

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

06 JUNE 2019

DAY 107

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PROCEEDINGS ON 6 JUNE 2019

ADV REFILOE MOLEFE: However we have also introduced a supplementary with – which we seek to refer to in evidence with your leave Chair and so what was initially marked BB10 is now marked BB10[a] and the supplementary bundle is marked BB10[b].

CHAIRPERSON: Okay thank you. Well you said what was previously marked Exhibit BB10 is now marked Exhibit BB10[a]?

ADV REFILOE MOLEFE: Yes Chair.

CHAIRPERSON: The previous marking is not on record?

10 **ADV REFILOE MOLEFE:** No it is not Chair.

CHAIRPERSON: It is your own internal ...

ADV REFILOE MOLEFE: It is our own internal Chair.

CHAIRPERSON: Ja. The lever arch file containing the affidavit of Ms Mathane Eveline Makgatho will be marked Exhibit 10 – Exhibit BB10[a] and the lever arch file containing her supplementary affidavit will be marked Exhibit BB10[b].

ADV REFILOE MOLEFE: Thank you Chair.

CHAIRPERSON: Thank you.

ADV REFILOE MOLEFE: May the witness please be sworn in?

20 **CHAIRPERSON:** Ja. So this is a Transnet witness. You remember we were – we had witnesses relating SABC, this is a Transnet witness.

ADV REFILOE MOLEFE: Yes Chair this witness speaks to Transnet matters.

CHAIRPERSON: So we are moving back to Transnet?

ADV REFILOE MOLEFE: Indeed so Chair.

CHAIRPERSON: It is important to place that on record so that those doing – reading the transcripts know that we have moved from one work stream to another.

ADV REFILOE MOLEFE: Thank you Chair.

CHAIRPERSON: Okay.

REGISTRAR: Please state your full names for the record?

MS MATHANE EVELINE MAKGATHO: Mathane Eveline Makgatho.

REGISTRAR: Do you have any objections to taking the prescribed oath?

10 **MS MATHANE EVELINE MAKGATHO**: No.

REGISTRAR: Do you consider the oath to be binding on your conscience?

MS MATHANE EVELINE MAKGATHO: Yes.

REGISTRAR: Do you solemnly swear that all the evidence you will give this commission is the full truth, nothing but the truth, is so please raise your right hand and say, so help me God.

MS MATHANE EVELINE MAKGATHO: So help me God.

REGISTRAR: Thank you.

CHAIRPERSON: You may proceed.

20 **ADV REFILOE MOLEFE**: Thank you Chair. Ms Makgatho please refer to the bundle before you that is marked BB10[a] and can you turn to page 1 of that bundle. On page 1 to 35 of that bundle is that your statement to the commission?

MS MATHANE EVELINE MAKGATHO: Correct.

ADV REFILOE MOLEFE: Can you please move the microphone a bit

closer to you so that you are audible.

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE MOLEFE: And on page 35 of that bundle is that your signature?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE MOLEFE: And the date that appears on that page, the date of the 16 May 2019 is that the date on which you signed the statement?

MS MATHANE EVELINE MAKGATHO: It is so Chair.

10 **ADV REFILOE MOLEFE:** Can you also then refer to the bundle marked BB10[b]. From page 1 to 3 of that bundle is that your supplementary affidavit?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE MOLEFE: Your supplementary statement rather?

MS MATHANE EVELINE MAKGATHO: It is correct Chair.

ADV REFILOE MOLEFE: On page 3 of that statement is that your signature that appears there?

MS MATHANE EVELINE MAKGATHO: It is so Chair.

20 **ADV REFILOE MOLEFE:** And the date of the 6 June 2019 is that the date on which you signed that statement?

MS MATHANE EVELINE MAKGATHO: It is correct.

ADV REFILOE MOLEFE: Do you confirm the correctness of the statement?

MS MATHANE EVELINE MAKGATHO: I do confirm the correctness of the statement Chair.

ADV REFILOE MOLEFE: And insofar as your statement in BB10[a] from page 1 to 35 do you confirm the correctness of that statement?

MS MATHANE EVELINE MAKGATHO: I do so Chair.

ADV REFILOE MOLEFE: Thank you. Can we then return to the bundle marked BB10[a].

CHAIRPERSON: You will have to raise your voice a little bit.

MS MATHANE EVELINE MAKGATHO: I will do so.

CHAIRPERSON: Thank you.

ADV REFILOE MOLEFE: Thank you Chair. Please turn to page 1 of
10 the bundle. Please tell the Chair what qualifications you hold?

MS MATHANE EVELINE MAKGATHO: I studied at the University of Fort Hare. I did my BCom majoring in economics, accounting and business economics. I then did an honours in economics at the said university. I followed that with a ...

CHAIRPERSON: Hang on one second. I just want to check whether everybody can hear you at the back. I think you will have to raise your voice there are some who cannot hear you.

MS MATHANE EVELINE MAKGATHO: Okay.

CHAIRPERSON: And bring your microphone a little closer. Ja that
20 should be fine. Just raise your voice.

MS MATHANE EVELINE MAKGATHO: Thank you Chair.

CHAIRPERSON: Just start afresh where you got your BCom.

MS MATHANE EVELINE MAKGATHO: I studied and completed my BCom at the University of Fort Hare majoring in accounting, economics and business economics. I then went on to study and completed my

BCom Honours in economics at the same university. Later on I studied my Masters in Development Finance at the University of Stellenbosch. I then did over a period of 25 years or so I then completed the following courses that are relevant to my career. The first one is the Global executive Development Programme which I did through the Gibbs that is the Investor Pretoria Business School. This was a Transnet or is a Transnet specific executive development programme. I then went – I did financial engineering. This is a course that covers your typical financial market stuff which is like interest rate, option pricing, futures, risk management and I did this in 2001 at the University of California at their Berkeley campus. I then studied and completed a course at the University of Harvard at Boston USA in Micro Economic Policy Management and I did a three months course called Economic Policy Formulation at the Clingendael Institute at the Hague the Netherlands.

ADV REFILOE MOLEFE: And what is your employment history?

MS MATHANE EVELINE MAKGATHO: I started off in 1994 as a researcher at the National Institute of Economic Policy. During that period I was privileged to be involved in a number of research projects including the impact of foreign direct investment on employment, consumption and I was also privileged to be part of the team that did the quantification of the RDP at that time. It was around 1994/1995 at the beginning of our democracy. I spent about four years at the institute. It then moved onto National Treasury wherein I was employed as a Deputy Director in International Finance. It was in the assets and liability management division. It is during that time from 1998 that I

started being exposed and learning and growing in the financial market space. My duties included issuing bonds in the international markets and during that period we spent a whole lot of time engaging with investors across the globe, in the far east in the Yen market. In continental Europe in the UK in the Northern Americas and during that time Chair I believe that I acquired a whole lot of experience that ordinarily I would not have. And I am also privileged to have been part of that team during the two crisis' that was the 1998 Russia crisis and the 2001 Asian crisis which in a way taught us lessons around how to

10 prudently manage liabilities. It was at the time that a decision was taken at the National Treasury that even though the sovereign was being managed prudently as far as liability management is concerned but we did not have a proactive way or a dynamic way of managing risk. I was then seconded to be one of the officials to start the risk management section and it is within that period we developed what we called a dynamic benchmark. We had key variables that we had identified that if you know for instance volatility is at an X level then we would know that a prudent way to manage your liabilities is to do YZ or whatever. I was then promoted to be a director of Market Risk and

20 Market Risk Chair in this instance refers to interest rate, currency risk, commodity risk and the like. I spent about five a half years at the National Treasury. I then ventured to be on my own and open my own consulting firm and I think I spent about four or five years at that – in my own company. And again Chair I consider myself to be highly privileged because it is during that time that I was again given the

opportunity to work on a number of various projects that were of national importance. I believe one of them was the retail bond and my company together with another company we were tasked to develop and to market the retail bond which is now one of the standing instruments. I was also privileged Chair to be one of the people that were tasked to review and analyse the R5 billion loss which SAA had at that particular time. And I was also privileged Chair to have been asked to review all the financing structures that all of the – I think there were about 88 aircrafts of SAA because each one of them had a different and a very specific financing project – financing structure. During the time of my self-employment even though I was getting projects I wanted to venture into more infrastructure funds – infrastructure finance and as a small company it is not very easy to venture into such big projects. Even if you were to be successful to venture into such projects they are by their nature very long and you need to have a deep pocket to be able to absorb the expenses while you are waiting for a projects to be closed in year 2 or year 3. I then saw through an advertisement an opportunity at Transnet for the head of structured finance and I applied that and I was fortunate to be appointed. I joined Transnet in 2007 and I spent –

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20 I started off as the head of structured finance. I was then later promoted to Group Treasurer and I spent 7 years at the company.

ADV REFILOE MOLEFE: And are you still employed with Transnet?

MS MATHANE EVELINE MAKGATHO: No Chair I had to resign at the end of 2014.

ADV REFILOE MOLEFE: Thank you.

CHAIRPERSON: So you were Group Treasurer from 2007 to 2014 or?

ADV REFILOE MOLEFE: No I was – no Chair I was the head of structured finance from November 2007 up to February 2013. From March 2013 to November 2014 I was the Group Treasurer.

CHAIRPERSON: Okay thank you.

ADV REFILOE MOLEFE: Thank you Chair. From paragraph 6 of your statement and following you deal with the role structure and capabilities of the Treasury department in Transnet and at 6.1 of your statement you summarise the role of the Treasury department. Can you
10 take the Chair through this?

MS MATHANE EVELINE MAKGATHO: Okay the Transnet Treasury Chair – Treasury is a – Transnet is a very big organisation Chair it has about five core divisions. Two in the rail space with his your Transnet Freight Rail and your Transnet Engineering. You have your Transnet Ports Authority. Transnet Port Terminals. You have your pipelines. But for – but a decision was taken that the treasury activities will be centralised. Even though each of the divisions had their own finance section the treasury activities were all centralised. So we operated in a centralised model. In a nutshell the function of treasury or the
20 objective of treasury was to ensure that the group has sufficient money to meet all its operational and capital obligations. And we needed to do that within a board approved financial risk management framework. So we had parameters within which we operated in and one of the key parameters that we had to make sure that we protect is what we call the cash interest cover ratio and the gearing. The cash interest cover

ratio Chair in simple terms is the amount of money that is available to pay interest. And so we – it was decided that a prudent – ordinarily you can say that a one to one it is fine but we do know that over and above interest payments there are other obligations that have to be met. So a ratio of at least three times is a comfortable ratio. So the benchmark is and I believe continues to be three times the cash interest cover ratio. And another important ...

CHAIRPERSON: I am sorry I just want to make sure I understand that. What was the term that you said refers...

10 **MS MATHANE EVELINE MAKGATHO**: Cash interest...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: Cash interest cover ratio.

CHAIRPERSON: Cash interest

ADV REFILOE MOLEFE: Cover ratio.

CHAIRPERSON: Coverage?

MS MATHANE EVELINE MAKGATHO: Cover ratio.

CHAIRPERSON: Oh oh ratio.

MS MATHANE EVELINE MAKGATHO: Yes Chair.

20 **CHAIRPERSON**: And you said that refers the amount of money that you keep aside or you identify to pay interest?

MS MATHANE EVELINE MAKGATHO: This is available Chair.

CHAIRPERSON: Oh that is available.

MS MATHANE EVELINE MAKGATHO: To pay interest. That

CHAIRPERSON: Ja.

MS MATHANE EVELINE MAKGATHO: So it will include the money that

the company generates generally.

CHAIRPERSON: Yes, yes.

MS MATHANE EVELINE MAKGATHO: And any other source.

CHAIRPERSON: So but what it means does it mean that you would be having a certain amount of money that you set aside and say this is to take care of interest that we – we accumulate and have to pay in regard to various transactions.

MS MATHANE EVELINE MAKGATHO: I would not quite say that we set it aside but we make sure that it is available.

10 **CHAIRPERSON**: You identify.

MS MATHANE EVELINE MAKGATHO: We identify that it is available.

CHAIRPERSON: You say it is R1 billion.

MS MATHANE EVELINE MAKGATHO: It is always available.

CHAIRPERSON: Or something.

MS MATHANE EVELINE MAKGATHO: It is the amount of money that should always be available.

CHAIRPERSON: That should always be available.

MS MATHANE EVELINE MAKGATHO: Always be available yes.

CHAIRPERSON: But I mean is when you say it is an amount of money
20 that should always be available maybe not practically but theoretically that should not be used for anything else other than?

MS MATHANE EVELINE MAKGATHO: No Chair it is not a set aside.

CHAIRPERSON: Not [indistinct].

MS MATHANE EVELINE MAKGATHO: It is not a specific.

CHAIRPERSON: YEs.

MS MATHANE EVELINE MAKGATHO: No. Like...

CHAIRPERSON: So...

MS MATHANE EVELINE MAKGATHO: Like for instance...

CHAIRPERSON: But if you have let us say you have as Transnet R20 billion in your bank account okay. Would you not say when you say that should be available would you not say out of that R20 billion so much must be available – a minimum of so much must be always available for interests? Is that not what you talking about?

MS MATHANE EVELINE MAKGATHO: No Chair this is a different
10 context. What you are referring to it is a liquidity buffer.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: Which we had as R1 billion to cover our normal expenses.

CHAIRPERSON: Yes. Yes.

MS MATHANE EVELINE MAKGATHO: So in this instance Transnet had about 9 or 10 billion rands worth of interest to be paid annually.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: So there is no way that we could have set aside R10 billion.

20 **CHAIRPERSON:** Yes.

MS MATHANE EVELINE MAKGATHO: But the business is able to generate sufficient cash.

CHAIRPERSON: Hm. So – so when you say should be available I take that to mean it might not always be available but that is what you – that is the ideal situation.

MS MATHANE EVELINE MAKGATHO: It is available in one form or the other Chair.

CHAIRPERSON: Oh it has to be available in one...

MS MATHANE EVELINE MAKGATHO: In one form or the other it is available.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: Yes.

CHAIRPERSON: But it is not distinct?

MS MATHANE EVELINE MAKGATHO: It is not a set aside.

10 **CHAIRPERSON:** Ja it is not set aside.

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: But you know it is should not be less than a certain amount or not?

MS MATHANE EVELINE MAKGATHO: It is a function of what the business is able to generate.

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: So a big organisation like Transnet that has a high capability of generating cash.

CHAIRPERSON: Ja.

20 **MS MATHANE EVELINE MAKGATHO:** To maintain that level.

CHAIRPERSON: Ja.

MS MATHANE EVELINE MAKGATHO: It is easier and it gives comfort.

MS MATHANE EVELINE MAKGATHO: Ja.

MS MATHANE EVELINE MAKGATHO: To investors, lenders and rating agencies that when they lend us money we will be able to pay interest

with ease.

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: So it is just an indication that we will be able to pay interest with ease.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: So...

CHAIRPERSON: But does someone have to keep an eye that that ratio stays in a certain way or not really?

MS MATHANE EVELINE MAKGATHO: It is Chair. It is Group Treasury
10 that is tasked.

CHAIRPERSON: That must keep an eye on that.

MS MATHANE EVELINE MAKGATHO: In actual fact it is one of the KPI's

CHAIRPERSON: Ja.

MS MATHANE EVELINE MAKGATHO: That are in the Treasury Score Card so as the Group Treasurer it would be in my performance contract.

CHAIRPERSON: Yes. Okay. Okay thank you.

ADV REFILOE MOLEFE: Thank you Chair. You have mentioned that
20 there were two key financial ratios and you have just explained what the cash interest cover ratio entails what was the second key ratio?

MS MATHANE EVELINE MAKGATHO: The second key ratio Chair is gearing in simple terms it is how much you are indebted. It is the gearing ratio.

CHAIRPERSON: What – okay I...

MS MATHANE EVELINE MAKGATHO: So it is a.

CHAIRPERSON: Okay how do you spell that?

MS MATHANE EVELINE MAKGATHO: Gearing – Gearing.

CHAIRPERSON: Gearing ratio.

MS MATHANE EVELINE MAKGATHO: It is a gearing ratio.

CHAIRPERSON: And just repeat what that represents?

MS MATHANE EVELINE MAKGATHO: It represents the level of debt that an organisation...

CHAIRPERSON: That you have

MS MATHANE EVELINE MAKGATHO: Has relative to its equity.

10 **CHAIRPERSON**: Okay. Thank you.

MS MATHANE EVELINE MAKGATHO: And again Chair the more manageable your debt levels are the better you are perceived as a credit.

CHAIRPERSON: Yes okay thank you.

ADV REFILOE MOLEFE: Yes and what was the threshold that Transnet sought to maintain insofar as the gearing ratio?

MS MATHANE EVELINE MAKGATHO: The official threshold was 50% but then for prudence sake we had an internal mark of 47% this would allow us to take any corrective measures before we even hit 50%.

20 **ADV REFILOE MOLEFE**: And what were the key outputs of the Treasury Department?

MS MATHANE EVELINE MAKGATHO: Okay I now go to paragraph 6.2 Chair in trying to unpack the key outputs of the treasury department. The first...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: The first one that I would like highlight it is 621 which is developing the funding strategy and plan for the group. You will know Chair that all state owned entities are required to develop an annual corporate plan and in Transnet's case I mean most of them would develop a three year corporate plan in Transnet's case we developed a seven year rolling plan. It is a big bundle Chair. It has strategies for all of our divisions and the pack is approved all over the strategies for TFR, TE, TNPA they are all approved as one in a package. But in that pack there is what you call

10 the borrowing strategy or the borrowing plan. It is about a 30 page document but it is approved separately because of its importance. It is not approved as a pack. And it is an input that not even an input it is the output of the treasury department. It sets out how the organisation will be funded over the medium term. It sets out and it identifies all the key risk that is facing the organisation and it also includes what we call a scenario analysis because when we budget Chair we assume certain levels of rates over the medium term and as we know forecast and actuals can sometimes differ or they mostly differ. So we will also include a scenario of some sorts and say that should X change from Y

20 to G or G+4 then this is the impact. So it is a very detailed plan. And whilst we are still on that point Chair I also want to highlight the – that it was the – it is still the responsibility of group treasury because we have a big organisation and it is important that when each and every one of those divisions budget they budget using the same parameters. So within the Treasury Department Chair we will – we have the

capabilities of providing and checking what the economy and the market is likely to look like. So for the seven year plan Chair even though we note today that prime is at 10.25 of JIBA at 7. Whatever we will then say that in the medium term this is where – today the currency is per the dollar, the euro and whatever is at X, Oil is at X. But over the period the seven year period the market expects it to be X-G whatever. So all of those were included and each and every division when they budgeted they did not just budget based on what the rates are today. They budgeted to include what the forecast is expected to

10 be in year 3 or year 4 or whatever the year might be because remember that the capital expenditure plan though we have a one number at a particular point in time the execution of that plan spans over a number of periods. So it is very important that when they budget and they did so Chair that they would use even the currency they will lose what is forecasted to be in the future. So that is number 1. Number 2 Chair is the management of interest rate foreign exchange commodity and create rate risk. As a nett borrower and because it was anticipated that during the period of the MDS Transnet will continue to be a nett borrower because of the intensity and the – and the need to spend

20 billions and billions of amounts of money for capital so management of interest rate was key foreign exchange and commodity and because we have half of our fleet the rail fleet at that time I do not know now it was diesel so it was very important that we also include that. And I also want to highlight that as a state owned entity and as a corporate in general our role is not to speculate on where the rand will be or the

commodity price will be. Our role is to protect the budget because the seven year plan is crafted based on certain assumptions. So our role first and foremost was to protect the budget and the integrity of the budget because you do not want to plan X and be far off. We understand that there are variances but they should not be too far away from what was originally intended. And then the third point is what you were referring to earlier Chair the cash buffer. We do know that we budget but we know that life happens all the time so it is important that at any particular point in time should there be an unforeseen expense

10 we have a buffer and for the size of Transnet's organisation a decision was made that R1 billion it is a reasonable number to keep. And number 4 is to reduce the weighted average cost of debt. At the time when I left Transnet I think our weighted average cost was around 10.35 – 10 – not 10 I am sorry Chair not 10. 9 – 9.35 to around 9.4. And it is also important that when we look at what it is a basket of all the interest rates that have been agreed for different facilities. So that one number that represented the entirety of the debt portfolio was about 9.4 so whatever – whatever financing facility that we wanted to engage with we wanted to take up we had to compare to where our

20 weighted average cost of debt is that is one. And two we have bonds that are trading out in the market that are listed in the JSE. And we will also use that as a reference point because those bonds their yields will tell us where exactly is – is Transnet regarded as far as interest for a ten year or a seven year or a fifteen year. Then even during that time Chair our bonds were trading at around 9.2% to 9.5 so the 9.4 – 9 –

around 9 area was a key reference point for us. So when we go out and issue because it is in my – it was in my performance contract Chair that I will reduce the weighted average cost of debt. I think the number that we had was about R300 million that relative to the amount of funds that are set aside for interest cost we need to at least save R300 million. Spend less by R300 million. And then is the managing of the relationship with banks and rating agencies and the relevant regulators in this instance it is your Reserve Bank, National Treasury, the Listing Authority, be it the JSE or the UKLA and another important point Chair

10 is the compliance and governance matters. Treasury is a highly regulated area. If I am not wrong Chair I think we had about just that one small unit within Transnet. I know that Transnet as a – as a group I am sure there are many laws and regulations that are applicable but for us Chair – if I am not wrong – I think we had over 40 laws and regulations that we had to adhere to and in addition we have laws that we have entered into and we have covenanted in a certain way and we therefore needed to make sure that we do not breach any of those. So compliance and governance is one of the key things that – that were – and in addition Chair we had what we call the critical financial reporting

20 controls. These are your controls that make sure that all of the screws - if I may put it that way – are tightened as far as the financial management of the Treasury business is concerned. I think I have covered most of page 3.

ADV REFILOE MOLEFE: Yes, thank you and what was the makeup of the Treasury Department when you were with Transnet? Chair I would

like to refer you to Annexure 1. That would be on page 36 of the bundle and the actual document would be at page 37 of the bundle.

MS MATHANE EVELINE MAKGATHO: Thank you Counsel.

ADV REFILOE MOLEFE: What is that document at page 37?

MS MATHANE EVELINE MAKGATHO: Chair the - page 37 is the organogram of the Treasury Department as it was in 2014. We had a team of 40. 32 of which were professionals and the organisation was divided into four. The first one is what we call Front Office. Front Office is where our transaction banking happens. They are responsible
10 for transaction banking. They are responsible – there is a Deputy Treasurer. I had four deputies reporting to me. So the first deputy was responsible for Front Office. They will be responsible for cash management, credit rating management, your transaction banking and your dealing. Dealing Chair is where your cross currency swap, your money market activities happen. So I think it was about – about 10 of them in that – in that department. The second department was Structured Finance. There were five professionals in that department. This is where the loans are originated Chair. Be it your domestic loans, your global loans be it your export credit agency loans, your just
20 plan bank loans or your development finance loans. This is where most of the funding – not most – all of the funding activities were executed Chair and then ...

CHAIRPERSON: You say that that – is that the Front Office?

MS MATHANE EVELINE MAKGATHO: No, no.

CHAIRPERSON: Where is that?

MS MATHANE EVELINE MAKGATHO: Front Office is debt management ...

CHAIRPERSON: *Ja.*

MS MATHANE EVELINE MAKGATHO: Cash management. It is dealing. It is credit rating ...

CHAIRPERSON: Huh-uh.

MS MATHANE EVELINE MAKGATHO: And it is economic and market analysis. That is Front Office.

CHAIRPERSON: Okay.

10 **MS MATHANE EVELINE MAKGATHO:** Structured Finance is funding.

CHAIRPERSON: Oh, okay.

MS MATHANE EVELINE MAKGATHO: It is long term finance.

CHAIRPERSON: It is under Structured Finance.

MS MATHANE EVELINE MAKGATHO: It is under Structured Finance Chair.

CHAIRPERSON: That is where the funding – *ja* okay. You said both domestic and international?

MS MATHANE EVELINE MAKGATHO: Both domestic and – across all markets.

20 **CHAIRPERSON:** Yes, okay.

MS MATHANE EVELINE MAKGATHO: Thank you Chair and the third one is what we call Middle Office. This area was responsible for financial risk management and compliance. So they were the custodians of the – of the Financial Risk Management Framework. They are the team that will develop and enhance your Risk

Management Framework in terms of how do we manage currency risk, how do we manage supplier risk, how do we manage all sorts of risks Chair and again Chair it was well resourced as well and supported. All of this departments were supported by appropriate systems as well and processes.

CHAIRPERSON: By appropriate?

MS MATHANE EVELINE MAKGATHO: Systems.

CHAIRPERSON: Systems?

MS MATHANE EVELINE MAKGATHO: Systems.

10 **CHAIRPERSON:** Okay.

MS MATHANE EVELINE MAKGATHO: IT Systems.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: And then we had the fourth department which is Treasury Operation. This is where your complex Treasury Accounting rests and this is where the financial controls and the operational risk – the Middle Office Chair is responsible for the financial risk and the Operations is responsible – the Treasury Operations is responsible for your complex financial accounting matters that relates to your hedges and the like and they are also the custodian
20 of your operational risk. So the IT Systems, the ExCon matters, settlement matters, reconciliation they all were in this department. Chair the Treasury Department is divided in this manner so as to make sure that we do not have a – a player and a referee. You will see in this – under this four that you have your – so it is a segregation of duties Chair to make sure that those that take risk do not even manage it. So

there was a proper segregation of duties. There was a proper delegation of authority in terms of who can do what when and Chair if I may – may I?

ADV REFILOE MOLEFE: Before you continue ...

MS MATHANE EVELINE MAKGATHO: Okay.

ADV REFILOE MOLEFE: Just so that we complete the organogram as you have provided the four sub units that fell under Treasury reported to you as the Group Treasurer?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

10 **ADV REFILOE MOLEFE:** And what was the skill set and expertise of the 40 staff members in that unit?

MS MATHANE EVELINE MAKGATHO: Thank you Chair. As I indicated earlier on we had four staff members - 32 of which were professionals. Chair I believe that we are highly blessed with the level of skills that we had. We had a number of MBAs within our midst. We had a number of those who are CFA - Chartered Financial Analyst – holders. It is an international accreditation of – of finance professionals. We had a number of CAs. We had mathematicians Chair – Masters in Mathematics, Masters in Applied Mathematics. We had a number of

20 LLBs, LLMs. We had Business Graduates, we had Economists. So Chair we had a mixture of highly qualified and highly experienced and these are the 32 professionals that I am referring to and Chair not only were they highly qualified but they were also highly experienced. Some of them had investment banking experience. Some of them had Commercial Law or Commercial Contracting experience and most of

them had relevant SOC or Treasury experience or trading experience Chair. So we had a mixed experience and qualification but within the entire team Chair it – we complimented each other and completed what was required in terms of the skill. So we were sufficiently resourced, qualified and highly experienced.

ADV REFILOE MOLEFE: And on average what was the number of years of experience of the staff members?

MS MATHANE EVELINE MAKGATHO: We had few juniors to be honest. I think we had two who had just gone through what we called the
10 graduate program but over and above that I think the average was about 10 to 30/35 years of experience. So it was a solid team.

ADV REFILOE MOLEFE: Yes. In paragraph 8 of your statement on page 4 you again refer to the two ratios that you mentioned earlier being the cash interest cover ratio and the gearing ratio. What was the importance of those two ratios as you have set out in your paragraph 8?

MS MATHANE EVELINE MAKGATHO: Chair the two ratios are important in – for two reasons. The first one is that because Transnet is a – is a net borrower. It goes out there in the public market or
20 sometimes in the private market to raise money. So it is important to be rated accordingly and in this instance Chair we had made it as a - as a performance measure that we want to maintain a stand-alone investment credit profile. I must say Chair that the credit profile because the organisation was so well managed it was even above the sovereign as a stand-alone. I know that some SOC's or most of the

SOCs they only get investment rated once they – you know – they get – the sovereign kicks in. We did not need that Chair. We were strong on our own. So – and it was because of the prudence around financial money. So that is one and two when a lender does their credit due diligence they assign certain points to certain key matrices and it was important for us to maintain healthy matrices so – so that when they price us they price us cost effectively Chair.

ADV REFILOE MOLEFE: Yes.

MS MATHANE EVELINE MAKGATHO: And we saw that in a number of
10 areas that every time we were priced our credit – our stand-alone credit profile will come through pricing.

ADV REFILOE MOLEFE: In paragraph 9 and following of your statement you provide a broad historic context of the balance sheet status of Transnet. Without going into too much detail can you tell the Chair what the status was during the period mentioned there?

MS MATHANE EVELINE MAKGATHO: Chair when I joined Transnet in 2007 it was at the time where there Four Point Turnaround Strategy was been finalised. You will remember that before 2007 Transnet was a big company. It had airline, it had buses, it had trucks, it had
20 passenger rail, it had – I think it even had the – the housing loans. So during 2004 and 2007 all what was defined as nonco was divested and during – during the period of 2003/2004 the balance sheet was in such an unhealthy state Chair that I believe the cash interest cover was negative which meant that there was not enough money to pay even interest and the gearing levels were sitting at around 83/84 percent.

So it was therefore important that before you can even embark on a huge capital expenditure plan you needed to clean up your – your balance sheet. So when I joined in 2007 the balance sheet was cleaned up. The organisation was refocused and repurposed to what we call freight and a logistic company. At that point in time Chair the gearing was now low at 39 percent and the cash interest cover was very healthy at 7.9 percent. I believe Chair that it was at that point that the Board and the Executive thought that the time was right to reenergise the organisation because it was at a point again Chair when

10 there was not much done in terms of a capital expenditure plan. I remember when I looked at the numbers I think spend was around 2 billion – you know – for maintenance and expansion and for a monster like Transnet that is very small. So a decision was made that Transnet needed to be beefed up understanding that it plays a very critical role within the economy of South Africa. That it plays a critical role in the competitiveness of the economy and importantly it plays a critical role in the cost of doing business in South Africa because if the logistics is not working properly and there is inefficiencies it is very expensive to move goods from point A to point B and for us to achieve that Chair it

20 was very important that our assets are up to scratch. They are maintained appropriately, they are renewed those that need to be renewed and I believe Chair that it was at the point that a decision was made that Structured Finance has to be a division that forms part of Treasury to be able to support the capital expenditure plan. At that point when I joined the capital expenditure plan was 65 billion. It then

moved the following year to 78 billion. Even at that point Chair it was clear that it is 78 billion just for a period of time. It was clear - at least in my mind – when the Executives were discussing that the need was much more than that. So in 2010 the strategy was changed to quantum leap even then – even then Chair it was - because I think it was 100 billion at that point it was still not sufficient to be able to cover all the work that is needed. You will know that Transnet owns and manages the ports and you will know that over a period of time the size of vessels has grown tremendously such that it needed - the organisation
 10 needed to make sure that the ports are able to accommodate your huge vessels in terms of the quays and the whatever that is needed around the port and additionally you needed the right equipment to be able to lift – you know – and do whatever. So those were the areas that were being done at – at the ports and Chair even during that time a new port – the Port of Ngqura was also executed and I think it was fully commissioned around 2010. So on the rail side Chair our tracks were – were old. I think – I am not a technical person Chair. So I will just like to – our trains I think were on average 25 to 30 years old and they were not properly maintained. So it was very important again Chair to make
 20 sure that the railway infrastructure and the locomotives our - and wagons Chair are also modernised including all the systems that are needed to run a railway. So it was at that time that I was employed Chair and *ja*.

ADV REFILOE MOLEFE: Yes and you also speak of several committees that were established pursuant to matters relative to

CAPEX and augmenting the Treasury Department. Can you take the Chair through the committees that were established as well as their purpose?

MS MATHANE EVELINE MAKGATHO: Chair because of the understanding that even though Transnet is a cash pumping organisation the money that the company generates will not be sufficient to pay for the capital expenditure plan. It was therefore necessary to enhance and to – to beef up the Treasury Team which will be at the core of financing. The Structured Finance Division was born.

10 I was the first one to be employed at that time. I then capacitated it with two more professionals and added two more later and even within the other departments Chair at that point a new Deputy Treasurer in the Operations Department was employed and another CA was employed within the Treasury Operations in Front Office Chair. When I joined I was told that one or two dealers had just been appointed. After I joined Chair the then Group Treasury also employed - and the Deputy Treasurer - also employed the Debt Manager because Chair once you get to a point where you have a huge debt portfolio you have to have resources that actively manage that. So it was important as well to

20 enhance that – that department. In parallel the processes and the governance were - were also improved. Processes – for Structured Finance Chair there were no funding specific processes. So we developed that from scratch and from Treasury Operations Chair when Stephen Mamabolo joined there were a number of weaknesses that were identified at that point in time and he and his team Chair

enhanced the Treasury environment because his area is very key and core. It is like the engine of the organisation – if I may put it that way Chair and the Risk Management Framework Chair – I must say that our Risk Management Framework is one of the best but even at that point Chair we needed to make sure that we keep abreast to the latest developments in the Financial Risk Management Framework. So it was also enhanced and in 2013 – Chair within Transnet there are a number of – can I?

ADV REFILOE MOLEFE: Yes before you carry on.

10 **MS MATHANE EVELINE MAKGATHO:** Okay.

ADV REFILOE MOLEFE: Insofar as governance and augmenting the Treasury Department you have made mention of having employed two additional staff members.

MS MATHANE EVELINE MAKGATHO: Hm.

ADV REFILOE MOLEFE: Were there any committees in place or governance structures that were put in place pursuant to augmenting the Treasury Department?

MS MATHANE EVELINE MAKGATHO: Okay. Thank you Chair. The structure that was there Chair was what we call FinCo. FinCo is a
20 Sub-Committee of EXCO and FinCo meets once a month and it is a committee made up of the Group CFO, all the CFOs of the business unit, the Group Treasurer, General Manager Tax, Group Planning those are the ones that I can remember and Chair because it is a - it is a big committee and it is focused mainly on pure accounting and pure reporting matters. We found overtime that when we came to the

Treasury matters the report Chair was not interrogated that much and we felt the need to have a Treasury specific committee wherein the Treasury specifics will be debated, guidance will be sought, opinions – you know - will be received because there is no point in presenting a paper and you do not get advice from other people. So we said we call ALCO which is an Asset-Liability Committee specific to Treasury. So it became like your Treasury EXCO. The intention was over time it will be a stand-alone sub-committee of EXCO but in the meantime it was a sub-committee of FinCo. So this was one of the enhancements and

10 Chair it did so well because at least for the first time we were able to tabel each and every matter that is important within the Treasury environment and thrash out each and everything and get opinion from all the other experts all the other colleagues and in this instance Chair the members of the ALCO Committee was the Group CFO, the Group Treasurer, the four Deputy Treasurers, the GM responsible for tax, GM Reporting, GM Planning and GM Risk Management, GM Supply Chain Chair.

ADV REFILOE MOLEFE: Yes. Now in paragraph 17 of your statement you set out certain measures or steps that were taken in anticipation of

20 the increased funding requirement. Can you please take the Chair through this?

MS MATHANE EVELINE MAKGATHO: So Chair in anticipation of what was going to be a huge capital expenditure plan that requires a number of funding activities. It was therefore important to make sure that the group is able to source financing at all times and by at all times Chair

you can only be able to source funding at all times if you have sufficient diverse sources of funds across the globe. So we started off with launching the 30 billion Domestic Medium-Term Note program - the DMTN – which is listed at the JSE. This program allows us to issue bonds – different types of bonds Chair be it an inflation linker, a fixed rate bond or a floating rate bond but it allows us to issue a whole lot of and – and even commercial paper. So it was very keen and later on in 2011 as the capital expenditure – as the capital plan intensified it was then upsized to 55 billion and in addition Chair we also launched what

10 we called the Global Medium-Term Note Program which is similar to the DMTN but this one is a global platform. It allows us to access all qualifying – to access money from all qualifying investors across the globe be it in the Far East, Continental Europe and the Americas. This GMTN is listed with the UK Listing Authority. When the investment plan started Chair the Executive at that point did a roadshow across the globe as well because we know that we do not produce certain things in South Africa and we therefore knew that there is going to be a whole lot of imported components. So the Executives at that time and the Group Treasurer at that time did a roadshow across the major markets and

20 met with the export accredit agencies and we also had a platform for ECA – for ECA Funding and as part of this Chair we also started rebuilding relationships with banks both domestically and internationally as well as investors Chair.

ADV REFILOE MOLEFE: Yes, can we turn to page 161 of the bundle. That is Annexure MM24. What is that document that appears on that

page?

MS MATHANE EVELINE MAKGATHO: Okay Chair Annexure MM24 is what we call the Financial Risk Management Framework. This is developed by the Treasury Team and it will get presented to the different committees of EXCO and the different committees of the Board that are relevant with final approval resting with the Transnet Board. This is what we call the Bible of Treasury because it highlights and it talks about the governance issues. It highlights – it identifies all of the risks that are faced with in the Transnet business and it also instructs

10 how each of those risks will be managed. One of the risks Chair that it clearly highlights is on liquidity that on – for Liquidity Risk Management Chair will have a billion just as a buffer – you know – sitting around. For anything – for an obligation that is over R2 billion we will make sure that we have money six weeks in advance and we will also make sure that at any point in time we have at least 8 billion of facilities that are available at 24 hour notice. It is important Chair to do that because we - we monitor what we call the AB Ratio. It is the shortest to use this ratio and it has to be on a rolling 12 month basis at least 1.2. If you have at least 1.2 you know that at any point in time in the

20 next 12 months the organisation has – has sufficient resources and it is also important for your growing concern assessment and one of the key risk that is mentioned in this Chair is also your market risk that relates to currency risk and commodity risk and it also talks to your credit risk Chair and it will even go further and say that for you to – to have a counterparty it must have a certain stature. It must have a – a net

assess of at least R5 billion. It must be rated by an international accredited rating agency and has – have at least an – an –A rate Chair. So it is very rigorous. It is updated annually and it even includes the list of instruments that we are allowed to use.

ADV REFILOE MOLEFE: Yes and if you turn to page 38 of the bundle that being Annexure MM2 the actual document appears at page 39 of the bundle.

MS MATHANE EVELINE MAKGATHO: Page 32?

ADV REFILOE MOLEFE: Page 39. What is the document that appears
10 on that page?

MS MATHANE EVELINE MAKGATHO: Oh, okay, so Annexure MM2 Chair is the – what did you call it – it's the guidelines, it's the the guidelines for Supply Agreement. Chair as I indicated before that Transnet is a very big organisation, and at any point in time there is a whole lot of procurement events happening across the organisation so it was very important to have guidelines that should be followed for all procurement. We understood that certain big procurement events and the Treasury would be involved but for many of the smaller ones it will not be involved, so it was important for us to enhance our processes to
20 make sure that even though Treasury may not be physically involved there are guidelines on the things that the division should look into, so it talks to your approved FX Policy and it relates to the fact that wherever possible the divisions must enter into a fixed rent contract. First rent, the word fixed is important because sometimes people may enter into a rent contract but you find that it's linked to some index or

some rate and therefore it is no longer fixed because it's subject to a movement of some other rate, so it was important to make sure that we have that fixed, because as I indicated before our role is not to speculate but to protect the budget.

It will even go to a point of saying that if there is an important component of an X amount then you need Treasury input and there are sign-offs to be sought from your Group Reporting, Group Text and Group Treasury, and I also want to highlight that this on page 40.2.1 this part is also indicated delegation of authority, where it says that especially for mega projects that where – in another project Chair normally the Treasury would be involved but it will go on further to say that before the GCFO can sign off he can – or he or she can only sign off after all the relevant finance departments have signed off, to make sure that all of the risk have been identified, mitigated appropriately.

And Chair if we go to 2.2 still on page 4 we even say there that Chair ...(intervention)

ADV REFILOE MOLEFE: Page 40?

MS MATHANE EVELINE MAKGATHO: Still on page 40.

ADV REFILOE MOLEFE: Yes.

MS MATHANE EVELINE MAKGATHO: Paragraph 2.2 we even say there that because we understand that there may be a need for advance payment but if you can negotiate enough stay away from it but if you have to pay an advance payment make sure that there is a guarantee at the back of that and it was also another innovation of Treasury Chair to say that when you are given a guarantee make sure

that it's not a surety, because there was a practice across the Group that Divisions will accept a surety. We all know that a surety before you can exercise your rights under the surety there are a number of steps and ordinarily in a supply agreement there is a clear dispute resolution mechanism that once you get to a point where you are no longer happy you would have followed that and once you get to a point of seeing that now I want my money back you really don't want to be dancing around you just want your money back, and therefore it was important to even put a word, a form, an acceptable form from a

10 Treasury perspective and say that this is the acceptable form, it has to be a demand guarantee and it has to be from a suitable financial institution rated at least A-minus.

ADV REFILOE MOLEFE: Yes and there are further requirements that that guidelines would prescribe and you have summarised those from paragraph 20.1 to 20.5 of your statement.

MS MATHANE EVELINE MAKGATHO: Yes Chair, the first one is the ZAR fixed pricing which I have highlighted now, and the second one Chair is that because by their nature the assets that we buy will not be paid in one go, so it was important for us to workshop and to sensitise

20 the divisions that when agree to a payment schedule you can't agree to a payment schedule that requires Transnet to pay an invoice every week for instance, or every other day, it has to be a bankable payment schedule like you know once a month, or once a quarter, and importantly as well Chair we find that for important component you will find that in certain instances an OEM will set up a subsidiary here in

South Africa and in such an instance Chair you also require a parent company guarantee because this is just the – a small organisation and the IP and the know-how is sitting back home, so the form, the acceptable form of the parent company guarantee Chair was another innovation that was done by Group Treasury, post 2007, and in 20.5 Chair is the performance and warranty bonds, we understand that projects will be executed over a number of periods and at the end of the term when that particular asset is commissioned you also want to have a warrantee that it will meet – it will perform according to
10 specification that if there are any defects and they are not remedied appropriately then you have recourse using either a performance or a warrantee bond.

ADV REFILOE MOLEFE: Yes from paragraph 21 you deal with the marketing demand strategy, over which sufficient evidence has been provided, and from paragraph 22 to 24 you then deal with the funding plan and strategy.

CHAIRPERSON: Are you back to her statement now?

ADV REFILOE MOLEFE: Yes Chair, my apologies.

CHAIRPERSON: Ja, okay, please always announce when you move
20 from one document to another.

ADV REFILOE MOLEFE: Thanks, my apologies Chair.

CHAIRPERSON: Okay, what paragraph now?

ADV REFILOE MOLEFE: Paragraph 21.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: The statement makes reference to the

market demand strategy which has been covered sufficiently by other Transnet witnesses and from 22 to 24 you deal with the Funding Plan Strategy which aspect we will return to. From 25 you deal with the new topic which is the role of Treasury in the acquisition of the 1064 locomotives and this being during the tender stage. What was – what role does Treasury play in tenders?

MS MATHANE EVELINE MAKGATHO: Chair there are different stages where Treasury plays a role, in the first instance Chair is when a tender is – a tender document is still a draft, before it's even advertised. For
 10 mega projects Chair it will come to us for review just to make sure that when the tenderers submit their proposal they know that they may be expected to do certain services for us so in this instance Chair we had a standard wording to make sure that when the tender goes out it had – and that wording Chair is part of the Supply Guidelines that we have just gone through so we will include that and we will also make sure that it also covers the issues around the advance payment guarantees and the requirements of the bonds and the quality of the issuers of the bonds, and it will also go on further to say that by submitting the proposal the bidder agrees to assisting us, because in an instance
 20 where we choose to use an export credit agency there will be certain admin duties that are required, especially around the confirmation of the country of origin, because when suppliers produce an asset you know sometimes they can source locally or they can use their global sourcing structures, so it was important to have all of those out there in the open, even before a tender. It was to make sure that when we

decide to finance a project anyhow we can choose you know financing through A or through but all of those are covered in the tender document, so that will be our role Chair to make sure that all of the Treasury requirements are included and we also say where applicable please also include ZAR pricing.

CHAIRPERSON: You said that's the role of Treasury when you're dealing with mega projects or mega tenders. What would define a project tender as mega?

MS MATHANE EVELINE MAKGATHO: I think we used loosely
10 300million.

CHAIRPERSON: Oh that's like the minimum?

MS MATHANE EVELINE MAKGATHO: Ja, correct Chair.

CHAIRPERSON: Okay, alright, thank you.

ADV REFILOE MOLEFE: Thank you. Now specific to the 1064 locomotives acquisition what role did your unit play in the tender stage of the 1064 locomotives?

MS MATHANE EVELINE MAKGATHO: Chair after we have given our inputs on the tender documents the tender after the division has satisfied itself it will be advertised and between the – during that open
20 stage we did not have any role to play, and once the tender has closed the division will then assemble what we call a multi-disciplinary team to evaluate the tenders, and in this particular instance the evaluation happened I believe between November and December, between October 2013 and December 2013 and from a Treasury perspective two officials that represented us were Danie Smith, who was the Deputy Treasurer

responsible for (indistinct) office and Tsetse Dialetsi who was responsible for debt management in the front office, so they are the ones who formed part of the finance team and evaluated the tenders Chair.

ADV REFILOE MOLEFE: Chair it is quarter past eleven, might this be an opportune time to take the short adjournment?

CHAIRPERSON: Yes, we will take short adjournment and we will resume at half past eleven, we adjourn.

INQUIRY ADJOURNS

10 **INQUIRY RESUMES**

CHAIRPERSON: You may proceed.

ADV REFILOE MOLEFE: Thank you Chair. Mr Makgatho before the short adjournment you were giving evidence on the involvement of the treasury department in relation to the 1064 locomotives. Now we know that evidence has been given that General Electric, Bombardier, CSR which is China South Rail and CNR which is China North Rail with a short listed bidders. The next event that you give evidence of is at paragraph 30 of your statement in January 2014. What happened during that period?

20 **MS MATHANE EVELINE MAKGATHO:** Chair normal procedure is that once the bidders have been selected then a data room will be set up and those that are expected as per procedure to review and negotiate will then be able to go to the data room to review the documents. So me as the head of the Treasury and understanding that the procurement event is large I needed to personally go and review the document as

part of my procedure – as part of my responsibilities – sorry about that. And I did exactly that Chair. I went – the data room was set up at TFR offices in Parktown. So I went there and when I got there I was told that the GCFO Mr Anoj Singh had given instructions that I should not be allowed into that data room. That has never happened before Chair that I am refused entry into the data room.

ADV REFILOE MOLEFE: And who told you that Mr Anoj Singh's...

MS MATHANE EVELINE MAKGATHO: It is one of the...

ADV REFILOE MOLEFE: Sorry let me complete the question. Who told
10 you that Mr Anoj Singh said that you could not go into the data room?

MS MATHANE EVELINE MAKGATHO: Chair it is one of the supply chain officials I unfortunately cannot remember his name, it was a he. I cannot remember his name.

ADV REFILOE MOLEFE: And did he say why Mr Singh said you could not go into the data room?

MS MATHANE EVELINE MAKGATHO: He did not tell me the reasons.

ADV REFILOE MOLEFE: Yes and what was your response?

MS MATHANE EVELINE MAKGATHO: So Chair ...

CHAIRPERSON: But there – I am sorry but you would have asked why,
20 why did he say that? Did you ask that?

MS MATHANE EVELINE MAKGATHO: I cannot even – I do not remember asking why in turn I just asked him a question and I asked him how many treasurers does this organisation have and he said one. And I said and who is that person? And he said it is you Ma'am. I was like okay thank you you have just answered yourself.

CHAIRPERSON: He said it is?

MS MATHANE EVELINE MAKGATHO: It is me.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: I was just trying to make a statement that there is only one treasurer in the entire. Transnet employs around 60 000 people and there is only one Group Treasurer and at that point it was me. And I did not understand why for such a big and risky procurement event I – an instruction will be given out that I should not enter the data room.

10 **CHAIRPERSON**: But what was – he was Group Chief Financial Officer that is Mr Anoj Singh?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: In relation to Group Treasurer would he be somebody you reported to or not? Would he be entitled to give instructions as to what you may do and what you may not do?

MS MATHANE EVELINE MAKGATHO: He was my boss Chair I reported to him but my performance contract was very clear which he signed. As well as the delegations of authority Chair if we referred to Section 5.5.01 it talks to mega projects and it is very clear that there is
20 procedure to sign off contracts and in this instance it says that the Group CFO will – an only sign after sign offs from Group Treasury, from Group Legal, from Group Tax, from Group Reporting. So in as much as he was the boss he needed to ascertain himself that Group Treasury has indeed reviewed and is comfortable with the contents of the document. So I was by going there I was merely...

CHAIRPERSON: Carrying out your functions.

MS MATHANE EVELINE MAKGATHO: Carrying out my functions.

CHAIRPERSON: So the – so which documents specified this function for you?

MS MATHANE EVELINE MAKGATHO: The delegation of authority Chair.

CHAIRPERSON: Delegation of authority?

MS MATHANE EVELINE MAKGATHO: Ja which was approved in May 2013 and effective from the 1 June 2013. So in January 2014 that DOA
10 was still applicable.

CHAIRPERSON: The – that delegation would it be a delegation to you as Group Treasurer of a function or obligation that otherwise would have had to be performed by him or carried out by him?

MS MATHANE EVELINE MAKGATHO: It is a delegation that...

CHAIRPERSON: Now that – who is the original source of the function? Is it the board, is it the GCEO, is the GCFO that is what I am trying to establish.

MS MATHANE EVELINE MAKGATHO: Chair ordinarily the delegation rests with the board right. And the board will in turn sub-delegate to
20 the GCO who will then in turn delegate certain activities to certain officials depending on the area of work.

CHAIRPERSON: Yes. So...

MS MATHANE EVELINE MAKGATHO: So

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: So this was crafted out in the

DOA that for this type of activities.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: This is the process. Sign offs are required GCF before a contract a supplier contract can be signed the GCFO will sign.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: But before he does – he can only do that after

CHAIRPERSON: Yes.

10 **MS MATHANE EVELINE MAKGATHO**: Sign off from A, B, C, D.

CHAIRPERSON: Yes. Including the Group Treasurer.

MS MATHANE EVELINE MAKGATHO: Including treasury. No he did not say treasurer he just said treasury.

CHAIRPERSON: Treasury?

MS MATHANE EVELINE MAKGATHO: Yes.

CHAIRPERSON: Okay but obviously you were head of treasury.

MS MATHANE EVELINE MAKGATHO: As the head of ja yes Chair.

CHAIRPERSON: Yes. Okay. Thank you.

20 **ADV REFILOE MOLEFE**: Yes what then happened after you spoke the officer who had said you could not go into the data room?

MS MATHANE EVELINE MAKGATHO: I – Chair I ignored his statement because I just said to him that as far as I am concerned I still – I am still the treasurer of the organisation and if I were to listen to what he is saying I will not be fulfilling my responsibilities. In any event if Anoj has something to tell me he must do so directly. So I politely told him

that I will assume that I did not hear what he told me and proceeded Chair and I spent the entire week at the data room.

ADV REFILOE MOLEFE: Yes now while in the data room is there anything material that you might have picked up during your review process of the documents?

MS MATHANE EVELINE MAKGATHO: As I was reviewing stacks and stacks and stacks of files because each bidder had many lever arch files which were like just - they were technical, operational, financial and my review was just on the financial part because I cannot review
10 the technicalities. I then as I was moving from one bidder to the next I then realised some commonality or something similar in two or three of the bidders. On that day Chair when I ...

CHAIRPERSON: So this is now after the tender had been issued and the bids have been put in?

MS MATHANE EVELINE MAKGATHO: Yes Chair.

CHAIRPERSON: Okay. Alright.

MS MATHANE EVELINE MAKGATHO: It is – it is before contract negotiations.

CHAIRPERSON: Okay.

20 **MS MATHANE EVELINE MAKGATHO:** If you go through the contract before the negotiations.

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: So normal procedure would be that we go through the tender. We review the tender documents, such that when you become part of the negotiating team at least you know

what you are negotiating from and what the bidders have offered. As I – as I was reviewing I then realised that two or three bidders Chair there was something similar. Similar from a BEE perspective. There is a name that appeared – one name that appeared in all or two or three of the bidders which was a red flag to me Chair. On that day when I saw that I was with Garry Pita who was then – we were both reporting to Anoj Singh who was then the GM responsible for integrated supply chain management. I then whispered to him and said hey Garry did you see that the beneficiaries are the same for these contracts. And we –

10 we were both surprised I believed and because the data room is a very quiet room you cannot be discussing. I just pointed out and we were like hey what can we do? And we proceeded with our work.

CHAIRPERSON: Just tell me more about this. So these were bids belonging to different or submitted by different entities?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: And you say two of the bids had something common?

MS MATHANE EVELINE MAKGATHO: Two or three.

CHAIRPERSON: Two or three.

MS MATHANE EVELINE MAKGATHO: Yes Chair.

20 **CHAIRPERSON**: And what was that thing that was common?

MS MATHANE EVELINE MAKGATHO: There was a name Chair in the BEE

CHAIRPERSON: Section of the...

MS MATHANE EVELINE MAKGATHO: Section.

CHAIRPERSON: Ja.

MS MATHANE EVELINE MAKGATHO: That I saw in this bid and that bid as I – hey who is – it is like it is the same BEE partners across the board I do not know Chair.

CHAIRPERSON: Is what was – did this raise in your mind the question of how could people who were competing for a bid have the same BEE personalities, is that what was concerning you or is it something else?

MS MATHANE EVELINE MAKGATHO: Yes Chair because ordinarily each and every bidder will have a different BEE party. But in this instance Chair I cannot exactly say what it was but it is one of those
10 that...

CHAIRPERSON: It got your attention?

MS MATHANE EVELINE MAKGATHO: It is one of those that – that you know got my attention and I was like...

CHAIRPERSON: It was something that you felt.

MS MATHANE EVELINE MAKGATHO: Yes Chair.

CHAIRPERSON: Could be flagged to investigate further.

CHAIRPERSON: Yes. But Chair I just discussed with Garry and it was not even a discussion I was just pointing it out to him.

CHAIRPERSON: You just mentioned?

20 **MS MATHANE EVELINE MAKGATHO:** Ja and then we left it at that.

CHAIRPERSON: Was your impression that he shared your surprise as well?

MS MATHANE EVELINE MAKGATHO: Probably Chair because at that time I was not aware that he would become I might be shooting myself on this one Chair but I am going to say it regardless.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: He would become Anoj's enabler.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: So I was not aware at that point.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: I thought he was just as innocent as me.

CHAIRPERSON: Yes. Okay, okay.

10 **ADV REFILOE MOLEFE:** And when you say enabler what do you mean by enabler?

MS MATHANE EVELINE MAKGATHO: Enabler in the sense that he was responsible for Group Supply Chain and you know that Group Supply Chain is the custodian of all processes of supply chain and depending on what you want to achieve you need someone who can help you to make it right.

CHAIRPERSON: You mean a facilitator.

MS MATHANE EVELINE MAKGATHO: A facilitator Chair.

CHAIRPERSON: Ja.

20 **MS MATHANE EVELINE MAKGATHO:** Ja.

ADV REFILOE MOLEFE: Yes. And what then happened after your discussion with Mr Garry Pita in the data room?

MS MATHANE EVELINE MAKGATHO: We left it at that Chair. As I said I spent a week at the data room and after my review of the documents I then sent Anoj an email anyway informing him that I have

to TFR I spent the whole week there. I think at that point I had – I think I had done about 70% of what was required to be reviewed by me. I further on said to him that – because one particular point of interest to me as the Group Treasurer is that point was did their home export credit agencies or their home development finance institutions provided them with letter of support for financing. So...

CHAIRPERSON: You now talking about the bidders?

MS MATHANE EVELINE MAKGATHO: Each of the bidders.

CHAIRPERSON: Each of the bidders?

- 10 **MS MATHANE EVELINE MAKGATHO**: We had. So I then realised that yes there is support but whatever support that is coming from their countries of origin it is aligned to what we have already started. Like for instance Bombardier has Canadian linkages. We had already started engagements with Export Development Canada long before the procurement and Export Development Canada had already indicated together with Investec that they may be willing to support procurement that has a Canadian link. So we already knew that we are sorted on that front. And in particular they had indicated support of I think rand equivalent of 600 million dollars. So we were good on that. And GE
- 20 again they had a support letter from their home export credit agency with is US Exim and again Chair it was aligned to what we have done before and we were happy with that. There – China Development – China South and China North they were being supported by China Development Bank and again it was aligned to what would – would expect. So I was looking for something extraordinary that they might

have included in their bids that we have not thought of. So I reported back and said I have...

CHAIRPERSON: Before you tell us about the report back you said this was of particular interest to you what you have just told us the – there are respective countries and their support from certain banks and development banks in their countries was this a requirement which they had to meet in terms of the bids or it was something that would be good for them to have or what was the position?

MS MATHANE EVELINE MAKGATHO: It was not a requirement it was
10 just something desirable.

CHAIRPERSON: Oh okay, okay. So when you went

MS MATHANE EVELINE MAKGATHO: So we would not judge them based on that.

CHAIRPERSON: When you were looking you wanted to see whether you could find something extra along those lines.

MS MATHANE EVELINE MAKGATHO: Yes Chair.

CHAIRPERSON: Yes okay thank you. I interrupted you when you were talking about reporting back to Mr Anoj Singh I think.

MS MATHANE EVELINE MAKGATHO: So Chair I reported back to him
20 Chair ...

CHAIRPERSON: I think you were talking about you had gone through 70% of what you needed to go through at the data room and you then wrote – sent him an email.

MS MATHANE EVELINE MAKGATHO: Okay and then I sent him an email and I told him that I was comfortable with what I am seeing.

Specifically from the point that we are – it confirmed that we are aligned – our thinking was aligned to what you know – so we had already activated certain processes within Group Treasury. But I did not mention that I was told that he did not want me to be part of – or to access the data room. And he responded and said Hello M I am happy that you have gone through that – oh and then I also asked him if – because some of the bidders had included certain terms and conditions that are negotiable by their nature. So I also said can I talk to the bidders directly just to assess certain things? And he said he advises
10 not to. Which is not a problem Chair because when a tender evaluation process is underway there are strict rules in terms of who can speak to the rulers so I did not think it is anything untoward.

CHAIRPERSON: But is there a particular reason why you may – you decided not to ask him about this instruction that you were told about?

MS MATHANE EVELINE MAKGATHO: I was just testing him Chair because I had already established through many of my engagements with him that he is not a man of his word. He would say – he would agree on certain things and then when we meet he will change just on the spot and pretend as if we have never agreed.

20 **CHAIRPERSON**: Okay.

MS MATHANE EVELINE MAKGATHO: So I was testing him.

CHAIRPERSON: Okay no thank you.

ADV REFILOE MOLEFE: Thank you. The...

CHAIRPERSON: So in – I am sorry. So in effect in your email to him even though you had not completed your process at the – is it – did you

say it is data room?

MS MATHANE EVELINE MAKGATHO: Yes the data room.

CHAIRPERSON: The data room.

MS MATHANE EVELINE MAKGATHO: Correct.

CHAIRPERSON: Even though you had done 70% in effect your email was I am happy I have no issues.

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: So that he could when the documents are put before him to sign he would know that you do not have a problem?

10 **MS MATHANE EVELINE MAKGATHO:** It is even before the signing.

CHAIRPERSON: Ja.

MS MATHANE EVELINE MAKGATHO: We were just reviewing around financing.

CHAIRPERSON: Yes. Okay.

MS MATHANE EVELINE MAKGATHO: So I was just giving him comfort that whatever that Group Treasury is doing.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: It is on the right track.

CHAIRPERSON: Yes.

20 **MS MATHANE EVELINE MAKGATHO:** So he should relax.

CHAIRPERSON: You would still come back later on when you clear everything.

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Okay alright. Thank you.

ADV REFILOE MOLEFE: Thank you Chair. From paragraph 38 of your

statement you deal with the contract negotiation stage. In the normal course of process what would be Treasury's role in the contract negotiation stages of tenders?

MS MATHANE EVELINE MAKGATHO: Chair in the normal process Treasury will be involved in the negotiations and I will give you a couple of examples. It was not the first time that the organisation procures. It was not the first time that the organisation assemble a multi-disciplinary team. Already there was precedence and there were – there was procedure that was developed around supplier agreements.

- 10 We had done I think a 50 like [indistinct] some of the locomotives I cannot remember which batch we had followed the same process with some of the new multi-pipeline project so it was an embedded process Chair and I am not sure if he was aware that there was a process in the organisation already. But it was a process that has been there for a few years at least. So Chair for contract negotiation stage I expected that I will be part of that as the Group Treasurer and I had already made up my mind that I need to have Danny Smith to be part of that because he is responsible for financial risk management so he is a very important member of the team. That Dorothy Kobe who is the Deputy
- 20 Treasurer responsible for structured finance will also be part of that because there is – this is a big financing requirement just on its own. And the third person that I thought I will also rope in just for learning purposes because he had – he had requested that I should include him for learning. It was Tsietsi Tlaletsi who was part of the bid adjudication team. So I was thinking because it is a big transaction we are going to

be four from treasury and do our work. And Chair previously the head of structured finance and the head of middle office were always part of the negotiations. And the Group Treasurer will sometimes join if she is not too busy. The then Group Treasurer Chair was Ms Disebo Moephuli so I expected the same process to prevail even in this instance.

CHAIRPERSON: So your expectation that you would be part of the negotiation team was based on established practice?

MS MATHANE EVELINE MAKGATHO: Established practice and...

CHAIRPERSON: For these big tenders.

10 **MS MATHANE EVELINE MAKGATHO**: Correct Chair.

CHAIRPERSON: Yes okay thank you.

MS MATHANE EVELINE MAKGATHO: And based on the fact that there is only one treasury in Transnet.

CHAIRPERSON: Yes. And the policies and the documents to which you have referred us did they also specify that the composition of the negotiation team should include the treasurer or they do not say that but the practice was there?

MS MATHANE EVELINE MAKGATHO: It is the practice Chair.

CHAIRPERSON: Yes.

20 **MS MATHANE EVELINE MAKGATHO**: It includes the sign offs and remember that you cannot sign off a document that you do not know how it came to be.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: So there - it was included in the guidelines and it was also included in the board approved delegation of

authority.

CHAIRPERSON: Okay thank you.

ADV REFILOE MOLEFE: Yes now in view of what you have referred to as precedent and past practice what was the role of treasury in the contract negotiation stage?

MS MATHANE EVELINE MAKGATHO: Chair the role of treasury became highly diluted for a lack of a better word.

CHAIRPERSON: Talk more about that.

MS MATHANE EVELINE MAKGATHO: As I said Chair I expected the
10 head of structured finance I expected the head of middle office I was going to lead that Chair you know because of – of the

CHAIRPERSON: You were going to lead the treasury ...

MS MATHANE EVELINE MAKGATHO: Of the extent – the financing.

CHAIRPERSON: Component.

MS MATHANE EVELINE MAKGATHO: Yes the financing.

CHAIRPERSON: Of the negotiating team.

MS MATHANE EVELINE MAKGATHO: Yes Chair and so I would have wanted for four members of the treasury, three co-members and one just as an understudy to be part of the team. And then Chair as it came
20 about I then realised that in actual fact my presence is not welcome. And Chair these are some of the things that you cannot really say is because someone said A, B, C, D. But it is something that...

CHAIRPERSON: But you just...

MS MATHANE EVELINE MAKGATHO: But it is something you will infer as you go along.

CHAIRPERSON: You – it is something you sense?

MS MATHANE EVELINE MAKGATHO: You will sense that you are not wanted and Chair so I attended a few of those it was a big team Chair. It was the technical team, the operations team, the legal team, the finance team and within finance team it is reporting it is tax it is treasury so it was a huge team Chair.

CHAIRPERSON: That is the negotiation team that you talk about.

MS MATHANE EVELINE MAKGATHO: That is the – so there were different streams.

10 **CHAIRPERSON**: Ja.

MS MATHANE EVELINE MAKGATHO: They were different back streams. So we met at the Webber Wentzel offices I think we had booked a big board room and some of the smaller rooms for the teams to have their own private discussions to negotiate specific things. And then Chair I think I attended or three but then the environment was such that it was not conducive for me to be...

CHAIRPERSON: Before you – before you tell us about the environment at the negotiations how you expected the composition of the treasury team to be in a certain way in terms of established practice. Now in
20 terms of how it ended up being composed that is the treasury team that would be part of the negotiations how did that come about? Was it Mr Anoj Singh who simply phoned and said you can come, you can come or were you asked to come with your team that you chose?

MS MATHANE EVELINE MAKGATHO: Chair I was not asked to come with the team that I chose. We all know our responsibilities within an

organisation Chair.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: So I expected to be able to say that from a treasury perspective these are the officials that we will represent. And if you remember in the – in the guidelines Chair the guidelines mentions two officials that have to be included. It says: the financial risk manager and the structure finance official. So I expected that at the bare minimum Chair. But – so I was not told explicitly that you shall not come.

- 10 **CHAIRPERSON:** Were notices simply sent to certain people to say there is a meeting that will take place at Webber Wentzel or whatever the venue was in regard to negotiations please attend or how did people get to know there was a meeting which they needed to attend? I think that is where I want. Because based on what you were – you said you were expecting I thought that even though different people within treasury may have known their roles I expected that maybe what you had in mind is that once there was to be a meeting you as the head of treasury would be informed and then you would pass on the information to the relevant people who must be part of that. So I am wanting to
- 20 find out how it came about that some were at the – went to the Webber Wentzel and were they the right – were they all the right people or not?

MS MATHANE EVELINE MAKGATHO: Okay Chair. There were some meetings Chair that would happen and I would not be invited. And I would like to refer to particular meetings that have – I think it was on a Sunday at Regiments offices and in that meeting...

CHAIRPERSON: At what offices?

MS MATHANE EVELINE MAKGATHO: At Regiments offices in Gauteng.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: And in that meeting I am told by Danny Smit that they discussed the financial risks. They discussed the financing. They discussed the options. They discussed the structuring. All of those things I am the custodian of. So I was surprised that such a meeting would be held without anyone telling me.

CHAIRPERSON: But – but also you said it was held on a Sunday?

10 **MS MATHANE EVELINE MAKGATHO**: Yes Chair. There was - there was...

CHAIRPERSON: Was that – was that normal?

MS MATHANE EVELINE MAKGATHO: It was not normal Chair but when it is a hectic time one ...

CHAIRPERSON: It is possible?

MS MATHANE EVELINE MAKGATHO: Would expect ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: *Ja* to ...

CHAIRPERSON: Okay.

20 **MS MATHANE EVELINE MAKGATHO**: To work long hours ...

CHAIRPERSON: Yes or weekends?

MS MATHANE EVELINE MAKGATHO: Or – *ja* so. I was not worried about that it is Sunday.

CHAIRPERSON: About that part, *ja*.

MS MATHANE EVELINE MAKGATHO: Huh-uh.

CHAIRPERSON: Okay, okay. So you were not invited to that meeting?

MS MATHANE EVELINE MAKGATHO: I was not invited Chair and it was not the only meeting where I was not invited. I mean Danie is a very polite man.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: So he would sometimes come and – and just give me feedback and *ja*, so ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: So that is how – so I – I got to
10 realise that in actual fact Anoj Singh preferred Danie ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: And did not want anybody else except Danie.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: So that is from a Transnet perspective. In actual ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: Fact Chair the – at least in my humble opinion Chair - the Finance Team was made up of members who
20 I believe would not have the power or the ability to push back on certain matters ...

CHAIRPERSON: Huh-uh.

MS MATHANE EVELINE MAKGATHO: Because one would have expected that the Finance Team would be made up of people who are able to engage and to discuss constructively with Anoj ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: But I think in this instance Chair he was very strategic.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: I think in my humble opinion that he chose members that would – would most probably be compliant.

CHAIRPERSON: But the – the norm in terms of meetings – negotiation meetings – is it that somebody would issue – would circulate notices or invitations and then that is how anyone would – would then attend?

10 **MS MATHANE EVELINE MAKGATHO:** Correct Chair. Correct Chair.

CHAIRPERSON: And – and would that be the head of the negotiation team whoever it is that would normally do that – issue notices to everybody that must attend?

MS MATHANE EVELINE MAKGATHO: It would normally – in the previous instances Chair – if my memory serves me well – it would be the division who says please come on board.

CHAIRPERSON: Yes, okay. In regard to this one do you know whether there was a standard person who was issuing – who was inviting people to come to meetings or issuing notices and whether it was Mr Singh?

20 **MS MATHANE EVELINE MAKGATHO:** Chair in this instance - which was different from the previous procurement event – in this instance my assessment is that Mr Singh was in charge of the process.

CHAIRPERSON: Yes, okay thank you.

ADV REFILOE MOLEFE: Thank you. You have earlier referred to the guideline which we also referred to just before the short adjournment.

Can I then ask you to turn to page 41 of the bundle – 43 rather – page 43 of the bundle? At paragraph 2.4 is written there “Agreements/Letters of Acceptance”. Can you please take us through that paragraph?

MS MATHANE EVELINE MAKGATHO: Chair point 2.4 of the guidelines instructs that:

“For agreement that have an FX component of more than \$3 million must be referred to Group Treasury, Group Tax, Group Reporting, Group Legal before they can be concluded.”

10

And it says again that:

“All agreements where the Rand value is more than R100 million must be referred to the same division and sign off obtained before agreements are concluded.”

It says that:

“Financial risks, accounting, income tax, VAT and funding related issues must be considered by the relevant sections.”

20 It goes without saying that the 1 064 procurement is much more than this threshold that is written here and would therefore fall under the ambit of this process.

ADV REFILOE MOLEFE: Yes. You earlier also referred to a meeting that was held at the Regiments Offices. Did you know what the role was – what the role Regiments had in the contract tender negotiations

stage?

CHAIRPERSON: Ms Molefe I interrupted your questions at some stage earlier when I think you had asked a question that required her to talk about that - the first meeting that she attended and she felt that she was not wanted. I am just reminding you in case you want to pursue that first before going to this one but I leave it to you - before pursuing the Sunday meeting one.

ADV REFILOE MOLEFE: Thank you Chair. Ms Makgatho has covered it in additional questions raised by the Chair.

10 **CHAIRPERSON:** Oh then – then I am not sure that I heard it. Please just go over that again. You – you were to attend a meeting of negotiations at Webber Wentzel and you were saying something. That is – that is as far as I heard. Then I interrupted you.

MS MATHANE EVELINE MAKGATHO: Okay Chair. I think I was trying to highlight the environment for me and what I sensed Chair. When you are wanted and when you are not wanted the environment and the feeling are not the same. So inasmuch as I attended a few meetings at Webber I sensed that Anoj was in charge which is okay because he is the Group CFO, right. He should be in charge probably. I do not know
20 what the agreement at EXCO level was and I also realised that I think I saw not I think. I saw Eric Wood who was around there. Eric Wood ...

CHAIRPERSON: I am sorry. You saw?

MS MATHANE EVELINE MAKGATHO: Eric Wood the Director of ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: Who was the Director of

Regiments at that point.

CHAIRPERSON: Oh Eric Wood, yes.

MS MATHANE EVELINE MAKGATHO: Eric Wood Chair yes.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: So we proceeded with our negotiations. In actual fact at that point in time Chair we were still collating. You know – when you start with the negotiations you will have your points that – you will have your many meetings where we say that we are going to – we are going to consider A, B, C, D and this
10 would be the approach. We can tolerate G. We cannot tolerate and this will be the – you know – the middle ground (intervenes).

CHAIRPERSON: The bottom-line and so on?

MS MATHANE EVELINE MAKGATHO: Yes. So it is like a negotiation strategy. So we are still at that level.

CHAIRPERSON: Oh. So this was a meeting of your – Transnet's Negotiation Team alone. It was not a meeting where you were negotiating - Transnet was negotiating with one of the bidders or with them. It was simply your own meeting where you would discuss how you are going to go about the negotiations?

20 **MS MATHANE EVELINE MAKGATHO:** The bidders were there Chair ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: But then it was the initial stages where we are just ...

CHAIRPERSON: Finding out?

MS MATHANE EVELINE MAKGATHO: Finding each other ...

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: And I believe that some of the – and I think GE - as an example – was going to fly their team members – I think – in the next following days or so but we were just picking up certain points of importance ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: That would need to be trashed out ...

CHAIRPERSON: Yes.

10 **MS MATHANE EVELINE MAKGATHO:** And therefore it was – it was necessary for the respective work streams ...

CHAIRPERSON: Huh-uh.

MS MATHANE EVELINE MAKGATHO: To each go to their own rooms and say ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: These are the issues that are coming out ...

CHAIRPERSON: Yes.

20 **MS MATHANE EVELINE MAKGATHO:** And remember that some of these points are points that we would have gathered as we reviewed the documents ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: In the data room.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: So we will highlight all of those

points and say ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: This is what we are going ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: This is negotiable this is not.

CHAIRPERSON: hm.

MS MATHANE EVELINE MAKGATHO: Maybe we – you know – for those that are negotiable we can maybe come to a certain point of G or X or whatever. So it was those preliminary discussions.

10 **CHAIRPERSON:** Oh so – so basically the negotiation team of Transnet was meeting with the bidders?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: The purpose being just to have an idea where problematic areas might be and where - what issues might not be a problem and so on so that then different work streams within the Transnet Negotiating Team could focus on those issues that relate to their work stream and see how they will deal with certain issues. Those that might be not negotiable from their point of view and those that might be managed depending on what will happen - just identify
20 those.

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Okay. Now I understand but you say that during that meeting – during that session – you sensed that you were not welcome?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: And you sensed this from how Mr Anoj Singh was conducting himself even though you cannot say he did A, B, C, D or he said A, B, C, D but you could just sense that he was not happy with your presence?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Okay, thank you.

ADV REFILOE MOLEFE: And just adding onto that - do you know why Mr Singh may have preferred to have Mr Danie Smit present in those meetings as opposed to yourself?

- 10 **MS MATHANE EVELINE MAKGATHO:** Chair my impression is that he did not want to be challenged on certain decisions and he knew that I do not take certain things as gospel truth. Where necessary I unpack I analyse and I challenge if necessary and I do not think he wanted any challenges from me. I think he deliberately chose people who are more meek – if I may put it that way – who - because there were a few levels below him and – and Chair this has nothing to do with age but in a corporate structure when people are like a few levels below you in most cases they are not able to

CHAIRPERSON: Challenge.

- 20 **MS MATHANE EVELINE MAKGATHO:** Forcefully challenge ...

CHAIRPERSON: Ja.

MS MATHANE EVELINE MAKGATHO: You ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: And even if they have opinions

...

CHAIRPERSON: *Ja.*

MS MATHANE EVELINE MAKGATHO: But you know they cannot ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: You know ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: Force themselves.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: They cannot put their case properly.

- 10 **CHAIRPERSON:** Ordinarily I would have imagined that in such a setup – in such a meeting – you being Group Treasurer and him – that is Mr Anoj Singh – being Group Chief Financial Officer that one would have expected that you would be like his deputy if you – if you like. You were the most senior person at Treasury after him. Is that not so?

MS MATHANE EVELINE MAKGATHO: Correct Chair and that is what I expected. I thought that I would be the advisor ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: On those matters ...

CHAIRPERSON: Yes.

- 20 **MS MATHANE EVELINE MAKGATHO:** And Chair it became clear to me that he preferred advice from Eric Wood.

CHAIRPERSON: Yes but now when you say it became clear to you that he preferred Eric Wood – Mr Eric Wood's advice are you suggesting that Mr Eric Wood would also be present at meetings that were supposed to be attended to by just the Transnet Negotiation Team to

talk alone?

MS MATHANE EVELINE MAKGATHO: Chair as I have indicated that I ended up not been part of the Negotiating Team.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: So I am not sure if he attended ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: But the few times that I attended ...

10 **CHAIRPERSON:** Hm.

MS MATHANE EVELINE MAKGATHO: He was hovering around ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: And I must also say that the few times that I have attended immediately after the meetings at Webber Wentzel the team will then congregate ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: At Regiments Offices for a wrap up session.

CHAIRPERSON: Hm. Okay.

20 **ADV REFILOE MOLEFE:** Thank you Chair.

MS MATHANE EVELINE MAKGATHO: Ms Makgatho can we please turn to Bundle BB10 ...

CHAIRPERSON: Or maybe I could just ask this. So the – the meetings that you attended of the Negotiation Team before you decided not to take part because you felt unwelcome how many of them were there?

MS MATHANE EVELINE MAKGATHO: I cannot remember Chair but maybe ...

CHAIRPERSON: Two or three?

MS MATHANE EVELINE MAKGATHO: Maybe three.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: Ja.

CHAIRPERSON: Okay, thank you.

ADV REFILOE MOLEFE: Thank you Chair. Can you please turn to Bundle BB10B which contains your supplementary documents? At page
10 2 of your supplementary statement – if you can go to page 2 of the bundle at paragraph 6 of your statement you see to make an amendment to your paragraph 43 in your main statement. Can you please take the Chair through that amendment?

MS MATHANE EVELINE MAKGATHO: It is important to note that Regiments Capital – oh it - it is changing to:

“Note that Regiments Capital replaced Nedbank in the McKinsey Consortium.”

ADV REFILOE MOLEFE: And that paragraph would be the first sentence in your paragraph 43. Can we then turn to Annexure MM4 of
20 the bundle – Bundle BB10A?

CHAIRPERSON: EXHIBIT BB ...

ADV REFILOE MOLEFE: Exhibit – thank you Chair.

CHAIRPERSON: 10A. So what page is that?

ADV REFILOE MOLEFE: That would be at page 62.

CHAIRPERSON: Thank you.

ADV REFILOE MOLEFE: Are you there ma'am?

MS MATHANE EVELINE MAKGATHO: Page 62?

ADV REFILOE MOLEFE: Yes.

MS MATHANE EVELINE MAKGATHO: Yes Chair.

ADV REFILOE MOLEFE: Now in line with your correction would that be the replacement of the letters reflecting the replacement of Regiments in relation to Nedbank?

MS MATHANE EVELINE MAKGATHO: Chair it seems that this was not the – because the replacement that I am referring to is the replacement
10 wherein Regiments replaced Nedbank. So in this instance Nedbank is still a member of the consortium.

ADV REFILOE MOLEFE: Yes and in paragraph 43 of your statement you speak of your discussion with Mr Anoj Singh. Can you please take the Chair through that discussion?

MS MATHANE EVELINE MAKGATHO: Chair apparently there was a tender process that happened sometime in 2012 wherein a confined tender or was it a public tender a confined tender - I do not know - for the provision of advisory services and Chair at that point in time I was still the Head of Structured Finance but I do not remember my previous
20 boss – (indistinct) – who was the Treasurer then mentioning this. I only became aware of this when she was no longer part of the Treasury Team. So in this LOI dated 13 November 2012 Transnet is providing the McKinsey Consortium the Letter of Interest for a number of services that includes the TFR, GFB. GFB is General Freight Business. It includes – so this is for the acquisition of 1 064. It includes

procurement and legal. It includes technical operation and one important part from my perspective Chair it included financial and under financial it says:

“Developing finance and funding ...”

CHAIRPERSON: I am sorry. I am sorry. Are you looking at ...?

MS MATHANE EVELINE MAKGATHO: Page 66.

CHAIRPERSON: 66, okay.

ADV REFILOE MOLEFE: Sorry Chair for not ...

CHAIRPERSON: Okay.

10 **ADV REFILOE MOLEFE**: Referencing properly.

CHAIRPERSON: Thank you.

MS MATHANE EVELINE MAKGATHO: It includes:

“Developing finance and funding options and it also includes as a point of the terms of reference develop deal structure and (financing, hedging and de-risking options).”

So this was signed on 4 December 2012. Chair now we are in 2014. Around 2013 I became aware that there is a consortium of McKinsey but I was not aware that there are certain expectations that they will
20 perform in terms of Treasury because one would have assumed that if there are any activities that - that falls within your responsibility at least you would have been told and since this related to funding and financing options this falls within the structured finance and my assumption is that the previous Treasurer would have briefed me – you know – as the Head of Structured Finance and I do not remember that

happening. So I assume that she was not aware of this. So Chair I am – I am mentioning this part because I was not aware that Regiments was contracted and I therefore questioned why Regiments was part of that and I was then told by Anoj that Regiments replaced Nedbank.

CHAIRPERSON: Mr Anoj Singh. Mr Singh.

MS MATHANE EVELINE MAKGATHO: Sorry – sorry Chair. Mr Singh that Regiments replaced Nedbank in the consortium and Mr Singh went on to say that they realised by Nedbank being part of the consortium there was a conflict of interest. I am not sure Chair at what point did
10 they realise that conflict of interest because I assume that when they – whoever evaluated that bid my assumption is that – you know – processes to establish – you know – conflict of interest are an embedded process of the SCM. So my assumption is that if there was any conflict of interest it should have been raised then but I understand that he raised it with McKinsey and my – my understanding again is that there was a discussion between McKinsey and Nedbank and there was an agreement that Nedbank would indeed be replaced by Regiments and all of this Chair is information that I received from Mr Singh. So later on I came – it came to my attention that indeed
20 Regiments had replaced Nedbank and Partners. So my assumption can only be that Nedbank accepted to cede its right under the contract.

ADV REFILOE MOLEFE: When you sought clarity from Mr Singh as to the involvement of Regiments did you ever do that in writing?

MS MATHANE EVELINE MAKGATHO: Yes Chair I did and I would like to refer to paragraphs – to paragraph 46 I believe. That is that letter.

ADV REFILOE MOLEFE: Yes. Can you also then turn to page 73 of EXHIBIT BB10A? That is the bundle that is before you. It is contained under Annexure MM5.

MS MATHANE EVELINE MAKGATHO: Page 76?

ADV REFILOE MOLEFE: Page 73.

MS MATHANE EVELINE MAKGATHO: Okay.

ADV REFILOE MOLEFE: What document appears on that page?

MS MATHANE EVELINE MAKGATHO: It is an email that I sent to Anoj on January, the 31st after having spent a week at the data room.

10 **ADV REFILOE MOLEFE:** January, the 31st of which year?

MS MATHANE EVELINE MAKGATHO: 2014.

ADV REFILOE MOLEFE: And what are you saying to Mr Anoj in that email?

MS MATHANE EVELINE MAKGATHO: That the first part of the email ...

CHAIRPERSON: Mr Singh. You said Mr Anoj.

ADV REFILOE MOLEFE: Mr Singh pardon me Chair. Mr Singh.

MS MATHANE EVELINE MAKGATHO: The first part of – of my message to Mr Singh is around the work that I had done in the data room and the second part is around our engagement with Regiments.

20 Chair I would like to point out that I am asking him this question and I am saying here in point 2:

“Our engagement with Regiments - I am not sure how to engage with Regiments on this project given the fact that you mentioned during our – our 15 January call that I should not worry about the

terms of reference as they are not relevant and I should not link the deliverables to the budget. I understand your point that they are your advisors and not mine and they are merely advising you through me but without a clear understanding of how our relationship with Regiments is governed and how expected deliverables are supposed to be managed and measured against the terms of reference timelines and budget. This makes my job
10 extremely difficult. I will appreciate clarity on their mandate so that we can proceed smoothly.”

He then responded to my email on 3 February 2014. He said:

“Thanks for ...”

ADV REFILOE MOLEFE: And just to confirm - that response still appears on the same page – page 73?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE MOLEFE: Yes, carry on.

MS MATHANE EVELINE MAKGATHO: And then he responds and says:

20 “Thanks for the note. Also good to see that there are good options for us to consider. Please do not contact any suppliers at this stage and also let us discuss the above plus Regiments issues when we next meet.”

ADV REFILOE MOLEFE: And did you ever discuss these issues with Mr Singh?

MS MATHANE EVELINE MAKGATHO: The issues Chair if I may just go a little bit back. Around 9 January 2014 I received a proposal from Regiments wherein they were proposing to act as our advisors for the procurement of the – for the financing of the procurement of the 1 064 locomotives. Their proposal was very vague and I was not sure what their value add is. So I requested them to revise their proposal so that it can be clear to me what their proposed value add is and I then reported back to Mr Anoj Singh and – and I did that through a call and on the call he was not very happy with the fact that I have asked
10 Regiments to revise their proposal. He just said that he – he does not understand why am I worried about the vagueness of the terms of reference and in actual fact they are not my advisors they are his. They are merely advising him through me. So I must just make sure that I work with them. They are advising him through me. So this email Chair was seeking clarity ...

CHAIRPERSON: I am sorry how are you going to play that role if they tell you something you do not understand?

MS MATHANE EVELINE MAKGATHO: Exactly my point Chair hence the email – hence the email. I was just trying to seek clarity because
20 indeed they – they did revise and I was not sure really what their value add is. So afterwards Chair you – you were asking me if we had discussions - afterwards – afterwards we had a number of engagements Chair and in actual fact it was becoming more of the norm that me and Mr Singh would argue all the time around Regiments. What they are doing? What they are not supposed to be doing and – and I suppose

because I was not party to their appointments and the terms of reference. So I was always clueless. I would just see them there and I did not know really what they were doing because as far as I was concerned as I highlighted before we had a team of professionals Chair – 32 of them.

CHAIRPERSON: So your – your arguments with Mr Singh around Regiments was really based on the fact that you did not understand what their - what their role was and you did not understand what their need – why - why it was necessary to have them around and you were
10 seeking clarity and you expected things to be done in a certain way?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: But their – their present was part of what you regarded as things not being done in the – in the right way?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: And – and this is what the two of you were arguing about?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Yes you – were you kind of having different expectations? You were expecting things to be done in a certain way
20 but he did not see what your problem was?

MS MATHANE EVELINE MAKGATHO: Correct Chair. He did not understand ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: My point ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: And in actual fact he thought that I think me and my team were clever ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: Whereas there – there are people out there who knows things who are more – which is true Chair.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: There is always ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: Someone or some team ...

10 **CHAIRPERSON:** Hm.

MS MATHANE EVELINE MAKGATHO: ...which is – which is much more experienced, but at least there has to be value.

CHAIRPERSON: Mmm, thank you. Ms Molefe?

ADV REFILOE MOLEFE: Thank you Chair. At paragraph 49 of your statement you then deal with further events that took place relative to the negotiation stage, can you please take the Chair through these events?

20 **MS MATHANE EVELINE MAKGATHO:** Chair you will remember that I had sensed that I am not wanted, but I did not have evidence, but I could just see that I was being overlooked or bypassed on matters that required my input and my sign-off, and Chair for Treasury related matters the DOE is very specific, certain things can only be done at the recommendation of the Group Treasurer, and at that time I was the Group Treasurer, so I was, I kept on being surprised over and over and in this one instance, I believe it was the second half of 2014, I then – I

was then provided a copy of Anoj's diary.

CHAIRPERSON: Mr Singh's diary, we are in formal proceedings. I know that because you worked with him you know you are used to call him Anoj but we are in formal proceedings so we have to try and say Mr Singh or Miss So and So or Ms So and So.

MS MATHANE EVELINE MAKGATHO: I'm sorry Chair.

CHAIRPERSON: Ja, okay.

MS MATHANE EVELINE MAKGATHO: Noted Chair, I am sorry. I then got hold of Mr Singh 's copy of his diary, I believe it was the 13th of
10 August 2013, he had a few meetings Chair and one important meeting for Treasury was his scheduled meeting with Goldman Sachs.

ADV REFILOE MOLEFE: Ms Makgatho sorry to interrupt, can I refer you then to page 78 of the bundle.

CHAIRPERSON: That's EXHIBIT?

ADV REFILOE MOLEFE: BB108

CHAIRPERSON: BB108 yes, page 78?

ADV REFILOE MOLEFE: Page 78, which is under MM7. Are you there ma'am?

MS MATHANE EVELINE MAKGATHO: Yes.

20 **ADV REFILOE MOLEFE:** You mentioned that you got hold of Mr Singh's diary and the year that you mentioned is 2013.

MS MATHANE EVELINE MAKGATHO: 2014.

ADV REFILOE MOLEFE: 2014, thank you. This document at page 78 what document is that?

MS MATHANE EVELINE MAKGATHO: Chair this is the diary of Mr

Anoj, it records the meetings that he was supposed ...(intervention)

CHAIRPERSON: I guess you mean it's a page from his diary?

MS MATHANE EVELINE MAKGATHO: It's an electronic diary Chair.

CHAIRPERSON: Oh, okay, okay.

MS MATHANE EVELINE MAKGATHO: It's a printout from his
...(intervention)

CHAIRPERSON: It's a printout from his electronic diary, okay.

MS MATHANE EVELINE MAKGATHO: Chair it records the meeting
that Mr Singh was supposed to have on that day, you will see that at
10 eight o'clock he wanted to meet with Mahomede around the NMPP or
Mahomed just – or Mr Mahomede ...(intervention)

CHAIRPERSON: Sorry, we are dealing with the 13th of August 2014, it
was a Wednesday?

MS MATHANE EVELINE MAKGATHO: It was a Wednesday Chair.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: So the first is the NMPP.

ADV REFILOE MOLEFE: Would that be the handwritten note on the
right side of that page?

MS MATHANE EVELINE MAKGATHO: Correct Advocate

20 **ADV REFILOE MOLEFE:** And under that would be the heading notes
is provided there.

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE MOLEFE: Yes you were explaining what is written
there.

MS MATHANE EVELINE MAKGATHO: So Chair for eight o'clock he –

this is his handwriting, he is suggesting that he wants to discuss the NNPP and I think that he is also suggesting that he wants to see Mr Mahomede and I can't read the next word.

CHAIRPERSON: It looks like M-o-c to me, but it might not.

MS MATHANE EVELINE MAKGATHO: Mec or something, I don't know Chair.

CHAIRPERSON: And NMPP what would that represent?

MS MATHANE EVELINE MAKGATHO: New Multi Pipeline Project.

CHAIRPERSON: New?

10 **MS MATHANE EVELINE MAKGATHO:** Multi Pipeline Project, it's one of Transnet's ...(intervention)

CHAIRPERSON: Oh new, on NMPP.

MS MATHANE EVELINE MAKGATHO: NMPP Chair.

CHAIRPERSON: Okay alright.

MS MATHANE EVELINE MAKGATHO: And the second point for nine o'clock I can't see, and between ten o'clock and half past ten I can see that he wanted to see me, so he has written there under notes my name.

20 **CHAIRPERSON:** Is the one at nine o'clock does it look like CPU or something?

MS MATHANE EVELINE MAKGATHO: Chair I can't read this.

CHAIRPERSON: You can't tell okay but the next one at ten o'clock is your one.

MS MATHANE EVELINE MAKGATHO: Ten o'clock to half past ten is me so I assume that I was going to see him before his meeting with Mr

Molefe, at half past ten to half past eleven. And the important one Chair is the half past eleven to one o'clock meeting, which is a meeting scheduled for Transnet and Goldman Sachs to discuss Exim (indistinct) Hybrid issuance. Now Chair he writes here no Treasury to attend and he ...(intervention)

CHAIRPERSON: Oh you mean on the right hand column where he – it's written by hand?

MS MATHANE EVELINE MAKGATHO: Yes Chair.

CHAIRPERSON: So that is no treasury to attend?

10 **MS MATHANE EVELINE MAKGATHO:** To attend, and then
...(intervention)

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: And then he suggests that Mr Gary Pita, who was the GM responsible for Supply Chain to attend, Mr Vikas Sagar, who was the partner of McKinsey, Mr Eric Wood, who was the director at Regiments. He then Chair in my opinion here he replaces the Treasury Team with Mr Pita, Mr Sagar and Mr Wood, so Chair all along I was just sensing that Treasury is being sidelined, things would happen that falls within the ambit of Treasury and Chair
20 for one reason or the other we would not be involved and here I have on that data when I received this it was like okay so this is what has been happening, this has been a deliberate plan all along.

CHAIRPERSON: So you viewed this as confirmation of what you had sensed?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Of you not being wanted.

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: And now it was like maybe not just you but nobody from Treasury?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: But maybe for what it's worth where you read what he wrote as saying no treasury it seems no and then an exclamation mark and then treasury to attend but you under it to stay no treasury to attend?

10 **MS MATHANE EVELINE MAKGATHO:** Correct Chair.

CHAIRPERSON: Yes, and then in regard to the three names which are written by hand that you mentioned it looks like there seems there's a question mark against each of those three names, what appears to be Gary and then question mark Vikas question mark Eric question mark, is that right?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Yes, but you could identify all of those people and you say they were not people from Treasury?

MS MATHANE EVELINE MAKGATHO: Correct Chair

20 **CHAIRPERSON:** And you say the error there suggests that they were to attend that same meeting where it is said no treasury to attend?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: And do you recall whether you were ever invited to this meeting?

MS MATHANE EVELINE MAKGATHO: Only at the time.

CHAIRPERSON: Okay thank you.

ADV REFILOE MOLEFE: On the same document, on page 7 at the bottom right corner what does the date and time signify?

MS MATHANE EVELINE MAKGATHO: It says 2014-08-12, so it's printed on the 12th of August 2014 at 2:48 pm.

CHAIRPERSON: I'm sorry have you moved from page 78?

ADV REFILOE MOLEFE: No Chair we are still on page 78 at the bottom right corner of the diary, Ms Mathane was giving as to what the
10 date and time signify.

CHAIRPERSON: Ja, okay.

ADV REFILOE MOLEFE: Thank you Chair.

CHAIRPERSON: So you just wanted her to confirm the date that appears there.

ADV REFILOE MOLEFE: Indeed so Chair.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: And on the left side corner of that document what appears there, still on 78?

MS MATHANE EVELINE MAKGATHO: On the left hand corner it's the
20 GCFO's name, Mr Anoj Singh and it says Corporate Johannesburg, Corporate is the Head Office Chair.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: Yes now from paragraph 52 to 54 of your statement you speak of events that took place between January and February 2014, what happened during this period?

CHAIRPERSON: I'm sorry before that, let's just before we move away from page 78 do you have an understanding as to – for whose benefit these notes were made here, in other words as you understand it was it just notes that Mr Singh may have made just for himself, or was the position that maybe somebody would be given this and that person, it was important for that person to know that no treasury should be invited to the particular meeting.

MS MATHANE EVELINE MAKGATHO: Chair I believe it was instructions for his office or notes for his office to activate.

10 **CHAIRPERSON:** Hmm, okay, thank you.

ADV REFILOE MOLEFE: Thank you Chair. From paragraph 52 to 54 of your statement you deal with events that took place in January to February 2014, what happened then?

MS MATHANE EVELINE MAKGATHO: Chair you will recall that in January 2014 that's the time when the planning around the negotiations started, and therefore it was the time for negotiating the preferred bidders and for a contract of this nature market practice is that we are expected to pay an advance payment so we were working on the assumption that we will require – we will need to make available funds
20 for deposit R4.2billion for the 1064 plus an additional R600million for the 100 plus 60. We now know that at that point in time Chair the 1064 actually became 1224 because it was the 1064 plus the 60 GE and 100 CSR locomotives and the total estimated contract at that point in time was 48billion. We were therefore working on the assumption that we need to make available 4.8billion for a deposit for all the locomotives.

Chair we have attached Annexure MM8 ...(intervention)

ADV REFILOE MOLEFE: Before we go to Annexure MM8 can you please go to EXHIBIT BB10B, which is your supplementary statement bundle and can you turn to page 2 of your statement. At paragraph 7 appears another amendment you seek to make particularly at 7.1, can you please speak to 7.1?

MS MATHANE EVELINE MAKGATHO: Thank you Chair. On paragraph 52, line – the second line, there is a number there that the deposit required for the full contract is projected to be around
10 R48billion, we would like to amend that, the R48billion refers to the total estimated contract at that point in time and the deposit the correct number is R4.8.

ADV REFILOE MOLEFE: Thank you, and at paragraph 52 where you make reference to deposit are we to understand this to be advanced payments?

MS MATHANE EVELINE MAKGATHO: Correct.

ADV REFILOE MOLEFE: Payable by Transnet?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE MOLEFE: You were then referring the Chair to
20 Annexure MM8 and that would be at page 80 of EXHIBIT BB10A.

MS MATHANE EVELINE MAKGATHO: Correct Chair, Chair this is a summary of the expected total costs of the 1224 locomotives, the expected deposit and again I received this note from Mr Anoj Singh, as you can see at the top there there's my name Mathane and my colleague Sello, Sello was the GM responsible for reporting, and in this

Powerpoint presentation Mr Singh has made a number of notes, the first one is next to the post-mitigation at the far right, he has written “cash flow confirm”, so meaning that I need to confirm that the cash flows are available or they are being factored into the cash flow planning, and the second one under budget FY14 he has written notes there to say that impact on the AB ratio. I would have highlighted earlier on that we closely monitored our liquidity situation and we had what you call the AB ratio which is an (indistinct) to user’s ratio and at any point in time for a ruling 12 month we must achieve at least a 1.2

10 times so here he was merely suggesting that we must run the impact of these cash flows on the AB ratio, and the third point is the accounting opinion, CAPEX and regulation and this is matters that will be in the domain of Ms Sello Tsukudu, so hence I have written ST there in green, that’s my handwriting Chair in green and the two up there it’s MM, that’s for me.

ADV REFILOE MOLEFE: And at the bottom right corner just next to the word page 3 there appears a date there, what is that date and what does it signify?

MS MATHANE EVELINE MAKGATHO: Chair this is signed by Mr

20 Singh, it is his signature, and it is dated the 20th of February 2014, so on the 20th of February of 2014 the 1064 locomotives were estimated to be R41.9billion, and we ...(intervention)

ADV REFILOE: Pardon me, what was the estimated advance payments payable by Transnet?

MS MATHANE EVELINE MAKGATHO: The estimated advance payment

was R4.2billion and for the entire 1224 it was R4.8billion.

ADV REFILOE: Was it R4.2billion?

MS MATHANE EVELINE MAKGATHO: R4.2billion for the 1064, but if we add the additional 100 and additional 60 the 4.2 increases to R4.8billion.

CHAIRPERSON: Is that information still at page 80?

ADV REFILOE: Correct Chair.

CHAIRPERSON: And the 4.2 you're talking about is that the one on the third column from the left, alongside 1064 locomotives?

10 **MS MATHANE EVELINE MAKGATHO:** Correct Chair.

CHAIRPERSON: Because at the top there under that column it says Rand millions.

MS MATHANE EVELINE MAKGATHO: Yes Chair, the 4200 you will add six zeros and it will billions.

CHAIRPERSON: Ja, but doesn't that heading mislead, a person who reads and you must remember I am not a finance person and I am not a figures person, a numbers person, I thought it you have got Rand millions there at the top as you have there I thought any figure that says 4200 I would I would say 4.200million because of the millions on
20 the heading, is it not misleading?

MS MATHANE EVELINE MAKGATHO: No Chair it's correct, if it was billion it will say billion on top and it will only 4.2 without the other two zeros, so now in this instance when it says rand millions it says add three zeros at the end.

CHAIRPERSON: Oh that's something that only finance people will

know? But that's how I should read it?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: With all the numbers that I see here.

MS MATHANE EVELINE MAKGATHO: Yes Chair, if it's written millions you add six zeros, you must write six zeros and then you will get the correct number.

CHAIRPERSON: Ms Refiloe you didn't get confused, I am the only one who got confused?

ADV REFILOE: No Chair, I managed to follow.

10 **CHAIRPERSON:** You know these things.

ADV REFILOE: Well from I suppose the benefit of consultation, however if we can take it item by item perhaps it might become clearer to the Chair.

CHAIRPERSON: Sorry?

ADV REFILOE: Perhaps if we take it item by item it might become clearer to the Chair.

CHAIRPERSON: Ja, okay now that's alright, but I think I will make a note for myself because I might forget the rule that the witness is telling me.

20 **ADV REFILOE:** Thank you Chair.

CHAIRPERSON: Okay, so ...

ADV REFILOE: Ms Mathane still on page 80 on the far right of the document is the heading entitled description, is that correct? On the left, pardon me.

CHAIRPERSON: I'm sorry just to – I'm just making a note for myself,

you said one must add three zeros?

MS MATHANE EVELINE MAKGATHO: Six, it's millions.

CHAIRPERSON: So now ...(intervention)

MS MATHANE EVELINE MAKGATHO: So 230 Chair you write six zeros, so you can write six zeros and you will see now it's 230million.

CHAIRPERSON: Okay, okay, thank you. Okay, thank you.

ADV REFILOE: Thank you Chair. Ms Mathane on page 80 at the left side of that page the first heading that appears in the first column is description is that correct?

10 **MS MATHANE EVELINE MAKGATHO:** Correct Chair.

ADV REFILOE: And immediately thereafter appears latest estimate pre-mitigation and what follows is mitigation, correct?

MS MATHANE EVELINE MAKGATHO: Correct.

ADV REFILOE: Then there is a breakdown of firstly the estimated total cost and as you move further towards the right the 10% deposits is that correct?

MS MATHANE EVELINE MAKGATHO: Correct.

ADV REFILOE: And for the first class of locomotives is the 60 class 43 locomotives is that correct?

20 **MS MATHANE EVELINE MAKGATHO:** Correct Chair.

ADV REFILOE: And the estimated total cost is just over 2.3billion?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE: And the anticipated deposit or advance payment is 2.3billion, 230million.

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE: Pardon me, I am having the same issue as the Chair had. And after the 60 class locomotives is the 100 class locomotives, correct?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE: That ETC is – to avoid making mistakes the amount is 3871, what does it translate to?

MS MATHANE EVELINE MAKGATHO: R3.8billion.

ADV REFILOE: And the deposit?

MS MATHANE EVELINE MAKGATHO: R387million, that is 10%.

10 **ADV REFILOE:** Yes, and ...(intervention)

CHAIRPERSON: Let me just say something and maybe you have just said this that may help you, there under 3871 is another way of saying that it's 3 871 million and that translates to three comma whatever billion?

MS MATHANE EVELINE MAKGATHO: 3871 or another way Chair would just have been to round off and just said 3.8billion, which is simpler.

CHAIRPERSON: No, no, I understand that, I understand that, but I thought 3,871billion might also be three thousand eight hundred and seventy one million.

20 **MS MATHANE EVELINE MAKGATHO:** Oh even with this number Chair you still add six zeros.

CHAIRPERSON: Yes, yes, okay, alright, thank you.

ADV REFILOE: Thank you Chair, and lastly on that ...(intervention)

CHAIRPERSON: I'm getting a lot of crash courses from witnesses. Yes?

ADV REFILOE: Thank you Chair, immediately below that is the 1064 locomotives, and the ETC there is written as 41969 and what does that translate to?

MS MATHANE EVELINE MAKGATHO: It's fourteen, we can round it off and 42billion Chair.

ADV REFILOE: And the 10% deposit?

MS MATHANE EVELINE MAKGATHO: It's R4.2billion.

ADV REFILOE: And the total of the three classes of the locomotives under the estimated total cost would be 48billion?

10 **MS MATHANE EVELINE MAKGATHO:** The total cost correct Chair.

ADV REFILOE: And the total cost of the deposit

(recording faulty)

CHAIRPERSON: Is there something that (indistinct). Let's just give the technicians a few minutes to see if they can stop it. Okay, I think we are five minutes away from taking the lunch break, we should take the lunch break and hopefully it will be sorted out.

ADV REFILOE: As it pleases Chair.

20 **CHAIRPERSON:** Yes, we will take the lunch adjournment. Oh, it doesn't want us to take the lunch, so do you want to use the next few minutes.

ADV REFILOE: As it pleases you Chair, we may proceed. Ms Mathane you were also just going to clarify that the total 10% deposit or advance payments would be R4.8billion, is that correct?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE: Now was this amount of the R4.8billion reflected in any

documents in Transnet's preparation or budgeting *per se*?

MS MATHANE EVELINE MAKGATHO: Yes Chair in anticipation of the deposit required we included the R4.8billion in our cash planning cycle, as reflected in Annexure MM9.

ADV REFILOE: And MM9 would appear at page 82 of the bundle? Is that the document to which you refer?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE: And what ...(intervention)

CHAIRPERSON: Did you say 82?

10 **MS MATHANE EVELINE MAKGATHO:** 82 Chair.

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: Correct Chair Annexure MM9 is the cash forecast for as at the 18th of February 2014 and you can see in row, the row that starts with 24th of March to 31 March there's a big lump sum there under CAPEX.

ADV REFILOE: So if I'm following this would be under the finance, what appears to be the financial year 13/14 and that would be the first column on the left side of that table.

20 **MS MATHANE EVELINE MAKGATHO:** Yes Chair and column number five is what is written CAPEX and there's a big outlay there of capital 5.2.

ADV REFILOE: 5.2 what?

MS MATHANE EVELINE MAKGATHO: 5.2billion Chair. Chair this is important for us to do so that we can see I mean some of the cash flows though they were minor happened the first week of April, or they

were scheduled to happen the first week of April hence the 303 CAPEX outlay during the first week of April up to the 6th of April, so Chair once we have done these numbers you will see that before the big outlay of R5.3billion the last week of March we were all green or black, all the black and after that then our cash becomes red, so once we have identified in actual we are now moving into the red at the bottom of the page we have a number of possibilities that will turn this red again into black, so we play around with numbers on a continuous basis to make sure that when the time comes for a big outlay it does not
10 inconvenience us in any form or shape.

ADV REFILOE: Yes, now in paragraph 54 of your statement you speak to events that took place in March 2014, relative to the advance payments. Please take the Chair through this.

MS MATHANE EVELINE MAKGATHO: So Chair up to ...(intervention)

CHAIRPERSON: That's paragraph 54 of her statement?

ADV REFILOE: Yes Chair, my apologies, paragraph 54 of the statement.

MS MATHANE EVELINE MAKGATHO: So Chair up to the end of February ...(intervention)

20 **CHAIRPERSON:** Well do you want her to start, I see we are at one already? Maybe let's continue after lunch.

ADV REFILOE: Thank you Chair.

CHAIRPERSON: We will take – it is one o'clock we will take the lunch adjournment and we will resume at two o'clock.

We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Are you ready?

ADV REFILOE MOLEFE: Yes Chair.

CHAIRPERSON: Okay please proceed.

ADV REFILOE MOLEFE: Chair before we proceed we need to beg your indulgence to sit until possibly five o'clock to try and finish Makgatho's evidence today.

CHAIRPERSON: Oh okay that is fine. Zonika. Yes we will sit until
10 five. I assume the witness is available to be here until five. Ja okay
thank you.

ADV REFILOE MOLEFE: Thank you Chair. Pardon me Chair. Pardon
me Chair. Chair there has been a request to take a short adjournment
between quarter four and four.

CHAIRPERSON: That is fine.

ADV REFILOE MOLEFE: And not the usual half past three.

CHAIRPERSON: Is that for comfort?

ADV REFILOE MOLEFE: The usual break that we usually take Chair.

CHAIRPERSON: No it is fine.

20 **ADV REFILOE MOLEFE**: Thank you.

CHAIRPERSON: Thank you let us proceed then.

ADV REFILOE MOLEFE: Thank you. Ma'am before the short
adjournment we were at paragraph 54 of your statement where you
were about to deal with the advance payment that had been paid to –
been paid by Transnet and just before that you had given evidence that

the anticipated advanced payment at 10% would have been around 4.8 billion and from paragraph 54 you speak of events relative to March 2014 and the actual deposit for advanced payment that was made. Can you take the Chair through these please?

MS MATHANE EVELINE MAKGATHO: Thank you Chair. As I have indicated before...

CHAIRPERSON: I am sorry. Zonika. Yes thank you.

ADV REFILOE MOLEFE: Thank you Chair. You may proceed.

MS MATHANE EVELINE MAKGATHO: Thank you Chair. As I had
10 indicated before up until the end of February we were working on the assumption that the deposit required which is the advanced payment for the 1064 and the 100 plus the 60G E locomotives was going to total R4.8 billion. We then around March 2014 we were informed I cannot remember the exact date Chair but we were informed that the deposit that is required is no longer 4.8 billion but it is actually 7.9 billion excluding VAT which when we include VAT it went up to 8.4 billion. It then meant that within a period of two to three weeks we needed to make sure that the organisation it is able to pay out that money that was not anticipated.

20 **CHAIRPERSON:** The 4.8 was exclusive of VAT or inclusive?

MS MATHANE EVELINE MAKGATHO: Chair.

CHAIRPERSON: You cannot remember?

MS MATHANE EVELINE MAKGATHO: I cannot remember.

CHAIRPERSON: Okay alright.

MS MATHANE EVELINE MAKGATHO: Chair I cannot remember ja.

ADV REFILOE MOLEFE: And do you know in percentage terms what the increase in the deposit was for the respective – for the 4 bidders that you have mentioned?

MS MATHANE EVELINE MAKGATHO: Between the two amounts Chair that is equivalent of like doubling from 4.8 billion to 8.4 billion Chair. It is almost double.

CHAIRPERSON: Well in percentage terms that is about 100% or more?

MS MATHANE EVELINE MAKGATHO: Slightly under 100% Chair.

CHAIRPERSON: Ja okay.

10 **MS MATHANE EVELINE MAKGATHO:** Slightly under – ja – probably 90%.

ADV REFILOE MOLEFE: Perhaps let me ask the question differently. There are three classes of locomotives concerned to which you have given evidence on the advance payments that would have been payable. And you say that there was an increase of about 2 8.4 billion including VAT, is that correct?

MS MATHANE EVELINE MAKGATHO: Oh now we are going point by point right?

ADV REFILOE MOLEFE: Yes.

20 **MS MATHANE EVELINE MAKGATHO:** Sorry Chair if I may go back to the previous attachment?

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: So I am now – so it is MM10 page 80.

ADV REFILOE MOLEFE: Yes.

MS MATHANE EVELINE MAKGATHO: Okay. Counsel is it okay if when I am answering your question I refer to MM10 page 80 together with paragraph 58 the table on paragraph 58 so that I can cross-reference?

ADV REFILOE MOLEFE: Yes.

MS MATHANE EVELINE MAKGATHO: Thank you Chair. On the 20 April 2014 we had assumed that for the 60 locomotives the deposit required is 230 million. It then turned out later on that the actual deposit required is 1.26 billion excluding VAT. And Chair this represented 30% of the actual contract price. You will remember that on the 20 February
10 this – the total estimated cost for the 60 locomotives was estimated to be 2.3 billion. We now get to the – sorry Chair I think I am – it was estimated to be 2.3 billion and the deposit was estimated to be 230 million. By the time of contract signature the said contract was now reduced at 1.7 billion but the deposit was increased to 1.26 billion excluding VAT. This represented 70% of the total price which was paid as an advance payment. And we got to the 100 locomotives on the 20 February it was estimated to be 3.8 billion and the deposit was assumed to be 387 taking 10%. And now by contract signature the contract price had gone up from 3.8 to 4.4 billion and the deposit was
20 now 1.32 billion excluding VAT which represented 30% of the contract price. For the 1064 we started off at 43 billion it now went up to 49 billion excluding VAT and the deposit went to 4.8 billion which represented about 9.74 % as an advance payment.

ADV REFILOE MOLEFE: So insofar as what would ordinarily be paid as an advance payment being in the region of about 10% of the

contract value you are saying that for the 60 GE locomotives 70% was paid. For the 100 CSR locomotives 30% was paid and for the 1064 locomotives 9.74% was paid?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE MOLEFE: And do you know why there was an increase in this advance payment?

MS MATHANE EVELINE MAKGATHO: Chair I would not know as I was not party to the negotiations so I do not know the rationale behind the increase.

10 **ADV REFILOE MOLEFE:** You then deal from paragraph 55 with the contract signing stage. Were you involved in this process?

MS MATHANE EVELINE MAKGATHO: Chair as per normal or as per procedure once the negotiating team has completed the negotiations and the supplier contract has been drafted and is now in agreed form normal procedure is that the divisions or the departments will be required to sign off as per clause 5.50 – 5.511 of the Delegation of Authority wherein it says that before the Group CFO can sign on the contract he can only sign after Group Tax, Group Legal, Group Treasury and Group Reporting have signed off. So Chair in this instance Mr
20 Danny Smit who was the Deputy Treasurer Middle Office brought me the final draft and politely asked me to sign. And Chair I responded by saying that I am not able to sign off your contract that I was not party to the negotiations because I was reluctant to sign off something that I was not privy to. So I responded and said that I cannot provide green light from a treasury perspective and suggested that he ask Anoj to

sign off. So that is where I left it Chair.

CHAIRPERSON: Mr Singh. Yes okay alright.

MS MATHANE EVELINE MAKGATHO: Sorry Chair.

CHAIRPERSON: Yes what did he say Mr Smit to – Danny Smit in response?

MS MATHANE EVELINE MAKGATHO: Chair Mr Smit agreed with me that under the circumstances it will be better if the Group CFO signs off and we left it at that.

CHAIRPERSON: Hm. Okay that was Mr Smit agreeing?

10 **MS MATHANE EVELINE MAKGATHO**: Yes Chair.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: And would you know if there was any member of the treasury department that signed off on this contract?

MS MATHANE EVELINE MAKGATHO: Chair I do not know if any of my deputy's signed it off. I had assumed that it was not signed off from a treasury perspective and if was indeed signed off it would have been Mr Smit but as far as I know my assumption is that it was signed off by Mr Singh.

CHAIRPERSON: Would somebody that fell under you have been able
20 to sign off or would they have known that it was your signature that would be required and that before they could sign off they would have to check with you whether it was your wish that they should sign rather than you?

MS MATHANE EVELINE MAKGATHO: Chair normal procedure was that if any of the deputies were involved they will sign off and the treasurer

as well will also sign off. So if it was just one person from treasury it will be that particular individual plus the treasurer before it goes to the GCFO.

CHAIRPERSON: So the treasurer's signature was required to be there irrespective of who else within treasury may have signed?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: Thank you. From paragraph 60 of your statement you deal with what you have entitled Unsolicited Proposals
10 from Regiments and from paragraph 61 you deal with the first unsolicited proposal. What was the nature of the proposal made to Transnet?

MS MATHANE EVELINE MAKGATHO: Thank you Chair. In this section Chair I would like to deal with a number of unsolicited proposals and as counsel has indicated I will start off with the first unsolicited proposal from Regiments which is the advisory services for the 1064 locomotive transaction.

CHAIRPERSON: Yes just before that just to round off the item we were discussing a minute ago. The absence of your signature in a contract
20 that required your signature as treasurer what would be its effect on its regularity and legality, do you know? In other words would it be considered regular for a contract that needed to have your signature among the signatures if it did not have that signature but did nevertheless have Mr Anoj Singh's signature as GECFO?

MS MATHANE EVELINE MAKGATHO: Chair I would not be able to

respond directly because we have never had an instance where

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: Where such an occurrence happened.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: And the only thing that I know for sure is that in the DOA it is stipulated that

CHAIRPERSON: YEs.

MS MATHANE EVELINE MAKGATHO: That there are certain
10 signatories that are required.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: Whether it will render

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: That contract irregular.

CHAIRPERSON: That you do not...

MS MATHANE EVELINE MAKGATHO: Or not I do not know. I suppose the regularity or the irregularity of that

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: Will happen according to the
20 Transnet's procurement policy.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: But as far as I know I do not think so Chair.

CHAIRPERSON: Yes, yes but what it would mean is that ...

MS MATHANE EVELINE MAKGATHO: It would imply that the

necessary checks and balances for a treasury perspective are not there.

CHAIRPERSON: Ja. It would mean that the agreement is not in accordance with the delegations of authority that you are talking about?

MS MATHANE EVELINE MAKGATHO: And the guidelines Chair.

CHAIRPERSON: And the guidelines.

MS MATHANE EVELINE MAKGATHO: Correct.

CHAIRPERSON: Yes. Okay alright. You want to continue with unsolicited bids.

10 **ADV REFILOE MOLEFE**: Thank you Chair you were about to tell the Chair about the first unsolicited proposal received from Regiments.

MS MATHANE EVELINE MAKGATHO: Chair at the beginning of January 2014 I received and that was around the same time that the teams being assembled to negotiate – to form part of the negotiating team. I received a proposal from Regiments dated the 9 January 2014 wherein they were proposing to act as our advisor for the 1064 locomotives. Chair I have – we have attached MM10 which is the proposal that they submitted.

ADV REFILOE MOLEFE: MM10 would be at page 84 of the bundle. At
20 page – before you move onto the following pages at page 84 of that proposal what is the – what is the date of the proposal as indicated at page 84?

MS MATHANE EVELINE MAKGATHO: The date is the 9 January 2014 and the title of the document is Transnet Terms of Reference for Capital Raising and Risk Management Transaction Advisory for 1064

Locomotive Procurement. And it is on a letterhead of Regiments Capital.

ADV REFILOE MOLEFE: Yes and if we turn to page 86 of the bundle.

MS MATHANE EVELINE MAKGATHO: Chair.

ADV REFILOE MOLEFE: Would those...

CHAIRPERSON: And it is still Exhibit BB10[a]?

ADV REFILOE MOLEFE: Yes Chair. If you turn to page 86 of that proposal or rather of the bundle. Is that – would those be the service offerings that were offered by Regiments?

10 **MS MATHANE EVELINE MAKGATHO**: Yes Chair. The – page 86 has about 10 points that identifies and outlines the ten areas that Regiments was proposing to give Transnet advice on. The first one is the transaction advisory mandates [indistinct] in will deliver the optimal funding structure, funding cost, financial risk management for the 1064 locomotive acquisition. You will remember Chair when I started to give my evidence MM1 had an organogram is an organogram of the treasury structure and within that Chair the optimal funding structure and the funding cost falls within the structured finance team and we had five professionals under that. And then the second point under the financial
20 risk management solution...

CHAIRPERSON: Okay I am sorry. So what you have just dealt with you are dealing with...

MS MATHANE EVELINE MAKGATHO: The first point.

CHAIRPERSON: With the first point.

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: At page 86?

MS MATHANE EVELINE MAKGATHO: Page 86.

CHAIRPERSON: Yes. Okay you say that kind of function the services that they wanted to render they fell under one of the units under – at Treasury?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Yes. Okay.

MS MATHANE EVELINE MAKGATHO: The funding part was – is under structured finance the financial risk solution it is under the risk
10 management in terms of development of strategy and in terms of execution it falls under front office. So Chair for this part I just felt that we were sufficiently

CHAIRPERSON: Capacitated.

MS MATHANE EVELINE MAKGATHO: Capacitated.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: And on the second part it says 'a detailed evaluation of the economic social and sustainability impact of the acquisition will provide funding structure advantages and cost advantages.' So I was like this Chair the impact and the sustainability
20 it is covered by the business when they do the business case. And before any project can go out on tender it would have gone through the structures like your investment forum. It will be presented at the investment forum, at K [indistinct] and board depending on the amount and all of these things would have been ticked out. And in actual fact these are business issues Chair.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: So...

CHAIRPERSON: You did not need outside [indistinct] for this?

MS MATHANE EVELINE MAKGATHO: Yes the TFR and it would; have been by the TFR ...

CHAIRPERSON: Already.

MS MATHANE EVELINE MAKGATHO: Already and collateral assessment that is number 3 now. Collateral assessment down to the component level Chair when the OEM's procure or when the OEM's
10 manufacture there are different parts for a specific item.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: And they can decide – if it is an American company for instance they can decide to source it locally in America or they can employ what they call a global sourcing strategy. In which case they can go out on an open tender buy some from Germany and so forth and so forth. And Chair this is a part that only an OEM that knows the nuts and bolts in that particular item will tell us that no in actual fact of origin for this is so – I just did not understand that for a table like this is Regiments going to take all the screws and
20 say this one is from China, this one is from – I mean it can only be done by an OEM and in that tender document Chair we stated clearly that by accepting or by bidding you are accepting certain administrative work that comes with it and we actually referring to the country of origin assessment. So it is an OEM component Chair.

CHAIRPERSON: Is that where you said earlier on you would make it a

part of the tender of the terms of the tender that they undertook to assist you?

MS MATHANE EVELINE MAKGATHO: Yes Chair as part of the guidelines.

CHAIRPERSON: That is what you were talking about.

MS MATHANE EVELINE MAKGATHO: Yes Chair.

CHAIRPERSON: Yes okay.

MS MATHANE EVELINE MAKGATHO: And therefore whilst we have established then we will know which ECA is more appropriate. Whether
10 is it a German ECA? Is it a China CCA or whatever Chair. So again it is out of the scope of anyone. It is an OEM matter.

CHAIRPERSON: That is 3 – that is number 3.

MS MATHANE EVELINE MAKGATHO: That is number 3. And number 4 the application of a best practice risk management framework to the transaction that will ensure that all relevant risk are identified, quantified and tracked. Chair earlier on we went through annexure MM24 which I said it is the bible of treasury. The financial risk management framework which had just been enhanced to include all of this so again we had a team that is more than capable. Again Chair for
20 point 4 there was no need. Number 5 the Optimal Risk Management Solution embedded in the acquisition agreement funding structure and or risk overlay. Again Chair it is a risk management function. It is a funding function. Together with point number 6 which is a comprehensive evaluation of all potential funding sources. Chair once we have identified that we need a certain amount of funds. We will

normally go out to market and request indications. Then the team will sit down and evaluate. Chair this is something that was done with our eyes closed.

CHAIRPERSON: That is item number 4?

MS MATHANE EVELINE MAKGATHO: Item number 6.

CHAIRPERSON: Oh.

MS MATHANE EVELINE MAKGATHO: It is evaluation.

CHAIRPERSON: Oh okay.

MS MATHANE EVELINE MAKGATHO: It is evaluation of potential
10 sources.

CHAIRPERSON: 4 and 5 were also covered?

MS MATHANE EVELINE MAKGATHO: 4 and 5 are part of the risk
function and then...

CHAIRPERSON: Yes you are...

MS MATHANE EVELINE MAKGATHO: And then the funding function.

CHAIRPERSON: Treasury was covered on that.

MS MATHANE EVELINE MAKGATHO: Okay. And number 7 it is project
management Chair. It does not fall within treasury but the business
units together with what we call Transnet Capital Projects they are the
20 ones who provide project management services Chair. We do not
provide project management.

CHAIRPERSON: Transnet was covered? Transnet was covered in
terms of that?

MS MATHANE EVELINE MAKGATHO: Transnet as an organisation is
covered.

CHAIRPERSON: Is an organisation yes.

MS MATHANE EVELINE MAKGATHO: And number 8 Chair it says success will be assured with appropriate resources of okay – it is just a programme management thing. And number 9 Chair is the ...

CHAIRPERSON: So 8 is not something they were going to do?

MS MATHANE EVELINE MAKGATHO: It is something that they will do. It says impact studies, there is somewhere when they – where they outline the impact studies. They are even talking about...

CHAIRPERSON: Ja.

10 **MS MATHANE EVELINE MAKGATHO**: The carbon emission studies and so forth and so forth Chair. This is covered in some form or shape in either the business case development by the TFR team or the treasury team.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: And number 9 it is a proposed timeline of 12 months and number 10 it is their fee structure. Chair their fee structure is aligned – it is outlined on page

ADV REFILOE MOLEFE: That would be on page 96.

20 **MS MATHANE EVELINE MAKGATHO**: 96. And in this instance Chair they are proposing a R1 million retainer per month for a period of 12 months which is R12 million. And they are also proposing a 20% performance fee which will be a fee that – a 20% fee that they will generate if they deliver interest savings on new funding.

ADV REFILOE MOLEFE: Yes so in light of the service offerings that you have just gone through as [indistinct] the proposed fee by

Regiments what was your overall impression of the value add of the proposed services?

MS MATHANE EVELINE MAKGATHO: My overall impression was that the proposal was not too clear to me what their real value add is given the human resources, the system resources and the process resources that we had within Group Treasury environment. So I had a meeting with Mr Nevin Pillay of Regiments wherein we discussed the proposal. I then suggested that he should revise the proposal because I just needed to get clarity of what cost how much. So I needed him to align
10 the deliverables with a budget and the timeline. And I then went back and reported my engagement with Regiments to my boss, the GCFO and I told him that we had a meeting, I have suggested you know A, B, C, D and I am just waiting for Regiments to revise their proposal and I will see if it is something that we really need. Chair he responded with annoyance and said that he does not even understand why I should worry myself about the terms of reference, about the timelines, about the budget. And in actual fact he further on went to say that in actual fact they are not my advisors they are his advisors advising him through me. So Chair it is at that point that I followed his statement
20 that they are his advisors advising him through me. So I followed with a statement that I believe we have gone through on page – in annexure MM5 wherein I was requesting clarity.

CHAIRPERSON: Oh that email?

MS MATHANE EVELINE MAKGATHO: Yes it is an email Chair. It is MM5.

CHAIRPERSON: Is it where you said you discussed Regiments issues?

MS MATHANE EVELINE MAKGATHO: Later, later.

CHAIRPERSON: Ja later.

MS MATHANE EVELINE MAKGATHO: Where I was seeking clarity.

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: We have gone through that email.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: Chair I do not remember him
10 responding and providing clarity but I do know that later on I realised
that in actual fact Regiments was appointed but I got to know that after
the fact. I think around 31 January Regiments was appointed as the
transactional advisor.

CHAIRPERSON: Now I thought you – your comments on that document
at page 86 which tells us what services they wanted to provide - that is
Regiments – I thought your comments suggested that you were
satisfied that none of the services they were seeking to provide to
Transnet were really needed by Transnet.

MS MATHANE EVELINE MAKGATHO: Correct Chair.

20 **CHAIRPERSON**: Is that – that was your position?

MS MATHANE EVELINE MAKGATHO: Correct Chair, yes.

CHAIRPERSON: So I am wondering why you did not say to – I forget
the name of the person from Regiments that you met with why you did
not say no we are covered - we have got – we do not need any
assistance in regard to all these services you want to provide. We –

we have people who can do this.

MS MATHANE EVELINE MAKGATHO: Chair I did mention that but what I also wanted to do was that I wanted him to come up with a come up with a core structure for each of these elements and I can say no, no, no.

CHAIRPERSON: Okay and in your discussion with Mr Singh you did not articulate that point that you did not think we need – Transnet needed these services that Regiments was offered. You – you mentioned what - that you asked a representative of Regiments to
10 revise the proposal and then he responded to you with annoyances you have said.

MS MATHANE EVELINE MAKGATHO: Yes Chair I did allude to the fact that we had internal capacity. You may not know that over a period of time I have had a number of engagements and – and disagreements with – with Mr Singh around the role of Regiments in other various forms Chair. So ...

CHAIRPERSON: So by this time the two of you had had a number of disagreements around Regiments?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

20 **CHAIRPERSON:** Okay. So – so you – you had a full idea that most of the time the two of you were not able to agree on many things relating to Regiments?

MS MATHANE EVELINE MAKGATHO: Yes Chair and – and here I merely wanted an objective way of saying you see this one cost this much and ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: There is no need.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: We can do that internally and this one so much and so on ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: And so forth.

CHAIRPERSON: Yes but I take it off course that he being the person to whom you reported as Group Treasurer was as much aware of
10 Treasury's capacity as you were aware?

MS MATHANE EVELINE MAKGATHO: He was Chair.

CHAIRPERSON: Yes. So in effect he – he did not need advice. He would know that - what capacity there was within Treasury?

MS MATHANE EVELINE MAKGATHO: I believe so Chair.

CHAIRPERSON: Ja, okay alright.

ADV REFILOE MOLEFE: Thank you Chair and do you know how much was paid to Regiments?

MS MATHANE EVELINE MAKGATHO: For that amount of money for – for this project this specific terms of reference I do not know but Chair
20 at that particular point in time it was around the time when we – we also enhancing our cash management processes. So Chair as part of that we are expecting the divisions to achieve a certain level of accuracy and therefore Chair we also cascading a performance management system of some sort because remember that in the Treasury performance contract cash forecasting and – and accuracy

thereof is part of our – of the KPIs including the cost of debt and so forth and there was an impact that is coming through from the divisions and – and we needed a way of making them aware that this is costly and you can only do that if you performance contract it. So we had started this – this cash management project and as the colleagues realised that they are missing their targets they slowly started coming out either to me directly or to my other team members who were responsible for cash highlight the reasons why they are not meeting their – their projections and one common denominator Chair was that

10 more often than not invoices would come to their table with a request to process them urgently. Our normal payment Chair was around 30 days except for your small enterprises but generally it was around 30 days. So Chair I then asked where – you know – for what invoices are these payments for and I was then told that they are mainly for McKinsey and for Regiments and I then requested a sub printout – you know – so that I can assess what is happening because we were – we were seeing that the projections are not met but we could not quite get into the source of the problem and Chair MM11 ...

ADV REFILOE MOLEFE: That would be at page 98 of the bundle

20 **MS MATHANE EVELINE MAKGATHO:** MM11 Chair is a copy of the sub printout. So Chair by – by then I was not aware at the extent of Regiments involvement across the group and I was not even aware that they were receiving so much payments from Transnet. Just at the look of – of - you know – page – page 98 you will see the last line there it is 107 million. Just between May 2013 to 31 March 2014 Regiments

already was paid R107 million for a number of – of projects that have been involved with on – and further on between 1 April and 16 July 2014 they were paid – they were paid a further R211 million Chair. That is on page MM – MM99. You will see that Chair that there are handwritten sums there.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: I did this around July 2014 Chair. This is my handwriting and ...

CHAIRPERSON: Okay.

- 10 **MS MATHANE EVELINE MAKGATHO:** And the other invoices Chair that I have just included there they include Regiments –they include McKinsey because these two are just for Regiments – the 211 and 107. So I added McKinsey and Chair I was shocked to know that within a short – within a short period of time over 600/700 million was paid to Regiments and McKinsey for different projects basically. It ranged from the Pension Fund to the advisory services for Maputo Corridor, for the locomotives, for TCP and some are just written as – as professional services. So Chair I did not know that they were so entrenched in the business and just by going through the payment run I was actually
- 20 shocked beyond words and Chair I was actually – what I could not really comprehend is that Mr Singh is the GCFO. He is the custodian of the policies. He is the custodian of the resources of the organisation and he knows that we have embarked on this cash management enhancement and he knows that it is costly to budget and then you end up having idle cash or you do not budget because people – you know –

did not plan appropriately and you end up having to draw on your overdraft which is expensive. He knows that either side of the – of the fence is expensive somehow and he knows the importance of cash forecasting and what shocked me Chair was that in all of these invoices that I was told that they require a few days processing timeline were all at the instruction of Mr Singh.

CHAIRPERSON: You said that you found that Regiments had been paid about 700 million over a short of period time (intervenes).

MS MATHANE EVELINE MAKGATHO: And McKinsey.

10 **CHAIRPERSON**: And McKinsey – oh the two of them?

MS MATHANE EVELINE MAKGATHO: And McKinsey.

CHAIRPERSON: *Ja*.

MS MATHANE EVELINE MAKGATHO: Yes, *ja*.

CHAIRPERSON: That would have been over how many months more or less roughly?

MS MATHANE EVELINE MAKGATHO: Maybe 15 months.

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: *Ja*, around 15 months.

CHAIRPERSON: Thank you.

20 **ADV REFILOE MOLEFE**: Thank you. If you can turn to page 99 where you state to have written those notes that appear on page 99. The amounts there that you have written out do those denote in millions or billions?

MS MATHANE EVELINE MAKGATHO: Millions Chair.

ADV REFILOE MOLEFE: And can you just confirm from the left side of

the document to the right side the amounts that you have broken down until you got to your total amounts there?

MS MATHANE EVELINE MAKGATHO: Okay Chair. The first one is on the previous page – 107 - and then it is 211 here. So that is (indistinct).

ADV REFILOE MOLEFE: 107 million.

MS MATHANE EVELINE MAKGATHO: Million.

ADV REFILOE MOLEFE: Appears at page 98?

MS MATHANE EVELINE MAKGATHO: That is on page 98 and then ...

10 **CHAIRPERSON:** That is the typed one. Is that the typed number that you are talking about?

MS MATHANE EVELINE MAKGATHO: Yes.

CHAIRPERSON: Yes on page 98?

MS MATHANE EVELINE MAKGATHO: It is a sub printout Chair.

CHAIRPERSON: Sorry.

MS MATHANE EVELINE MAKGATHO: It is a sub – it is a system printout.

CHAIRPERSON: Oh, okay right.

MS MATHANE EVELINE MAKGATHO: So that would have been around
20 320 for Regiments and in addition ...

CHAIRPERSON: So then – I am sorry. So that 107.7 million roughly ...

MS MATHANE EVELINE MAKGATHO: Yes Chair.

CHAIRPERSON: And then page 99, yes.

MS MATHANE EVELINE MAKGATHO: Is 211.

CHAIRPERSON: Yes. That is (intervenes).

MS MATHANE EVELINE MAKGATHO: And Chair in addition to these payments I was then told that there are other invoices. You will see it is 75, 22, 54 either to McKinsey or Regiments. So in my calculations – I mean – I did a quick calculation at that point in time and I was like really that is like 600 to 700 million that has been paid within a short - you know – period of time to these two institutions.

CHAIRPERSON: So 75.0 or 75.0 million and so on and so on?

MS MATHANE EVELINE MAKGATHO: Yes it is all millions Chair.

CHAIRPERSON: Ja, okay. Yes.

10 **MS MATHANE EVELINE MAKGATHO:** So Chair in a – in a way Chair the colleagues that were responsible for payments ...

CHAIRPERSON: I am sorry. Before you do that we just dealt with – with the column to – on the left of where – where you wrote and then you have got another column on the other hand with 600 – with a total of 616 million. Is the column on the right hand just a continuation of the column on the left or is it two separate columns in terms of the amounts?

MS MATHANE EVELINE MAKGATHO: It is – it is two separate columns Chair.

20 **CHAIRPERSON:** Oh, okay.

MS MATHANE EVELINE MAKGATHO: Because I ended up just focusing on this one.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: On the one that adds up to R616 million.

CHAIRPERSON: Oh, but otherwise that is R616.85 million and then there is 363.19 million?

MS MATHANE EVELINE MAKGATHO: Yes Chair. So ...

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: So the total at that point in time was 616 million. So ...

CHAIRPERSON: Oh 616.8 million was a total that included the 363.19 million?

MS MATHANE EVELINE MAKGATHO: Yes Chair, yes Chair.

10 **CHAIRPERSON:** Oh, okay.

MS MATHANE EVELINE MAKGATHO: Yes Chair.

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: So Chair what the colleagues were – were basically saying Chair and we saw that as it filtered through to the accuracy level we started seeing the cash accuracy level of 78 percent and normally we would see it at above 90 percent. Basically what the colleagues were saying is that yes we understand the rationale behind the cash management enhancement. We believe in that but we have a problem. The boss is the one who is instructing
20 us. So we do not want to be penalised for that.

ADV REFILOE MOLEFE: And can you turn to page 100 of the bundle? What is that document that appears on that page?

MS MATHANE EVELINE MAKGATHO: Oh this is just a printout of the – of Regiments Standard Bank Account details. This is the – the account that the monies were paid into.

ADV REFILOE MOLEFE: Yes. Now at paragraph 68 of your statement you deal with the second unsolicited proposal received from Regiments.

CHAIRPERSON: I am – I am sorry Ms Molefe. Page 100 you say that – that is the account into which payments were made?

MS MATHANE EVELINE MAKGATHO: The 107 million ...

CHAIRPERSON: Huh-uh.

MS MATHANE EVELINE MAKGATHO: On page 98 and the 211 on page 99 and any other ...

CHAIRPERSON: Yes.

10 **MS MATHANE EVELINE MAKGATHO:** That – that came after. So this is their Standard Bank Account.

CHAIRPERSON: Yes. This was Regiments ...

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Account?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: That is separated from McKinsey?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Okay, alright.

MS MATHANE EVELINE MAKGATHO: This is just Regiments.

20 **ADV REFILOE MOLEFE:** Thank you Chair. Ms Makgatho from paragraph 68 of your statement you then deal with the second unsolicited proposal received from Regiments. Can you take the Chair through the nature of this proposal received from Regiments?

MS MATHANE EVELINE MAKGATHO: Okay Chair. I will do so. The second unsolicited proposal relates to the R5 billion loan proposal.

Chair my concerns around Regiments started around 2013 and this proposal landed on my desk around the third quarter 2013. I cannot remember the exact time. Chair as you will know that Transnet has a very strong relationship with a number of banks or all of them in actual fact and in each and every institution we have what you call a Relationship Manager who is a point of contact for us. So one day I received a call from Nedbank represented by Mr Masotsha Mngadi asking me if Transnet is looking for money. So Chair I did not – I was taken aback a little but because if Transnet was looking for money I
10 was the one who was supposed to know that. So I was like I do not know and in actual fact we are okay. We do not need money right now and his response was that that is what he thought because I have not said anything. I mean we – we had an open line with banks Chair. I mean we call them anytime we - we needed to and he told me that Regiments was in the market looking for money on behalf of Transnet and he mentioned a number of around R9 billion. He said that he understands that Nedbank is looking for money. So I asked him how does he know. He says that he knows because one of his colleagues – Moss Brickman – is working with Regiments on this. So Chair it was
20 around Thursday or Friday but it was towards the end of the week. So we left it at that. I was like we do not need money. We are cash flush right now and if I – if we needed money Chair there is a process that we followed. I will then recommend that we go out on tender and we go to all the financial institutions. We will get bids or indications and we will choose – you know – whomever is providing us good terms and if it

was something urgent – urgent we had access to short term facilities at the notice of 24 hours and at that particular point in time I think we were over 10 billion – you know - that was available because we were building towards having 15 billion of facilities. So I think at that point we had about 10 or 13. So we were not short of cash and we were not short of options. So we left it at that and Chair on Monday morning immediately after the weekend following Mr Mngadi's call I then received a proposal in hard copy from Mr Singh. The proposal was for a R5 billion facility. The lender was to be Nedbank and what – what
10 was fun with the structure Chair is that it was a plain vanilla structure. It is a simple loan. We call it plain vanilla but there was an in between structure which meant that Transnet would pay interest and capital into the in between structure and the in between structure will then remit funds to Nedbank and what was even more alarming for me Chair is that the interest rate that this proposal was quoting was much over where Transnet will raise an equivalent five year. In this instance Chair I did my sums quickly and the additional interest payment that Transnet would have to pay per annum was 150 million and over a five year period that would have been a capital leakage of about 750
20 million. I then went back to Mr Singh and said to him that I have done my analysis and I do not recommend the structure because it is very expensive and we can get funds directly without having to pay this premium. He told me that I should go back and do a recommendation same day because the GCE – Mr Molefe – wanted that recommendation same day. Chair we have never reviewed a financing proposal over one

day Chair. We – we take our time. We analyse and we assess and only after we have satisfied ourselves that indeed this is a good transaction for the organisation then we will proceed. So I was – I was actually surprised that I would be expected to recommend a five billion facility with Nedbank via an in between structure - something similar to an SPV though the details were not clear. Something similar ...

CHAIRPERSON: What is an SPV?

MS MATHANE EVELINE MAKGATHO: To an SPC or but there was something in between.

10 **CHAIRPERSON:** What is an SPC?

MS MATHANE EVELINE MAKGATHO: Special Purpose Company, sorry Chair.

CHAIRPERSON: Oh SPC?

MS MATHANE EVELINE MAKGATHO: SPC or SPV?

CHAIRPERSON: I thought you said XPC. Special Purpose Company?

MS MATHANE EVELINE MAKGATHO: Yes Chair.

CHAIRPERSON: Okay. You know these acronyms some people use them more often than others. So – so you will just need to tell us some of them so that we understand what you are talking about.

20 **MS MATHANE EVELINE MAKGATHO:** Apologies Chair.

CHAIRPERSON: Okay, alright. So – so you are saying you were expected to consider and make a recommendation of – on a R5 billion facility within a day?

MS MATHANE EVELINE MAKGATHO: Within a day that included a capital leakage of R150 million per annum over a five year period which

if you add it all it is R750 million. So now basically I was being asked to give away 750 million and do that within a day and he told me that it is – it is Mr Molefe who wanted this done urgently.

CHAIRPERSON: And were you told what – what the urgency was about?

MS MATHANE EVELINE MAKGATHO: He did tell me what the urgency was all about.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: He was just like no do it do not
10 ask question and whatever.

CHAIRPERSON: And ...

MS MATHANE EVELINE MAKGATHO: So I was like okay.

CHAIRPERSON: And normally a transaction that would cost that much about how much time would you normally need in order to be able to consider properly and make a recommendation?

MS MATHANE EVELINE MAKGATHO: Chair ...

CHAIRPERSON: I accept that it might not be the same amount of time for every transaction but you might have an idea that – for example – it cannot take less than a week or something like that.

20 **MS MATHANE EVELINE MAKGATHO:** It cannot take a week because it was obviously above my – my delegated authority.

CHAIRPERSON: Huh-uh.

MS MATHANE EVELINE MAKGATHO: It was also above the GCFOs delegated authority.

CHAIRPERSON: Huh-uh.

MS MATHANE EVELINE MAKGATHO: I think if I am correct Chair the GCEs delegated authority was up to 5 billion ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: And anything over and above that was for Board – if I am not wrong Chair.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: I cannot remember but it was – it was definitely above me and him.

CHAIRPERSON: Hm.

10 **MS MATHANE EVELINE MAKGATHO:** So Chair it would need to be properly assessed and ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: We will write our motivation ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: And then we will seek appropriate approvals as per the delegated authority.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: So Chair because he was telling me that it is an urgent request coming from Mr Molefe and he did not
20 want to listen to my analysis that it is a waste of money ...

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: There is no need to be wasting money. So I went straight to Mr Molefe because I really wanted to (intervenes).

CHAIRPERSON: I am sorry. You mean you did say to Mr Singh this is

– this will be a waste of money or you are saying you knew he would not listen to that?

MS MATHANE EVELINE MAKGATHO: I told him that ...

CHAIRPERSON: You told him?

MS MATHANE EVELINE MAKGATHO: That is a waste of money but he would ...

CHAIRPERSON: Oh, you did tell him.

MS MATHANE EVELINE MAKGATHO: Not listen.

CHAIRPERSON: Okay, yes.

- 10 **MS MATHANE EVELINE MAKGATHO:** He would not listen and he kept on referring to Mr Molefe as wanting it done urgently. So Chair I then decided that I will go to the GCE straight. So I went to the GCE and I said Mr Molefe I understand that you want this proposal executed speedily. Are you aware that 750 million is going to be stolen? I was not shy with words Chair. I just – you know- said it.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: The way I – I felt at that point and it is because the GCFO was so insisting that it has to be done such that (intervenes).

- 20 **CHAIRPERSON:** And you were quite clear that ...

MS MATHANE EVELINE MAKGATHO: And I was quite clear that ...

CHAIRPERSON: It was ...

MS MATHANE EVELINE MAKGATHO: That there is no need. In actual fact we have a direct relationship with Nedbank. If we needed money from Nedbank we can just do it directly ...

CHAIRPERSON: Hm.

ADV REFILOE MOLEFE:

MS MATHANE EVELINE MAKGATHO: And I have never worked with – with a gentleman called Mr Moss Brickman.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: Who I know that he works very closely with Regiments. He is employed at Nedbank in that department ...

CHAIRPERSON: Hm.

10 **MS MATHANE EVELINE MAKGATHO:** And ...

CHAIRPERSON: So you were taking a clear view that signing this or recommending this would amount to facilitating theft?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: *Ja* and then – and then you told you spoke to Mr Molefe about it?

MS MATHANE EVELINE MAKGATHO: Yes Chair. I went – I then went to Mr Molefe and – and he asked me to – to give him my analysis. So I said basically this proposal if we recommend it – it means that we are recommending that Transnet pays over and above what is normal 150
20 million. I mean roughly it is like 3 percent more and that is 750 and I was very direct Chair. I was like Mr Molefe if I recommend this and you approve it are you aware that we are going to jail. So Chair I was very direct because I mean I could just sense and feel that this is just ...

CHAIRPERSON: It ...

MS MATHANE EVELINE MAKGATHO: Not warranted.

CHAIRPERSON: You had had – you were close to having enough of all of this or not?

MS MATHANE EVELINE MAKGATHO: Yes Chair.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: Yes Chair.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: And he responded and said that really 750 million. I was like yes sir it is 750 million and I am not going to write a recommendation that 750 million be stolen. So I do not know
10 if it is true that you have given out an instruction but I am telling you right now if you execute this jail time is waiting for you.

CHAIRPERSON: This is how you put it?

MS MATHANE EVELINE MAKGATHO: This is how I put it Chair. I – I did not

CHAIRPERSON: Mince your words?

MS MATHANE EVELINE MAKGATHO: Ja.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: I was just straight Chair. So he said eish Mathane you are right. No do not worry. I will handle this
20 matter and Chair indeed I believe ...

CHAIRPERSON: Did he appear shocked?

MS MATHANE EVELINE MAKGATHO: I do not know Chair. He is a smooth operator. So you can never know when he is shocked or not shocked.

CHAIRPERSON: Hm, okay. Did he – you said you did tell him that you

understood that he had given instructions that you look at this urgently. Did he deny having issued that instruction or did he not say anything about it?

MS MATHANE EVELINE MAKGATHO: Chair I do not remember giving him the chance to respond to the urgent instruction, all that I asked him was that is it true that you have given out an instruction that I must recommend for R750million to be stolen urgently and oh why, who, so we ended up not focusing on the instruction but focusing on the capital ...(intervention)

10 **CHAIRPERSON:** Ja, on jail time, ja.

MS MATHANE EVELINE MAKGATHO: Ja.

CHAIRPERSON: Okay, yes.

MS MATHANE EVELINE MAKGATHO: So Chair I believe that he handled the matter ...(intervention)

CHAIRPERSON: So you parted on the basis that he was saying okay leave it but he would handle it himself.

MS MATHANE EVELINE MAKGATHO: He will handle the matter, he understood my concerns and I believe that he agreed with me and Chair the structure was not implemented.

20 **CHAIRPERSON:** Was not implemented?

MS MATHANE EVELINE MAKGATHO: No Chair it was not implemented.

CHAIRPERSON: Yes okay, hm.

MS MATHANE EVELINE MAKGATHO: And Chair one thing that I also would like to highlight in paragraph 77 on page 20 is that to the best of

my knowledge Regiments did not have a mandate to talk to banks on behalf of Transnet.

ADV REFILOE MOLEFE: Yes.

CHAIRPERSON: Because such a mandate wouldn't be conveyed to Nedbank without your knowledge as Group Treasurer, is that right?

MS MATHANE EVELINE MAKGATHO: Yes Chair, and someone within Transnet for Nedbank to be brave to provide Regiment as a proposal they can only do that at the back of a written mandate. So maybe someone somewhere gave a written mandate, I don't know.

10 **ADV REFILOE MOLEFE:** Yes from paragraph 78 of your statement you deal with the third unsolicited proposal from Regiments, what was the nature of this proposal made to Transnet?

MS MATHANE EVELINE MAKGATHO: Chair the third unsolicited proposal that was tabled to us ...(intervention)

CHAIRPERSON: Sorry please don't forget your answer, I shall remind you of the question. Initially there was that proposal where Regiments wanted – sent in a proposal and we went through that document, I don't know if it was at page 86, with various items which you said Transnet really didn't need, that was the one, and the one that you have just
20 finished testifying about was another?

MS MATHANE EVELINE MAKGATHO: It's another one Chair.

ADV REFILOE MOLEFE: Okay so that other one might be referred as the third one and the one you have just talked about might be referred to as the second one. You are now going to the third one?

MS MATHANE EVELINE MAKGATHO: This one here is the third one,

yes Chair.

CHAIRPERSON: Okay, alright.

MS MATHANE EVELINE MAKGATHO: I'm just giving examples of those that stood out for me.

CHAIRPERSON: Yes, yes.

MS MATHANE EVELINE MAKGATHO: In between there were many ...(intervention)

CHAIRPERSON: There were many others.

MS MATHANE EVELINE MAKGATHO: Ja.

10 **CHAIRPERSON:** Okay, thank you.

ADV REFILOE MOLEFE: Yes so you deal with the third unsolicited proposal from paragraph 78 and following in your statement, what was the nature of this proposal?

MS MATHANE EVELINE MAKGATHO: Chair the third unsolicited proposal was a shocker of note, it was a hard copy that Mr Eric Wood gave us I believe I was with Mr Singh and Mr Singh said that you know i must review the proposal. Basically what ...(intervention)

CHAIRPERSON: Mr Singh said you must?

MS MATHANE EVELINE MAKGATHO: Review the proposal.

20 **CHAIRPERSON:** Oh, okay.

MS MATHANE EVELINE MAKGATHO: It is our job Chair to do that. Basically what Regiments was proposing Chair was instead of us following normal practice when we do cross-currency swaps of using banks instead of using your normal commercial bank we must use the South African Reserve Bank as a counterparty and he said that we can

do that and get a cost-effective way of doing cross-currency swaps. Chair I am saying that it's a shocker of note because towards the end of the nineties and the beginning of the 2000 there was a policy decision taken at Government that the Reserve Bank will not play in the forward book market any more, it was so because Chair because over time the Reserve Bank had accumulated the forward book through a number of activities, the country was not able to build up foreign currency reserves because if the currency runs away from the Reserve Bank the losses have to be absorbed either by the countries, you know

10 foreign exchange reserves, or it's a liability that goes to the National Treasury, so Chair this is a policy that was publicised a lot and it was a thorn for the government for a long period of time. At some point Chair I believe it sat at around 23 billion Dollars, and it's one of the factors that made the currency to be so volatile in the late nineties and early 2000, because when the country's foreign exchange reserves are low or the liabilities are expected to be even more then it can attract all sort of speculative attacks on the currency and Chair these are the experts that I was expected to take advice from, who could not even comprehend or know that this proposal that they are proposing is a no-

20 go zone given all sorts of unintended you know consequences on the fragility of the Rand, which might you know spill over into inflation, potentially shock the GDP and we – I was expected to listen to whatever proposal that they came up with, and Chair by this time I had lost all – whatever patience that I've had for Mr Singh and Mr Wood I had lost it totally.

CHAIRPERSON: And this was around what time?

MS MATHANE EVELINE MAKGATHO: It was 2013, because remember
...(intervention)

CHAIRPERSON: Oh it was still 2014.

MS MATHANE EVELINE MAKGATHO: ...this is all a build-up to the
1064 locomotives so they were coming with all sort of creative solutions
and they are thinking that maybe this can be used to (indistinct) you
know cost effectively which means that we will get a discount from the
Reserve Bank but it's not really a discount because everybody else in
10 the country will ultimately pay for that, one way or the other. So Chair
on this one I didn't even want to discuss with Anoj because I thought
it's just going to fly over his head, I went straight to Mr Molefe.

ADV REFILOE MOLEFE: Mr Singh Ms Makgatho.

MS MATHANE EVELINE MAKGATHO: Okay Chair.

CHAIRPERSON: I think you worked with him for quite some time.

MS MATHANE EVELINE MAKGATHO: Chair it's because I fought with
him so much I even forgot that he is Mr Singh, sorry.

CHAIRPERSON: Yes, no, no, no I understand, it's just that we try to be
courteous to everybody.

20 **MS MATHANE EVELINE MAKGATHO:** Chair I did not even want to
discuss the matter with the GCFO so I went straight to Mr Molefe.

CHAIRPERSON: Mmm.

MS MATHANE EVELINE MAKGATHO: I was like DCE your people
have outdone themselves this time around, here is a proposal, they
recommend that we go to National Treasury and present this proposal

requesting for the South African Reserve Bank to be a counterparty to our swaps and thereafter ...(intervention)

CHAIRPERSON: And you say you were now talking to the

MS MATHANE EVELINE MAKGATHO: To Mr Molefe straight.

CHAIRPERSON: Oh, but I'm wondering, you're saying you said your people?

MS MATHANE EVELINE MAKGATHO: Yes I was speaking to him and – because now Chair I had lapsed it.

CHAIRPERSON: In terms of your people were ...(intervention)

10 **MS MATHANE EVELINE MAKGATHO:** I was referring to Mr Eric Wood and Mr Singh, I was like your people have outdone themselves this time around, I mean I've seen lots of proposals.

CHAIRPERSON: Yes okay.

MS MATHANE EVELINE MAKGATHO: But I think this time they have really gone out of their way. So I was like we are now expected to go to National Treasury to present this proposal and thereafter go to the Reserve Bank to present this proposal. I would just like to tell you that if you think that this is something to be presented for the National Treasury it's okay but I would just like to put it on record that I will not
20 go with you, you will go with Mr Singh and Mr Wood, and by the way remember when the LED Open forward book was such a thorn we were there, me and you worked for National Treasury, when all of this discussions were being held we were there, when the Rand was very volatile we witnessed when the (indistinct) short by 10%, we were in Treasury, so maybe they have the luxury for they don't know and they

don't have the information that we have and they don't know the implication that this will have on the rest of the economy, but I do know one think, if me and you, if me or you were to go to the National Treasury they are just going to laugh at us to be honest, because we will just be foolish, so are you going to the National Treasury to present this nonsensical proposal.

And on this one Chair he was very decisive, he was no, it can't be done, I will handle them, and indeed Chair it ended there. I was not even worried that even if they were to go and present this to a National
10 Treasury I knew that it wouldn't fly.

CHAIRPERSON: So the two of you had been at National Treasury at the same time at some stage?

MS MATHANE EVELINE MAKGATHO: Yes Chair, yes Chair.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: Yes and at paragraph 84 of your statement you narrate your further discussion with Mr Molefe in relation to Mr Singh?

MS MATHANE EVELINE MAKGATHO: Oh yes Chair by this time Chair and we are still in 2013 Chair by this time Chair we have been busy
20 discussion all sorts of proposals for lack of a better word because there were no proposals, they were something else, and in my opinion Chair the GCFO was doing as he wishes and what I couldn't quite grasp was that the man was running like a loose cannon, and the GCE was giving him more and more powers, so I asked him why are you giving the GCFO so much powers, you know that he is not a man to be trusted but

you are continuously giving him more and more, you are consolidating power and you are giving this person who can't be trusted with so much power, why are you doing that? Because Chair at that point in time I believed that even the supply chain was now a consolidated capital, it was now consolidated to group all of these functions Chair reported to the GCFO.

So I could not understand why he could be given so much power and it was Mr Molefe who was giving him so much so I asked him as a sister would speak to a brother, I was like this is a time – a ticking
10 time-bomb, you can't give this man so much power and he just you know brushed me aside and he said that no he will manage him. I was like really, I don't think the guy can be managed, you must just cut his powers but instead you are doing the opposite.

So Chair I left the discussion at that but it's one thing Chair that I just could not believe that Mr Molefe will give Mr Singh a consciously so add more power, add and just add.

CHAIRPERSON: At that stage what was your understanding of what Mr Molefe knew about Mr Singh and his role and his role in various transactions compared to your own understanding, did you believe you
20 had the same understanding of the man or you might have had a different understanding?

MS MATHANE EVELINE MAKGATHO: Chair I believe I had a different understand, with Mr Singh, because he is very reckless, I could immediately establish that he is a very corrupt guy, so that one I could immediately you know get, but now with Mr Molefe Chair as I indicated

earlier on, he is a smooth operator, he is very street smart, he plays h
is balls very carefully, he makes people feel important. So Chair I
could not immediately establish that he was part of the mess, but Chair
on a number of occasions I had one on one engagements with him w
here I could raise my concerns around the concentration of power to
someone who in my opinion could not be trusted and on one particular
incident he even said to me that no man I will manage him but I don't
want to ruffle feathers, and I couldn't understand what those feathers
were and – but then I slowly Chair I slowly started to doubt him, but
10 Chair it was – I worked with Mr Molefe before at the National Treasury
and I thought he was my brother. I later learnt that he was actually –
he is actually not a brother, maybe he might be clothed like a brother
but he is not a brother.

And I later learnt Chair because there's always red flags
sometimes you choose to ignore, sometimes not, and with the passing
of time the GCFO was very consistent Chair, I mean he was just onto it,
he was just consistent but with the GCE ...(intervention)

CHAIRPERSON: Meaning consistent on his path?

MS MATHANE EVELINE MAKGATHO: On his path of destruction.

20 **CHAIRPERSON:** On what he was doing?

MS MATHANE EVELINE MAKGATHO: Ja, he was very consistent,
and he was pushing and he was pushing hard, you know pushing his
arrogance so it was fights all the time, so now with the GCE he was not
fighting, at least with me, he was very calm and every time we had an
engagement and we were fighting with Mr Singh he would be the one

who would be calming the storms, so he appeared neutral and I couldn't quite tell whether he was on this side or the other side but with the passing of time Chair if it's a zebra it's a zebra you will see it by the stripes, right, so with the passing of time I began to slowly see that they are the same game players, it's just that the other one is a rough player and the other one is a smooth operator, but otherwise it is the same mission.

CHAIRPERSON: And that was roundabout when, when you came to that realisation about him?

- 10 **MS MATHANE EVELINE MAKGATHO:** Chair in 2013 I was, towards the end of the 2013 I was asking these questions and I was not quite getting the answer, so I parked, but then it's when the 1064 locomotives were being negotiated, especially around the financing I concluded that no, they are playing the same game.

CHAIRPERSON: Okay.

ADV REFILOE MOLEFE: Thank you Chair. The next matter that you deal with is McKinsey and Co. In paragraph 86 of your statement you speak to events that took place between April and May 2013, what happened during this period?

- 20 **MS MATHANE EVELINE MAKGATHO:** Chair this is another unsolicited proposal from McKinsey. Soon after I was appointed Mr Singh introduced me to Mr Vikas Sagar who is one of the partners or was one of the partners of McKinsey, I am not sure if he is still part of McKinsey, and he suggested that I should have fortnight meetings with him, he will give me whatever advice that I need and I can use him as a

sounding board, and he further ...(intervention)

CHAIRPERSON: That was Mr Singh suggesting that to you?

MS MATHANE EVELINE MAKGATHO: Yes so every fortnight I was expected to meet with this guy, so he further suggested that Mr McKinsey, as we all know it's a global company, it has experts all over the world, it has resources and so forth and so forth, so Chair I didn't have a problem with that because I meet with institutions all the time, they share ideas, I share ideas with them, I share with them the plans so I didn't have a problem with that,

10 **CHAIRPERSON:** But it does seem strange to me.

MS MATHANE EVELINE MAKGATHO: Chair you know at that point I didn't make too much of it to be honest.

CHAIRPERSON: Because I – at Treasury I mean you were Group Treasurer of Transnet, and if ever you needed advice you would know where to go, I would take it.

MS MATHANE EVELINE MAKGATHO: Yes chair.

CHAIRPERSON: Why should you be given somebody and be told meet fortnightly as opposed to – I could understand if the suggestion was you know he is an expert on this and that if you're an expert in the
20 State you need some expert advice feel free to talk to him, but this fortnightly thing seems strange to me, why – is there going to be a need to meet so regularly with a particular person?

MS MATHANE EVELINE MAKGATHO: Chair to be honest I didn't make too much of it at that point in time, I met with him the first time around, I can't even remember what we discussed, but I think Chair we

met at the most three times, because after the third meeting I realised that no I really don't need to be meeting with this guy because ... (intervention)

CHAIRPERSON: But when you met him for those three times or so did you meet him because you needed some expert advice as such or you were just getting to know him because Mr Singh had suggested he might be somebody that might be helpful, in other words was there a need for – did you need some advice as such or it was more just getting to know him better.

10 **MS MATHANE EVELINE MAKGATHO:** It was a general discussion Chair there was nothing that came out of those meetings.

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: That was a wow, hence the decision that you know we should continue with this, and it was a mutual agreement between the two of us that you know there's no need for us to be meeting.

CHAIRPERSON: Yes, okay okay.

ADV REFILOE MOLEFE: Yes then you speak of the credit rating methodology that you were pursuing in Treasury.

20 **MS MATHANE EVELINE MAKGATHO:** Yes Chair as I indicated earlier on that we were always looking at ways of enhancing our processes and making our value add and our contribution to the organisation much better, and one of the things that was at the heart of Treasury is making sure that we maintain a strong investment rating, and Chair you may know that as a State Owned Entity there's a part that is within the

control of management and there's the part that is outside but within the government, the government's control, and in our analysis Chair we realised that in actual fact in as much as we say that we are a State Owned Entity 76% of our standalone credit profile is within the control of management and so we therefore needed to have a tool that will help us to direct strategic discussions around the group, and we thought that having a tool that will help us have a shadow rating for Transnet will help us to pre-empt you know what the rating agencies would given where the operations are, so – and Chair towards the end of 2012, 10 beginning of 2013 Citibank had proposed that they can offer us a credit rating advisory free of charge.

Chair I would want to emphasize that investment banks do that all the time, because they have resources and they provide that as part of their value add, so they had said that you know that they can provide us with this value add, and when I took over the role of Treasurer I then sensitised our CFO that we are looking at this process we like it, I am going to enhance the team. I was thinking that I will just reconfigure and move people around and we will have a separate investor relations type maybe one or two people who will focus on stakeholder 20 engagement.

So I shared this with Mr Singh, that this is what Citibank is proposing and it was indeed aligned with our thinking, so I was still exploring how do we get around this process.

Chair later on, and it became a trend, later on McKinsey suggested a meeting, and I met with Mr Vickers and he proposed that

they can offer us credit rating management services. So Chair so I was like okay so what exactly do you – how do you aim to do that and how much will it be, and he came back later on and presented a proposal, the proposal Chair is MM12, it is in Annexure MM12, on page 102.

CHAIRPERSON: Thank you.

MS MATHANE EVELINE MAKGATHO: And it's titled "Building a World-class Treasury Function Follow-up Discussion and Proposal". It is a follow-up to the meeting held on the 26th of June 2013, so Chair in this proposal ...(intervention)

10 **ADV REFILOE MOLEFE:** Before you continue Ms Makgatho what is the date that appears on that document?

MS MATHANE EVELINE MAKGATHO: It is written the 3rd of July 2013.

ADV REFILOE MOLEFE: Yes.

MS MATHANE EVELINE MAKGATHO: At the bottom but on top there it is written working draft last modified 03.07.05 South African Time so maybe it's from my own computer Chair.

ADV REFILOE MOLEFE: And just above the date of July 2013 there appears a follow up discussion, a follow up discussion and proposal
20 rather.

MS MATHANE EVELINE MAKGATHO: Yes.

ADV REFILOE MOLEFE: Was there any other prior engagement with McKinsey?

MS MATHANE EVELINE MAKGATHO: Yes Chair it happened on the 26th of June it was a high level discussion, it was around the same

topic.

ADV REFILOE MOLEFE: Yes, were you involved in these engagements?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE MOLEFE: Can we then turn to page 104 of that document.

MS MATHANE EVELINE MAKGATHO: So Chair from page 104 to page 107 McKinsey proposes a fourteen week assignment wherein they will help us to develop a shadow rating tool, and Chair what was of interest to me was that their proposed fee was set at 1.1million excluding VAT per week which would have meant that over a period of fourteen weeks we would have had to pay R15.4million excluding VAT for a credit rating review assignment, and Chair I would further like to highlight that Mr Sagar was very proud to tell me that the R1.1million a week fee is highly discounted because I am known to be a tough negotiator and he further went on to say that if it was your boss I would have made it much, much, much higher.

ADV REFILOE MOLEFE: When he was referring to the boss who was it with reference to?

20 **MS MATHANE EVELINE MAKGATHO:** The GCFO, Mr Anoj Singh.

ADV REFILOE MOLEFE: Yes did you engage Mr Sagar any further?

MS MATHANE EVELINE MAKGATHO: After this Chair I just felt that this was just too much, in actual fact we have you know resources, in actual fact this proposal Chair helped me to be decisive because after this proposal I was very decisive, I made a decision immediately I was

like I am going to use my team, I don't need this, this is just you know you don't even need a degree in maths, you just need to know arithmetic, my team can do this, so I went back to the GCFO I said there's a proposal from McKinsey but I have declined it because I will use the internal team for A, B, C, D reasons and Chair he was livid. He didn't understand why I didn't want to use McKinsey, he accused e of not wanting to use external resources, of pretending as if I know it all, I don't know it all Chair, but I was surrounded by very intelligent, very dedicated highly qualified and highly experienced people so I didn't
 10 need to know it all, all that I needed to do was to tap onto the resources that were available.

So Chair I was actually surprised that he will not be happy because I felt that we needed to be commended for saving the company R15million but instead we were being chastised that we don't external counsel and we want to do everything ourselves. Chair I am proud to say that the team indeed delivered, it took us about three months to do the shadow rating model and Chair it was spot on. Our internal rating outcomes were aligned to the SNP rating, and the outcomes of this Chair was presented at Alco, at Finco, Exco, and the Board Chair
 20 because we were so proud of the outcome.

ADV REFILOE MOLEFE: Yes, can we then turn to EXHIBIT BB10B at Annexure G from page 168.

MS MATHANE EVELINE MAKGATHO: BB10?

ADV REFILOE MOLEFE: BB10B, that's the supplementary bundle, from page 168.

MS MATHANE EVELINE MAKGATHO: Okay Chair ...(intervention)

ADV REFILOE MOLEFE: Yes you earlier mentioned that you had engaged Citibank insofar as credit rating methodology, now from page 168 and the pages that follows are several documents, can you identify those documents please?

MS MATHANE EVELINE MAKGATHO: Chair at page 168 and 169 it's a draft confidentiality agreement, because remember that Citibank had volunteered to provide us, to help us with the services free of charge but in the course of doing that we were going to exchange some
10 confidential information and it was therefore important to do that within the confines of the NDA, so it's some sort of the NDA, on page 170 this is a letter that was sent to Ms Miapudi when she was still the Treasurer, here Citibank the second bullet point they are saying that they can provide the services free of charge, save for the expenses that they would have to spend if they fly in people from London or from New York and the third one Chair is the engagement letter, I believe it was still addressed to Ms Miapudi because she was still the Treasurer then, so Chair ...(intervention)

CHAIRPERSON: Is that at page 170?

20 **MS MATHANE EVELINE MAKGATHO:** So we are now on 171.

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: So this is the engagements that we had with Citibank, so Chair maybe I might be wrong Chair but maybe the GCFO might have taken some points on this and suggested for McKinsey to give us a proposal. I am saying that Chair because

later on we were also busy with the hybrid instrument. When I started the discussion Chair I indicated that the gearing ratio was one of the key ratios that we had to look at, and therefore with the spent and execution of the capital planning it was clear that the gearing ratio is now in its forties and maybe it will edge towards fifty, so it was important to start thinking out of the box and we thought that maybe an issuance of an instrument like a hybrid instrument which has the characteristics of both equity and debt, if we can issue it we can get the points for both debt, but importantly equity, you know just to solve

10 that gearing problem, and Chair we worked free of charge with one of the investment bank, BNP Paribas, we did their accounting opinion, we did the text opinion, the credit rating opinion, because Chair we also wanted to make sure that if we decide to implement it can pass the accounting opinion, the text opinion and all sorts of opinions Chair, and Chair I believe that at one stage he asked one of my deputies for the proposal and later on Regiments came with a similar proposal, highly diluted but it had you know – so it was a trend that was beginning to come up that we will work, we will do stuff and then later on Regiments will come with something similar but highly diluted.

20 **ADV REFILOE MOLEFE:** Now the documents that you have referred to relevant to Citibank can you please confirm the month and year of those documents?

MS MATHANE EVELINE MAKGATHO: The documents, the first one was around November 2012, at that time Chair I was still the Head of Structured Finance, I believe Ms Miapudi was promoted already to the

Group CRO and I believe that probably at that time, I don't know if she was still the Group Treasurer or not, but I do know that in January 2013 when we had the conference call she was no longer the Group Treasurer, so we didn't move on that assignment until I was appointed Group Treasurer.

ADV REFILOE MOLEFE: Yes, and you have stated that you reverted to Mr Singh on the proposal that was made by Mr McKinsey of the credit rating methodology?

MS MATHANE EVELINE MAKGATHO: Yes Chair, and as I indicated he
10 was not happy that I have decided to use my own team instead of McKinsey that I had made a decision Chair, I was very decisive, you know the R15million helped me to be the decisive and I implemented the way I saw fit.

ADV REFILOE MOLEFE: And is that where the matter ended?

MS MATHANE EVELINE MAKGATHO: That's where the matter ended
Chair.

ADV REFILOE MOLEFE: The next aspect that you deal with relates to China Development Bank, in paragraph 91 of your statement you talk to events that took place in February 2013, what happened during this
20 period?

CHAIRPERSON: Are we back to EXHIBIT BB10A?

ADV REFILOE MOLEFE: My apologies Chair, yes we are back to the statement, EXHIBIT BB10A.

CHAIRPERSON: Yes, you will find it helpful many months from now when you prepare submissions and you want to know what we were

dealing with now.

ADV REFILOE MOLEFE: Thank you Chair, we are at page 23, paragraph 91.

CHAIRPERSON: Okay, yes.

MS MATHANE EVELINE MAKGATHO: Chair we are back to 2013. Chair some time towards the end of February 2013 I believe it was the 20th of February 2013, I received a call from the GCE's office that I was requested to join the meeting.

CHAIRPERSON: From who's office?

10 **MS MATHANE EVELINE MAKGATHO:** The GCE's.

CHAIRPERSON: Okay.

MS MATHANE EVELINE MAKGATHO: That I was requested to join the meeting, I was told that there's a Chinese delegation so I went upstairs and indeed Chair there was a Chinese delegation and it was a big group from ...(intervention)

ADV REFILOE MOLEFE: Can you – sorry – can you recall who was present at the meeting?

20 **MS MATHANE EVELINE MAKGATHO:** At the meeting Chair from Transnet's perspective the meeting was led by Mr Brian Molefe in his capacity as the GCE, the Siyabonga Gama, the CFO of TFR was present, Mr Richard Vallihu, the CEO of Transnet Engineer at that time was also present, the GCFO Mr Anoj Singh was present, the Department of International Relations and Cooperation was represented by the DG, Ambassador Gerry Matjila, and there were other colleagues from Transnet Engineering and TFR and of course Chair I was also part

of the meeting.

ADV REFILOE MOLEFE: And what happened at this meeting?

MS MATHANE EVELINE MAKGATHO: The Chinese Chair presented a draft tripartite corporation agreement and the parties to the tripartite agreement were Transnet, China South Railway and China Development Bank and it attached SMM13.

ADV REFILOE MOLEFE: Chair it is now quarter to four, I don't if this would be an opportune time to take the short adjournment?

CHAIRPERSON: Okay let's take a short adjournment, ten minutes,
10 fifteen minutes?

ADV REFILOE MOLEFE: Fifteen minutes should be fine Chair.

CHAIRPERSON: Ten minutes should do?

ADV REFILOE MOLEFE: Fifteen.

CHAIRPERSON: Fifteen, okay we will take an adjournment of fifteen minutes, we will resume at four o'clock.

ADV REFILOE MOLEFE: Thank you.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

20 **CHAIRPERSON:** Yes you may proceed.

ADV REFILOE MOLEFE: Thank you Chair. Ms Makgatho before the short break you were about to take the Chair through the document that appears at page 110 of the bundle under Annexure MM13. What is – what is that document that appears on that page?

MS MATHANE EVELINE MAKGATHO: Chair the document on page 110

is the draft co-operation agreement that was presented on that day. Chair it expresses CSR and CDB's interest in assisting Transnet to execute the MDS and financing of some of the projects and it included procurement of services.

ADV REFILOE MOLEFE: And what is the date of the document?

MS MATHANE EVELINE MAKGATHO: Chair it is a draft the date is 28 March but I suppose it is – it is written 28 March because it was the date that was scheduled for the brix summit. So I cannot remember whether it was a Brix summit ...

10 **CHAIRPERSON:** That is 28 March 2013.

MS MATHANE EVELINE MAKGATHO: 2013 I cannot remember whether it was the brix summit or just the Chinese official state visit.

ADV REFILOE MOLEFE: Yes now in – throughout the document there appears several headings entitled article 1 to 15. If you turn to page 112 article 1 provides the context to the agreement and this starts from page 111. At the last sentence of article 1 on page 112 appears to be a summary of the context to the agreement what was the context?

MS MATHANE EVELINE MAKGATHO: Chair I would like to refer you to page 112 the first paragraph line number 5. The line – the sentence
20 that starts with the three parties. It records as such:

“The three parties agreed to push forward the upgrading of rail transit equipment by enhancing cooperation and fully utilising the advantages for the purposes of creating jobs and promoting economic development in South Africa and even South African

an multi-lateral benefits.”

And article 2 is labelled cooperation principle. It read as thus:

“The three parties will cooperate under this agreement centred on the industrial upgrading strategy of South African Rail transit equipment in the principles of equality, multi benefits working step by step, consent of three parties led by early planning based on projects and taking financing as a key.”

- 10 Chair I would also like to highlight article 3 which is the cooperation contents. It reads as such – as the following:

“The procurement and refurbishment of electrical and or diesel locomotives and freight [indistinct] the localised research production repairs sales and after sales on the parts of the above vehicles.”

And it says that the cooperation amount for – in article 6 Chair

“The first phase of cooperation amount is 5 billion and CDB will offer financing support for the projects under this agreement and within this amount.”

- 20 Chair I would also like to refer you to page 113 articles 8 and 9. Article 8 reads:

“Transnet and CSR are responsible for carrying out the project and CDB is responsible for providing financing to projects pursuant to the conditions of CDB’s credit policy.”

And lastly article 9.

“The ways of financing offered by China Development Bank include but not limited to direct loan syndicated loan and on lending. The terms of the loan shall be finally be determined in the loan facility agreement which include the borrower, length of maturity, interest rate with [indistinct] conditions, etcetera.”

Chair in a nutshell what was tabled on the day was a co – a draft cooperation agreement which included – which expressed CSR and
 10 CDB’s interest in assisting Transnet to execute the MDS so it included executing and financing of the projects. So in a way it included the procurement of goods and services. They expected the GCE to respond on the spot about this cooperation agreement and he politely responded by saying that as Transnet has had not enough time to review this document he suggested that a working committee be set up to review and negotiate the agreement for the parties. He further said that he highlighted the fact that Transnet is governed by strict laws be it the procurement or the requirements of the PFMA and it is required by law to follow certain processes in procuring goods and services. So
 20 he suggested...

CHAIRPERSON: So they thought he could just agree on the spot?

MS MATHANE EVELINE MAKGATHO: Ja Chair they thought we could talk about this thing ja just. So Chair because for me it was the first time that I have had this engagement. I thought that was the very first meeting that Transnet is having with CSR and CDB.

ADV REFILOE MOLEFE: Yes in paragraph 93 of your statement you deal with areas of cooperation that were apparently previously agreed to.

MS MATHANE EVELINE MAKGATHO: Yes Chair. It then came to my attention that in actual fact that Transnet and CSR had already agreed to cooperate to identify by identifying certain areas in the rail business as per Annexure MM14.

ADV REFILOE MOLEFE: And that appears at page 117 of Exhibit BB10[a].

10 **MS MATHANE EVELINE MAKGATHO:** In the letter Chair it is a letter on Transnet's letterhead dated the 16 January 2013 signed by the GC...

CHAIRPERSON: Did you say 117?

MS MATHANE EVELINE MAKGATHO: 117 Chair.

ADV REFILOE MOLEFE: Page 117.

CHAIRPERSON: Thank you. Yes.

MS MATHANE EVELINE MAKGATHO: So it says:

20 "Dear Mr Fung Xinhua. The subject is cooperation between China South Rail and Transnet SOC Limited. As agreed in our meeting Transnet SOC Limited would like to confirm that a team from both Transnet Freight Rail and Transnet Engineering was formulated to formally cooperate with China Rail – with China South Rail cooperation. The Transnet team will meet with the CSR team to identify areas of collaboration between the two entities and formulate

a process to be followed on achieving their agreed goals.”

And then it goes on the last paragraph goes on to identify the officials from Transnet and Transnet Engineering. And it signed by the GCE Mr Brian Molefe on the 16 January 2013.

ADV REFILOE MOLEFE: Yes.

CHAIRPERSON: And this draft agreement that we just referred to that was in March what was – that was March 2013 ne?

MS MATHANE EVELINE MAKGATHO: March and the meeting that I am
10 referring to is February 2013.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: So it was an agreement anticipating the state visit in March around the 27 to the 30 March 2013.

CHAIRPERSON: Okay, okay. But this is the background that you say you unaware of?

MS MATHANE EVELINE MAKGATHO: This is the background. I was unaware that you know certain things have already happened.

CHAIRPERSON: Ja.

20 **MS MATHANE EVELINE MAKGATHO:** Okay. So Chair as a follow up to this meeting to this letter dated the 16 January 2013 the rail working committee was established and the Transnet Rail working committee identified areas of cooperation after having considered future business requirement of both TFR and TE as per Annexure MM15.

ADV REFILOE MOLEFE: And your Annexure MM15 appears on page

119 of BB10[a].

MS MATHANE EVELINE MAKGATHO: So Chair this is a memorandum signed by GM Marketing Strategy Mr Thobama Joga on the 20 February 2013. This is the date that I suspect our meeting happened on. So it says Chair as a purpose:

10 “The purpose of this memorandum is to update and request the Group Chief Executive to approve the specific areas of cooperation between Transnet SOC Limited and China South Rail which were identified or developed by the committee comprising of delegates from both Transnet Freight Rail and Transnet Engineering.”

And then it goes on to start with background. And the background now dates back to the 12 December 2012. It says that:

20 “On the 12 December 2012 a meeting was convened between Transnet SOC Limited and China South Rail. In the meeting it was agreed to establish a committee comprising of delegates from both Transnet Freight Rail and Transnet Engineering operating to formally engage China South Rail on the cooperation and also identify specific areas of cooperation.”

Chair...

ADV REFILOE MOLEFE: Now this – sorry to interject. On the 12 December 2012 were you in attendance at the said meeting?

MS MATHANE EVELINE MAKGATHO: No Chair I was not.

ADV REFILOE MOLEFE: Yes please proceed.

MS MATHANE EVELINE MAKGATHO: Chair I would like to proceed to page 120 paragraph 6 and paragraph 7. Paragraph 6 to paragraph 20 – no not 20 – 12.

CHAIRPERSON: 6 to 12?

MS MATHANE EVELINE MAKGATHO: 6 to 12.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: It says:

10 “Listed below are the identified areas per division. It starts with Transnet Freight Rail. Running of operation. China South Rail will share their model of controlling the network and train plan in order to run an efficient railway systems and methodologies which are employed by China South Rail for planning and operation and China South Rail methods of operating or managing theirs to ensure a highly efficient train schedule railway.”

Number 7 it is management of safety.

20 “Sharing of information on safety standards between Transnet and China South Rail.”

Number 8 is

“Cooperation in people development it is look at the introduction of a student exchange programme between Transnet and China South Railway which

will focus on engineering [mechanical electrical and electronics and leadership management].” And China South Rail management of their rail related training institute/academy sharing best practice in competence development for movement operations engineering technical and artisan fields and look at how China South Rail conducts training evaluation impact analysis and tools.”

And for areas identified for Transnet Engineering it said it records
10 supply chain synergies. That is number 9.

“Sharing of information on supplies of critical components for all Transnet Engineering products. Negotiate better prices through joint procurement of critical spares components and supply of components by CSR to meet Transnet Engineers requirements in compliance with Transnet’s governance structures.”

Number 10 is development of [indistinct] capacity in South Africa.

“Jointly developed [indistinct] capacity to meet the local needs produce [indistinct] products for both
20 domestic and export market. Cooperate in developing a market for these products.”

Number 11.

“Development of new products. Transnet Engineering and China South Rail will jointly design and develop new products for domestic and export

market shared the best practice in rolling stock design.”

And Number 12.

“Is Transnet Engineering and China South Rail to collaborate in research and development for innovative solution development of RND capacity through exchange programmes and jointly develop new products and solutions for the rail industry.”

And the GM of Marketing and Strategy recommended for the Chief
10 Executive to approve the specific areas of cooperation. It is signed by the GM on the 20 February 2013.

ADV REFILOE MOLEFE: Now you earlier made reference to a working committee that was to be established as proposed by Mr Brian Molefe.

MS MATHANE EVELINE MAKGATHO: Yes Chair. Based on what the Chinese delegation expected at that meeting of the 20 February Mr Brian suggested that instead of the contents of the agreement being discussed he proposed that a separate working committee be set up to negotiate the framework agreement.

ADV REFILOE MOLEFE: And were you a part of that committee?

20 **MS MATHANE EVELINE MAKGATHO:** I was then appointed to lead that negotiating team Chair.

ADV REFILOE MOLEFE: And what happened after your appointment?

MS MATHANE EVELINE MAKGATHO: I then worked on the tripartite agreement with Transnet’s legal advisor Ms Gosame Khoele as well as the GM in the GCE’s office Ms Phyllis Difeto. Chair we basically turned

around the document and removed all procurement related matters and we therefore excluded CSR because by including CSR then the procurement is included so we excluded CSR and any reference to procurement was removed. And we then recorded that Transnet has its own governance processes that is legally obliged to follow and this is recorded in clause 2.3 of the agreement which stipulates as follows:

“All of the above will be...”

CHAIRPERSON: I am sorry where are you reading now?

MS MATHANE EVELINE MAKGATHO: I am now reading paragraph 95
10 of the statement the bottom of page 24.

ADV REFILOE MOLEFE: Apologies Chair we are now back at the statement page 24 of the bundle at paragraph 95.

CHAIRPERSON: Okay. Yes thank you.

MS MATHANE EVELINE MAKGATHO: So clause 23 reads as follows:

ADV REFILOE MOLEFE: Clause 2.3 you said?

MS MATHANE EVELINE MAKGATHO: 2.3 correct.

ADV REFILOE MOLEFE: Thank you.

MS MATHANE EVELINE MAKGATHO: Advocate thank you for that.

20 “All of the above will be achieved without comprising
on some governance and effective processes which
each party is required to follow.”

We felt it was important Chair to record this so that it is clear that even if there is a cooperation agreement of some sorts it merely records the willingness of the parties to cooperate in future.

ADV REFILOE MOLEFE: And...

CHAIRPERSON: Now the document which has got that recording is where because I can see the extract at page 25 of – extract of clause 2.2 but where is the actual document where you recorded what you say you recorded?

MS MATHANE EVELINE MAKGATHO: I am looking for it Chair.

CHAIRPERSON: You say you refer to clause 2.3 and I looked on my page and I saw only 2 – clause 2.2 so that is why I am trying to see where you were reading from.

MS MATHANE EVELINE MAKGATHO: So Chair it is – Chair it is
10 Annexure 17.

CHAIRPERSON: 17?

MS MATHANE EVELINE MAKGATHO: Page 138.

CHAIRPERSON: Oh 138?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Okay one second. This document starting at page 135 is it an amended version of the document that you referred us to which you said the Chinese expected Mr Molefe to agree to on the spot but he did not or is it a different document?

MS MATHANE EVELINE MAKGATHO: This is a revised document of
20 the one that ...

CHAIRPERSON: Of that document okay.

MS MATHANE EVELINE MAKGATHO: So this is the one that we ultimately presented for signature.

CHAIRPERSON: The committee that you were leading?

MS MATHANE EVELINE MAKGATHO: Yes Chair.

CHAIRPERSON: Okay no that is fine. Okay.

ADV REFILOE MOLEFE: Did the parties then sign the cooperation agreement?

MS MATHANE EVELINE MAKGATHO: Yes Chair but the day before the signing of the cooperation agreement the Department of Public Enterprises raised an objection on how clause 2.2 on page 138 so I am referring to page 138 of the bundle and paragraph 96 of the statement.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: The DPE raised an objection on
10 how clause 2.2 was worded. We then changed it through an amendment because at that time Chair you know with state visits documents are signed ahead of time.

CHAIRPERSON: Oh yes.

MS MATHANE EVELINE MAKGATHO: So when the objection was raised the documents were already signed. So we then did a site letter and just to record that we have agreed to amend the clause and it was agreed that later on a formal amendment will be done. So Chair the old clause 2.2 read as follows:

20 “In recognition of CDB’s mandate and subject to the provision of this agreement throughout the term of the MDS Transnet's concerned to identifying opportunities contacting and informing potential Chinese suppliers who are likely to be relevant.”

So Transnet consents to CDB.

“CDB will identify opportunities contact and inform

potential Chinese suppliers who are likely to be relevant to participate in whatever open and competitive tender process prescribed by Transnet.”

Chair in my humble opinion I was of the view that this clause is benign because as I had stated before country specific export create agency or country specific DFI's they support their own. They can only finance an institution by supporting their own home companies. So we have had many instances before Chair where we work with an export credit agency of a certain country and we have [indistinct] we share the
 10 strategy of Transnet and I remember in one instance we had the export development Canada. We had a number of engagements with them a number of face to face and a number of [indistinct] wherein they had invited their own companies that are in the rail business right. Because they wanted to finance Transnet but they can only do that if they finance procurement from Canada or an institution with Canadian links. So Chair we went through the process with the EDC they invited many of their companies I do not even know who – what their names are and we gave them the names of the portals where South Africa advertises its procurement and so we thought that this clause is
 20 benign. It does not do any harm to us we have said many times before that we seek to diversify funding sources and we have proved over and over that ECA's provide cheap funding. And therefore we thought it was very benign and Chair the DPE was very unhappy, extremely unhappy and they said – they did not like this clause. I do not know how they understood it so they suggested that we change it to read as

follows:

“In recognition of CDB’s mandate CDB will identify opportunities contact and inform potential Chinese companies in respect of Transnet projects and businesses based on publicly available information.”

Chair the only thing that has changed here is publicly available information but in all our engagement Chair when we share we share publicly available information. The Transnet strategy is something that is there on the website I mean the annual report and the presentation
10 of MDS are available on the website Chair. And then it went and – it went on to say:

“This cooperation is not limited to the MDS.”

So I am not sure what the significance of this line is. Because as far as Transnet is concerned the capital expenditure plan was well within all of the capital plans were within the MDS. So I do not know what other projects are outside of the MDS.

CHAIRPERSON: Well I do not know what the Department of Public Enterprises may have had in mind but when I saw the – when I saw the clause I also got concerned. I got concerned from this angle that if in
20 regard to procurement matters when requests for proposals are issued anybody who qualifies can submit a bid why would it be necessary to have a specific arrangement with a specific entity. So maybe that may have been their concern as well purely from the point of your perceptions.

MS MATHANE EVELINE MAKGATHO: Okay Chair.

CHAIRPERSON: To say could give rise to a perception that there is something special that there will be special treatment given to those who will be identified by this partner in this particular agreement. Which might not necessarily mean that is what was going to happen but simply that it could give rise to that perception.

MS MATHANE EVELINE MAKGATHO: Okay Chair.

CHAIRPERSON: So that is the only thing I can think of that maybe they might have thought that it might create the impression that if you are identified by Transnet's partner you enjoy a certain advantage
10 compared to somebody else. So – but as you say maybe that was not really – that certainly was not your – you did not have that concern. I would have – I may have been more comfortable with an arrangement which directs them to publicly available information without necessarily that being part of an agreement where you cooperate but I do not know if it is something we should bother about or maybe you were just mentioning?

MS MATHANE EVELINE MAKGATHO: Yes Chair I was just mentioning it because to be honest after the document was revised I did not think there was anything funny with the wording.

20 **CHAIRPERSON:** Ja.

MS MATHANE EVELINE MAKGATHO: I thought – because different organisations work differently. I thought it was just a recordal of hey we like other maybe we do not maybe we will work together but it does not give anyone any preferential rights.

CHAIRPERSON: But in the end I think at a practical level if your

intention was not give anybody any preference it was to that publicly available information would be used and they would be treated like everybody. Maybe in the end it would not matter whether it was your version of the clause or their version what would happen is the same thing.

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: The cooperation agreement Chair was signed on the 26 March 2013 at the Union Buildings in the
10 presence of both the former President Zuma and the President of the People's Republic of China President Xi Jinping. Chair on that day there are many agreements that were signed. I know that the mining companies were there, the banks were there so it was a big South Africa / China moment.

ADV REFILOE MOLEFE: And at Annexure MM17 on page 135 would that be the signed Cooperation Agreement?

MS MATHANE EVELINE MAKGATHO: On page?

ADV REFILOE MOLEFE: 1-3-5.

MS MATHANE EVELINE MAKGATHO: Yes from 1-3-5. So this is the
20 version that was printed before DPE raised an objection.

ADV REFILOE MOLEFE: Yes before we get to the objection.

MS MATHANE EVELINE MAKGATHO: Okay.

ADV REFILOE MOLEFE: Just to clarify the parties to that agreement. It is China Development Bank Corporation page 1-3-5. Are you there?

MS MATHANE EVELINE MAKGATHO: Correct, *ja*.

ADV REFILOE MOLEFE: China Development Bank Corporation as well as Transnet SOC Limited?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE MOLEFE: Yes. You then continue to deal with another objection that was raised by the Department of Public Enterprises. When was this objection raised?

MS MATHANE EVELINE MAKGATHO: The second objection Chair was raised on 15 August 2013. The Minister of Public Enterprises wrote a letter to our Chairperson and suggested that Clause 2.1 and 2.2 be
10 amended. The Minister indicated that the two clauses might be construed as giving CDB preferential rights or right of first refusal and that those two clauses may pose a risk for Transnet and the DPE in implementing supply development and localisation drive.

ADV REFILOE MOLEFE: Before you deal with the letter further can we turn to page 146 of the bundle under Annexure MM18?

MS MATHANE EVELINE MAKGATHO: Yes Chair.

ADV REFILOE MOLEFE: Is this the letter that the Minister of Public Enterprises sent to Transnet?

MS MATHANE EVELINE MAKGATHO: Yes Chair.

20 **ADV REFILOE MOLEFE:** And you were about to articulate to the Chair what the concerns raised were?

MS MATHANE EVELINE MAKGATHO: Chair the Minister was not happy with – with the process of negotiating the Cooperation Agreement. Chair as I stated before we had a meeting on 20 February and the state visit was going to be around 26 March. So we did not

have much time and therefore we did not have time to adequately consult with the DPE and I also understand that my seniors were also not sure why the DPE would be concerned that there was not – we did not consult them sufficiently because the initial meeting according to them was organised by the DPE.

ADV REFILOE MOLEFE: Can we go ...?

CHAIRPERSON: Well if the initial meeting was organised by the DPE and they never went back to them to update them the DPE would be legitimately concerned.

10 **MS MATHANE EVELINE MAKGATHO:** Probably Chair.

CHAIRPERSON: *Ja.*

MS MATHANE EVELINE MAKGATHO: Probably Chair.

CHAIRPERSON: I cannot ask you to start something the next thing I hear you are signing and I – you have not come back to me ...

MS MATHANE EVELINE MAKGATHO: Hm.

CHAIRPERSON: To say okay this is how the negotiations are going. This is what we are agreeing and here is what we will sign.

MS MATHANE EVELINE MAKGATHO: Okay Chair.

20 **CHAIRPERSON:** So I think that that would – that would be a legitimate concern.

MS MATHANE EVELINE MAKGATHO: Okay Chair.

CHAIRPERSON: Hm.

MS MATHANE EVELINE MAKGATHO: And then the Minister ...

ADV REFILOE MOLEFE: Before you – you proceed Ms Makgatho. If I may weave into the Chair's question can you go to page 146 of the

bundle? The second paragraph there which starts with:

“On 26 March 2013 ...”

That is where the first concern is raised by the Minister of Public Enterprises. Can you please read that paragraph?

CHAIRPERSON: Maybe before you read it just in terms of what I have said – what I have just said - that would be if in asking you to do whatever I expected you to come back to me but you could have a situation where I say you – you do this and go ahead and finalise it. You do not have to come back to me. So there could be that
10 understanding. It depends on a lot of things. Then I should not be concerned if you have gone ahead and signed if that was the understanding that you do not have to come back to me.

MS MATHANE EVELINE MAKGATHO: Yes Chair but the – for me Chair and I suppose it was the same with the legal advisor because we did not have that background.

CHAIRPERSON: Yes, okay.

MS MATHANE EVELINE MAKGATHO: We only got to hear about all of this around August ...

CHAIRPERSON: Yes.

20 **MS MATHANE EVELINE MAKGATHO:** When this ...

CHAIRPERSON: Yes, yes. So maybe there ...

MS MATHANE EVELINE MAKGATHO: Concern was raised that in actual fact why are they complaining because they are the ones who started these meetings (intervenes).

CHAIRPERSON: Yes. Maybe ...

MS MATHANE EVELINE MAKGATHO: So, *ja*.

CHAIRPERSON: Maybe there was a problem of communication as some stage.

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: *Ja*.

MS MATHANE EVELINE MAKGATHO: Correct Chair there was indeed a communication (intervenes).

CHAIRPERSON: Okay, alright.

MS MATHANE EVELINE MAKGATHO: So the second paragraph reads
10 as follows:

“On 26 March 2013 Transnet informally notified the department through an email regarding its imminent intention to enter into a Cooperation Agreement with China Bank on 27 March 2013 – the following day. The email notification is attached hereto for reference. Although I understand the rationale for the Cooperation Agreement I believe that Transnet engagements with any of the BRICS Countries should not be viewed in isolation. The Cooperation
20 Agreement between Transnet and China Bank is of strategic importance and envisages cross border transactions and as a result the department should have been officially notified in advance and afforded an opportunity to express an opinion.”

ADV REFILOE MOLEFE: Yes and at page 147 - overleaf – the first

paragraph on that page details the second concern raised by the Minister of Public Enterprises. Can you please read that paragraph?

MS MATHANE EVELINE MAKGATHO: “Furthermore the

department is concerned with certain provisions of the Cooperation Agreement which may pose risks for Transnet and/or the department with respect to the implementation of the supply development and localisation drive. The department as Government shareholder representative intends to embark on
10 several initiatives aimed at growing the country’s industries by implementing certain initiatives in connection with the preferential procurement policy framework of 2008 and a competitive supply development program. Clauses 2.1 and 2.2 of the Cooperation Agreement pose certain risks and may hinder the department’s initiatives as they may be misconstrued as granting China Bank the right of first refusal in respect of Transnet’s Market Demand Strategy.”

20 And it goes on further to say:

“To this end I hereby request Transnet to reopen negotiations with China Bank with the view to amend the Cooperation Agreement and address the departments concerned failing which the Cooperation Agreement in its current form must be

terminated. In the meantime Transnet must schedule a briefing with the department to explain the salient terms and the objectives of the Cooperation Agreement in the extent of the contemplated exclusive rights to China Bank and Chinese suppliers as has been the practice in the past. Transnet must adhere to the relevant Section 54 Provisions of the PFMA and the SMF in relation to any contemplated significant transaction, yours
 10 sincerely. It is signed on 15 August 2013.”

ADV REFILOE MOLEFE: Yes. Now do you have any knowledge as to whether the negotiations were reopened as requested in this letter?

MS MATHANE EVELINE MAKGATHO: Chair to the best of my knowledge negotiations were not reopened as the then Transnet Chairman Mr Mafika Mkhwanazi responded to the Minister in a letter dated 12 September seeking to clarify the intent of the Cooperation Agreement as per the attached MM19.

CHAIRPERSON: And the letter – the paragraphs of which we have – you have read reveal that the Minister of Public Enterprises at that time
 20 was Mr Gigaba?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Huh-uh.

ADV REFILOE MOLEFE: Yes. You were referring the Chair to the response that was provided by Mr Mafika Mkhwanazi to Minister – the then Minister Gigaba’s letter and that appears as Annexure MM19 which

is at page 149 of the bundle.

MS MATHANE EVELINE MAKGATHO: Yes. I would like to read the first paragraph and the third paragraph. I will jump the third.

“Your letter dated ...”

So this is a letter from the Chairperson of Transnet to the Minister.

“Your letter dated 15 August 2013 refers. On
24 January 2019 Transnet SOC ...”

ADV REFILOE MOLEFE: Please pardon me – the year I am reading there is 2013 not 2019.

10 **MS MATHANE EVELINE MAKGATHO:** Sorry Chair.

“On 24 January 2013 Transnet SOC Limited received an email (see attached) from the Department of Public Enterprises inviting Transnet to an interdepartmental meeting convened by the Department of International Relations and Cooperation to be held on 4 February 2013. As a follow up to this meeting Transnet met with China Development Bank delegation on 20 February 2013. The aim of the meeting was to explore possible
20 collaboration between the two entities ahead of the Chinese State visit to the Republic of South Africa. At the meeting CDB tabled a draft tripartite agreement between Transnet, China South Railway Cooperation and CDB and included procurement of goods and services. We request that CSR and

procurement related activities be excluded from the Cooperation Agreement as Transnet has robust procurement governance processes that have to be followed before any supply contract can be entered into with any company.”

And then paragraph 3 goes on to say that:

10 “CBD then proposed a bilateral Cooperation Agreement. This was negotiated and changed to ensure that all financial reputational legal and other risks identified and eliminated. To that extent the agreement records in Clauses 2.3 and 2.4 that Transnet is required to follow a fair equitable and transparent process in its tender process. We also noted the Department of Enterprises discomfort on Clause 2.2 and amended the clause as per the department’s request. We have attached the agreement as amended for ease of reference. The amendment was signed ahead of the official signing ceremony in the presence of Ms Kgomoitso Modise -

20 DDG Transportation.”

CHAIRPERSON: Are you okay?

MS MATHANE EVELINE MAKGATHO: Just one minute Chair.

CHAIRPERSON: Okay. Let me know if you need – you need a minute to adjourn for a few minutes.

MS MATHANE EVELINE MAKGATHO: ...to the following paragraph.

“It is not the intention of the Cooperation Agreement to give CDB exclusive rights to the procurement of goods and services and neither does it give CDB first right of refusal on the (indistinct) strategy. We agree and acknowledge the importance of the MDS in supply development and localisation and the role that Transnet’s procurement place in building the manufacturing sector of South Africa. The company’s procurement policies are aligned to the country’s Preferential Procurement Policy Act and our strategic plans are in support of the national development plan. We take our role as both the enabler and the driver of economic growth and competitiveness serious in our strategy and action plans are in support of Government policies. We see ourselves as an integral part of the Government and will not engage in activities that are not in support of the country’s priorities. This is reflected in the way we do business with outside parties. We do acknowledge that entities from abroad carry their national mandates. The information that we share with such entities is similar to the ones that we share with both domestic and international investors on Transnet’s future plans. Such investors may at

times share the plans with their respective suppliers based on publically available information and we normally record such a possibility. This should not be construed as Transnet giving away confidential information as we share information with lenders, banks, development finance institutions and (indistinct) agency in the normal course of business. Clauses 2.1 and 2.2 merely acknowledge and records such a possibility without giving any preferential treatment.”

And he closes off by saying that:

“I trust that the above explanation will give you comfort that we did not give preferential treatment or first right of refusal to any company.”

ADV REFILOE MOLEFE: And do you know whether there was any further engagement between Transnet and the Department of Public Enterprises?

MS MATHANE EVELINE MAKGATHO: Chair to the best of my knowledge the negotiations were not reopened.

20 **ADV REFILOE MOLEFE:** And the agreement was not terminated?

MS MATHANE EVELINE MAKGATHO: Correct.

ADV REFILOE MOLEFE: Then in paragraph 102 of your statement you deal with the financing of the 1 064 plus 160 locomotives. Can we refer to EXHIBIT BB10B which is your supplementary bundle and at this bundle we will refer to page 1 paragraph 5? Page 1 at paragraph 5.

You have sought to introduce the context relating to the locomotive funding strategy with reference to several documents. Is that correct?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE MOLEFE: And the first document is your Annexure MMA. Is that correct?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

ADV REFILOE MOLEFE: And this annexure appears in EXHIBIT BB10B at page 4 with the actual document being contained from page 5?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

10 **ADV REFILOE MOLEFE:** What is that document at page 5?

MS MATHANE EVELINE MAKGATHO: Chair as I have highlighted before when I was dealing with strategy and the funding plan the way we did business was that we will anticipate big spending and the Head of Structured Finance was a member of the investment forum and me in my capacity as the Treasurer I was a member of KPIC. KPIC was a - is an EXCO Sub-Committee and it has delegated authority - I think – up to 400 million for business units and I believe 800 million for TFR because it is a huge organisation and therefore would have had sight of the activities that are costly that are coming. So we always prepared
20 ourselves ahead of time and Chair normal practice was that we will start our activities 12 to 18 months before the required funds are needed understanding that there are processes, there are negotiations. So there are the processes, the announces, the negotiations and then the approval processes as well take time. So we will take – we will start stuff early on. So Chair by April 2013 we already knew that a big

procurement is coming up soon. So we started thinking around how we are going to handle this big procurement event both from a financing perspective and from a Financial Risk Management perspective and Chair page 5 of the supplement shows that on 7 April 2013 I sent Mr Singh an email after having had a chat with him around rough ideas on financing and as well as on the kind of risk that we need to monitor and mitigate. The practice was that annually as part of the corporate plan we will – we will draft the funding plan and strategy but then for each of the big projects we will then have during the course of the year

10 have a specific strategy to execute that project and therefore Chair this was just the beginning of saying that we are aware that there is a big procurement happening and we are preparing ourselves to be ready and I am – I am just merely alluding to the fact that we are aware that it is estimated to cost 38 billion using calendar year 2012 prices and I also say that in the third line that:

“This amount excludes any still price movement implications.”

Also assuming that a locomotive uses a lot of steel and therefore any adverse movement will have a negative impact and then I also say that:

20 “The acquisition of the 1 064 will be funded using a mixture of cash generated by operation and external borrowing.”

And I give an example of what is available that we can use and I say that:

“We are building up our facilities.”

And I say that:

“An amount of about two to 3 billion using the numbers as per April 2013 should be sufficient to cover the short term needs of the project and for long term finance we can use the ECAs, the DFIs and the South African Asset Managers because they had indicated appetite over a prolonged period of time for long assets.”

So Chair I am not specific which – which export credit agency we will
10 use. I am just saying US Exim, ECGD if it procurement from the UK
Hermes, if it is procurement from Germany and so forth. So I am just
saying that we can even think of using an ECA wrapped bond. An ECA
wrapped bond is a bond that is issued listed but it is the back of a
guarantee from one of the ECAs. Hm ...

ADV REFILOE MOLEFE: And – sorry to interrupt you.

MS MATHANE EVELINE MAKGATHO: Sorry Chair.

ADV REFILOE MOLEFE: What would be an ECA?

MS MATHANE EVELINE MAKGATHO: It is Export Credit Agency.

ADV REFILOE MOLEFE: And EDC?

20 **MS MATHANE EVELINE MAKGATHO:** EDC is Export Development
Canada.

ADV REFILOE MOLEFE: And ...

CHAIRPERSON: Hm ...

MS MATHANE EVELINE MAKGATHO: ECGD ...

CHAIRPERSON: I think you must give her a few seconds. She wants

to drink something, okay.

ADV REFILOE MOLEFE: Are you fine ma'am?

MS MATHANE EVELINE MAKGATHO: Thank you ma'am.

ADV REFILOE MOLEFE: So you have just explained EDC. What does ECGD relate to?

MS MATHANE EVELINE MAKGATHO: Chair I cannot remember what ECGD stands for but it is the UK equivalent.

ADV REFILOE MOLEFE: Yes. You may proceed.

MS MATHANE EVELINE MAKGATHO: And Hermes is the German ECA.
10 (indistinct) is the Chinese one. So I was just mentioning this and then I said for the DFIs we can explore KFW which is German, the African Development Bank, the French Development Bank, China Development Bank, DBSA, JBIG – JBIG is the Japanese (intervenes).

ADV REFILOE MOLEFE: Yes and there were some acronyms before that. What does DFI stand for – D ...?

MS MATHANE EVELINE MAKGATHO: Development Finance Institution. So all of this - KFW is a German DFI. AFD is the African one. The French Development Bank is called AFD. DPISA is our very own. JBIC is Japanese Bank of International Corporation – I think.

20 **ADV REFILOE MOLEFE:** Yes, thank you. You may proceed.

MS MATHANE EVELINE MAKGATHO: And then I also go on to say that we can even tap the local market. At that point Chair we were also exploring the possibility of having a locomotive bond. Up to that point Chair we were issuing only general bonds. We never had a project specific. So we were exploring as well. So – and I highlight in this

email that we can even think about a locomotive specific bond that is a capital market bond secured by locomotives and in certain instances maybe covered a - which is an ECA wrapped bond. So I was suggesting two specific bonds that can help to reduce costs further. So Chair I then say that - I go on further to say that:

10 “The fleet cost is based on a set of assumptions including the timing of contracting the exchange rate assumption and a mix of local and foreign content and therefore there are a number of risks that we need to monitor closely.”

And I say it is the currency risk, it is the commodity risk especially around steel prices, it is inflation, it is volume growth and implications on revenue (indistinct) because remember that these plans are supported by assumptions around certain businesses or certain revenue that will be generated. So if volumes do not pick up then we will not have - the business will not be able to generate sufficient cash and then we also say that:

20 “The timing of actual cash flows versus planned might have implications on the funding.”

And that is where the bridge finance will come into play – you know – to close that gap if necessary and then we go on further to say that:

“There are new regulations around Basel 3 on swap cost and banks now have additional terms and conditions and additional costs that they need to include to cover their regulatory requirements.”

So Chair – so –and then I go onto say that we must also think around the possible increase of the expected total cost on the two ratios Chair – the cash interest cover ratio and the gearing ratio. What will be the impact? Is it manageable, is it negative and so forth and finally the positive – the possible impact of the cost increase on our liquidity – on our liquidity ratio especially around the AB ratio which is the 1.2 times that we are targeting over a 12 month rolling base. So I just highlight at a high level that these are the financing points that we must consider and on the Financial Risk Management aspect these are the points.

10 **ADV REFILOE MOLEFE:** And did you receive any response from Mr Singh?

MS MATHANE EVELINE MAKGATHO: I do not remember. I do not remember receiving a specific response.

ADV REFILOE MOLEFE: At the opening of that email you say there and I quote it verbatim:

“Dear Anoj, herewith the note as promised.”

Is one to understand that Mr Singh was expecting this note?

MS MATHANE EVELINE MAKGATHO: Yes Chair. We had a discussion before and I said that I will write him a quick – a quick note and then I
20 will follow it up with a formal memo.

ADV REFILOE MOLEFE: Can we then turn to page 7 of the bundle? Still on EXHIBIT BB10B at your Annexure MMB. What appears at page 8 of that bundle?

MS MATHANE EVELINE MAKGATHO: Chair I then follow up the email note with a memorandum. Chair again because we do not – so the

memorandum is dated 12 April 2013 and I put now in – in detail what I had in the email of 7 April 2013. The subject is “Funding Options for the 1 064 Locomotives”. I then discuss – I give background of the locomotives and how much is expected to be spent over the next few years. I then go on to discuss and to say that the funding sources will be grouped into the bridging finance. Understanding that these types of procurement always needs a deposit of some sort. I then follow up and say that:

“We will consider...”

10 In paragraph 6.

“We will consider long term funding sources.”

And I start with the Domestic Medium-Term Note Program which was the core of our financing program. I go on to say:

“The export credit agencies and the development agencies.”

And then I go further to say that:

“We can even consider project specific or transaction specific bonds.”

This is where I was talking about the project bond, local bond or an

20 ECA wrapped bond and then under 6E I go on to say that:

“We can even go to bank loans but the challenge with bank loans is that they are limited in tender is three to five years and an asset like a locomotive has a long life span anything between 20 to 30 years. So when you finance such an asset you

must always try to match the life of the asset with
the life of the liability.”

And then I also say that another possibility is a lease but over the years because this is not the first time that we will be procuring locomotives and for each of the procurement of locomotives we have always done a lease versus buy analysis and we have always found that a lease on a total cost of ownership basis turns out to be more expensive. So I say that we can recheck again but over the years we have found it to be more expensive than a pure buy decision. So I say:

10 “The team will do an analysis of a buy versus a
lease option.”

I go further to say that:

“We must consider the following risk which I have highlighted in the email before. Your currency, your still prices, the impact on interest cover, the volume inflation.”

And so forth Chair. So Chair what I am trying to say here is that we started thinking around the financing for the – for the locomotive SADS first quarter of 2013/2014 and Chair I need to bring to your attention
20 that despite us having had many memorandums that we had drafted for the GCFO I do not remember having a single memorandum signed. My other memorandums Chair will be acknowledged and will be signed off and for one reason or the other Chair and it is only with the passing of time where a trend was now established that the other memorandums will be safely received, acknowledged and signed off but anything that

related to the financing of the locomotives for one reason or the other the memorandums will be lost. Even around ...

CHAIRPERSON: That is now memorandums from you to the Group CFO?

MS MATHANE EVELINE MAKGATHO: Correct Chair.

CHAIRPERSON: Yes and this happened only with regard to memorandums to him?

MS MATHANE EVELINE MAKGATHO: Yes, but only - no the other memorandums ...

10 **CHAIRPERSON:** In regard to this specific one?

MS MATHANE EVELINE MAKGATHO: For 1 064 ...

CHAIRPERSON: Yes.

MS MATHANE EVELINE MAKGATHO: The memorandums would get lost.

CHAIRPERSON: Yes, okay.

MS MATHANE EVELINE MAKGATHO: So for the financing part and for the financial risk management part and it is a trend that – it is a pattern that I only realised later that in actual fact the other memorandums I do not have problems but with these particular ones for one reason or the
20 other they always get – so such that I cannot provide you with a memorandum that I can say here is a financing memorandum that was signed. The following annexure – if I may? Counsel may I?

ADV REFILOE MOLEFE: Chair – pardon me. I am informed that there is no live feed by the - the technicians are struggling with the live feed.

MS MATHANE EVELINE MAKGATHO: And it is 5 o' clock.

CHAIRPERSON: In any event we are passed five – we have gone beyond five. What is your assessment of how far we are from finishing?

ADV REFILOE MOLEFE: I would say about an hour Chair. However...

CHAIRPERSON: It is still going to be an hour?

ADV REFILOE MOLEFE: Yes – tomorrow's witness is scheduled from 10 o'clock and I have been advised by Mr Mokoena that he might take the whole day.

CHAIRPERSON: *Ja.*

- 10 **ADV REFILOE MOLEFE:** So if we might propose to you Chair to start at nine tomorrow.

CHAIRPERSON: How is your availability tomorrow?

MS MATHANE EVELINE MAKGATHO: I am flexible Chair.

CHAIRPERSON: You are flexible. There might be some difficulty in starting at nine tomorrow and then on Monday we is it aviation or is it the special witnesses?

ADV REFILOE MOLEFE: It is still Transnet Monday and ...

CHAIRPERSON: It is still Transnet.

ADV REFILOE MOLEFE: It is still Transnet.

- 20 **CHAIRPERSON:** Okay. No I think tomorrow we might have to continue at 10 and we might just have to start later with the other witness and hopefully the –that witness will be available to continue on Monday

ADV REFILOE MOLEFE: No, he is not Chair. I am advised that the witness is not available the following Monday.

CHAIRPERSON: He is not available on Monday but he should finish in

one day as you understand the position?

ADV REFILOE MOLEFE: As I understand it ...

CHAIRPERSON: His evidence.

ADV REFILOE MOLEFE: Provide he starts at 10.

CHAIRPERSON: *Ja*, if he starts at 10?

ADV REFILOE MOLEFE: Yes Chair.

CHAIRPERSON: Well let us – let us start at half past nine tomorrow and continue with this witness and then we will see how we go. We might be able to find another 30 minutes somewhere to make up for the
10 – we will eat into the time of the next witness if we need one hour. So we will go into that witness' time by 30 minutes and we will see where we can find 30 minutes during the day and then we take it from there.

ADV REFILOE MOLEFE: Thank you Chair.

CHAIRPERSON: Okay. Let us stop – let us adjourn now. So we will adjourn for today and then we will continue at half past nine tomorrow morning. We adjourn.

INQUIRY ADJOURNS TO 7 JUNE 2019