

THE ARMS PROCUREMENT COMMISSION

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THE ARMS PROCUREMENT COMMISSION

STATEMENT OF ADMIRAL ANTHONY NEVILLE HOWELL

I, the undersigned,

ANTHONY NEVILLE HOWELL,

state that:

1. I am an adult male and am presently self-employed and reside at Windmeul, near Paarl, Western Cape.
 2. I was employed by the South African Navy from 1965 until July 2001, when I retired.
 3. On 1 January 1993 I was promoted to Commodore and appointed Chief of Naval Staff Plans, Naval Headquarters, Pretoria. I inherited the responsibility for naval projects from the Logistics Division in March 1993, and commenced the Corvette Project which became known as Project Sitron.
 4. On 1 April 1998 I was appointed Director of Naval Acquisition. At that time, I moved office to the 6th Floor of the Armscor building in Pretoria. My immediate superior was the Chief of Acquisition, Mr Shamin (Chippy) Shaik.
 5. A copy of my abbreviated CV is attached marked "AH-1".
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6. I have read the Commission's Terms of Reference, and am advised that I am asked to provide a statement dealing with my involvement in the corvette and submarine Projects.
 7. I have read the statements submitted by my former colleagues in the SA Navy, Adms Green, Higgs, Schoultz, and Capt Jordaan. I shall avoid repeating in this statement what they have said in regard to Project Wills, Sitron and the SDPP but I will be able

to do so in my evidence if this is necessary to explain my personal involvement in matters and why certain events took place.

8. The documents which I attach to the statement are listed in the index at the front of the statement.

Background

9. From 1994 the structure of the then-SADF changed. The Constitution required the establishment of transparency and accountability by civilian control and therefore certain traditional functions of the Arms of Service and Armscor were transferred to the Defence Secretariat. The Secretariat was to serve as the administrative arm of the Department of Defence ("DoD") under the leadership of the Secretary of Defence and the Minister of Defence. Mr Pierre Steyn served as the Secretary of Defence and Chippy Shaik was appointed as the Chief of Acquisitions. As far as I can ascertain Mr Steyn was appointed on 1 April 1995 and Mr Shaik acted as the Chief of Acquisition (designate) for a period prior to his formal appointment on about 1 March 1998, when the Management Committee (described in paragraph 31 below) was at his instance named SOFCOM (the Strategic Offers Committee).
10. Pursuant to the 1996 White Paper on Defence, the then Minister of Defence, Mr Joe Modise, appointed a project team known as the Ministry of Defence Acquisition (MODAC) workgroup to investigate and make proposals with respect to the management, execution and structure of the acquisition function in the DoD. As stated by Minister Modise in his foreword to the MODAC report dated 8 August 1998, the recommendations made in these reports were accepted as departmental policies.
11. One of the fundamental approaches emanating from the MODAC 1 report was that ~~because the acquisition process consumed national resources, it had to take into account the broader national objectives of job creation, wealth generation, trade balance, counter-trade, technology development and industrial development. It was recognised then that this new approach might conflict with the previously applied acquisition processes, including the objective of ensuring that acquisitions were done at the lowest cost, and therefore these objectives had to be prioritised by management~~ (paragraph 3.1.2). The MODAC Report is attached as annexure AH-2¹.

¹ p 2 of the Bundle attached to my statement

12. While previously defence acquisition was done by the different arms of service together with Armscor, following the establishment of the Secretariat, acquisition was taken away from the arms of service and placed under the domain of the Secretariat. As a result of this, I volunteered to move with the projects section of the division I was heading within the Navy - which dealt with acquisition - to join the Secretariat. This included Capt OJ Van der Schyf, and then-Capt Kamerman (Project Officer Project Sitron). While the administration of the projects section was placed under the domain of the Secretariat, project officers were seconded for their day to day duties to the Secretariat but remained as part of the personnel structure of the SAN and reported, through me to the Naval Board. This was to ensure that there would be continuity as the same people that dealt with the Navy's projects previously would now be responsible for the projects under the domain of the Secretariat. I also remained as a member of the Naval Board.
13. Project Sitron was initiated in 1993 when the Naval Board decided to address the problem that the Navy had lost its capability to operate effectively as all its craft were old and nearing the end of their designed life. The concern was block obsolescence throughout the Defence Force. The surface vessel was the priority for the Navy at the time. On 3 May 1995, the then Chief of the Navy, V Adm Simpson-Anderson; General G Meiring and the then Armscor Chairman, Mr T De Waal, and, I think, former Secretary of Defence Mr Steyn and I appeared in front of Cabinet to obtain approval for the acquisition of a new surface vessel. The preferred supplier was Bazan of Spain alternatively Yarrow's of the United Kingdom. Cabinet declined to give approval. The Minister of Defence, Mr Joe Modise, took a decision to defer the acquisition process for Project Sitron in order to allow for the Defence Review to be completed so that the needs of the new Defence Force could be assessed as a whole. Thus from May 1995 Project Sitron was put on hold.
14. The SAN was also facing a serious problem maintaining its submarine capability. The Daphne submarines were acquired in the early 1970s. They were also facing block obsolescence and were no longer cost-effectively and economically supportable. Without a plan to replace the Daphne submarines the South African Navy was facing the real possibility of the demise of its entire submarine capability.
15. As my colleagues from the Navy have already explained to the Commission, this was something that, once lost, could not be easily replaced.

16. In mid 1995 four British Upholder Class submarines came onto the market.
17. This offered an opportunity to address the issue of the aging Daphne submarines. The Royal Navy (RN) had built the four conventional Upholder Class submarines, but before they were commissioned the decision was taken that the RN would move to an all-nuclear submarine fleet. This was the first time that such new submarines, built for a NATO navy, had come onto the market. They were not ideally suited for the SA Navy, but this unprecedented opportunity warranted investigation.
18. I was at the time working on the replacement of the aging Daphne submarines. The initial plan was to start the submarine acquisition project once the new surface ship project, Sitron, was in the build phase. The delay of project Sitron meant that the ship and submarine projects had to be run concurrently.
19. On the instructions of the Chief of the Navy, on 11 September 1995, I contacted Rear Adm Salt, our contact person in the UK Defence Export Services Organisation (DESO), and suggested to him that the UK could look at combining the sale of the Upholder submarines with that of the Yarrows ship, which could possibly make the price attractive to South Africa.
20. On 18 January 1996 a formal offer for the acquisition of Upholders was made to the SAN and Armscor. This initiated Project Wills.
21. The British were amenable to offering the Upholder submarines together with the Yarrows ship. However two other UK companies insisted that they also be considered as part of a package offer with the sale of the Upholders. BAe for aircraft, and Vickers for tanks, insisted that they too be considered for this type of combined offer. The offer was put together and presented at a governmental level. However, when other countries saw what was being done by the British, a number of other offers in the form of "package deals" were also made. In this regard I refer to the memorandum by the then Secretary of Defence, Mr Pierre Steyn, dated 9 June 1997 in which he refers to the "French offer, which should be considered the equivalent of the British 'package'". It was also noted that "the German and Italian versions are expected in due course". This is AH-3 to my statement².

² p 46 of the Bundle

22. I understand that this led to the idea of a "package deal", which had started with the Upholders and the Yarrows ships, and evolved into and became known as the strategic defence procurement packages (SDPPs). The Upholder submarines were, however, purchased by the Canadians before any finalisation of the SDPP processes, but I have little doubt that once the whole bidding process was opened up, they would not have been selected. The major difficulties that Canada continues to experience with the Upholders are well-known within naval circles and a matter of public knowledge.

THE STRATEGIC DEFENCE PROCUREMENT PACKAGES (SDPPs)

23. The SDPPs were formally initiated on 23 September 1997, when the Minister of Defence issued a letter to a number of countries calling for proposals for capital defence equipment for South Africa. The deadline for submissions was 31 October 1997. The tendering process for Project Sitron was re-opened in September 1997, this time as part of the SDPPs.
24. The package deals that were being offered to the South African National Defence Force presented a new challenge because the acquisition policy and process that was in place at the time provided little guidance on what should be done in the consideration of "package deals" and government-to-government negotiations. It was felt at the time that we were breaking new ground and therefore new policies and procedures needed to be put in place to guide the acquisitions of government-to-government package deals.

Policy Directive No 4/147

25. Department of Defence Policy Directive No 4/147, which was approved by the Council of Defence on 8 August 1997, put in place a policy for dealing with international defence equipment offers in the Ministry of Defence. I refer to annexure AH-4. MOD Policy Directive 4/147³ established the policy for dealing with international defence equipment offers in the MOD. (The MOD, as defined in the MODAC report, consisted of the office of the Minister of Defence; the National

³ p 48 of the Bundle

Defence Force Headquarters, the Defence Secretariat and the head office of Armscor.)

26. There were several defence equipment offers that had been presented to the MOD at the time, and these offers fell outside the scope of existing acquisition policy. Therefore Policy Directive 4/147 was intended to establish specific policy guidelines for the acquisition of international defence equipment. As the officer responsible for naval projects at the time, I had to ensure that the projects that were under my supervision for the purposes of the SDPP were properly executed in line with this Policy Directive.

27. Policy Directive 4/147 specifically provided that preference was to be given to multi-national suppliers to avoid single country dependencies; that international suppliers with whom enduring relationships had been established were to be pursued; and that individual equipment elements should not unnecessarily introduce totally new product inventories (paragraph 10⁴).

28. While the foreign policy objectives were explicitly stated in the policy, it was made clear that these objectives were subject to the principle that the best interests of the MOD would be the primary consideration (paragraph 11⁵).

29. The assessment procedure was to incorporate a multi-tier approach consisting of three orders (paragraph 15⁶):

29.1 The First Order was the responsibility of the Minister of Defence, and I had no involvement at that level.

29.2 The Second Order envisaged the appointment of a representative MOD evaluation team to develop a second order MOD value system, and it was envisaged that this would embrace interdepartmental and political sanction. It was envisaged that project teams would be appointed at this level to deal with the separate acquisition projects. In the result, a management team was also appointed to operate at this level, which later became known as SOFCOM, on which I sat. My involvement at this level is set out below.

⁴ p 53 of the Bundle
⁵ p 53 of the Bundle
⁶ p 54 of the Bundle

- 29.3 The Third Order consisted of the six project teams (appointed at the second order level) which were tasked with the evaluation of the six separate acquisition projects. I describe my appointment and role as the Moderator for two of the project teams – Project Wills (submarines) and Project Sitron (corvettes) below.
30. Policy Directive 4/147 endorsed a departure from the previous acquisition processes – I understood that Armscor was no longer to be solely responsible for evaluating and arriving at a preferred bidder, and instead broader policy objectives were to be brought to bear by senior members of the DoD and politicians in a three-level process. In this regard I refer to pages 1901 – 1906 of the transcript of the evidence of Dawie Griesel. For the convenience of the Commission I attach these as AH-5⁷.

Management Directive: Evaluation of International Offers

31. On 28 October 1997 a Management Directive regarding the Evaluation of International Offers was issued to implement the second order of evaluation contemplated in DoD Policy Directive 4/147. I refer to annexure AH-6⁸. This Management Directive established a MOD Management Committee. From April 1998, once the Acquisition Department was formally established, this was called SOFCOM. The representatives on the Management Committee from the Arms of Service (including myself as the representative from the SAN), were to act as Moderators for the relevant evaluation teams (paragraph 9⁹, as read with paragraph 14h¹⁰).
32. There were six teams involved with the six defence equipment segments of the proposals – one team for each type of equipment - and I was the Moderator for both Project Wills (submarines) and Project Sitron (corvettes).
33. The Management Directive implementing the Second Order envisaged in Policy Directive 4/147 set out the evaluation process and time schedules and appointed the

⁷ p 55 of the Bundle

⁸ p 61 of the Bundle

⁹ p 63 of the Bundle

¹⁰ p 64 of the Bundle

members of the Management Committee (later SOFCOM). I was appointed to the Management Committee as the SAN's representative (paragraph 14h¹¹).

34. The Directive also appointed the leaders of the six defence equipment evaluation teams (as listed in paragraph 18¹² of the Directive). Thus I was to be the Moderator of the project teams to be led by Capt (later R Adm (JG) Kamerman (Project Sitron) and Cdr (later Captain) Reed (Project Wills).

My role as Chief of Naval Staff Plans, Director Naval Acquisition and Moderator of Projects Wills and Sitron

35. I oversaw Projects Wills and Sitron, initially as Chief of Naval Staff Plans and later as Director Naval Acquisition, until 1 April 1999 when I became Chief Director Maritime Warfare (CDMW) at Naval Headquarters and handed over Naval Acquisition to R Adm (JG) OJ van der Schyf (we were both promoted into these posts). As CDMW I remained the SAN's representative on the Project Control Boards for both Projects Sitron and Wills.
36. Both Project Wills and Project Sitron were of vital importance to the SAN and the maritime capability of South Africa. In view of the fact that the previous projects to acquire new corvettes and submarines had not materialised, and the equipment that was used by the SAN was facing block obsolescence, it was important to ensure that whatever equipment was acquired by the SAN met our operational needs as we would have to operate it for approximately 30 years.
37. It was for this reason that the Chief of the Navy, V Adm Simpson-Anderson, decided that I should take direct control of both these projects. The project officers, Capt Kamerman and Cdr Reed, reported directly to me. Capt van der Schyf was to be responsible for all the other naval projects that were running at the time. However, we had contact virtually on a daily basis and discussed almost every aspect of the projects. Capt van der Schyf was particularly good at the administrative aspects of running projects and I relied on his experience in this regard.

¹¹ p 64 of the Bundle

¹² p 66 of the Bundle

38. I was responsible for providing the Chief of the Navy and the Naval Board with regular progress reports. This was a standing item on the Naval Board agenda. I would discuss Project Sitron with Capt Kamerman, Project Wills with Cdr Reed, and the rest of the projects with Capt van der Schyf. I frequently requested them to prepare and give presentations to the Naval Board. The Naval Board insisted that all ships and submarines evaluated were acceptable to the SA Navy. Ensuring that this mandate was fulfilled was an important part of my responsibility as Moderator, and was also in compliance with Policy 4/147. I refer in particular to paragraphs 11; 12a; 13 and 15c of Annexure AH-4¹³.
39. As the Moderator, I was the most senior officer responsible for Projects Wills and Sitron, with a high level of relevant expertise and experience. I was required to bring my expertise and experience to bear in order to ensure that the value systems and evaluations appropriately applied the policies set out in the MODAC report and DoD Policy Directive 4/147, as described above. It was my duty as Moderator to ensure that the equipment was evaluated by the project teams in accordance with the relevant value systems formulated by those teams for the specific equipment being considered, that the results of the evaluations were credible and accurate, and that the ships and submarines evaluated were acceptable to the SA Navy.
40. In this regard I refer to the function and responsibility of the Third Order at paragraph 15c¹⁴ of DoD Policy Directive 4/147, for which I bore overall responsibility in relation to projects Wills and Sitron:

Third Order. The project teams must develop third order value systems for the individual elements of the offer [in accordance with] the second order value system, and proceed to solicit competitive proposals for evaluation of the best solution for the approved requirement statement [in accordance with] the MOD Acquisition Policy.”

41. With news of the SDPPs in the market, potential suppliers of naval equipment were sending uninvited delegations to the Navy and seeking to consult with naval officers without appointments, authority, or forewarning and without proper processes and

¹³ pp 53 – 54 of the Bundle

¹⁴ p 54 of the Bundle

controls being in place. I was determined to curb these practices and to place proper order and control in those circumstances.

42. Thus pursuant to DoD Policy Directive 4/147, and as Moderator of the two project teams, I put in place a procedure applicable to these projects. I refer to annexure AH-7¹⁵ entitled "Procedures for the Solicitation, Submission and Evaluation of Offers for the Acquisition of Cardinal Equipment for the SA Navy" which I signed on 20 October 1997 ("the Procedure").

42.1 The Procedure was designed to ensure the fair and equitable treatment of potential suppliers; transparency; confidentiality of value systems, confidentiality of the proposals received and of the evaluations, and confidentiality of the results; and was aimed at ensuring that the flow of information during the evaluation period was both limited and controlled.

42.2 That is why, for example, once the RFOs were issued the members of the naval evaluation team were expressly forbidden from accepting social invitations, gifts etc and only Capt Kamerman and Cdr Reed could direct any communications at all to potential suppliers, and even then, they understood that it was to be through the Armscor secretariat. Such communications could only be for clarification purposes and had to be disseminated to all tenderers. A written recordal had to be maintained. I refer in particular to paragraphs 6e; 10; 19, and 20 of Annexure AH-7¹⁶.

43. Another important aspect of my role as Chief of Naval Staff Plans and later Director Naval Acquisition and the Moderator for Projects Wills and Sitron was persuading military, civilian and political role players of the need for the ships and submarines. It was becoming apparent that with the limited resources available, the country would not be able to afford all six of the proposed packages, and that either the submarines or the main battle tank ("MBT") would have to be sacrificed. There were many senior officers in the Army and Air Force who did not appreciate the importance and value of submarines, and who therefore considered the main battle tank to be more important to the country. I considered that it was in the national interest that South Africa should be a submarine operating country for the following reasons:

¹⁵ p 68 of the Bundle

¹⁶ pp 69 – 71 of the Bundle

- 43.1 South Africa was the only country in sub-Saharan Africa which had successfully operated submarines since 1970. If I had failed to persuade the relevant role players that submarines were strategically more important than tanks,, I would have failed in my duty to my country and its Navy, as the submarine capability would have been lost because the Daphnes were at the end of their operational life;
- 43.2 Submarines make a small navy credible and a force to be reckoned with;
- 43.3 Submarines had proven themselves to be a vital weapon in South Africa's armoury;
- 43.4 All this had been recognised in the Defence Review, which had included four submarines in the Force Design.
44. Ultimately, the MBT was excluded from the final SDPP contracts even though it was recommended to the AASB by SOFCOM.

PROJECT WILLS

45. With regard to Project Wills, the day to day running of the project was done by the members of the Integrated Project Team with Capt Reed serving as Project Officer until April 2004, when Capt Jordaan took over that role. Mr Robert Vermeulen from Armscor served as Programme Manager.

RFI Phase – Project Wills

46. The aim of the Request for Information (RFI) phase was to solicit information from potential suppliers in order to see what systems they could offer. This phase was for information gathering purposes and no contractual rights or obligations arose from it. The proposals were simultaneously evaluated against the approved RFI value system during November 1997. What was of great importance was that a detailed technical evaluation had been carried out, after which the Navy had been able to satisfy itself that all five of the submarines considered during the next phase, the Request for Offer (RFO) phase, were acceptable to the Navy.

47. Based on the information that was provided, the leading contenders following the RFI evaluation, were the German T 1400 and the Swedish Type 192. I moderated the Evaluation Report (AH-8¹⁷) that was compiled by Cdr Reed. The report detailed the evaluation process followed and the results for performance, costing and military value. I had no need to adjust Cdr Reed's evaluation report as it fully complied with all the relevant policy guidelines.

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RFO Phase – Project Wills

48. As stated above, it was established in the RFI phase that all the proposals that were received during the RFO phase were technically acceptable to the SAN. The Value System, which was approved by the Chief of the Navy, the Chief of Acquisitions and myself, was duly registered and sealed by the Armscor Secretariat on 12 May 1998 prior to the receipt of the offers. I refer to paragraph 7¹⁸ of the RFO evaluation report, Annexure AH-9.
49. The evaluation was carried out by the Integrated Project Team from 18 to 29 May 1998. As the Director Naval Acquisition, I was the Moderator. I refer to paragraph 8¹⁹ of the RFO evaluation report. The evaluation team considered all the proposals simultaneously. Where information was scanty or missing, clarification was obtained from the offeror through the Armscor Procurement Secretariat. This was to ensure that there was no unauthorised contact between evaluators and the offerors during the evaluation phase of the RFOs. I refer to paragraph 9²⁰ of the RFO evaluation report.
50. In my role as Moderator, I required certain specified adjustments in the evaluation report, all of which were fully disclosed in the report.
-
- 50.1 In respect of the German bid, it was noted that while the logistic support package offered by the Germans was comprehensive, a large number of the deliverables were offered as options, and therefore not costed into the proposal. The logistic risk regarding the German submarine was determined as low. Notwithstanding that, as many options were not costed, after

¹⁷ p 72 of the Bundle

¹⁸ p 133 of the Bundle

¹⁹ p 137 of the Bundle

²⁰ p 137 of the Bundle

consultation with the team members I decided that an additional amount should be factored into the price. I therefore directed the evaluation team to add an additional amount of 75% of the quoted logistic cost to the logistic cost for risk management. I wanted to ensure that the SAN would not in future run out of funds for the integrated logistic support. Despite the addition of this amount, the German bid still came out as being the best value for money. I refer to paragraphs 5b²¹ & 20²² of the RFO evaluation report.

50.2 Similarly with the Swedish offer, there was a significant difference in the quoted logistic cost for the integrated logistic support (ILS) offered by the Swedes as opposed to the French and the Italians. As with the Germans, the logistics risk was determined as low and it was clear to the evaluation team that the Swedes understood the theory and application of the ILS principles. However, as the Moderator, I directed that an additional amount should be allocated to deal with this risk, and thus an amount of 50% of the quoted logistic cost was added to the logistic cost for risk management. I refer to paragraphs 5d²³ & 22²⁴ of the RFO evaluation report.

50.3 The performance results as a relative measure between the four offers (reduced from five as the Upholders had been bought by the Canadians) had to be adjusted to give proper weight to the critical factor of cost and thus arrive at the Military Value Index. The philosophy of the RFO stage, given that all four proposals were technically acceptable to the SA Navy, was to place emphasis on the logistic support to ensure life cycle costs were kept as low as possible. I refer to the RFO evaluation report, paragraph 6²⁵. I was aware that there were two ways to factor in cost to determine the military value index, and I decided upon the formula as set out in paragraph 15²⁶ of the evaluation report. This was the formula that gave the cost implications of the competing bids proper and credible effect. It resulted in the Type 209 German submarine being recommended, which at R800 million cheaper²⁷ than the Italian bid, was clearly the best value for money. The other alternative would have led to the absurdity of preferring a bid that was nearly

²¹ p 136 of the Bundle
²² P 140 of the Bundle
²³ p 137 of the Bundle
²⁴ p 141 of the Bundle
²⁵ p 137 of the Bundle
²⁶ p 138 of the Bundle
²⁷ p 139 of the Bundle

R800 million more expensive, when the bids were all technically acceptable to the SA Navy. In the context of the tensions referred to in paragraph 43 above, such an approach may have imperilled the whole submarine project.

- 51. As the Moderator with overall responsibility to ensure that the best product was procured for the Navy in accordance with the policies prescribed by Modac and DoD Policy 4/147, I was satisfied that the evaluation report achieved this objective in putting forward the Type 209 German submarine for the following reasons:
 - 51.1 In the process of the project study I had been to sea in the Type 209 German submarine operated by the Brazilian Navy and was very impressed by its performance. I was able to compare this experience with being at sea in the Sauro Class Italian submarine, which was less impressive.
 - 51.2 The Germans had a reputation for building conventional submarines that went back decades.
 - 51.3 At that stage, over fifty Type 209 submarines had been built and were in operation in many navies around the world. The Italians had not exported a single Sauro Class submarine at that stage. The Italian Navy decided to discontinue with the Sauro class and move to the German Type 212 design to be built in Italy. Had the SAN purchased the Italian S1600, it would have been the only Navy in the world operating the it. This would have meant a class of 4 submarines of a unique design with dependence on a limited base of sub-system suppliers which would have increased the potential logistic support risk.
 - 51.4 During the RFI stage a detailed technical evaluation was carried out and it was determined that all four of the proposals were technically acceptable to the SA Navy. On this overall technical evaluation, the German submarine had come first and the Italian submarine had come last.
 - 51.5 As a submariner with 16 years experience, including 2 years in command, I had no doubt that the German submarine was the best option. I had sufficient knowledge of all the submarines to make this assessment.
 - 51.6 In addition to all of this, the Type 209 German submarine was the cheapest,

by some at R800 million, and I thus had no hesitation in recommending the Germans as the preferred supplier.

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52. I signed the evaluation report in my capacity as Moderator on 30 June 1998²⁸ in the belief that I had done my duty as Moderator to ensure that the submarines had been properly evaluated; that the results of the evaluations were credible and accurate; and that the Type 209 German submarine should be put forward as having the best military value for the SA Navy.

PROJECT SITRON

53. Project Sitron was revived in September 1997 with the introduction of the SDPP. The day to day running of Project Sitron was done by the members of the Integrated Project Team with Capt Kamerman serving as Project Officer from 1993. Byrall Smith from Armscor served as Programme Manager from 1992 until the completion of the evaluation phase in respect of the Patrol Corvette platform in November 1998. At that stage, Mr Smith was replaced by Mr Frits Nortje as the Armscor Programme Manager.
54. As with Project Wills, an RFI was issued to a number of countries on 23 September 1997 and the responses were received on 31 October 1997.
55. The responses in the RFI and RFO phase were evaluated against the approved Military Value Systems. The aim of the Military Value System was to enable the Military Evaluation of the international offers which had been submitted in order to eliminate those offers that were militarily unacceptable to the Navy and to achieve a relative figure of merit for the Military Value of each of the acceptable offers.
56. On 21 October 1997 the RFI Value System was approved by the SAN. This document, which is annexure AH-10²⁹ was compiled by Capt Kamerman. I signed it as the responsible authority as Chief of Naval Staff Plans. It was also approved by Adm Simpson-Anderson.

²⁸ p 134 of the Bundle

²⁹ p 178 of the Bundle

57. The RFO Value System dated 8 May 1998, annexure AH-11³⁰ to this statement, was also compiled by Capt Kamerman. I signed it as the responsible authority and Adm Simpson-Anderson and the Chief of Acquisition, Mr Shaik, approved the document on 11 May 1998.

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58. The value systems consisted of 2 parts. The first was a critical performance filter which was a list of the critical minimum performance criteria specified in the Ship Platform Requirements Specification to which the offer must comply in order to be eligible for further evaluation. The document stated that any proposal failing to comply with each of the critical performance requirements may be deemed to be militarily unacceptable and may be disregarded from further evaluation, unless, at the discretion of the Chairman of the Naval Evaluation Team, there were good grounds in favour of the Navy to continue to part 2. Part 2 of the Value System was the relative Military Performance Evaluation, and this was the measure of the relative merit between the various offers that had passed through the critical performance filter.

RFI Phase – Project Sitron

59. The responses received to the RFI were evaluated from 3 to 9 November 1997 under Capt Kamerman's leadership. The evaluation took place against the Corvette Military Value System.

60. The results of the evaluation are contained in a report dated 14 November 1997. A copy of this is annexure AH-12³¹. It was prepared and signed by Capt Kamerman. I signed the report as Moderator of the Corvette Military Evaluation. The report further indicated that it was ratified by the reduced Naval Board on 17 November 1997 and thereby approved. For reasons of cost and time, to avoid the need to fly them to Pretoria for meetings, the reduced Naval Board did not include the members from Simon's Town.

61. Based on the evaluation results from the RFI evaluation phase it was concluded that from the Military Performance perspective, the German GFC Meko A200 had the best Military Performance of all the designs offered, but all 5 designs evaluated were

³⁰ p 281 of the Bundle

³¹ p 316 of the Bundle

technically acceptable to the SAN, though considerable design work would be necessary on the British and French designs before they would be suitable.

62. From the Military Value perspective, the Spanish Bazan 590B had the best Military Value as the most cost effective patrol Corvette offered, with the German Meko offers being considered very good value for money, scoring a close second and third to the Spanish offer.

RFO Phase – Project Sitron

63. Following the RFI phase 4 countries were selected to make final offers for the supply of the corvettes to the SAN. The RFO was issued on 13 February 1998 and it is attached as AH-13³². We received the responses to the RFO on 11 May 1998. The results of the evaluation were contained in the evaluation report dated 25 June 1998. I also signed the report as Moderator of the corvette military evaluation. I attach the RFO evaluation report as AH-14³³.
64. Following the evaluation process for the RFO it was concluded that whilst all the designs that were evaluated were technically acceptable to the SAN, the German GFC MEKO A200 had the best military performance of all the designs offered. However, from a Military Value perspective, the Spanish Bazan 590B had the best value as the most cost-effective patrol corvette offered, being excellent value for money.
65. Thus the Spanish Bazan was recommended as offering the best military value.

The Strategic Offers Committee (SOFCOM)

66. As was stated by Mr Dawie Griesel in his evidence before the Commission, while DoD Policy Directive 4/147 did not specifically refer to SOFCOM as a body, it did refer to an interdepartmental Management Committee which was subsequently constituted and became known as the SOFCOM. I sat on the Management Committee, later renamed SOFCOM, as the Arms of Service representative for the SAN. A copy of the SOFCOM Constitution is attached as AH-15³⁴.

³² p 326 of the Bundle

³³ p 368 of the Bundle

³⁴ p 384 of the Bundle

67. The SOFCOM was responsible for developing the Second Order Evaluation Value System which was used for the consolidation of the evaluation results from the respective teams. The formula that was ultimately adopted was the following:-

$$BV = MV + IP + FI$$

Where:

BV = Best Value

MV = Military Value (Military Performance Index/Cost)

IP = Industrial Value Index

FI = Financing Index

The presentation to the SOFCOM

68. During early July 1998 the SOFCOM met to consider the evaluation reports of the six procurement programmes that were then under consideration. Senior representatives from Armscor, from the arms of service, the DoD, the Department of Trade & Industry (DTI) and the Department of Finance (DoF) were present. The outcome of its deliberations was the recommendation of the preferred bidders to the AASB on 8 July 1998.
69. Set out below are the tables of the results presented to SOFCOM in respect of the submarines and the corvettes. In regard to the other five projects, I deferred to the expertise of the senior officials in the arms of service involved with those projects.

69.1

Submarine

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OFFEROR/PRODUCT	PROG COST (M USD)	FIN COST (M USD)	TOTAL COST NPV @ 13,5%	MIL PERF INDEX	MIL VALUE INDEX	IP VALUE INDEX	MIL + IP INDEX	FIN INDEX	BEST VALUE
GERMANY GSC 209 1400 MOD	995.9	532.6	1528.5 (523.0)	80.6	100.0	100.0	100.0	100.0	100.0
FRANCE DCN SCORPENE	1210.2	728.1	1938.3 (615.0)	85.7	66.0	72.0	69.0	93.0	77.0
ITALY FINCANTIERI S1600	1173.1	574.4	1747.5 (632.4)	100.0	83.0	67.0	75.0	87.0	79.0
SWEDEN KOCKUMS TYPE 192	1280.8	738.7	2019.5 (676.6)	80.9	91.0	69.0	80.0	78.0	79.3

69.2

Corvette

OFFEROR/PRODUCT	PROG COST (M USD)	FIN COST (M USD)	TOTAL COST NPV @ 13,5%	MIL PERF INDEX	MIL VALUE INDEX	IP VALUE INDEX	MIL + IP INDEX	FIN INDEX	BEST VALUE
UNITED KINGDOM GEC F3000	946.6	611.6	1558.2 (545.6)	80.2	74.7	57.0	68.6	100.0	85.5
GERMANY GFC MEKO 200	949.5	238.1	1187.6 (657.7)	97.5	90.6	100.0	99.3	79.0	99.5
GERMANY GFC MEKO A200	960.2	242.0	1202.2 (664.7)	100.0	91.9	100.0	100.0	79.0	100.0
FRANCE DCN PATROL	1036.7	554.7	1591.4 (639.4)	76.3	65.0	82.0	76.6	90.0	87.5
SPAIN BAZAN 590B	832.2	604.4	1436.6 (459.3)	94.6	100.0	82.0	94.8	84.0	98.2

- 70. In regard to Military Value of the submarines, the adjustments to which I refer in paragraph 50 above that I caused to be made as Moderator of the submarine evaluation report were clearly set out and presented to the SOFCOM. They were acceptable to everyone, including the representatives from Armscor, and the Moderators from the other Arms of Service, to whom they were presented at SOFCOM. At a later stage, the Armscor auditor (Mr Grobler) also accepted them, as was apparent from his Audit Report of January 1999. (I refer to paragraph 3.4.1.4³⁵ at p293 of the documents attached to Mr Grobler's statement, a copy of which I attach for convenience as AH-16³⁶.)

- 71. The Type 209 German submarine scored the highest on all three indexes, and accordingly was recommended to the AASB as the preferred bidder.

- 72. In regard to the corvettes, the Spanish Bazan had been put forward as having the best military value for the SA Navy. However, when the scores for industrial participation (IP) and Finance were also taken into account, the German Meko A200 scored the highest and was accordingly recommended to the AASB as the preferred bidder. The German Meko A200 had not been the Navy's preference, but was nonetheless acceptable to the Navy.

Post-SOFCOM

- 73. After a recommendation for each program was compiled by the SOFCOM, the AASB and the AAC were briefed on the results. I was not involved in making any of the presentations or deliberations of any structures after SOFCOM.

- 74. I understand that there was a special Ministerial briefing to the then Deputy President, the Ministers of Defence, Trade & Industry, Public Enterprises and the Deputy Minister of Defence on 31 August 1998. On 18 November 1998, a briefing was presented to the full Cabinet, upon which Cabinet approved the preferred suppliers for each of the equipment types and authorised that negotiations be entered into with the preferred suppliers in order to arrive at an affordable contacting position with the respective suppliers.

³⁵ p 408E of the Bundle
³⁶ p 388 of the Bundle

75. During the negotiation phase I served on the Project Control Board ("PCB"). The PCB was established for the two Navy projects to deliberate on issues that would affect the contract baseline. The role of the PCB was to apply an oversight role over the project team during the contract negotiation phase. The Constitution of the PCB is attached as AH-17³⁷. The PCB was chaired by the Chief of Acquisitions and consisted of both Armscor and DoD members, including the Chief of the Navy and Armscor's executive officer. From time to time, members of the integrated joint project teams would report to the PCB. The Chief of Acquisitions disclosed to the PCB his possible conflict of interest in respect of certain sub-contractors that we considered at PCB meetings.

SAN Corvette gearbox

76. One of the issues that was considered by the PCB was the recommended gearbox supplier for the corvettes. As recorded in the minute of 24 August 1999 attached as AH-18³⁸, the PCB was advised by the acting project officer for Project Sitron that there were continuing deliberations around the selection of the Maag or Renk gearbox. The dilemma stemmed from the fact that whilst the Maag gearbox was the approved option, the inclusion of the Renk gearbox would provide much needed work for Gear Ratio, a division of Reumech-OMC, a South African company, which was an important supplier to the SA Army.
77. The only issue of concern to the SAN was whether either gearbox met the Navy's technical baseline, and therefore the project team was instructed by the Chief of Acquisition to take the lead in determining this requirement.
78. In the subsequent PCB meeting held on 6 October 1999, the minute of which is attached as AH-19³⁹, the following was recorded:

"since both the MAAG and RENK gearboxes complied technically with the requirements, the project officer recommended that the decision as to which gearbox to acquire, should be based on the DIP evaluation. DIP manager presented the DIP evaluation and pointed out that from a DIP point of view it

³⁷ p 409 of the Bundle

³⁸ p 412 of the Bundle

³⁹ p 446 of the Bundle

is clear that the RENK option should be selected. The RENK option provided work to GEAR RATIO which is considered a strategic industry for the SA Army. The matter was discussed at the Armscor Board.”

- 79. The PCB therefore ratified the selection of the Renk gearboxes for Project Sitron. At the PCB meeting held on 11 February 2000, the minute of which is attached as AH-20¹⁰ it was recorded at paragraph 9 that the German Frigate Consortium had been notified that the Renk gearboxes had been selected for Project Sitron.

The selection of the Detexis databus

- 80. Criticisms regarding the selection of the Detexis databus have been raised by Andrew Feinstein and Paul Holden in their “Joint Submission”, which I understand they submitted to the Commission in January 2013. At page 93, paragraph 1.6 of their Joint Submission, they allege that Thomson-CSF and ADS themselves played a role as the *main tender board* in the selection of the IMS supplied by their own group company, Detexis; and that the GFC ensured the selection of the Detexis IMS by claiming that the product offered by C²I² was risky, thus attracting an unjustified risk abatement fee, without which C²I² would have won.
- 81. As I disagree with these allegations I will in brief discuss my personal involvement in the selection of the Detexis databus instead of the databus offered by C²I². Adm Kamerman, as the project officer overseeing Project Sitron, will be able to give in-depth evidence on this issue.
- 82. The key issue that led to the selection of the Detexis databus turned on the categorisation of risk for C²I²'s Integrated Management System (IMS). During the negotiations regarding the combat suite it became apparent to the project team that the quoted price for the individual elements of the combat suite had escalated significantly since the initial estimates obtained by the team. During the negotiations, the problem was addressed by way of a different contracting model and the DoD agreed to enter into a limited risk-sharing agreement regarding some of the individual combat suite elements. The sub-systems for which the DoD accepted performance and time-scale risks came to be known as “Part C” sub-systems.

¹⁰ p 465 of the Bundle

83. The project team therefore proceeded to categorise the various sub-systems into three groups:
- 83.1 Category A, which consisted of the vessel platform.
- 83.2 Category B, which consisted of all sub-systems which had a critical effect on the overall vessel delivery and performance, and for which the prime contractor retained full responsibility.
- 83.3 Category C, which consisted of sub-systems for which the main contractor was not responsible for performance to specification or timeous delivery and hence the Navy was at risk for these sub-systems.
84. At the PCB meeting held on 24 August 1999, the minute of which is attached as AH-18⁴¹, the acting project officer for Project Sitron, Capt Watson, briefed the board on the combat suite risk and risk management pertaining to the contracting model. It was confirmed that the project team had categorised the C²I² databus as a category B risk, thereby requiring the prime contractor to retain full responsibility for the delivery and performance of this sub-system. This was because the IMS (databus) was a critical sub-system of the combat management system (CMS) and the SAN was unwilling to assume the equipment risk for the CMS and associated databus (IMS), regardless of the supplier. This approach was endorsed by the AAC, and it was conveyed to the PCB by the Chief of Acquisitions.
85. The PCB was also informed that the AAC had decided that the ceiling price per equipment should not be raised. This meant that the SAN could not afford C²I²'s databus, as it came at a risk premium of R40 million. I refer to paragraph 10⁴² of the minute, and to appendix C⁴³.
86. Thus the decision before the PCB was in effect made: the State was unwilling to assume the responsibility for the IMS, and unable to carry the additional cost implication of the C²I² IMS. From this it followed that the State's only option was to select the Detexis databus. However, one further scenario was considered: C²I²

⁴¹ p 412 of the Bundle

⁴² p 413 of the Bundle

⁴³ p 423 of the Bundle

would be requested to put up a performance guarantee to cover the R40 million risk premium attaching to its IMS, and if Young was agreeable, the PCB would be able to select C²I²'s IMS.

87. Also of concern to the PCB was that Young, or his company, C²I², had threatened to proceed with legal action concerning the classification of its databus into category B. Apparently Young held the view that this was unfair, especially as it carried with it the consequence that the main contractor added a R40 million risk premium to his tender price. As it was obvious that these financial considerations would drive the SAN to select the Detexis databus, and failing an appropriate performance guarantee being provided by C²I², the PCB now wished to implement that decision. Thus the risk of this litigation was of concern.
88. It was in this context that the PCB mandated Mr Swan and I to meet with Young to consider possible ways to resolve these issues.
89. Sometime after the PCB meeting of 24 August⁴⁴ and prior to the meeting of 6 October 1999⁴⁵, Mr Swan and I met with Young in Simon's Town. We discussed the issue of risk and C²I²'s ability and preparedness to put up financial guarantees to overcome the aforesaid financial issue. If that could have been resolved, there was no reason why C²I² would not have been granted the sub-contract for the IMS. However, Young was not amenable to this option, and the SAN was not prepared to pay the risk premium or carry the risk itself (as a category C item). Notwithstanding the deadlock, which necessarily meant that C²I² would not be awarded the sub-contract for the IMS, Young agreed not to proceed with the threatened legal action. In my opinion at that stage he was hoping to procure contracts for other sub-systems of the combat suite, which he in fact did.
90. At the next PCB meeting of 6 October 1999, the minute of which is attached as AH-19⁴⁶, I reported back on the meeting with Young. (I refer to paragraph 5 of the minute). I reported that we had not managed to persuade Young to put up any guarantees, but that Young would not be proceeding with legal action. I point out that the minute incorrectly states that the C²I² databus was a Category B risk "due to legal action by C²I²". The threat of legal action concerned the categorisation of C²I²'s

⁴⁴ Annexure AH-18, p 412 of the Bundle

⁴⁵ Annexure AH-19, p 446 of the Bundle

⁴⁶ p 446 of the Bundle

databus into Category B, as opposed to Category C, where Young felt it should be. However the categorisation of C²I²'s databus into Category B was not caused by any legal action or threat of such action. It was placed into Category B because the databus was a critical sub-system of the CMS and the SAN was unwilling to assume the equipment risk on the CMS. To this extent, the minute was incorrect, and I am surprised to now see that it was not corrected. Nonetheless, the minute is correct insofar as it records the essence of my report-back and also the outcome, namely that the issue was resolved. Although the minute is cryptic, the PCB understood that it was resolved because we would proceed with the Detexis databus, and Young was not going to interdict the project notwithstanding that decision.

91. The discussion with Young was also recorded in Mr Swan's letter of 4 October 2000, attached as AH-21⁴⁷.

92. At page 93, paragraph 1.6.7 and at p150 of the Andrew Feinstein's and Paul Holden's Joint Submission, they allege that the categorisation of C²I²'s databus into category B, rather than category C, was not properly made. They refer to claims that this decision was made at an extraordinary and unminuted PCB meeting on 19 August 1999, which they say could not have been quorate. These allegations are not correct:

92.1 Mr Llewellyn Swan called for a special PCB meeting on 19 August 1999 to explain the risk issues and the proposed categorisation of equipment into categories A, B and C. This was not a decision-making meeting, and was solely for the purposes of assisting PCB members to understand the Project Team's proposal. Mr Fritz Nortje gave a presentation, which became appendix D⁴⁸ to the minute of the Project Control Board of 24 August 1999. Adm Kamerman gave a much shorter presentation in support of Mr Nortje's presentation. The members of the PCB were placed in a position to consider the risk issues before they were called upon to make a decision on whether to accept the Project Team's recommendation at the next PCB meeting of 24 August 1999. The meeting of 19 August 1999 was not intended to be a minuted meeting, as it was only for the purposes of informing the PCB members, prior to their decision-making meeting of 24 August 1999.

⁴⁷ p 487 of the Bundle

⁴⁸ p 426 of the Bundle

92.2 Paragraph 15 of the minute of the Project Control Board of 24 August 1999⁴⁹ refers to Appendix D, dated 19 August 1999. At the beginning of the minute, one of the items is "Project SITRON: PCB Ratification Required". Thus the fact that the issue was placed before the PCB for decision on 24 August 1999 was minuted. The PCB in fact ratified the classification of the databus as a Category B item and confirmed that the prescribed cost ceiling of the Corvettes could not be exceeded. These two factors resulted in the selection of the Detexis databus.

93. In paragraph 59 of Young's statement, he refers to Mr Chippy Shaik's declared conflict of interest in regard to the combat suite acquisition process. He complains that notwithstanding this conflict, Mr Shaik played a role in negotiating the scope and price of the combat suite. He also says that Mr Fritz Nortjé and Adm Kamerman recorded same in an internal programme memorandum. I wish to state the following in this regard:

93.1 The Combat Suite negotiations with the representatives of the GFC and of SA industry were commenced at Silvermine during January 1999. I was present at these meetings, but Mr Shaik was not. Thereafter, the further meetings were held mostly at the Armscor building in Pretoria, and were also not attended by Mr Shaik.

93.2 During the negotiation phase, Mr Shaik did not take part in any of the meetings and negotiations at the Project Team level. I am not aware of Mr Shaik intervening, influencing or being involved in any of the negotiations being conducted by the Project Sitron Project Team. Mr Shaik had no influence whatsoever over the selection of the Combat Suite and its elements.

93.3 As a result of the history of ADS being the only SA company developing the Combat Suite technology during the years of the arms embargo, it was the only South African company capable of providing the Combat Suite. It had no local competitor. There was thus no question that ADS was going to be the SA partner to the GFC to provide the Combat Suite. Young himself recognised this – in his notes of 5 August 1999, paragraph 21, annexure AH-22⁵⁰, the following is recorded:

⁴⁹ p 412 of the Bundle

⁵⁰ p 488 of the Bundle

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

93.4 Thus it is an objective fact that ADS's role as the provider of the Combat Suite was not in any way the result of Mr Shaik's influence or role.

93.5 The only conflicts of interest of which I became aware were, firstly, that Mr Shaik's wife worked as an employee at ADS. During a PCB meeting of 4 December 1998 and again on 8 March 1999, Mr Shaik declared that he had a possible conflict of interest, would recuse himself from any decision taken on the Combat Suite but would not recuse himself from the meeting. In this regard I refer to the PCB minutes of 4 December 1998 and 8 March 1999, annexures AH-23⁵¹ and 24⁵². Secondly, I became aware sometime later that Mr Shaik's brother was a director of a company that had acquired a shareholding in ADS.

93.6 The memorandum to which I understand Young intends to refer is a document dated 2 March 1999 headed "Discussion between SAN, Armscor, GFC and ADS on 1 March 99 at Silvermine" annexure AH-25⁵³. In paragraph 1, the following appears:

"Mr Moynot explained the background of a meeting with Mr Chippy Shaik and Adm Howell on 26 Feb 99. He explained that Mr Shaik requested certain information regarding prices and alternatives."

93.7 The meeting of 26 February 1999 that I attended with Mr Shaik and Mr Moynot (CEO of ADS) was a short one to inform ADS that unless the prices quoted at that stage could be significantly reduced, the State could not afford the Project. The purpose of the meeting at that level was to lend force to the Project Team's insistence that the Main Contractor produce a more affordable

⁵¹ p 492 of the Bundle

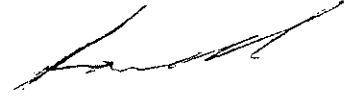
⁵² p 501 of the Bundle

⁵³ p 524 of the Bundle

offer.

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Signed at Pretoria on 5 May 2014



A N HOWELL