

Arms Procurement Commission

Inquiry into Allegations of Fraud, Corruption, Impropriety or Irregularity
in the
Strategic Defence Procurement Packages

Written Submissions
by
Richard Michael Moberly Young

Preamble

1. I, Richard Michael Moberly Young, state as follows :
2. On 31 October 2014 I was summonsed as a witness by the Arms Procurement Commission (APC) and accordingly gave evidence to it during March 2015 by means of an initial written witness statement, an extended written witness statement, oral evidence and cross-examination.
3. At the conclusion of my oral evidence on 27 March 2015 the chairman of the APC invited me to make written submissions to it. [Page 10663, Lines 1 to 2]
4. Prior to my giving evidence during February 2014, the APC issued an order whereby I had to undertake discovery and production in digital PDF format of all the related records that I had in my possession in respect of the matter of the Strategic Defence Packages (SDPs). I fulfilled this obligation and on 5 March 2014 I handed a digital device containing 1 061 such records to the APC totalling over 15 000 pages. Each digital document had an index name as directed by the APC's order (DT1-0001 to DT1-1061).

5. Reciprocally I also requested the APC to order both the DoD and Armscor to undertake a similar discovery and production exercise. This it declined to do.
6. Nevertheless I also formally requested the APC to direct both the DoD and Armscor to furnish a number of relevant documents which I specifically identified and which I needed for the preparation of my evidence.
7. Other than a very small number of such documents, the vast proportion of them were never furnished to me at all.
8. This is despite that the DoD and Armscor had consolidated all of their documentary records relevant and related to the SDPs into a secure facility at Armscor which I understand they called the Icebox. All of these documents were digitised and included in a searchable database.
9. Nevertheless, during my cross-examination some of the documents that were clearly relevant to my evidence were suddenly produced by the DoD and I was confronted with them at no prior notice.
10. However, I had previously produced an application to the APC dated 20 October 2013 which included an initial comprehensive, albeit draft 240 page witness statement (including annexures) dated 3 June 2013 for the purposes of cross-examining Armscor's witness Frits Nortjé. Copies of this draft witness statement had clearly been given to the DoD as it is referred to at least one of the DoD witnesses' witness statements. Hence what I wanted to traverse in my own evidence was well known to the DoD nearly a year and a half before I gave oral evidence to the APC.
11. On 31 October 2014 I was again formally summonsed to provide evidence to the APC regarding the Strategic Packages (SDPs) after the initial summons had expired.

12. My evidence was given within the provisions of the relevant Terms of Reference published in the Government Gazette No. 34731 on 4 November 2011 as well as the Directives issued by the Chairperson on 8 May 2012 and published in the Government Gazette No. 35325 on 9 May 2012. Accordingly, my evidence to the Arms Procurement Commission(APC) is made strictly under the conditions of **Qualified Privilege**. This applies equally to this written and all future written and oral submissions.

Preparation of My Witness Statement

13. Initially in around February 2013 I was allocated by the APC Advocates Barry Skinner SC and Carol Sibiyi to be my evidence leaders.
14. When I first met Advocates Skinner and Sibiyi we discussed the preparation of my witness statement and they insisted that they would prepare my draft witness statement for my checking and signature.
15. This was confirmed by means of the APC's formal written letter to me dated 14 June 2013 wherein it was also stated that it was hoped to forward this me before the end of the current month , i.e. June 2013. That never happened.
16. During the period February 2013 to July 2014 I met Advocates Skinner and Sibiyi about four times for consultations totalling about 9 or 10 days and their position in respect of my witness statement never changed.
17. During the last consultation with me during July 2014 Advocates Skinner and Sibiyi had just started addressing the evidence of RAdm Kamerman in the context of my own evidence. But at this stage they were still asking questions and taking notes and had not produced any draft witness statement.
18. Then the APC directed me to appear before it on 21 July 2014 without any witness statement having been prepared for me.

19. As a result of this as well as other issues emanating from the proceedings of the APC on 21 July 2014 Advocates Skinner and Sibiya resigned as evidence leaders from the APC without ever having produced a draft witness statement for me.
20. Later in early November 2014 I was advised by the APC that it was allocating Advocates Tsepo Sibeko SC and Mahlape Sello to be my new evidence leaders.
21. I met Advocates Sibeko and Sello for the first time on 20 November 2014. There they advised me that they would not be in a position to draft my witness statement and that I would need to do this on my own with their assistance.
22. Also during November after repeated requests to both Advocate Skinner and the APC I was provided with a so-called draft witness statement prepared by Advocate Sibiya whereas in fact I had actually asked for the notes that they had taken during the four consultations with me. In any case this draft witness statement was simply a hodgepodge of previous affidavits that I had prepared on this matter as well as snippets of notes from the consultations. Indeed, this draft witness statement was far more of a hindrance than a help in me preparing my own witness statement as it diverged substantially from both my draft witness statement and what I had had to prepare in the meantime.
23. Although I found the situation entirely unsatisfactory I had no alternative but to proceed to complete drafting my witness statement on my own.
24. I therefore had about three months in which to do this. During this time I met Advocates Sibeko and Sello a further three times totalling six days of consultations during which I had to brief them from scratch on the entire scope of my proposed evidence, as well as get their input on my draft witness statement.
25. I managed to produce a signed witness statement, albeit this being the initial formal version, consisting of 214 pages and dated 2 March 2014.

26. Accordingly I sent this initial version of my witness statement to both my evidence leaders and the APC just before midnight on Sunday, 2 March 2014.
27. However I only had time in this initial version to address the original scope of evidence that I had wanted to give, which mainly was in the context of the Corvette leg of the SDPs.
28. I further need for the record to state that while my witness statement appears to be lengthy, I actually had no time in which to check it properly before submitting it to the APC. I also certainly had no time to actually prepare the giving of my oral evidence and to cross-check my witness statement with the vast array of documents that I had at my disposal.
29. This initial version of my witness statement included references to some 140 evidence documents (RMY-01 to RMY-140) totalling over 5 000 pages which would form my evidence bundles. The vast majority of these documents emanated from my discovery process. Each of these documents has as its filename the index number that I had been directed to provide in terms of the APC's discovery order and these index numbers are provided in my witness statement for the purposes of cross-reference (e.g. RMY-06 = DT1-0006.pdf, RMY-140 = DT1-0003.pdf).
30. A very small number of additional documents for inclusion in my witness bundles I gave to my evidence leaders and to the APC on the morning of Wednesday, 4 March 2015.

My Appearance Before the APC

31. As directed by the APC I appeared before it on Wednesday, 5 March 2015 to give my oral evidence to it in terms of its summons to me.
32. After a late start at around 12:10 CAT the proceedings were cut short after the legal representatives of the DoD and DTI complained that they only had one

copy of my witness statement. [Page 8996, Lines 4 to 5 and Page 9001 of the record]

33. I then proceeded to give my initial evidence-in-chief to the APC from Thursday, 6 March 2015 to Friday 13 March 2015. [Pages 9003 to 9847 of the record]
34. Due to the fact that there were other witnesses scheduled to give evidence during the week of Monday, 16 March 2015 to Friday 20 March 2015 I was directed by the APC to appear before it again on Monday, 23 March 2015 to complete by oral evidence-in-chief and for cross-examination. [Pages 9846 to 9847 of the record]
35. As there were additional aspects which I wanted to cover during my evidence-in-chief I requested this of the APC and was given permission to do so. In this regard I was directed to provide a short statement of such further evidence. [Page 9844, Lines 2 to 8 of the record]
36. I elected to provide this short statement of my extended evidence as an additional number of pages (Page 211 to 237) to my witness statement. I also modified Appendix A of my witness statement (Pages 203 to 210) to make this more readable and understandable.
37. The additional topics of my extended evidence came about because the APC added witnesses to its additional published list of witnesses. These included the SA Navy's Rear Admiral Philip Shoultz, Rear Admiral Robert Higgs, Rear Admiral Alan Green, the DoD's former Chief of Acquisitions Chippy Shaik and the former Minister of Defence's adviser and BAE Systems agent Fana Hlongwane.
38. Rear Admiral Green had formerly given oral evidence to the APC on 20 August 2013, but re-appeared before the APC to give further evidence on 24 November 2014. This further evidence was relevant to that of Rear Admiral Shoultz and Rear Admiral Higgs which I wanted to address. Shaik gave oral evidence to the

APC on 10 to 11 November 2014. Hlongwane gave oral evidence to the APC on 11 December 2014.

39. I consequently gave my extended evidence-in-chief to the APC on Monday, 23 March 2015.
40. In this regard I was directed by the APC that I had to give such extended evidence-in-chief in a maximum of two hours [Page 9929, Lines 2 to 5 of the record].
41. Despite another late start I had indeed completed my extended evidence-in-chief by 13:30 CAT. [Page 9922, Lines 2 to 5 and Page 9997, Line 15 of the record]
42. In particular, on that day I addressed the aspect of the involvement of Hlongwane, BAE Systems and Saab in the military aircraft legs of the SDPs in Pages 226 and 227 of my extended witness statement. However, I address it in my oral evidence in far more detail. [Pages 9960 to 9997 of the record]
43. I also addressed this same aspect in Paras 507 to 517 [Pages 130 to 132 of my initial witness statement; [Pages 9698 to 9717 of the record]
44. It is relevant for the record that I had to give my extended evidence-in-chief on this aspect extremely succinctly and quickly. In this regard I adduced a further 15 documents consisting of some 2 500 pages (RMY-141 to RMY-156) into evidence as my extended evidence bundles, I elected in my oral evidence to give a summary, yet a comprehensive one, of these aspects of evidence without extensive reference to the content of the documents themselves, but with a reference to the particular evidence documents which were relevant for that specific aspect of evidence. However having adduced these documents into evidence, they fully support the evidence contained in both my witness statement as well as in my oral evidence in this regard and accordingly form part of my evidence.

The Aspects of My Initial Evidence

45. Pages 200 to 202 of my initial witness statement provide a table of contents of the initial evidence that I gave to the APC.
46. In addition to the background themes, my initial evidence addressed the following main themes :

Project Sitron
ADS/Thomson-CSF/Nkobi
Information Management System
Risks
System Management System
IPMS Simulator
Allegations of Corruption : Corvette Platform
Allegations of Corruption : Corvette Combat Suite
BAeSEMA / ASM
Surface-to-Surface Missiles
The Revolving Door
Allegations of Corruption : Conventional Submarines
Allegations of Corruption : Jet Trainer and Jet Fighter Aircraft
Shaik / Swan Interference in Helicopter Decisions
Joint Investigation and JIT Report
Thabo Mbeki
Vice Admiral Robert Simpson-Anderson
Abandonment of the Investigations
Nortjé's Evidence to the APC
Kammerman's Evidence to the APC

47. During my oral evidence I specifically address the themes of :

DoD Draft Policy Ministerial Directive MD 4/147
Quantitative Scoring for Corvette Selection

48. My extended evidence addressed the following main themes :

Chippy Shaik's Evidence to the APC

Real Admiral Shoultz's Evidence to the APC

Real Admiral Higgs's Evidence to the APC

Real Admiral Green's Evidence to the APC

Grobler's Evidence to the APC

Hlongwane's Evidence to the APC

Project Sitron

49. Project Sitron is the Corvette leg of the SDPs. Essentially it consists of the platform segment supplied by the German company Blohm+Voss and the combat suite segment supplied by the French company Thomson-CSF and its South African subsidiary African Defence Systems (ADS), as well as various local suppliers.

50. Primarily my primary complaints regarding the SDPs and the basis for most of my evidence to the APC is in respect of the Information Management System (IMS) and System Management System (SMS) which are part of the combat suite segment of the Corvette.

51. Another of my complaints was in respect of the IPMS Simulator which is a very small part of the platform segment of the Corvette.

52. My company also won the Navigation Distribution System (NDS) contract as well as received the Tracker Radar Console (TRC) contract for the Corvette combat suite.

53. As such my company and I had a personal involvement in the Corvette leg of the SDPs and gave evidence in this regard in this perspective.

54. During the evidence of one of the DoD's witnesses Rear Admiral (Junior Grade) (Retired) Jonathan Edwin Gold Kamerman, as well as my cross-examination by the legal representatives of the DoD it was stated by Kamerman that my company tendered for seven contracts in the SDPs and were awarded four of these.
55. In fact my company only tendered in competitive quotation processes for the NDS and SMS and won the NDS contract and lost the SMS contract.
56. My company did not tender with the Tracker Radar Console (TRC) contract because it received this contract from the developer of the Optronic Radar Tracker, Reutech Radar Systems after having partnered with it since 1995 in respect of the development of the TRC.
57. My company also received a small contract in respect of the Submarine leg of the SDP. But my company did not tender for this contract and received it after the supplier of the submarine combat management system, STN Atlas approached my company to be one of its partners in South Africa in respect of the mandatory Defence Industrial Participation (DIP) requirements of the SDPs.
58. Kamerman also claimed that my company received a contract from Saab of Sweden in respect of the supply of equipment as a result of the SDPs with such equipment being for the Swedish Navy's Visby-class corvettes. In fact, my company received two purchase orders in 2001 from a company in the Saab Group for items of our standard range of products with such purchase orders being entirely unconnected with the SDPs. Yet BAE Systems retroactively in 2003 made a DIP claim to Armscor for the value of these two purchase orders.
59. In summary and conclusion my company tendered for two contract and won one of these and received by other mechanisms another two contracts resulting from the SDPs.

60. This matter is addressed in more detail in my response dated 13 June 2015 to BG Bowman Gilfillan's letter to the APC dated 22 May 2015 wherein I was invited to comment if I disputed the correctness of its content.

DoD Draft Policy Ministerial Directive MD 4/147

61. The Department of Defence required use of approved acquisition policies and procedures known as MODAC (Ministry of Defence Acquisition), in particular the document known as VB1000.

62. MODAC and VB1000 in its full intended and applicable scope applied during the acquisition of the SDPs.

63. However because the MODAC procedures did not adequately address acquisitions which were foreign-initiated, Lieutenant General P.O. du Preez, the tSANDF's then Chief of Staff Logistics, had previously drawn up a draft DoD Policy Ministerial Directive MD 4/147.

64. MD4/147 was never approved by the Minister of Defence, Joe Modise, who instructed at the Council of Defence meeting of 8 August 1997 that the draft policy should be studied further for proceeding with it.

65. Nevertheless in practice, the Chief of Acquisitions, Chippy Shaik in effect used MD 4/147, extensively and indeed almost exclusively, as the basis for the acquisition processes of the SDPs.

66. This in effect makes the entire acquisition process for the SDPs irregular and therefore unlawful.

67. Certain of the effects of using MD 4/147 were that the regular bodies prescribed by MODAC, in particular the Armaments Acquisition Control Board (AACB) and Armaments Acquisition Steering Board (AASB) were dispensed with.

68. Instead, a working group which went by various names was set up. Eventually this working group became known as the Strategic Offers Committee (SOFCOM) with Chippy Shaik as one of its co-chairman.
69. As a working group and not a regular structure, SOFCOM was in any case not set up to be a decision-making body, even according to its draft constitution. In any case its constitution was never approved and for all these reasons SOFCOM was an irregular body in respect of decision-making in the SDPs.
70. SOFCOM also spawned the Project Control Board (PCB).
71. The role of the PCB was to apply an oversight role over the Project Team during the contract negotiation phase. It was never intended nor constituted to be a decision-making body. Yet in practice the PCB did in fact make many far-reaching decisions, especially as regards selection of equipment and suppliers in both the military aircraft and naval vessel acquisitions.
72. One particular example of this is the Decision-Making Naval PCB of 8 June 1999 chaired by Chippy Shaik, signed minutes of which I adduced into the record. Clearly and logically if the PCB was not properly constituted as a decision-making body then all the decisions that it took are also irregular.
73. Regarding the IMS, it was the PCB that made the decision to deselect it and replace it with the product of Detexis.
74. So other than the flawed reasoning regarding risk and risk-driven price, the PCB's decision to deselect the IMS was also irregular and therefore unlawful.

Quantitative Scoring for Corvette Selection

75. I gave evidence to the APC at some length regarding the selection of the Corvette based on formulae and scoring systems undertaken by Armscor, DTI and the DOD. [Page 9515 to Page 5221 of the record]

76. One of the fundamental improprieties that arose out of SOFCOM was that it made a fundamental decision regarding the approved scoring formula.

77. At the 1 to 2 July 1998 SOFCOM meeting this formula was changed to :

$$BV = MV + IP + FI$$

78. This decision to change the formula was highly irregular as SOFCOM was an ad-hoc committee with no formal decision-making powers.

79. A combination of this change of formula plus a series of arithmetic and other errors which are fully detailed in both my written statement as well as the transcript of my oral evidence, swung the result of the quantitative evaluation away from the Spanish company Bazan to the German Frigate Consortium [Page 9521, Lines 19 to 25 of the record]

80. But importantly, this also accords directly with the recordal of the bribery agreement between Chippy Shaik and Thyssen TRT of the German Frigate Consortium. [Page 9524, Lines 3 to 5 of the record]

ADS/Thomson-CSF/Nkobi

81. The company Altech Defence Systems (ADS) was a South African company owned by the Altech Group that had been involved in the development of naval combat systems since the 1970s. It was nominated to play a leading role in the integration of the Corvette combat suite, as well as supply the indigenously-developed Action Information System (AIS) and Weapon Control Unit (AIS) which together effectively make up the Combat Management System. [Page 9111, Lines 8 to 11; Page 9195, Lines 17 to 19 of the record]
82. However, the foreign company Thomson-CSF had its eye on the supply of Corvette combat suite and in particular its own French Combat Management System. In order to do this Thomson-CSF first acquired 50% of the equity of Altech Defence Systems in early 1998.
83. Later Thomson-CSF acquired 100% of the equity of Altech Defence Systems in mid-1999 and changed the name of the company to African Defence Systems.
84. This in effect nullified the rationale for the nomination of ADS as a South African company to exclusively undertake the integration of the Corvette combat suite or supply any of its component systems and sub-systems.
85. Thomson-CSF used all of its political connectivity in order to ensure that competition for the Corvette combat suite did not materialise as a result of its acquisition of ADS. This is most starkly exemplified during the Schabir Shaik corruption trial in the oral evidence of Thomson-CSF former special delegate to South Africa Pierre Moynot, who later became the chief executive officer of ADS, where he testified that Thomson-CSF and ADS specifically sought out political support at the highest levels for their naval business objectives.
86. Involved in this was Schabir Shaik and his Nkobi Group of companies who had originally entered into some kind of agreement with Thomson-CSF in respect of collaboration in the SA Navy's future Corvette programme.

87. When this Corvette programme did eventually come about in the 1997 incarnation of it, Schabir Shaik and his Nkobi Group clearly lacked the requisite high-level political backing to be involved in this programme and Thomson-CSF therefore undertook various endeavours at the highest political level to try to ascertain what local companies or groups would be politically acceptable.
88. Indeed, so unacceptable, at least at this particular stage, was Schabir Shaik and his Nkobi Group that Thomson-CSF reneged on its agreements with them and sort other partners that would be politically acceptable.
89. This involved a series of secret communications and meetings at the highest political levels in both South Africa and France.
90. Eventually, when it was clear that Thomson-CSF would select other local partners, it required the direct intervention of Jacob Zuma who indeed met with top-level executives of Thomson-CSF in London during July 1998 in order to reinstate Schabir Shaik and his Nkobi Group in the Corvette programme. [Para. 367 of my witness statement; Page 9745, Lines 6 to 8 of the record; Page 9572, Lines 14 to 15 of the record]
91. Also relevant in this regard is that in Thomson-CSF's recordal of its discussions with Chippy Shaik on this matter, the latter also stated his position regarding the exclusivity, indeed non-exclusivity, of the position of ADS in supplying the corvette combat suite :

"the decision, taken previously, that ADS be the "nominated combat suite supplier", has been cancelled and, as a result, the local system combat suite supplier has not been nominated" [Page 368 of my witness statement; Page 10520, Lines 15 to 18]

Information Management System

92. Among the systems forming part of the combat suite in the development of which CCII Systems was involved was the Information Management System (“IMS”), this being a local area network (“LAN”) or databus for the distribution of data to the various systems comprising the combat suite.
93. CCII Systems never tendered for the IMS project for the frigates. It had been nominated at the Request for Information (RFI) stage at the onset of the project from September 1997 in respect of vessel-level Request for Information (RFI) and later in the January 1999 Request for Final Offer (RFFO) and again in the early May 1999 Request for Best and Final Offer documents and this situation endured until an exact time unknown (but at least until late May 1999) after which it was deselected in favour of a non-conformant offering of a foreign company belonging to the Thomson-CSF group.
94. The reason for this nomination of the IMS was that CCII Systems had been developing the system since 1993 in the initial incarnation of Project Sitron as well as Projects SUVECS which was constituted between the two incarnations of Project Sitron. A very considerable amount of money had been spent by Armscor on behalf of the DoD and CCII Systems had also made a major contribution of its own this regard in order that the IMS was in effect fully developed and initially qualified at the onset of the second incarnation of Project Sitron in 1999.
95. Not only was the IMS nominated for the Corvette combat suite, it was fully conformant in all respects to the Corvette project baseline documents and specifications, in particular the SA Navy’s Combat Suite User Requirements Specification (URS).
96. The entire Corvette combat suite architecture was based around the IMS.

97. The system which replaced the IMS, being the Detexis Diacerto Databus, neither conformed to the URS and nor did the combat suite architecture conform to the URS after the IMS was replaced.
98. As the URS was a formal baseline document that was never formally changed, divergences from it were irregular and therefore the replacement of the IMS with the Detexis Diacerto Databus was similarly irregular.
99. I testified that CCII Systems's pricing for the IMS had been given to ADS. In this regard a senior ranking member of the Joint Project Team, Capt H.N. Marais testified under oath to the Joint Investigation Team into the SDPs as follows :

"there is a fourth I reason, which is why I was consulting my notes and so on. I suspected unethical business practises being exercised by ADS, by in advance making the prices they have received from C-squed I-squed available to Thompson Detexis, prior to Thompson Detexis having had to submit their quotation for the BAFO. The reason why I am making that statement, I have overheard a discussion between a person Jean-mark Ferre from Thompson Detexis" [Page 1551 of Marais's Section 28 interview with the JIT]

"Those individuals both employed Thompson Desalt (sic) or Thompson Detexis and the conversation took place on 3 June 1999, Cape Town area" [Pages 1551 to 1552 of Marais's Section 28 interview with the JIT; Page 9598, Line 16 Page 9599, Line 15 of the record]

100. But other than Capt Marais's oral evidence to the JIT in this regard, there is clear documentary evidence emanating from Thomson-CSF's own documents which were seized in their offices in Paris, France by the French police. [Page 9560, Lines 15 to 25]

101. I initially adduced into the evidence only an officially translated version of the document showing that it had been seized by the French police as I did not think the original version in French would be necessary for the proceedings. [Page 10545, Line 19 to Page 10546, Line 10 of the record]
102. The chairman invited me to revisit this issue the next day. [Page 10547, Lines 24 to 25]
103. I consequently did the next day produce the original French version of the relevant documents showing that the overhead presentation disclosing my company's price of its IMS had indeed been seized by the French police at Thomson-CSF head office in Paris. [Page 10649, Lines 5 to 14]

Risks

104. Almost the entire justification and explanation from all of Thomson-CSF, ADS Armscor and the DoD for the deselection of my company's IMS revolve around the issue of risk and risk-driven price.
105. But in the analysis of the substantial body of documentary records to which I referred extensively in my written statement as well as oral evidence it is clear that neither Thomson-CSF nor ADS actually considered the risk of the IMS to be either a real one or a substantial one.
106. Indeed most starkly, in a documentary internal record of ADS it clearly records that there were no IMS risks in the combat suite prior to it entering the negotiation phase for the award of the combat suite segment.

On 1998-12-07 ADS and Thomson-CSF Naval Combat Systems (NCS) conducted an internal review of the S.A.N. - Sitron programme and recorded as follows :

“After a careful risk analysis, A.D.S./N.C.S. have reached the conclusion that most of the risks in the South-African Combat Suite design were of an acceptable nature and therefore could be guaranteed except for the S.A.M. and the radar tracker systems.” [Paragraph 127 of my witness statement; Page 9101 Line 14 to Page 9102, Line 25 of the record]

107. Yet it was mainly ADS that was making these later claims of risk.
108. Even Kamerman had previously testified under oath that the IMS risk was both relatively benign and manageable [Page 9105, Page 9107 of the record].
109. The combat suite costing spreadsheets which were put together by the Joint Project Team (JPT) consisting of Armscor, the SA Navy and the DoD include a column for the risk assessment that record the IMS risk as “Low”.
110. The combat suite cost and risk audits between 1997 and 1998 which were conducted by ADS, Armscor, the SA Navy and the DoD also conclude that the risk assessment of the IMS was low.
111. Certain of the copies of presentations made to the Project Control Board (PCB) consisting of members from Armscor, the SA Navy and the DoD, by Kamerman as the Corvette Project Officer also record the IMS risk as being “Low”.
112. So this has to be the position of these organisations on this matter.
113. None of the documentary records indicate that the IMS risk was anything other than low.

114. Furthermore, even when the matter of risk was belatedly raised by ADS in around the second quarter of 1999, the undertaking of an IMS Risk Study was mooted and even costed. Yet in fact this was never done. This is further proof that the raising of this issue was merely a self-serving and opportunistic ploy by ADS and Thomson-CSF to get their way of not so much as replacing the IMS with the product of one of the own group companies, but in fact to change the entire combat suite architecture to suit that of their own Combat Management System with all the technical and business benefits that that would bring about.
115. That the IMS had originally been designated as a nominated constituent system of the Corvette suite and later its supplier identified by name and address as the one and only candidate supplier in the baseline request for offer documents, as well as being technically specified therein, and its price included in the pricing spreadsheets distributed to all the relevant parties at that time, the supplier can justifiably have a legitimate expectation as regards the contractual supply of this item.

System Management System

116. The System Management System (SMS) is a system of the Corvette combat suite. ADS had been originally been nominated to supply the system as it had been involved in its development in the early stages of Project Sitron as well as Project SUVECS.
117. In April 1999, the JPT considered ADS's quoted price for the SMS to be too high and ADS was requested to submit a reduced offer. That was also considered too high and therefore the JPT instructed the GFC to go out on a closed competitive quotation basis to ADS and CCII Systems.
118. CCII Systems's tender price was lower than that of its only other competitor ADS and yet it was not selected on that basis and after ADS was allowed to lower its

tender price after the stipulated tender date as set out in the formal request for competitive quotation.

119. This entire process was requested and managed by the DoD's and Armscor's Corvette Joint Project Team (JIT).
120. I testified that CCII Systems's pricing for the SMS had been given to ADS. In this regard a senior ranking member of the Joint Project Team, Capt H.N. Marais testified under oath to the Joint Investigation Team into the SDPs as follows :

"It is the marketing department of every company's task to find out what your competitors are bidding. In this particular case it was actually given to ADS, because that was the communication channel." (Page 1570, Line 21 of Marais's Section 28 interview with the JIT) [Para. 400 of my witness statement; Page 9602, Lines 3 to 7 of the record]

Allegations of Corruption : Corvette Platform

121. There are substantial allegations of corruption in respect of corvette platform Involving the German Frigate Consortium (GFC) and its primary Blohm+Voss.
122. These allegations arise out of very extensive investigations undertaken in the 2006 to 2008 era by the statutory investigation authorities in Germany, in particular those based in Dusseldorf.
123. The allegations are comprehensively documented in three work-in-progress reports by the German police in Dusseldorf during 2007 and early 2008.
124. I submitted these three reports to be taken into evidence by the APC. I also at some length ventilated most of the important allegations contained therein.

125. The three reports, the first two of which were written in the English language and the third of which was written in the German language, but with a unofficial translation provided by me,
126. Each of the three reports is indicated as having been authored by the “Kriminalhauptkommissarin” which translates into English as Detective Chief Commissioner.
127. Each of the three reports is indicated as emanating from the “Landeskriminalamt Nordrhein-Westfalen” which translates into English as the Office of Criminal Investigation for the prefecture of Nordrhein-Westfalen in Germany.
128. I testified to the APC that the officer commanding this unit of the German police is one Detective Chief Inspector Andreas Bruns to whom I had spoken several times by telephone, including once by speaker phone at his request when he had colleagues who were more fluent in English then he was listening to our telephone conversation. I also communicated with him by email several times. [Page 10100, Lines 11 to 15; Page 10147, Lines 1 to 25]
129. Although the version of the investigating reports that was provided to me and I furnished to the APC did not indicate their individual author, this is indeed indicated in the versions of these same reports submitted by Col Johan du Plooy during his later evidence to the APC on 18 to 19 May 2015. Her name is Lioba Borowski. [Page 48 of the Index to Annexures of his witness statement; Pages 2235, 2253, 2256, 2284, 2324 of his witness statement]

130. Other than my own and Col du Plooy's adducement of these German reports into the record of the APC, the Chairperson himself stated during the proceedings that these documents had been known to the APC for several years. In this regard the record reflects as follows :

“CHAIRPERSON: From my side you know as he was saying he thanks you for bringing this document to our attention. Once a document comes to our attention we will definitely have a look at it. I may just mention that we are not seeing this document for the first time.

We saw it two or three years ago. We analysed it and we took certain actions because of the information that were contained in this document. We are not seeing this document for the first time.” [Page 9475, Lines 3 to 6 of the record]

131. For all of the reasons above I would submit that these documents are first of all very important and directly relevant to the terms of reference of the APC. Equally important is that they are indeed genuine. They also emanate from persons and organisations directly involved and indeed responsible for investigations which are directly within the terms of reference of the APC. While it would be preferable for the individual authors and their organisations to firstly adduce these documents into the record and then to testify about them, in this instance that could not happen or did not happen. That does not in any way dilute from their relevance or admissibility in respect of a commission of enquiry.
132. Accordingly, I submit that the documents and their contents should be admitted as evidence of the APC.
133. The three reports cover a wide variety of facts and allegations regarding the Corvettes platform leg of the SDPs.

134. Most importantly they refer to direct interactions between senior directors of the German Frigate Consortium and the DoD's Chief of Acquisitions, Chippy Shaik.
135. Specifically these reports refer to a meeting held between Chippy Shaik and Christoph Hoenings of Thyssen TRT, a member of the GFC, whereby the former confirms his previous requests for an amount of USD3 million to be paid by the GFC to Shaik and a group represented by him in order for Shaik to arrange using his position as Chief of Acquisitions ("Director Defence Secretariat" using TRT's wording in a translated version) that the GFC was placed into first place ahead of the Spanish company's offering, despite the latter being better in terms of price and offsets (or counter-trade or industrial participation).
136. The first German report also refers to a agreement dated 8 October 1998 between TRT with its signatory being Hoenings and an offshore company Merian Ltd with its signatory being Ian Pierce representing Chippy Shaik.
137. In support of the existence this agreement I adduced into evidence a copy of the German memorandum also written and signed by Hoenings and dated 3 August 1998 recording his meeting in South Africa with Chippy Shaik over the period 27 to 30 July 1998. This memorandum clearly sets out the details and reasons for this USD3 million payment and also includes a reference to the projects director of the Corvette platform supplier Blohm+Voss, Mr Klaus-J Müller being fully involved in this arrangement and indeed agreeing to allocating money from project funds for this purpose. [Page 9377, Line 19 to Page 9378, Line 22]
138. I submit that both thos agreement and the memorandum referring to it constitute an executive statement in terms with South African anti-corruption legislation.
139. A legal precedent for this was created in the Schabir Shaik trial in respect of the now famous French encrypted fax.
140. That this payment arrangement was also actually consummated by actual payments is addressed in the third German report with these payments being

recorded therein being made to a set of companies including one whose director is the daughter of Ian Pierce, L'Oreal Greer Pierce as well as the companies Stefanel and Stefafrika [Page 9639, Line 3 to Page 9640, Lines 22 of the record]

141. The German reports also record an arrangement whereby an agent by the name of Tony Georgiadis who was based in the United Kingdom received payment from the GFC in the amount of USD22 million and this was probably onpaid to recipients in South Africa through Georgiadis's company Mallar Inc. registered in Monrovia, the capital of the Liberia, where it was disallowed in terms of its registration to do business in Liberia. [Page 9403, Lines 14 to 20 of the record]
142. The German report specifically states that USD10 million of the USD22 million had very likely been paid to South African officials [Page 9400, Lines 14 to 21 of the record]
143. The conclusions of the German investigating authorities that these two payments of USD3 million and USD10 million in respect of bribery of South African officials including Chippy Shaik are eminently reasonable and supported by solid documentary evidence including that of the relevant money flows.

Allegations of Corruption : Corvette Combat Suite

144. It is legally accepted fact emanating out of the Schabir Shaik trial that Thomson-CSF paid amounts of money to Jacob Zuma in respect of Project Sitron. Schabir Shaik was found guilty of corruption in his trial and sentenced to 15 years of incarceration.
145. Various appeals went to the Supreme Court of Appeal as well as to the Constitutional Court at all of the verdicts and facts survived these processes.
146. Schabir Shaik was not only a director of Nkobi Holdings, but also of both ADS and Thomson-CSF (Pty) Ltd at the relevant times.

147. It is accepted fact that these payments were made in respect of Thomson-CSF's stated requirement for protection during the investigation into the SDPs and in particular regarding Project Sitron and Thomson-CSF's only role therein, being the Corvette combat suite.
148. But it is a logical conclusion that they had to want such protection for some good reason. [Page 9539 of the record]
149. It is illogical that an entity would pay R500 000 per year for such protection if indeed there had not been prior unlawful conduct which warranted firstly specific investigation by the anti-corruption authorities (including at that stage the Special Investigating Unit led by Judge Willem Heath) and secondly fear thereof.
150. In this regard Thomson-CSF did also fear another thing and that was competition from any other foreign contender for the Corvette combat suite after its subsidiary ADS's exclusivity had been nullified, or possibly jeopardised) by Thomson-CSF's 50% purchase of ADS equity in early 1998 and the strong likelihood and indication that it would purchase the balance ADS's equity (which it did less than a year later).
151. In this regard the evidence from the Schabir Shaik trial shows that firstly Chippy Shaik contacted his brother Schabir Shaik who then relied on his very close relationship with Jacob Zuma for assistance in this regard, as follows :

“We are under pressure and we really need your Zuma's help to land this deal. [Page 9542, Lines 10 to 11]

152. Secondly, there is the court-accepted evidence of Schabir Shaik's personal assistant Bianca Singh who testified as follows :

“While he was doing that Mr Shaik said that if the Heath Investigating Unit continues we are going to be under an

amount of pressure and that if a certain ANC member he did mention his name and I cannot recall had to open his mouth then we would be in real trouble.” [Page 9541, Lines 2 to 5]

153. Another relevant indicator of the strong likelihood of corruption is the price paid for the Corvette combat suite. It is common cause that the original ceiling price set for this element of the SDPs was R1,470 billion in 1997, but that this could justifiably be increased to R1,900 billion due to the prevailing rate of exchange and financial escalation factors in late 1998. It is also common cause that the final price paid for the Corvette combat suite was R2,599 billion after Thomson-CSF and ADS had at first quoted as much as R3,9 billion.
154. It is also common cause that these far higher prices being quoted by ADS was of great concern to all of the SA Navy, DoD and Armscor represented by the Joint Project Team, Project Control Board and Naval Board.
155. A very considerable period of time from around December 1998 until September 1999 was used in order to negotiate a far lower price for the Corvette combat suite.
156. Yet this far lower price was achieved by the SA Navy, represented by Armscor and the DoD, by a “considerable reduction in quantity and quality” according to the Project Officer’s own written instructions to Thomson and ADS when requesting a best and final offer.
157. Yet the documentary records show that at in April 1999 the current price for the Corvette combat suite cost at that time was R2,3 billion with another estimated R100 million reduction possible after further negotiations which were imminent, as well as that the price for the entire Corvette was within goal of the cabinet approved R6,001 billion. [Page 9592, Lines 4 to 12]
158. Despite this there is no evidence in the period after this of late of April 1999 to around September 1999 that there were any further attempts to reduce the price

of the Corvette combat suite and indeed the price increased by R299 million to the final price of R2,599 billion. This is and remains inexplicable.

159. It is also contained within the documentary records of the Thomson-CSF representatives in the country, Alain Thetard and Pierre Moynot, that they too had been expecting a price of around R2,3 billion. [Pages 9594 to 9597 of the record]
160. My evidence is that the extra nearly R300 million could well have been central to the concerns of Thomson-CSF and why it needed to pay money to get protection from the then investigations into the SDP.

BAeSEMA / ASM

161. The following averments by Kamerman in his witness statement are untrue :
- 161.1 that I actively pursued BAeSEMA;
 - 161.2 that ASM wanted to completely capture the totality of the whole Corvette combat system business;
 - 161.3 that by early December 1998 was before ADS was yet owned or controlled by Thales;
 - 161.4 that I was party to the details of ADS's engineering work, designs and technology;
 - 161.5 that I had deep insider knowledge of the company that I was proposing to displace;
 - 161.6 that BAeSEMA was 100% owned by British Aerospace plc;

- 161.7 that I introduced BAeSEMA as a direct competitor to the other South African industry players on the Corvette combat system: Denel Kentron, Denel LIW, Avitronics, Sysdel and others;
- 161.8 that I kept this arrangement secret from the JPT;
- 161.9 that I kept this arrangement secret from all of my other South African industry SUVECS/Sitron partners, while continuing to meet with them and whilst continuing to discuss the technical details;
- 161.10 that this plan had the potential to destroy the SA Navy's combat system technology efforts of the last years;
- 161.11 that this plan was bound to exacerbate the lack of trust between me and the rest of industry;
- 161.12 that I co-ordinated the briefing with BAeSEMA at Tellumat on 16 December 1998;
- 161.13 that he privately informed me that he would not mention this scheme to the rest of the industry;
- 161.14 that it was unlikely that I would be able to keep it a secret for long;
- 161.15 that I would then have to bear the consequences of it;
- 161.16 that my actions led to a hostile reaction to BAeSEMA from local industry;
- 161.17 that my actions led to a hostile reaction to BAeSEMA from local industry which led to them hastily pulling out of the arrangement;

- 161.18 that it led to hostility towards me (other than possibly by him, ADS and Thomson-CSF);
- 161.19 that all of the other local players would vigorously oppose any inroads into the naval industry by the British;
- 161.20 that I sought to displace ADS as described above showed that I understood that CCII Systems's nomination as candidate supplier in the RFO and URS did not mean that it had been selected or prescribed as the supplier. [Paras 141.2 to 141.5 of his witness statement]
162. The following averments by Kamerman in his oral evidence are untrue :
- 162.1 that the work proposed by ASM would have been done in Britain by Britons with British technology;
- 162.2 that my activities with a British company were secret;
- 162.3 that my activities were going to displace and in fact would have completely shut down his entire base (presumably the South African naval weapons and electronics industry base);
- 162.4 that BAeSEMA would not have made such decisions to enter into a joint venture had they known the full extent of what I was proposing;
- 162.5 that the combat management system which ASM was proposing for the SA Navy was entirely vested in British technology;
- 162.6 that CCII Systems had created this joint venture with BAeSEMA and Tellumat;
- 162.7 that there were very acrimonious arguments which he had to mediate between ADS and CCII Systems;

- 162.8 that I failed in resolving this matter in an engineering level with the companies and the people and the state that had been working with me;
- 162.9 that I in secret formed a separate joint venture to displace those companies;
- 162.10 that ASM was proposing in fact to offer a completely new South African combat system;
- 162.11 that ASM was proposing in fact to offer a completely new combat system;
- 162.12 that I made no reference to my own close association with BAeSEMA;
- 162.13 that BAeSEMA was coerced or whatever term one may want to use;
- 162.14 that the Chairperson of the APC would be absolutely correct if he said that this process would have undermined the technology retention programme that the SA Navy or South African National Defence Force ran for almost 7 to 8 years prior to that time;
- 162.15 that this process would have totally destroyed the SA Navy's technology retention programme;
- 162.16 that CCI Systems had created this joint venture and it was proposing itself with 20 people to be the collaborators with BAeSEMA;
- 162.17 that I had already signed a joint venture formal contractual relationship by 10 December 1998;

162.18 that my letter to him stated that I had already signed a joint venture formal contractual relationship by 10 December. [Page 6218 to Page 6229 of the record]

163. Where Kamerman does actually state the truth is as follows :

163.1 that in fact there was nothing stopping me competing for such opportunity, or me acting as a company, a private commercial company, as I was doing through CCII systems;

163.2 that I was absolutely entitled to seek any combination of business venture that I wanted;

163.3 that there was no legal or commercial constraint in this regard;

163.4 that I have a right and constitutionally enshrined privilege to seek commercial gain at any stage in competition;

163.5 that I made this offer to the South African Navy in a letter to him and followed up with a briefing to him;

163.6 that British Aerospace are not a small player in the world;

163.7 that British Aerospace is a very competent company;

163.8 that in the naval domain BAeSEMA was one of the world's leading companies;

163.9 that Tellumat is a very large South African company;

163.10 that I was proposing that I would provide the Combat System Data Bus (actually the Information Management System);

163.11 that I didn't agree on the technical structure (with that being proposed by Thomson-CSF and its subsidiary ADS) and I saw that in that technical structure some difficulty with integrating my Combat System Data Bus. [Page 6218 to Page 6229 of the record]

164. What certainly was also not true was the following :

164.1 that this BAeSEMA, CCII Systems, Tellumat Consortium was going to prejudice the whole South Africa. [Page 6223, Lines 8 to 24 of the record]

154. The following averment by Kamerman in his oral evidence is untrue :

164.2 that I created this monster and the monster then turned on me and ate me. [Page 6226 of the record]

165. I provided evidence to the APC of cogent reasons from within my own knowledge and experience of why BAE Systems abandoned what they had described on numerous occasions and on the written record as a "must win" opportunity and after very considerable effort and expense and then left the country [Page 9551, Lines 3 to 16]

166. Entirely contrary to the averments Kamerman made to the APC is the evidence I gave to it in respect of the contents of a Thomson-CSF fax dated 1998-08-31 :

"Bae-SEMA has proposed an alternative solution, which will simultaneously protect the bus developed by C212. This solution weakens the ADS proposal and runs the risk of causing an eventual argument for those that support the questioning of the leadership of ADS."

167. The so-called alternative solution proposed by BAeSEMA was indeed alternative to that being proposed by Thomson-CSF and supported surreptitiously by ADS,

but in fact this BAeSEMA solution was entirely conformant to the SA Navy's Combat Suite User Requirement Specification, other than the use of Altech Defence Systems indigenous AIS and WCU, which Thomson-CSF and ADS had in any case abandoned and had no intention whatsoever of using at that stage.

168. In essence both British Aerospace and ASM had an unassailable right to express their interest in offering the whole of or part of the corvette combat suite and specifically to approach the Corvette preferred supplier Blohm+Voss to request to be given an opportunity of doing so.
169. Blohm+Voss indeed formally requested ASM on 22 December 1998 to furnish it with a commercial offer for the command and control segment of the Corvette combat suite.
170. ASM was preparing this offer up until it withdrew from the opportunity and the country in mid-January 1999. This in itself disproves Kamerman's averment that ASM was bent on capturing the entire corvette combat suite at the expense of all the other South African participants.
171. Indeed this solution would have been a very viable and even preferable one for ASM, BAeSEMA, Tellumat and CCII Systems because they could all have provide their primary products and not have to worry about or finance the sensors and weapons as this very onerous undertaking would be left to the GFC.
172. The opposition to ASM offering to supply the Corvette combat suite or part thereof is contrary to the positions that were being expressed by the Chief of Acquisitions and the Chief Executive Officer of Armscor, who were the parties formally responsible for acquisition, as well as contrary to the constitutional imperative that all government systems of procurement have to be, inter alia, competitive.
173. Even the Chief of the SA Navy expressed his keenness to see competition against ADS and Thomson-CSF.

174. Clearly position expressed by Kamerman on behalf of the DoD is both simply unlawful and hugely damaging of the rights of all parties interested in bona fide competition, in this instance specifically for the corvette combat suite.
175. An extremely dim view of this as expressed in the evidence to the APC by Kamerman on behalf of the DoD are appropriate.

Surface-to-Surface Missiles

176. Despite my best endeavours and extensive analysis and evidence to the APC regarding the acquisition and supply of Surface-to-Surface Missiles for the Corvettes the precise details remain shrouded in mystery.
177. What few documents were provided to me either lack the relevant details or in certain cases these were redacted out making it almost impossible to make definitive statements.
178. However, what is clear is a small number of incontrovertible facts. Firstly, that acquisition by means of a straight unencumbered purchase of 17 of these missile rounds, plus the onboard launching systems as well as system integration and qualification would seemingly have cost far higher than the DoD documents indicate.
179. Documents emanating from the Project Control Board refer to a “lease/purchase option” for these missiles. [Page 9590 of the record]
180. Correspondence from ADS in respect of its best and final offer for the Corvette combat suite state to the following :

“In order to further close the gap, the removal of ammunition, except for the system qualifications, will result in a saving of approximately R300 million, at the level of acquisition costs.”

181. Documents emanating from both the Project Control Board and the Naval Board refer to a the authorisation of the acquisition of 17 Aerospatiale Exocet MM40 Block II missiles. [Page 9265 of the record]
182. However, what is now common cause is that 17 Aerospatiale Exocet MM40 Block II missiles were not in fact acquired, but nine Exocet MM40 Block II and eight Exocet MM40 Block I missiles. [Page 6248, Page 10441 of the record]
183. According to Kamerman's own evidence under oath given to the JIT :
- “The MM40 Block 1 was used in the Gulf War and the MM40 Block 2 is a completely different missile.” [Page 10456 of the record]
184. The MM40 Block 1 missile is indeed a much older and inferior version and the only reason for purchasing it was a financial one; because it has a substantially lower cost.
185. It is inescapable that whatever are the actual facts that have been hidden from me and from the APC is that impropriety involved in this matter and this is not only related to perjury.

IPMS Simulator

186. CCII Systems was selected in respect of the IPMS Simulator project at a Decision-making Project Control Board meeting dated 8 June 1999 and notification of such was made in writing by the Chief Executive Officer of Armscor in his letter dated 29 June 1999 to the German Frigate Consortium.
187. It is untrue that CCII Systems had never been selected as the supplier of the IPMS Simulator for the frigates, as had been previously averred under oath by Kamerman. [Pages 9657 and 9658 of the record]

The Revolving Door

188. In the Corvette Umbrella Agreement signed on 3 December 1999 and with effective date in around April 2000, it is stipulated that :

“The Seller and each of its members shall not for a period of 8 (eight) years from the Effective Date, employ any employee or former employee of :

the South African National Defence Force or Armscor who is or was in any way involved with the Agreement, without the prior written consent of the Chief of the South African National Defence Force or the Managing Director of Armscor respectively, or their deputies”

189. It is common cause that Kamerman resigned from the SA Navy in 2006 to take up employment with Thyssen Krupp Marine Systems (TKMS) as a Senior Vice President based Hamburg, Germany. TKMS is in effect the successor in title in respect of the suppliers of the Corvette, i.e. Blohm+Voss and Thyssen TRT of the German Frigate Consortium.

190. In his curriculum vitae adduced as evidence to the APC, Kamerman stated as follows :

“In 1998 I led the execution of Project SITRON and Project MAULSTIC RFO phase, leading the evaluation process for the Military Value component for the selection of the preferred suppliers for the Patrol Corvettes and Maritime Helicopters. In late 1998 I authored the Patrol Corvette Combat System User Requirement Specification (URS) and in 1999 I co led the technical negotiations for the Patrol Corvette contractual

baseline, which formed the technical basis of the Supply Contract for the Patrol Corvettes.”

191. Clearly Kamerman was in many ways involved with the Corvette Umbrella Agreement.
192. It is common cause that Kamerman did not receive the permission the Chief of the SANDF or his deputy as is stipulated in the Umbrella Agreement.
193. In respect of the letter from the Chief of the SA Navy VAdm Mudimo giving Kamerman permission to take up his employment with TKMS it is my view that the Chief of the SA Navy can deputise for the Chief of the SANDF, but does not do so as a matter of course, whether this applies to naval matters or to naval officers of flag rank. The Chief of the SA Navy would deputise for the Chief of the SANDF when the latter formally did so when on leave, out of the country or other such circumstances.
194. No document was adduced by Kamerman or the DoD to the effect that the Chief of the SA Navy automatically deputises for the Chief of the SANDF, whether in respect of naval matters or to naval officers of flag rank.
195. If this were so, it is logical that the Umbrella Agreements would have stipulated or included the Chief of the SA Navy for naval projects and the Chief of the SA Air Force for the military aircraft projects of the SDPs. In neither instance is this true.
196. I concede that Kamerman is not a contractual party to the Corvette Umbrella Agreement.
197. The relevant contractual parties to the Corvette Umbrella Agreement are the South African Department of Defence (DoD), i.e. Kamerman’s previous employer and in effect TKMS, i.e. his subsequent employer.

Allegations of Corruption : Conventional Submarines

198. The German company Ferrostaal was a member of the German Submarine Consortium (GSC).
199. The German investigating reports record that Tony Georgiadis's Liberian company Mallar Inc. was paid amounts of USD19 million and €6,6 in 2000/2001. [Page 9683 to 9685 of the record]
200. The German investigating reports also record that a senior naval officer on the SA Navy's Naval Reserve Rear Admiral (Junior Grade) Jeremy Mathers was paid substantial sums of money by Ferrostaal through his company JRM Consulting CC in respect of the submarine acquisition. [Page 9407 of the record]
201. Likewise, the German investigating reports also record that Llew Swan was paid substantial sums of money by Ferrostaal through his company MOIST CC within a very short time of leaving Armscor as its Chief Executive Officer and responsible for the SDPs in respect of the submarine acquisition. [Page 9407 of the record]
202. The propriety of these business relationships between a principal supplier in the SDPs with a senior naval officer and the former Chief Executive Officer of Armscor who had been responsible for the acquisitions until his departure is relevant.

203. A clear indication that there may well have been corruption in the submarine leg of these SDPs and if not outright impropriety, emanates from the project officer of the submarine programme Capt (SAN) A.J.C. Reed who in an interview under oath with the Joint Investigation Team on 6 August 2001 testified as follows :

“Decisions, certain decisions had already been made about firstly, which submarine we were going to get.....”
[Page 9833, Line 24 to 25 of the record]

204. Captain Reed was referring to a stage of the acquisition process as follows :

“Because this was still early in the process, it was before the final offers were on the table.” [Page 9834, Lines 1 to 2 of the record]

205. Further in support of the irregularities and impropriety in the submarine leg of the SDPs was my written evidence in this regard as follows :

“More quantitatively, a careful review of the draft and final JIT Reports indicates that there were substantial anomalies with the way the GSC was selected as the preferred supplier. Specifically there seem to have been problems with the scoring of the NIP, DIP, Financing and Military Value. All the problems were to the advantage of the GSC. In the other contracts Military Value was determined by dividing Military Performance by Cost. On this criteria, Fincantieri would have come out on top.” [Paras 490 to 491 of my witness statement]

Allegations of Corruption : Jet Trainer and Jet Fighter Aircraft

206. The majority of my evidence on this theme is addressed in my extended evidence regarding Hlongwane, BAE Systems and Saab.
207. However during my initial evidence I gave testimony involving if not corruption then serious impropriety involving not only a member of Cabinet, but a member of the Ministers Committee that dealt specifically with the SDPs and one its primary suppliers BAE Systems.
208. In this regard documentary evidence clearly shows that senior members of BAE Systems paid a good deal of money for the benefit of the Minister for Public Enterprises, Stella Sigcau's daughter Portia Ndzamela and her two small daughters to live and receive educations in the United Kingdom for a period of some three years.
209. This was at the request of Minister Sigcau to Alan McDonald, the Regional Managing Director of BAE Systems who was responsible for Africa and for the LIFT and ALFA bidding processes.
210. In his written request dated 4 September 1998 to his superiors at BAE Systems in the United Kingdom and annotated as "In Strict Confidence", McDonald recorded as follows :

"You will note, from the information I attach that the fact that we have got Hawk onto the final list is very much due to our friends in the country, rather than the quality of our ITP response."

"One friend, who has and remains absolutely critical to our ultimate success for both Hawk and Gripen is Minister Stella Sigcau. You may recall, she visited the UK recently and met with Peter Mandelson and I interrupted my leave to host the

visit. She very privately asked for my support on a personal family matter.”

“As you would expect, in view of the criticality of where we are in the decision making process and our fundamental reliance on the Minister's support, I gave all the right assurance to the Minister that we would very positively help address this personal family matter. To show sincerity I arranged for Niall Irving to meet with the daughter.” [Pages 9705 to 9706 of the record]

211. In the own words of the responsible BAE Systems representative there is a direct linkage between this largess and BAE Systems's objective of winning the R15 billion Hawk and Gripen supply contract. Consequently, for this reason and that it involves both a member of Cabinet as well as a member of the Ministers Committee responsible for the SDPs, it has a particular significance in respect of the Terms of Reference of the APC.
212. Additionally, the BAE Systems correspondence in this regard also refers to someone who they call Young Friend. Further BAE Systems documentation identifies this person as Fana Hlongwane. [Pages 9708 to 9717 of the record]
213. In this respect the respective dates of this correspondence between September 1998 and February 1999 are particularly relevant because it is a matter of common cause that Hlongwane was the special Adviser to the Minister of Defence from 1994 until early 1999.
214. **Shaik / Swan Interference in Helicopter Decisions**
215. This is a short topic of evidence which is relevant to the APC in at least two respects.
216. First is that it involves impropriety in the acquisition of the LUH leg of the SDPs.

217. Second is that this was recorded in all but the final version of the JIT's Joint Report into the SDPs. [Pages 9727 to 9719 of the record]

Joint Investigation and JIT Report

218. At the chairman's instance this matter was not ventilated by me at all during my oral evidence. However, it remains relevant to the terms of reference of the APC. The matter is traversed by me extensively in my witness statement which endures as my evidence on this theme before the APC. [Paras 520 to 584 of my witness statement]

Thabo Mbeki

219. Court records emanating from the Schabir Shaik trial show that on or about 17 December 1998, the then Deputy President Thabo Mbeki met with Jean-Paul Perrier, Michel Denis and Bernard de Bollardiere, the chairman and senior executives of Thomson International respectively its head office in Paris, France. [Page 9728, Lines 17 to 20]

220. At that time Mbeki was not only the Deputy President of the country, but also chairman of the Ministers Committee responsible for the SDPs (MINCON).

221. At that stage the preferred supplier for the SDPs had been selected in November 1998 and the DOD and Armscor were about to embark on a negotiating process that would take almost a year up until contract signature on 3 December 1999.

222. Also at that stage, Thomson-CSF was only a potential subcontractor to the GFC, the latter as the preferred supplier for the Corvettes and the former in respect of the supply of the Corvette combat suite.

223. The same records clearly indicate that the subject of discussions between Mbeki and Thomson-CSF were in respect of the Corvette combat suite.

224. Other documentary records emanating from Thomson-CSF record that it had privately six months previously had had access to the Mbeki . [Page 9742 of the record]
225. More starkly and more seriously, further documentary records indicate that Thomson-CSF were advised by somebody whom they considered to be an interlocutor between the parties who repeated to them that he had obtained assurance from the Deputy President that Thomson-CSF would be awarded the combat system and the sensors. [Page 9726, Lines 1 to 3]
226. All this accords precisely with the oral evidence during the Schabir Shaik trial of Pierre Moynot, former Thomson-CSF delegate to South Africa and chief executive officer of ADS, where he testified that Thomson-CSF and ADS actively sought political backing at the highest levels for their naval business in South Africa.
227. Not only would this indicate impropriety of the highest order, it would also certainly explain Thomson-CSF's conduct over that period from December 1998 until at least May 1999 with its first offered price for the Corvette combat suite starting at R3,9 billion and ending at R2,6 billion, the latter still being R700 million higher than the escalated Cabinet-set ceiling price R1,9 billion.
228. With this level of backing at the highest political levels, it would also explain why Thomson-CSF were so easily able to so substantially change the Corvette combat suite architecture to suit its own needs after this had been the baselined for several years.

Vice Admiral Robert Simpson-Anderson

229. The German investigating reports record that the German investigating authorities suspected that the Chief of the South African Navy Vice Admiral Robert Simpson-Anderson received payments from Thyssen, possibly not

directly, but through a former Chief of the South African Navy Vice Admiral Andries Putter. [Pages 9413 to 9416 of the record]

Abandonment of the Investigations

230. I addressed the theme of the abandonment of the South African investigations into the SDPs extensively in my written witness statement. [Paras 642 to 670 of my witness statement]
231. In the light of the very extensive documentary evidence obtained from inter-alia the United Kingdom, Germany, Switzerland, Liechtenstein and France, as well as in particular that there were a host of witnesses that had given evidence under oath in United Kingdom, Germany and Switzerland, along with their supporting documentary evidence, the reasoning advanced for the abandonment of the investigations by the SAPS's DPCI is on, at least on the face of it, not cogent.
232. In Germany at least the only reason why the German investigating and prosecuting authorities had terminated their activities by 2008 in this regard was that the statute of limitations had come into effect in Germany. This did not apply to South Africa. As is clear from the German investigators reports and all the information they provided to the South African counterparts, they were more than willing to assist in a South African investigation and prosecution.
233. The reasons advanced regarding funding are also irrelevant. Investigating authorities are obligated to investigate when there is prima facie evidence of wrongdoing of this nature and scale, or even if they were strong indicators thereof, which they certainly were in this case.
234. Importantly, in November 2009 I submitted a very comprehensive affidavit in support of investigations into Thyssen and Chippy Shaik(what the DSO DPCI call the German Leg), backed by voluminous documentary evidence. I submit that this constitutes prima facie evidence.

235. It simply makes no sense to abandon these investigations less than a year later.
236. Additionally, the asset forfeiture regulations in this country allow for the forfeiture of unlawful gains in the case of successful prosecutions. In this case, the financial stakes were extremely high, literally running into billions of Rands in respect of the BAE and German legs alone. In the case of the successful Schabir Shaik prosecution a very large proportion of the costs of the investigation and the trial were recovered by asset forfeiture.
237. Col du Plooy is almost certainly correct when he avers in his evidence that they was no political will to investigate the BAE and German legs of the SDPs.

Nortjé's Evidence to the APC

238. Frits Nortjé was Armscor's programme manager for the Corvette acquisition.
239. Nortjé's evidence to the APC was not in certain relevant instances full and frank.
240. The following Nortjé is recorded in Armscor's Gerhard Grobler's evidence to the APC as his response to Armscor's Audit Team regarding the SMS :

"The programme manager indicated during the interview that the team had refused to accept modified offers submitted after the closing date for tenders." [Page 9958, Lines 5 to 8]

241. It clearly the documentary evidence shows and it is indeed common cause that the Joint Project Team did indeed not only accept ADS's modified offer submitted after the closing date for tender, but also awarded ADS the SMS contract based on the adjusted prices.
242. Whatever the rationale might have been for allowing ADS to resubmit its competitive tender, it is simply not true that the Joint Project Team did not accept this.

243. Clearly this was fundamental to the competitive tender process initiated and managed Joint Project Team and calls into question the fairness of this process and in particular the award of the contract for the SMS.
244. Nortjé in his evidence to the APC substantially embellished his reasons for the SMS not being selected compared with those he had formally reported to the CEO of Armscor in the 2000 era. Those reasons were not only not advanced at that stage, but are patent and well after the fact. Accordingly they serve to be disbelieved and also reflect negatively on all Nortjé's evidence to the APC.

Kammerman's Evidence to the APC

245. The following averments by Kamerman in his witness statement are untrue :
- 245.1 that my employment history with ADS was fractuous (sic);
 - 245.2 that I was ever employed by ADS;
 - 245.3 that there was historic bad blood between me and ADS's management;
 - 245.4 that I had problems overall with ADS;
 - 245.5 that there was historic bad blood between me and ADS's Managing Director Mr Duncan Hiles;
 - 245.6 that there was historic bad blood between me and ADS's Integration Engineering Manager of Sitron/SUVECS Mr Doug Law-Browne
 - 245.7 that some of Brown's technologies were utilised (by me) for commercial means;

- 245.8 that some of Brown's (sic) technologies were utilised (by me) for any reason whatsoever;
- 245.9 that I established my company and started it in a secret way;
- 245.10 that I had a major blowout with the management of ADS as a result of me establishing my company;
- 245.11 that I had a major blowout particularly with Mr Duncan Hiles as a result of me establishing my company;
- 245.12 that CCII Systems was set up as a private company while I was working as a manager for ADS and in fact that was the nub of the problem between ADS and me;
- 245.13 that I had issues between me and certain high-powered individuals within ADS;
- 245.14 that he (or anyone else that matter) tried to mediate between me and ADS;
- 245.15 that my Combat System Databus was certainly technically risky;
- 245.16 that he (or anyone else that matter) had to manage any antagonism between me and anyone else;
- 245.17 that such antagonisms arose in meetings, unexpectedly or otherwise;
- 245.18 that he would mediate outside of the room between me and anyone else;
- 245.19 that he would mediate outside of the room many, many times between me and anyone else;

- 245.20 that we would have a sudden unplanned coffee break just to let things cool down;
- 245.21 that there were many acrimonious meetings lasting into the night, especially those between me directly and the technical director of ADS;
- 245.22 that there were many acrimonious meetings lasting into the night, especially those between me with the Chief Engineer for the Combat Suite integration at ADS, Mr Douglas Law-Browne;
- 245.23 that I was very aggressive in any meetings;
- 245.24 that amongst the directors of ADS there were none who related well with me;
- 245.25 that I subsequently completely withdrew my allegations I had raised as a plaintiff against the Minister of Defence and Armscor;
- 245.26 that I subsequently completely withdrew my defamation allegations I had raised as a plaintiff against him;
- 245.27 that I did not maintain my primary allegations of 2001 in respect of the deselection of the IMS (the Databus) to the “committee” (sic) (APC);
- 245.28 that I did not maintain my primary allegations of 2001 in respect of the deselection of the SMS to the “committee” (sic) (APC);
- 245.29 that I used Feinstein as a proxy engineer for any reason whatsoever;
- 245.30 that my two primary allegations consistently made by me for eight years from 1999 to 2007 are absent from my (draft witness) statement;

- 245.31 that I made sworn depositions to SCOPA;
- 245.32 that there was no other naval combat system integration capability in South Africa other than ADS;
- 245.33 that I acknowledged that ADS was the only company in South Africa capable of acting as a partner for the naval combat system integration of a major warship programme;
- 245.34 that the Detexis Diacerto Databus as offered to the SA Navy was a mature product installed in many warships;
- 245.35 that Frits Nortjé, Lewis Mathieson and he begged me to go and get the necessary risk cover and then we could start talking;
- 245.36 that I refused to address the issue of risk;
- 245.37 that I deleted anything from the Report on the Diacerto Data Bus;
- 245.38 that in fact I was cautioned by the Public Protector not to go any further into the matter;
- 245.39 that Detexis is the, even today, still the world's foremost producer of combat Data Buses, naval, air, land;
246. In respect of the Report on the Diacerto Data Bus the chairperson of the APC asked the following :

“The witness said that this portion which ends up with the sentence which reads like "and will do the job required" and he said that this portion was deleted.

247. Kamerman replied as follows :

“Correct Sir, it was deleted” [Page 6265, Lines 3 to 7]

248. In fact nothing was deleted from the report.

249. However, what is also fact is that in my aide memoire to which Kamerman is referring is a quotation therefrom as follows :

“It will satisfy the user requirements.” [Para. 228 of my aide memoire]

250. However, what is also fact is that in my aide memoire is a quotation from the *Report on the Process Followed for Information Management System (IMS) for the SAN of Project Sitron*, issued to Mr H.S. Thomo, Chief Executive Officer of Armscor and signed by Mr Frits Nortjé, the Corvette Programme Manager and which states as follows :

“During a worksession over the period 03 - 04 June 1999 with the Detexis engineers, the Combat Suite engineers did a technical evaluation of the proposed CSDB and verified that it will indeed meet the SAN’s requirements for a databus, albeit with some limitations.” [Para. 228 of my aide memoire]

251. What Kamerman failed to tell the APC in this context was that the Report on the Diacerto Data Bus was the first preliminary version and was followed up by another version sometime later.

252. Indeed the words "and will do the job required" appear in both versions of the report, but in the second version they appear under the heading “1.5 Preliminary Evaluation Report”.

253. But tellingly, immediately after these words the reports records 16 fundamental points of detraction in respect of Diacerto Data Bus.
254. It is accordingly on the own version of the authors indeed impossible that the Diacerto Data Bus could do the job required as specified in the baseline documents and in particular in the SA Navy's Combat Suite User Requirements Specification.
255. Furthermore in my aide memoire I directly and fully explained the technical reasons why Diacerto Data Bus could not meet the SAN's requirements for a databus and by simple logical extension, why it could not do the job required.
256. In any case, these Public Protector's hearings had a three-man panel with representatives of the Office of the Public Protector, the Office of the Auditor-General and the National Prosecuting Authority, all of whom were members of the Joint Investigation Team.
257. I had long before the Public Protector's hearing were held provided copies of the first version Report on the Diacerto Data Bus to the JIT and accordingly it was part of their record.
258. It is probably relevant to point out at this juncture that this report was provided to me by a whistleblower in the SA Navy and was never provided to me bn the DoD or Armscor as part of the IMS versus Diacerto Data Bus selection issue.
259. I also refer by name to this report in my aide memoire as the *Report on the Diacerto Bus proposed for the SAN for Project Sitron* (classified as Restricted).
260. In any case my aide memoire was prepared in one week's time by my senior counsel at the time and by order of the Public Protector at the instance of the Minister of Defence and I only had literally a couple of hours to review it before it had to be sent to the Office of the Public Protector well into the Friday evening of the due date.

261. I certainly had no intention and even less to gain by omitting the words "and will do the job required" from my aide memoire.
262. As importantly Kamerman fails to tell the APC that this issue was dealt with substantially in my re-examination during the public protector's hearings.
263. The record of the hearings are as follows :

Mr Rogers : In dealing with the respective merits or otherwise of the Detexis system, my learned friend Mr Kuper accused you of leaving out a paragraph from the evaluation report. Do you recall that?

Young : Yes.

Mr Rogers : And I think it was a paragraph which apparently said something along the lines that Detexis are undoubtedly experts, or have great expertise and the Detexis Databus can do the job.

Young : That is correct. I think that they said that they are very knowledgeable and that with the new I think 7 April architecture the Detexis system can do the job.

Mr Rogers : Now in your scientific experience this expression "can do the job", is that a term of art which denotes any particular technical capability?

Young : No because when you are designing a system, especially a long-lived cardinal system like this, you do not just design it for the beginning, you design it for the envisaged life. So I think doing the job in that

context meant that possibly they could, and I will quote a paraphrase in Emmanuel Mary, is fine-tune the system to make it work. But that would have basically, an expedient way of providing something at the beginning, possibly saving acquisition costs, but the expense of the upgradeability supportability and specifically the life cycle costs of the Corvette and its Combat Suite.”

264. To demonstrate Kamerman’s equivocation it is relevant to further compare some of the evidence he gave to the APC with that he gave under oath at the Public Protector’s hearings.

265. To the APC he testified as follows :

: “Gentlemen, it will do the job, its architecture, but it’s got warts and spots, we don’t like this, we don’t like that” and we said, and we said well are you certain of that, and they said no, because all we had to do was verbal information and some brochure information, they didn’t even have a technical description of the BUS to read, **it was verbal from the Detexis, not Detexis engineers, Detexis marketing people that were available.** So we said well that’s not good enough technically.....” [Page 6225, Line 21 to Page 6225, Line 4]

266. Yet in the public protector hearings he testified as follows :

“Now, that took place with Detexis people, who **Mr Young chooses to call and to denigrate as marketing people.** In fact **he mistakenly accords the pejorative,** in his context of a marketing person, someone who obviously would not know anything about engineering activities, to Monsieur Royer, who -

on his business card it says "Business manager" of Detexis. Monsieur Royer is in fact a highly qualified databus engineer. He is the leader of the Detexis team who is supplying the bus to us, and he in fact is an internationally renowned expert in databus systems. **So to ascribe to him the pejorative of marketing man**, and I mean no offence to any marketing man, but **in the context of which Mr Young uses it, it was certainly a pejorative**, I am afraid **is a very malicious thing** and it is simply not true, and **I also have to tell you that Dr Young knows exactly who Monsieur Royer is**. So we had what we considered to be an adequate representative and representatives from Detexis to give us a very high level explanation of what their bus was, without going into any detail, technical evaluation at that stage, because the brief of this evaluation team was very categorical: Go and see if this thing has merit as an option; will it meet the specification requirements and will it do the job. Well, **what Mr Young concealed from this panel is the primary finding of my evaluation, preliminary evaluation team**, and which he did not - he said that **he just did not feel the need to include it**, but I am afraid that is the primary finding of the evaluation team to me, and that is, from the outset - I read from the report of Mr Mathieson: "From the outset it has to be said that Detexis, a former Dassault company, is very knowledgeable and that the proposed LAN - and it is an LAN; Mr Young avers that it is not an LAN - complies to the architecture proposed on 7 April - that is our bus architecture - and will do the job required."

267. The transcripts of the public protector's hearings are part of the record of the APC. I also included them in my discovery documents. Accordingly, they are evidence before the APC.

268. I did not know who Monsieur Royer was. I had never met him, nor heard of him and nor have I ever met since nor heard of him again, other than in this single instance of the report arising out of the meeting between the JPT's combat system engineers and Detexis on the 3 to 4 June 1999.
269. Clearly when it suits, Kamerman the personnel are highly qualified engineers, but when it suits him they are marketing people.
270. I have never averred that the Detexis Data Bus is not a local area network (LAN). What I have said (and I am an expert in this field) is that the combat suite data interconnection system is not a LAN. These are not the same things, as I testified at some length in cross-examination before the APC. [Page 10248, Line 18 to Page 10253, Line 2]
271. Yet the unconstrained invective Kamerman exhibited in the Public Protector's hearings in late August 2001 has barely been diluted in the APC's hearings in May 2014.
272. This evidence by Kamerman has to be taken from whence it came.
273. But pertinently, regarding whether these two crucial reports were placed before the Project Control Board, Kamerman testified to the APC as follows :

“Yes, I did not bring those technical details and neither did my colleague, because these were technical details which were outside of the scope of the Project Control Board's milieu.”
[Page 6268]

274. It is also relevant to note the evidence of his superior Vice Admiral Robert Simpson-Anderson at the Public Protector's hearings which was as follows :

Mr Rogers : "Was one of the studies the Project Control Board looked at the evaluation reports of the merits and demerits of the Detexis System?"

Simpson-Anderson : Yes. It was. Ja.

275. It appears to be difficult when it comes to the evidence under oath of senior naval officers to know who or what to believe.

276. Kamerman was asked by the evidence leader of the APC whether he agreed that the PCB was a decision-making body and his response was :

"Yes, it was." [Page 6273]

277. Strangely this is both correct and incorrect. The PCB in reality performed as a decision-making body yet it was neither a formal body within the MODAC structure, in its draft constitution it was not constituted as a decision-making body and in any case its constitution was never approved. [Paras 88, 90, 439 of my witness statement]

278. This in effect makes all of the decisions made by the PCB irregular and therefore improper.

279. Even if the PCB had been properly constituted as a decision-making body then the so-called special PCB of 19 August 1999 violated all of the requirements in that it had no agenda, was not minuted, it did not have a quorum and was chaired by Chippy Shaik. [Paras 431 to 439 of my witness statement]

280. Accordingly, even if the PCB had been properly constituted as a decision-making body then its decision at the so-called special PCB of 19 August 1999 to deselect

the IMS in favour of the Diacerto Data Bus was in any case irregular and therefore improper.

281. Other than that, even in terms of Kamerman's own evidence where he claims that this meeting was attended by Kevin Hanafey and RAdm van der Schyff, they testified to the JIT that they had not done so.
282. Chippy Shaik also testified that he had not attended the meeting yet both Kamerman and Frits Nortjé testified that he did so.
283. There is simply no way of telling who is telling the truth and who is not.

Chippy Shaik's Evidence to the APC

284. Chippy Shaik's evidence to the APC in respect of Ministerial Directive MD 4/147 was firstly that it was approved and secondly that it was used substantially in respect of the acquisition processes SDPs. [Page 9934, Lines 7 to 10]
285. Yet his evidence which he gave under oath to the Joint Investigation Team was completely different to that which he gave to the APC and which was as follows :

“The DOD directive No 4/147 to my knowledge was not approved by the COD on 8 August 1997.”

286. Chippy Shaik refers to the decision of the meeting being reflected in the minutes of the COD meeting.
287. Unfortunately, although in fact it was not required, the DoD elected for some reason not to provide the minutes of this crucial meeting to the APC, nor to me.
288. This entire theme of Ministerial Directive MD 4/147 is key to the terms of reference of the APC as it goes to propriety or impropriety of all or most of the processes employed for the SDPs.

289. MD 4/147 gave rise to key bodies in the acquisition process commencing with the Management Committee (MC), which then changed to the International Offers Management Committee (IOMC) and then to the Strategic Offers Committee (SOFCOM).
290. All of this overrode the formal acquisition processes embodied in MODAC.
291. Not only was SOFCOM not constituted to be a decision-making body, but nevertheless made key decisions throughout the initial acquisition process leading to the selection of preferred suppliers in November 1998, it then spawned subsidiary bodies such as the Project Control Board (PCB) which took most of the crucial decisions up until contract signature on 3 December 1999.
292. The fact that MD 4/147 was so extensively used in the acquisition processes of the SDPs, that it was neither approved and indeed that it irregularly superseded the regular acquisition process as prescribed by MODAC in effect means that the entire SDPs were both irregular and improper.
293. It is therefore not at all surprising that the Chief of Acquisitions, who was overall responsible for the SDPs and indeed for the implementation of MD 4/147, would have lied to the APC in this regard.
294. In respect of the theme of impropriety which is a fundamental term of reference of the APC, the issue of **conflict of interest** is entirely relevant. Time did not allow me to address this issue in my extended oral evidence. However it suffices to say that Chippy Shaik indeed had a conflict of interest as he himself had previously told the Standing Committee of Public Accounts (SCOPA) in October 2000, due to his brothers equity interest and directorship of ADS as well as Thomson-CSF (Pty) Ltd.

295. I did however address this theme of conflict of interest extensively in both my witness statement and initial oral evidence [Pages 9113 to 9114; Pages 9143 9147; Page 9319; Page 9568; Page 9618 of the record]
296. In particular one point on the theme of conflict of interest that is crucially important is that regarding Chippy Shaik's meeting with Thomson-CSF executives on 9 July 1998. [Page 9572, Lines 5 to 21]
297. Although Shaik only declared his conflict of interest to the PCB on 4 December 1998, he was by 9 July 1998 already Chief of Acquisitions, the acquisition process for the Corvettes was in full swing since at least September 1997 and the German Frigate Consortium had by May 1998 formally declared its intention of partnering with ADS. By that time, Thomson-CSF had already acquired 50% plus a controlling share of ADS and so the conflict of interest was already in effect.
298. Another similar point is Chippy Shaik's interaction with Thomson-CSF's chief executive officer of Its Naval Systems Division Alex Dorian during late May 1999 in respect of the Corvette combat suite and particular Thomson-CSF's detailed and priced offer therefore. [Page 9574, Lines 5 to 16]
299. Chippy Shaik's evidence to the APC that I formed the consortium with British Aerospace to offer an alternative competing Combat Suite is also incorrect. The simple truth of according to the documentary evidence that I adduced into the record shows that British Aerospace and Tellumat formed the consortium called Advanced Systems Management (ASM) and later invited my company to join them. This was for the simple reason that my company had developed the IMS which was the key integration element of the local combat suite that had been designed and developed in the country over most of the previous decade.
300. Of course, that Chippy Shaik did not tell the APC about his dealings with Christoph Hoenings of Thyssen TRT and its USD3 million payment in respect of him and a group represented by him should come as no surprise.

Rear Admiral Higgs's Evidence to the APC

301. RAdm Robert (Rusty) Higgs gave evidence on behalf of the SA Navy to the APC.
302. In respect of rationale, one of the main legs of the APC's Terms of Reference, he testified as follows :

".....and the reality is if we don't patrol we don't control, we've got to be out there....."

And :

"So it is very, very important that people who have interests at sea, are able to patrol what they have interest in and there is an average (sic - adage) which says if you do not patrol, you do not control." [Page 241, Lines 4 to 6; Page 248, Lines 12 to 15; Page 9950, Lines 4 to 8]

303. Clearly this is correct, especially for a Patrol Corvette as the SA Navy had justified for acquisition in the SDPs.

Rear Admiral Shoultz's Evidence to the APC

304. RAdm Philip Shoultz also gave evidence on behalf of the SA Navy to the APC.
305. Regarding rationale, RAdm Shoultz's evidence was as follows :

"I don't believe that would be fair because as I've indicated operational available can also be lying alongside awaiting an assignment, and **if there was no assignment to go and do then just to steam around outside would be pointless quite frankly.** [Page 485, Lines 21 to 25]

306. That position is entirely incongruent with RAdm Higgs's logical and indeed correct position that the navy's has got to be out there patrolling.
307. Clearly the SA Navy is at odds internally as to the role and rationale of the nearly R7 billion's of Patrol Corvettes that it acquired under the SDPs.
308. It is also a fair statement for critics to make because firstly the country with its extremely long maritime borders and very large exclusive economic zone requires almost continuous patrol and secondly the citizens and taxpayers of the country are entitled to expect effective utilisation of the SA Navy's assets.
309. RAdm Shoultz also testified about the actual utilisation of the Patrol Corvettes during the period from initial deployment up until August 2009.
310. He referred to the SA Navy's founding document for the acquisition of the patrol Corvettes which is its Naval Staff Requirement 6/80. This document states that the vessels should be available 260 days of the year for operational utilisation and that each of these vessels should spend some 180 days per annum at sea.
311. Clearly it is trite arithmetic logic that the vessels should have a 70% operational availability and a 50% utilisation factor.
312. Yet the figures RAdm Shoultz produced for the APC show in fact that the SA Navy only achieved a total for its four patrol Corvettes of 1 932 actual duty days compared to a figure of 10 057 days in service. This equates to around a 19% utilisation factor.
313. According to RAdm Shoultz's witness statement, the total usage was that only about 250 days were spent on operations in South African waters for all four Patrol Corvettes. This is in stark comparison to the total number of ships' service days of over 10 000, as well as the requirement set out in the Naval Staff Requirement 6/80 that each of these vessels should spend some 180 days per annum at sea.

314. It is relevant to point out that the primary statutory role of the SA Navy is to ensure the sovereignty of the Republic by protecting its maritime borders, which includes patrolling its national waters and does not include continental and international tasks as primary ones.

Rear Admiral Green's Evidence to the APC

315. RAdm Alan Green also gave evidence on behalf of the SA Navy to the APC.

316. He did so in two sessions, the first in August 2013 and the second in November 2014.

317. I only want to address the second session of his evidence as far as it affects utilisation.

318. RAdm Green was recalled to the APC to give evidence that would supplement that which RAdm Schoultz presented to the APC over the period of 23 August 2013 to 26 August 2013.

319. RAdm Schoultz had given his utilisation figures using days whereas RAdm Green testified that the SA Navy recorded its planning and utilisation figures in hours rather than days.

320. According to the actual achieved utilisation figures given by RAdm Green, these are even lower RAdm Schoultz, with the actual duty hours being 38 647 hours for all four vessels over the period.

321. Also according to RAdm Green the planned duty hours were 87 584 hours for all four vessels over the period.

322. Arithmetic calculations using a simple conversion factor of 24 hours per day determine that the planned duty hours are 36,3% and the actual duty hours (or utilisation) are 16,0%.
323. This has to indicate that the vessels are being utilised both far less than originally planned and substantially less even with replanning.

Grobler's Evidence to the APC

324. During 1998 the acting Chief Executive Officer and General Manager of Acquisition, Erich Esterhuysen instructed in writing that Armscor perform a formal internal audit on the SDPs.
325. Two audit reports were consequently produced in January 1999 and August 1999 and were authored by Mr W. van der Walt, Dr B.J.E. van Tonder and Mr J.G. Grobler. Reports are both signed and dated by Grobler.
326. Yet these audit reports record that Armscor's standard evaluation processes were not followed :

"Below are just a few examples of instances where Armscor's standard evaluation processes were not followed, and the observations and recommendations which the audit team made."

327. There is also no mention in either of the two audit report reports of Armscor's internal legal opinion concerning the GFC's DIP offer or Armscor's senior manager for DIP Johan van Dyk's interaction with SOFCOM in this regard.
328. Tellingly, there is no mention whatsoever of these crucial internal audit reports into the SDPs by the country's primary acquisition authority Armscor in any of the drafts or the final version of the Joint Investigation Team's November 2001 Joint Report into the SDPs.

329. The only valid conclusion that can be drawn from this fact is that these critical reports, authored in January 1999 and August 1999 were not provided to the JIT.
330. It is clear that these audit reports disappeared from Armscor in the 1999 to 2001 period and indeed only resurfaced almost a decade and a half later.
331. This is unexplained, inexplicable and highly suspicious.

Hlongwane's Evidence to the APC

332. Hlongwane was the Minister of Defence's special adviser on 1994 to about January 1999. That is common cause.
333. Hlongwane thereafter became a commission agent for BAE Systems in respect of the LIFT (Hawk) and ALFA (Gripen) military aircraft legs of the SDPs. That is also common cause.
334. But what Hlongwane omitted to give in his evidence to the APC was the factual dates, the respective legal entities and the reasons why he received at least the first tranche of these very substantial commissions. This is despite his oath to tell the truth, the whole truth and nothing but the truth in his evidence.
335. Hlongwane testified to the APC that he and his companies received commissions from BAE Systems in respect of his efforts regarding the National Industrial Participation (NIP) aspects of these projects. All of this was during or after the year 2003.
336. What Hlongwane failed to tell the APC was that he actually received very substantial commissions through two offshore companies controlled by him.
337. The first of these companies was Westunity Business Limited registered in the British Virgin Islands which was paid some £4,9 million into its bank account in

Liechtenstein during the period 5 October 1999 to 30 July 2001 by a company based in Switzerland called Arstow Commercial Corporation.

338. Arstow received its payments from a special division of BAE Systems called Headquarters Marketing Services (HQMS) which paid a company set up by itself as a special purpose vehicle in the British Virgin Islands called Red Diamond Trading Ltd which then onpaid these commissions to Arstow which then onpaid them to Westunity.
339. Westunity was established in January 1999, i.e. at a time when Hlongwane was still Modise's special advisor and less than two months after BAE/Saab had been selected by Cabinet as the preferred supplier of the military aircraft. At the time of its establishment, BAE/Saab was negotiating the terms of the contract with the SA Government. [Page 1953 of the annexures to Col du Plooy's witness statement]
340. Arstow Commercial Corporation was controlled by another BAE Systems agent Sir Alex Roberts and received its commission payments from BAE Systems through its subsidiary Red Diamond Trading Ltd.
341. The second of these companies was Commercial International Corporation Ltd incorporated in Jersey and was paid commissions in the amount of some £490 000 by Red Diamond Trading Ltd during the period 2000 to 2001.
342. Dr Hugh Thurston became a director of CIC in November 1999 and testified that he had been instructed to purchase CIC as a vehicle for use by Fana Hlongwane. [Page 0771 of the annexures to Col du Plooy's witness statement]
343. All of these payments were in effect covert payments. They were also made in the period September 1999 to 2001.
344. Clearly Hlongwane had good reason not to share these facts with the APC.

345. Other than not being truthful in this regard there are also other aspects of his evidence which are equally not true. For example he stated that the investigating authority in South Africa, being the Directorate for Special Operations (DSO), never advised him that he was being investigated in respect of corruption in the SDPs.
346. In this regard Hlongwane testified as follows :
- “Equally the reports that I read that the DSO itself is investigating me, but I have never had any contact with anybody from the DSO to tell me such.” [Page 8973 Lines 11 to 13 of the record]
347. Yet in the evidence of Col Johan du Plooy to the APC on 18 to 19 May 2015 he adduced into evidence a letter from himself to Hlongwane’s attorneys Stockenstrom Fouche Inc. The subject of which was ***Subject: Investigation: Arms Deal: British Aerospace Systems Plc: Warning Statement: Mr Fana Hlongwane***. This is annexure annotated as JDP37 and 2172 of Col du Plooy evidence bundles.
348. This letter was faxed to Stockenstrom Fouche Inc. on 7 April 2010. This is annexure annotated as 2175 of Col du Plooy evidence bundles.
349. Indeed Stockenstrom Fouche Inc. in its letter of reply to Col du Plooy dated 26 May 2010 with its attached signed 19 page Memorandum explicitly acknowledged and indeed formally responded to Col du Plooy’s warning statement. This is the annexure annotated as 2176 to 2194 of Col du Plooy evidence bundles.
350. Col du Plooy although then and currently of the South African Police's Directorate for Priority Crime Investigation (DPCI), was previously a Senior Special Investigator in the NPA's Directorate for Special Operations (DSO) and responsible for the BAE leg and German leg of it SDPs investigations.

351. Hlongwane also testified that not one of the investigations produced any evidence of misconduct by him relating to the SDPs. [Page 8968 Lines 12 to 14 of the record]
352. This is simply untrue. The extremely comprehensive investigation undertaken by the Serious Fraud Office in the United Kingdom resulted in a sworn affidavit by its principal investigator Gary Murphy which was adduced into the evidence of the APC by both Hlongwane and Col du Plooy.
353. Indeed, Col du Plooy attested to his own sworn affidavit in this regard where he annexes the entire SFO affidavit to his own and where Col du Plooy submitted his affidavit to a judge of the High Court of South Africa.
354. Yet Hlongwane simply dismisses Murphy's affidavit by testifying to the APC as follows :
- “If you look at the two signatures of the said person, the signatures are [indistinct] forgery. [Page 8975 Lines 12 to 13 of the record]
355. There is no valid logic whatsoever to dismiss both Murphy's and Col du Plooy's sworn affidavits as forgeries.
356. Indeed it would be trite logic to conclude that in such a serious matter involving literally tens of billions of Rands of acquisitions and allegations of bribery and corruption involving many hundreds of millions of Rands that if these were indeed forgeries that appropriate actions would have been taken by one of the affected parties during the period 2007 until the present against Murphy and/or Col du Plooy, because this would in effect amount to perjury of an extremely prejudicial nature.

357. That this has not happened leaves the status of both Murphy's and Col du Plooy affidavits as prima facie evidence.
358. Other than Murphy's and Col du Plooy affidavits, there is also evidence from an investigation conducted in the Principality of Liechtenstein.
359. On 24 October 2008 the Acting National Director of South Africa's National Prosecuting Authority received from Judge Martin Nigg, a judge of the Court of Justice of Liechtenstein a "request for information on the subject matter and status of proceedings, and on the interrogation of the suspect Fana Hlongwane". In the letter Judge Nigg advises of criminal proceedings in progress at the Court of Justice of the Principality of Liechtenstein in Vaduz against Fana Hlongwane on account of suspected money laundering.
360. According to Judge Nigg it was "suspected that frozen assets belonging to Fana Hlongwane in the Principality of Liechtenstein are linked with active and passive bribery and corruption by the company operating as BAE Systems PLC ("BAE"), using a system of international representatives." [Page 0784 of the annexures to Col du Plooy's witness statement]
361. In summary and conclusion of Hlongwane's evidence to the APC, it is firstly clear that he has not been truthful in his evidence. Secondly, other of his evidence is simply preposterous.
362. As a combination of these factual factors, all of Hlongwane's evidence to the APC serves to be dismissed.
363. To the contrary, I have given a vast amount of evidence to the APC involving Hlongwane as well as the companies with which he collaborated, i.e. BAE Systems directly and Saab, possibly indirectly and all of my written and oral evidence is backed up by prima facie evidence of corruption, if not substantial impropriety, in respect of the military aircraft acquisitions.

364. My evidence to the APC is completely corroborated by the documentary evidence submitted to the APC by Col du Plooy currently of the South African Police's Directorate for Priority Crime Investigation (DPCI) and previously of the NPA's Directorate for Special Operations (DSO).



Richard Michael Moberly Young

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