that letter, related to the issues, relating to the projected usage of certain equipment that was purchased through the arms packages.

ADM GREEN: Chairperson, that is what my statement contains and it goes about.

10 ADV SIBEKO: It is, in fact, a supplementation of the evidence that was given by Rear Admiral Philip Schultz [indistinct] during the course of the proceedings of this Commission, in August 2013.

ADM GREEN: Chairperson, that is correct. The Rear Admiral Schultz has subsequently retired for the SANDF.

15 ADV SIBEKO: The testimony you are about to give is summarised in the tables that appear in your statement, at page 2 thereof. Is it correct?

ADM GREEN: Chairperson, those are the panels that I will reflect for the record.

ADV SIBEKO: Now, the tables, in respect of which you testify, make
20 reference to planned use, as well as the actual use of the frigates and submarines. Perhaps to, just clarify the issue. How does the SA Navy conduct its planning of the usage of these equipments?

ADM GREEN: Chairperson, the, the planning that the Navy conducts
is in terms of the DOD planning process, which is known as the strategic
25 direction process. Within the strategic direction process, we find four

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activities and I must mention these. Being the policy that directs us, the environmental analysis, which shows us what the business for the next five years will be. There I must mention the medium term strategic framework, which is the administration of government, the five year
5 plan, the MTEF, which is the medium term expenditure framework, a three year fiscal indication, against which we then conduct our planning. The planning is then broken up into, into two components, the first one being force preparation, which is what the, the Navy, in this case will do, in order to ensure that those vessels are prepared adequately for force
10 employment. Force employment is directed by government. So, when it comes to force preparation, the Navy knows what the Navy would have to do and how many hours it would normally take, based on empirical data, as to how long it would take, to prepare forces. Then, the, the execution, which is the process in the strategic direction process, after
15 planning, will determine how the vessels were, in fact, used. The fourth component of the strategic direction process is the reporting and the reporting is what we see, under the, the actual hours. So, in the planning, which is where I am going to focus now, one has to consider, very pertinently, what you are expected to achieve. In this case, the
20 Navy and both, with the frigate and with the submarine it is the same consideration. What do you expect it to do? That comes out of what I have termed the environmental analysis, because the environmental analysis takes the intelligence briefing into account as well. When, when these hours at sea are planned and when I refer to the hours at
25 sea, I believe, I ought to clarify why I have chosen hours and not days,

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as was requested. In our reporting cycle, which is part of that SD process, we can only report on figures that have been audited. Therefore, it would make one understand that the Auditor General is involved, because the Auditor General signs off the annual report of the

5 DOD, in which we find the annual report of the SANDF. That, over the years, the Auditor General has directed that the performance of the frigates and submarines will be indicated in hours and not in days, because there was some ambiguity, in terms of what is a day. Because in the Navy's understanding of days, when the ship goes to sea, during

10 the day and comes back, that could be determined as a day, if it goes to sea for two days, being 48 hours that would be two days. So, to make sure that it is very clear, the hours at sea are reflected and not days. That is why, when I go through the tables, you would see there are even decimal points, to indicate the accuracy with which this has been

15 audited, taken off the ship's records, which are determined by the time the ship actually sails, as to when the ship comes alongside again. So, when it comes to planning the hours, the force preparation is then, a far more manageable figure than the force employment, because the force employment is something that is directed on the need of the

20 government, at the time. Because, as I had testified, on the 20th of August, we only perform our task, in terms of our Constitutional mandate. So, we do not simply go to sea and do what we please to do. We are directed to go to sea. So, these hours are then summated and put into our plan for the year. That is normally in the financial year and,

25 Chairperson, this is where the, the MTEF and medium term expenditure

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framework comes in, because that will also influence the number of planned hours at sea for the year. I believe that I can go into more detail, should that be necessary. Otherwise, if you have any questions, I can answer them, or carry on to the next part.

5 ADV SIBEKO: Now, the schedules appear at page 2 of your statement. The first schedule relates to the frigates and the second schedule relates to the submarines. Now, there are three columns, in respect of each schedule. The first column, on the left hand side, would be the financial year. I believe that is self explanatory. Then, there is
10 the planned column. Is that what you referred to, as being prepared on the basis of the force preparation?

ADM GREEN: Yes, Chairperson. That is on, on force preparation and force employment. The planning is done for both. The force preparation, planning, as I said, I must reiterate this, because it is, it is
15 not common cause, is based on what it would take to prepare a vessels. Whereas, the force employment depends on, on government's need.

ADV SIBEKO: The last column is described as actual. As I understand your evidence, would this relate to the actual execution of the force preparation and employment?

20 ADM GREEN: Yes, Chairperson. This is the actual and that was reflected in, Admiral Schultz's statement. He reflected it in days at sea. So, this has been made into something that is comparable. This is the actual hours that these ships were deployed, these ships and submarines.

25 ADV SIBEKO: Dealing first with the frigates, can I ask you to read into

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the record, the numbers planned, in respect of each year and the actual, the numbers actually spent at sea, by the frigates.

ADM GREEN: Chairperson, for the financial year 2006, 2007, the planned hours were 7 720, the actual hours were 5 052. Financial year
5 2007, 2008 the planned hours were 9 114 and the actual hours 5 704. For the financial year 2008, 2009 the planned hours are 7 344 and the actual hours 5 658. Financial year 2009, 2010 the planned hours are 9 888 and the actual hours 3 019.8. For 2011, 2012 the planned hours were 6 412 and the actual hours were 4 415.9. That should be for 2010,
10 2011. For 2011, 2012 it is the same amount for planned 6 412 and actual hours were 6 928.42. For the financial year 2012, 2013 the planned hours were 9 824 and the actual hours 1 419. For the financial year 2013, 2014 it was planned for 15 920 hours and the actual hours were 5 553.52. The reason why the subtotal is given there is because
15 the, the planned and the actual hours for the period April to June 2014 have not been audited. They are merely an indication.

ADV SIBEKO: Below the frigates' schedule, there is a schedule, relating to the submarines. Can I ask you to read that into the record please?

20 ADM GREEN: Chairperson, for the submarines financial year 2006, 2007 the planned hours were 4 320, actual hours 1 758. For the financial year 2007, 2008 the planned hours were 5 376, actual hours 1 636. Financial year 2008, 2009 the planned hours were 6 456 and the actual hours 2 199.3. For the financial year 2009, 2010 5 230 hours
25 were planned, actual hours 1 972. For the financial year 2010, 2011,

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the planned hours were 4 371 and the actual hours 3 941. 2011, 2012
the planned hours were 4 371 and the actual hours 3 643. For 2012,
2013 4 559 and the actual hours were 1 348.89. For the financial year
2013, 2014 the planned hours were 6 291 and the actual hours were
5 1 283.96. The same goes for the, the period April to June, as I
explained, for the frigates.

ADV SIBEKO: Now, Admiral, if one has regard to the two columns, in
respect of the two, the submarines and the frigates, one notices that the
planned hours are significantly higher than the actual hours at sea. Are
10 you able to explain the difference between the two, as to what causes
that?

ADM GREEN: Chair, the, the explanation for this is complex. But, if
we base it on what I have already explained, in terms of force
preparation and force employment. If the force employment that was
15 planned for the year, does not materialise, in other words, the need for a
ship to proceed, on a particular mission or operation, is no longer
required, then that ship will not go to sea for that reason. Then, the
hours would be reduced and you may notice that I, I like to focus on the
positive. In, in the case, where the actual is more than what was
20 planned, that would be the inverse. Where certain things that were
planned then arise and the ships have to be deployed for, for more than
what was planned. So, when, when we hear the critics and they discuss
that the ships have not been at sea, or make the intimations that there
have been some, some problems or how they term it that the vessels
25 are not capable of going to sea, that is not true. It is simply, the

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requirement for them to go to sea, no longer exists. As I have said, in my previous statement, the Navy has never been in a position, where it has not been able to execute an operation that has been ordered by government.

5 **ADV SIBEKO:** Thank you, Chair. That is the evidence, pertaining to this witness.

CHAIRPERSON: Is there any person, who might be interested in cross-examining Admiral Green? Thank you. Advocate Cane, any re-examination?

10 **ADV CANE:** No. Thank you, Chair.

CHAIRPERSON: Advocate Sibeko?

ADV SIBEKO: I have no further questions for Admiral Green and would accordingly, request that he be excused.

CHAIRPERSON: Admiral Green. Thanks a lot for giving this
15 evidence. Having requested this additional information, it was, when we went through the statement, this information will appear. Thanks a lot for agreeing to come and clarify this issue. Thank you.

ADM GREEN: Thank you, Chair, Commissioner Musi, and I would like to wish you all the best for the rest of the year. Thank you.

20 **CHAIRPERSON:** Thank you.

ADV SIBEKO: Chair, Commissioner Musi, the next witness we wish to call is Mr Masizakhe Zimela. He is from the Department of Trade and Industry.

MAIZAKHE ZIMELA: (d.s.s.)

25 **ADV SIBEKO:** Thank you. Mr Zimela, I would also like to remind you

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of the drill that each one of us, to have the, our voices recorded in, on,
on record, would be to press on the mike and give each other turns,
when we speak. Now, it is correct that you, you have been a witness
before this Commission and have prepared a statement and given
5 evidence, before the Commission.

MR ZIMELA: Yes. That is correct.

ADV SIBEKO: It is also correct that you have prepared a statement,
which is supplementary to the statement and evidence that you have
presented previously, which is signed at page 2 thereof. Would you
10 confirm that is your signature?

MR ZIMELA: I confirm that is my signature.

ADV SIBEKO: That statement was prepared and signed on the 30th of
October 2014. Pursuant to a request from the Commission that you
present information, relating to the totals of actual investments in sales
15 credits, which were reflected in a document, presented, during the
course of evidence, or during the course of the evidence of Siphon
Zikode, which document was identified as ANNEXURE F to his
statement.

MR ZIMELA: That is correct.

20 ADV SIBEKO: Now, that document, ANNEXURE F, is also an
annexure to this supplementary statement and it presents the amounts
reflected there, in dollar terms. Do you see that?

MR ZIMELA: Yes. That is correct.

ADV SIBEKO: Now, you have been requested to prepare a, a
25 schedule, in terms of which, the amounts reflected in ANNEXURE F to

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Mr Zikode's statement, to be reflected in rands. Did you undertake that exercise of conversion?

MR ZIMELA: That is, that is correct. If, if I may explain, Chairperson?

The, the figures that were retrieved have been presented in, in dollars
5 and for one obligor in, in Euros. That is because the obligations were in
dollars. Hence, we, we kept the, the figures in dollars and for one
obligor, which is German Submarine Consortium, the obligation was in
Euros and the figures were thus, in Euros. Then, the, the conversion
then, was to convert from both the dollars and the Euros.

10 ADV SIBEKO: And just for purposes of completeness, what rate did
you use to convert the figures, in respect of each obligor, from the
currency in terms of which the obligation was expressed to rand terms,
as has been requested, by the Commission?

MR ZIMELA: We, we took the average exchange rate, over the period
15 from, from 2000, January 2000 to December 2010. That is, that is when
all the terms, the terms were made for, for between, between January
2000 and in 2010. So, we took the average exchange rate, over that
period. Thank you.

ADV SIBEKO: And how was the average exchange rate, that you
20 used, to do the conversion, what did that amount to?

MR ZIMELA: For the, for the figures in, in dollars, the average
rand/dollar exchange rate over, over the period was 7.6404. For the
German Submarine Consortium, which was in, in Euros, the average
exchange rate, over the period was 9.0807.

25 ADV SIBEKO: You have indicated that, for purposes of preparing this

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schedule, you did not convert each and every single entry, relating to each claim. But, you converted only the total, in respect of each obligor. Could you just briefly explain why you conducted the exercise in that particular way?

5 MR ZIMELA: The, as, as I said earlier, because the obligations was in Euros. So each claim, at the time of the claim, we, we had to convert it, if, if the claim was in rands, we had to convert it into dollars, at the time that the transaction, each and every transaction took place. Because there have been so many claims and number of projects, it would have
10 taken us a long time to go back and convert each and every claim into, into rands. So, we had to use an average exchange rate, over the period.

ADV SIBEKO: Now, I see that the schedules, to which you are about to refer, are not numbered in any particular way. Can I then ask you to
15 read, to refer your schedule, which starts at the top left hand corner, with BAE Hawk/Gripen DOD. Do you see that?

MR ZIMELA: Yes.

ADV SIBEKO: Now, that schedule has, at the top thereof, project name, total actual investment, actual obligor investment, investment
20 credits, sales credits and total credits. Now, under the column of project names, would you confirm that these are various projects, that each of the obligors undertook, in its NIP obligations?

MR ZIMELA: That is correct.

ADV SIBEKO: In the various columns, perhaps to, to be more precise,
25 under total actual investments that would, what does that reflect?

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MR ZIMELA: The, the total actual investment for each project is, is the total investment that was made, for that particular project. That would include the investment, made by the obligor and the investment, made by other partners to the project. The actual obligor investment is the investment made by each particular obligor for that project, but excludes the other investments, made by other partners.

ADV SIBEKO: Could you deal with the rest of the columns, going to the final column, dealing with the total credits?

CHAIRPERSON: I am sorry, Advocate Sibeko, if you do not mind. That evidence has already been led.

ADV SIBEKO: As it pleases the Chair.

CHAIRPERSON: I think, we are only interested in trying to find out, exactly, what the rand values for these figures are.

ADV SIBEKO: Alright.

CHAIRPERSON: This lot will remain [indistinct] as witness to deal with another one to this, have dealt with all these columns, in detail.

ADV SIBEKO: As it pleases the Chair. Can I ask you then, Mr Zimela, to turn to the next page, where you have set out, what you say, out of the actual conversions in rand terms, which are recorded in blue? I ask you to read that into the record and in respect of each column.

MR ZIMELA: For BAE the total investment for all the products, as, as reflected is, is R5 billion, R5 083 053 221, which around about R5 billion. The investment made by obligor is R1 927 159 648. The total credits is, I, I will, if, if the Chairperson allows, just round up the figures. The total credits would be R15 375 599 620. That is for BAE. Then, for

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German Frigate Consortium the, the total in actual investment is R1.325 billion. The investment, by the obligor GFC is total R339.5 million. The total credits R15.755 billion. That, those, those are the figures in rands. Then, for the German Submarine Consortium, the total investment is
5 R1.356 billion. The total investment by the German Submarine Consortium is R614.4 million and the total credits amount to R28.3 billion. For Thales the total investment in the projects is R1.067 billion. The investment by Thales is R478 million. The total credits being R6 billion. Then, lastly for Augusta the, can I, can I request a second,
10 Chairpersons? Chairperson, I think we, we made a mistake. We did not convert the, the figures for Augusta into, into rands.

ADV SIBEKO: Are you aware if, in the electronic version that was prepared, whether this conversion was done?

MR ZIMELA: The, the copy that I have, should have come from the
15 electronic version, unless, unless I am mistaken. But, I think, the copy should have come from the electronic version.

ADV SIBEKO: In the absence of any conversion, having been made, in respect of the Augusta project, would you undertake to submit that information, as early as you possibly can?

20 MR ZIMELA: We can submit it this afternoon.

ADV SIBEKO: Now, in the last page of that table, are various totals that are reflected there. The majority of which, relates to GSC totals and grand totals of certain projects. Could you just explain briefly, what that is?

25 MR ZIMELA: The totals, we took, we took the GSC total, which was a

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value in, in Euros and converted it into rand, rand value. Then, we took all the, the sum of all the other obligors, which was in total in, in dollars and converted that into, into rand. The, the role there, which has got a grand total in US dollars, that is, that is the total of, in fact, we, we call
5 that the, the Euro figure of German Submarine Consortium into, into dollars. Then, we have got a total of all the obligors into, expressed in dollars. Then, we converted that into a rand figure, using the average exchange rate over, over the period of the obligations, which is for the, the grand total in US dollars, which is the total actual investment of
10 about 1.157 billion dollars and the total actual obligor investment of about 440 million dollars. So, we have converted that, in, in the last column into rand, which is about eight, total actual investment of about R8.8 billion and the actual investment, by all the obligors, is about R3.365 billion.

15 ADV SIBEKO: Would the grand total include in amounts and investments, relating to Augusta, as well?

MR ZIMELA: Yes. It does include the amount, relating to Augusta, because what we did was to first take the total investment, the total figures in dollars. So, we included the figure for Augusta and then we
20 converted those figures into, into rands. I think, what we forget, forgot to do was to convert the figure for Augusta into, into rands. But, the total does include Augusta.

ADV SIBEKO: Thank you, Chair. That is the evidence of this witness.

CHAIRPERSON: Thank you. Any cross-examination? Thank you.
25 Any re-examination? Thank you. Just, for my own understanding, these

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figures that you have given us, do these figures include the DIP's figures? Or is this only the figures that relate to the DTI? You know, there is, there was a witness from Armscor, who testified about the DIP's and he told us about the figures that they have got. Now, my question

5 is, do your figures include the figures, relating to DIP, or not?

MR ZIMELA: Chairperson, the, the figures do not include the DIP. It is only the projects that were managed by the DTI.

CHAIRPERSON: So, in other words, for us to, to get the total investments, we must also add the figures from the DIP and the

10 department into DTI figures.

MR ZIMELA: That is correct, Chairperson.

CHAIRPERSON: Thank you. Any questions arising from that?

ADV SIBEKO: Nothing further, Chairperson.

CHAIRPERSON: Thank you, Sir. You are excused. Thanks a lot for

15 being, for coming to give evidence.

MR ZIMELA: Thank you, Chairperson.

ADV SIBEKO: That is the end of our roll for today's proceedings, Chair. I believe Advocate Mphaga, will address the Chair and the Commissioner Musi, with regard to the further proceedings for the day.

20 CHAIRPERSON: Thank you.

ADV MPHAGA: Thank you Chair, Commissioner Musi. Advocate Fana Hlongwane was supposed to be the witness today, in respect of the dates that were scheduled by the Commission. Chair, Advocate Van Zyl appears on behalf of Advocate Fana Hlongwane. It would appear that

25 he is not ready to proceed today. We have arranged a date for the 11th

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and 12th of December, whereupon he will be appearing before the Commission. Further, Chairperson, Commissioner Musi, we have also agreed that a statement will be ready, by the 5th of December, in respect of the evidence that will be tendered before the Commission. That is in
5 respect of the agreements that we have reached with Advocate Van Zyl. I think, he may be here, to address the Commission on the non-appearance of Advocate Hlongwane, Chair, today.

CHAIRPERSON: Thank you.

ADV VAN ZYL: Thank you, Mr Chairman. I confirm that I am briefed
10 today, to appear on behalf of Advocate Hlongwane. Just with regards to one aspect, it is not, because there is a situation that he is not ready. We were not properly notified, but we have sorted that out. The fact of the matter is that Mr Hlongwane indicated that he wants to co-operate in his evidence. We have, maybe, just to put further arrangements on
15 record that there is no doubt afterwards. We have arranged that the Commission will, or the Commissioner will provide us tomorrow, Advocate Mdumbe with a list, a list of the documents they intend to use. Mr Hlongwane will peruse the documents with his legal representatives and if there are any documents that he does not have in his possession
20 that appears on the list, he will then notify, by the 27th, that is Thursday Advocate Mdumbe, Mdumbe that there are documents that we do not need. If so, then the following day, that is Friday, the documents will be provided. We have agreed then, that the draft statement will be provided on the 5th of December 2014. I have, we have also confirmed
25 with Advocate Cilliers, who is appearing on behalf, or will be appearing

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on behalf of Advocate Hlongwane, that he is available on the 11th and 12th of December. So, I confirm, in essence the arrangement that my learned colleague placed on record. As you please.

ADV MPHAGA: Chair, in fact, that is the agreement that we have
5 reached. I think, also, that if they have any documents in their possession, they will also provide us with those documents by the 27th.

CHAIRPERSON: Thank you. Thank you. Then I that case I hope each party will keep to their side of the bargain, so that, on the 11th, we should be in a position to proceed with the evidence of Advocate
10 Hlongwane. Thank you.

ADV MPHAGA: Chair, further, I think it is really important it is being recorded the expense with the issuing of the subpoena.

CHAIRPERSON: Can I get confirmation that it is not necessary for us to issue a fresh subpoena?

15 ADV VAN ZYL: I can confirm that strongly, Mr Chairman. We will see to it that he is, he attends the proceedings on those dates. Thank you.

CHAIRPERSON: Thank you. Then, in that case, we will adjourn until the 11th of December and we will start at 9:30. 11 December at 9:30. Thank you.

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(COMMISSION ADJOURNS)