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20

PROCEEDINGS COMMENCE ON 10 JULY 2019

CHAIRPERSON: Good morning Ms Sello, good morning everybody.

ADV MAHLAPE SELLO: Morning Chair.

CHAIRPERSON: Yes are you ready?

ADV MAHLAPE SELLO: We are ready thank you Chair.

CHAIRPERSON: Yes okay.

ADV MAHLAPE SELLO: Chair before we begin in the past few days you have been hearing evidence relating to Waterkloof. For the record and for future readers today we revert to the evidence pertaining to
10 Transnet. The Chair will recall that in the week we had Transnet's evidence we had testimony relating to specific transactions the acquisition of 1064 locomotives. The second transaction relating to the 100 locomotives. The third in respect of the acquisition of 95 and insofar as 1064 is concerned there were two related transactions – transaction advisor – advisors and relocation. We present today a witness who is going to speak on payments relating to each and every of those transactions and that is our witness for today Ms Helen Walsh. If I may request that she be sworn in Chair?

CHAIRPERSON: Ja let her be sworn in or an affirmation be
20 administered.

REGISTRAR: Please state your full names for the record?

MS HELEN JANET WALSH: Helen Janet Walsh, spelt Walsh.

REGISTRAR: Do you have any objection with making the prescribed affirmation?

MS HELEN JANET WALSH: I do not.

REGISTRAR: Do you solemnly affirm that the evidence you will give will be the truth; the whole truth and nothing but the truth; if so please raise your right hand and say, I truly affirm.

MS HELEN JANET WALSH: I truly affirm.

REGISTRAR: Thank you.

ADV MAHLAPE SELLO: Thank you Chair.

CHAIRPERSON: Thank you very much.

ADV MAHLAPE SELLO: Chair we have prepared bundles for the evidence of Ms Walsh. We have taken the liberty of marking the range
10 BB13, 13. The Chair will have ...

CHAIRPERSON: The lever arch file containing Ms Helen Janet Walsh's statement will be marked Exhibit BB13[a].

ADV MAHLAPE SELLO: Indeed Chair.

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: And Chair you – you may ignore those two files to your left for the moment they are for the next witness. Ms Walsh's evidence is based on a number of documents that are kept by Transnet and these relate mainly to invoices and payments in respect of those invoices. She has prepared two bundles of copies of those
20 document. She – unless the Chair directs her the way we have structured her evidence she will not necessarily refer to these bundles in the course of her testimony. We however need to submit them into record as evidence of claims and payments. If the – in that regard we have numbered – there are five volumes in all spread over two arch level files which we have taken the liberty of numbering BB13[b] and [c]

respectively. And with your leave Chair if I may hand in the Chair's copies?

CHAIRPERSON: Yes thank you. You said how many lever arch files.

ADV MAHLAPE SELLO: There are two.

CHAIRPERSON: Two okay alright thank you.

ADV MAHLAPE SELLO: The Chair will note that on the spine we identify them as BB13[b] and we indicate in each arch level file where which volume is located. So 13[b] has got volumes 1 and 2 and these are divided by transaction and it has got a start of three which a big
10 transaction 1064 which overflows into the next volume 3 then it is followed by 4 – volumes 4 and 5.

CHAIRPERSON: There are also two other lever arch files that relate to Ms Walsh's evidence. The one will be marked Exhibit BB13[b] and is volume 1, volume 2, volume 3. The other one is marked Exhibit BB13[c] and it is marked volume 3, 4 and 5. Each one of them contains documents relating to certain transactions including invoices and receipts.

ADV MAHLAPE SELLO: Indeed so.

CHAIRPERSON: Ja.

20 **ADV MAHLAPE SELLO**: Thank you Chair.

CHAIRPERSON: Thank you. Okay.

ADV MAHLAPE SELLO: Against that background then Chair we are ready to start.

CHAIRPERSON: Let us start.

ADV MAHLAPE SELLO: Ms Walsh thank you for making – for availing

yourself to the commission. Before we get into the gist of your testimony today could you give a – could you point out to the Chair what your qualifications are?

MS HELEN JANET WALSH: Through you Chair I am a Chartered Accountant.

ADV MAHLAPE SELLO: Excuse me Ms Walsh just pull the microphone closer to.

CHAIRPERSON: You may have to raise your voice as well.

MS HELEN JANET WALSH: Apologies.

10 **CHAIRPERSON:** Yes.

MS HELEN JANET WALSH: Is that – thank you. Chair I am a registered Chartered Accountant.

CHAIRPERSON: You are a Chartered Accountant.

MS HELEN JANET WALSH: Chartered Accounts yes Sir.

CHAIRPERSON: Okay.

MS HELEN JANET WALSH: And I work for – I have worked for Transnet for thirteen and a half years in the finance department.

CHAIRPERSON: You have worked for Transnet for thirteen and a half years in the financial department?

20 **MS HELEN JANET WALSH:** That is right.

CHAIRPERSON: Ja okay. I think you might ...

ADV MAHLAPE SELLO: Still raise your voice.

CHAIRPERSON: Have to raise your voice it is quite low.

MS HELEN JANET WALSH: Sorry okay.

CHAIRPERSON: Ja.

MS HELEN JANET WALSH: I will do that.

CHAIRPERSON: Maybe it is because it is in the morning.

MS HELEN JANET WALSH: I think so I am normally not known for being so quiet. Apologies Chair.

CHAIRPERSON: Okay.

MS HELEN JANET WALSH: I joined Transnet in November 2005 as the General Manager Group Taxation and I was in the 2006 appointed as the Public Officer of Transnet and I remain in that position. I am currently the Acting General Manager Governance Risk and Compliance
10 in the finance department and throughout my tenure at Transnet my direct reporting line has been to the Group Chief Financial Officer.

ADV MAHLAPE SELLO: Thank you. You state at your paragraph 5 of your statement that by virtue of working in the company's group finance you have a clear knowledge and understanding of the payment processes involved within Transnet?

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: Can you take us to – through what those payment processes involve?

MS HELEN JANET WALSH: Through you Chair. The payment process
20 can begin with either the creation of the purchase requisition in our SAPS system which is our accounting financing system for goods or services received or to be provided based on a procurement event. We then have delegated authorities that would approve that in line with our delegation provided ultimately coming the board but that is then passed through the rest of the organisation. Once the purchase requisition is

approved or released by the delegated authority the procurement department issues a purchase order. If the process does not start with the creation of a purchase requisition a payment advice is prepared in which case no purchase requisition nor is a purchase order issued. The employees – certain employees in the organisation in certain – in different functions be that in the finance function or in the procurement function will receive delegation to approve invoices for payments. They are required to ensure that the payment is actually for goods received or services rendered and has been appropriately authorised. That the

10 documentation complies with any necessary legislation including tax and VAT legislation. That the allocation of the payment is made correctly and that the funds are available in order to make the payment. They are also required to verify that the necessary delegated signatories have signed the invoice accordingly and in the event a payment advise is used similarly it must be properly completed, authorised and all supporting documents must be signed and attached.

ADV MAHLAPE SELLO: Thank you. And starting at your paragraph 12 you detail the request made to you by the commission and the nature of evidence required that you provide to the commission.

20 **MS HELEN JANET WALSH:** Through you Chair yes I do. I have been requested to provide evidence on payments made by Transnet in relation to the 95 locomotive transaction, the 100 locomotive transaction, the 1064 locomotive transaction and that transaction includes payments made to the original equipment manufacturers as well as payments made to those same OEM's in relation to relocation

costs and then as well as payments made to transaction advisors in relation to the 1064 locomotive transaction.

ADV MAHLAPE SELLO: And can the Chair accept that all those payments accord with the process of payment that you have just articulated to the Chair.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: In one form or other?

MS HELEN JANET WALSH: Yes they have.

ADV MAHLAPE SELLO: Okay. If we may then turn to – oh no before
10 we do so. At your paragraph 14 you put a particular qualifier would you like to state that for the record?

MS HELEN JANET WALSH: Through you Chair thank you yes. The documents I present may reflect payments in respect of other transactions made by Transnet but my testimony today is confined to the identified transactions that I noted earlier 95, 100, 1064.

CHAIRPERSON: May I take you back to paragraph 11. When you have received an invoice and you say you verify the invoice, what does that entail? Verifying an invoice.

ADV MAHLAPE SELLO: You set that out here in paragraph 11.2

20 **MS HELEN JANET WALSH:** 11.2 yes verifying the invoice. The verification of the invoice is primarily to ensure that it has got the correct – that it is the recipient is reflected on the invoice, the invoice itself is an original document, that is complies in particular that it is addressed to Transnet SOC Limited with the correct VAT registration numbers. That it is a valid – that it is a valid tax invoice.

CHAIRPERSON: That part does not involve you checking whether the work has been done?

MS HELEN JANET WALSH: Chair...

CHAIRPERSON: No.

MS HELEN JANET WALSH: No. That is done by virtue of the signatures on the invoice before it comes to the – to the payment process.

CHAIRPERSON: To this stage ja.

MS HELEN JANET WALSH: To this stage yes.

10 **CHAIRPERSON**: So somebody else would have checked those things?

MS HELEN JANET WALSH: Correct yes. That is set out under paragraph 10 of my affidavit Chair. The – where the employee makes sure that the right person, the process owner has signed the invoice.

CHAIRPERSON: So would it be correct to say the verification of the invoice is nothing more than simply checking whether it contains all the information it is supposed to contain?

MS HELEN JANET WALSH: Yes that is correct.

20 **CHAIRPERSON**: As to what it relates to, who it is from and which department is – it relates to that kind of thing and obviously the amount?

MS HELEN JANET WALSH: Correct Chair.

CHAIRPERSON: Okay alright.

ADV MAHLAPE SELLO: So then if I may just to clarify follow up on those questions that the Chair has put to you. You in the finance department receive an invoice and which you expect is that to be

understanding which you expect the person allocated for the management of particular transactions would have verified the invoice – verified the transaction. That the transaction does exist within Transnet would have verified that the claim being made as per the invoice is correct and that payment is due and payable in terms thereof?

MS HELEN JANET WALSH: That is correct.

ADV MAHLAPE SELLO: Is that what you are stating at paragraph 10?

MS HELEN JANET WALSH: Through you Chair yes that is correct.

10 **ADV MAHLAPE SELLO:** So as a finance department you then do not discharge the duty of determining whether or not the work claimed for has been carried out it is for somebody else to do that?

MS HELEN JANET WALSH: Correct.

ADV MAHLAPE SELLO: And you say that somebody – programme manager would that be a...

MS HELEN JANET WALSH: It will be...

ADV MAHLAPE SELLO: I see you refer to them as employees?

MS HELEN JANET WALSH: Yes

ADV MAHLAPE SELLO: But what would we call someone who is
20 responsible for that particular transaction?

MS HELEN JANET WALSH: It would – we would call that person the process owner.

ADV MAHLAPE SELLO: Process owner okay. Thank you. We – you have testified that already up to...

CHAIRPERSON: I am sorry. The – would the process owner – did you

say process owner?

ADV MAHLAPE SELLO: Chair yes Chair.

CHAIRPERSON: Yes. Would the process owner be located in the finance department or would they be located at each department or unit or various units of the – of Transnet so that each department or unit has got its own process owner?

MS HELEN JANET WALSH: That would be correct and Chair just to clarify though the process owner would be the person that receives the services on behalf of Transnet.

10 **CHAIRPERSON:** Yes.

MS HELEN JANET WALSH: So if it were a financial service it may be that it is a finance person but it is not a finance person by definition.

CHAIRPERSON: Yes okay.

ADV MAHLAPE SELLO: Yes so throughout the organisation yes.

CHAIRPERSON: Um in the case of a department there would obviously be a head of the department. Would it normally be the head of that department or it can be anybody in the department?

MS HELEN JANET WALSH: Chair it can be anybody depending on the value of the transaction.

20 **CHAIRPERSON:** Yes.

MS HELEN JANET WALSH: So for a larger transactions it would more likely the head and closer to the head for lesser transactions it may be somebody below that.

CHAIRPERSON: Yes.

MS HELEN JANET WALSH: It would generally be whoever has the

delegated authority to contract and receive those services.

CHAIRPERSON: Hm. So if we have – if he – if we have evidence that I have heard where it appears that payments were made in circumstances where services were not rendered the person to look for who should have checked what services were rendered and whether they were rendered properly or what goods were purchased. That would be the process owner relating to the department concerned?

MS HELEN JANET WALSH: Yes Chair relating to the department concerned as well as the specific contract.

10 **CHAIRPERSON**: Yes.

MS HELEN JANET WALSH: Yes.

CHAIRPERSON: Yes. But that is the person whose duty it is to check that – to make sure that Transnet does not pay for services that were not rendered?

MS HELEN JANET WALSH: That is correct Chair.

CHAIRPERSON: Okay thank you.

ADV MAHLAPE SELLO: Thank you Chair. And if I may just ask a last on that. Should it be our understanding therefore that every transaction that is handled at Transnet a process owner is identified for
20 that particular transaction?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Thank you. Moving on then to your paragraph 15 which based on your testimony should be where we are. You introduce there an annexure [indistinct] HJW1. Can you speak to this annexure and if we may turn there to then you can take the Chair

through that annexure.

MS HELEN JANET WALSH: Thank you Chair through you I have attached this annexure HJW1 a summary of all payments made by Transnet divided into years in relation to the identified transactions. The summary is supported by – for each payment the associated invoice received by Transnet as well as the corresponding SAP remittance advice or the Swift Network Report which is a report that is generated in the event of a – of an international payment. So what the supporting documentation does is proof that payment was made by
10 Transnet on an invoice. The annexure HJW1 which is on page HJW15.

ADV MAHLAPE SELLO: 15 – yes that is it 15.

MS HELEN JANET WALSH: Through you Chair...

ADV PHILLIP MOKOENA: It starts at 14 if I may. An enlarged version of it and better version is page 15 yes.

CHAIRPERSON: I am sorry. HJW1 is where.

ADV MAHLAPE SELLO: 15. Page 15 Chair. There are two there. There is one on an A4 sheet and another on a better – which appears better at A3 following there.

CHAIRPERSON: Yes okay thank you.

20 **ADV MAHLAPE SELLO:** Before we deal with this Ms Walsh you indicated that all the figures contained here in your HJW1 are derived from documents under your control and proof that these – these payments were made by Transnet to the – in respect of these transaction, is that correct?

MS HELEN JANET WALSH: That is correct through you Chair.

ADV MAHLAPE SELLO: Would that proof be found in what we have identified as BB13[b] and [c] which are your five volumes of claims and payments?

MS HELEN JANET WALSH: Chair through you, yes.

ADV MAHLAPE SELLO: Okay. So those two files BB13[b] and BB13[c] if anyone had the energy to add up all the invoices and the payments they would reach the same total that you reach at HJW1?

MS HELEN JANET WALSH: That is correct yes through you Chair.

ADV MAHLAPE SELLO: Thank you. Then you may deal with that...

10 **CHAIRPERSON:** I guess that is if they can count as well as you count?

MS HELEN JANET WALSH: Yes Chair.

CHAIRPERSON: Ja.

ADV MAHLAPE SELLO: Okay we are now at HJW1 if you may understand – explain to us how – its makeup and how it should be read?

20 **MS HELEN JANET WALSH:** Chair through you if we can read from the top left hand side. I've summarised the payments paid per each of the transactions identified in my affidavit. So if we take the top line, the 95 locomotive transaction payments were made to CSR over the course of a number years ranging from 2013 to 2019. The amounts in the schedule are VAT inclusive because the amount that is paid to them is VAT inclusive where appropriate. And the last column on the page then provides the total payments made in respect of that particular transaction to that particular supplier.

CHAIRPERSON: I think you must tell us – read the amounts for each

year and then ultimately give us the total.

MS HELEN JANET WALSH: Yes Chair. So for the 95 locomotive transaction CSR was paid R306 295 060,00 in 2013. The 2013 being a reference to Transnet's financial year of 1 April 2012 to 31 March 2013.

CHAIRPERSON: Okay.

MS HELEN JANET WALSH: In that – in the financial year 2014 an amount of R13 611 600,00 was paid. In 2015 R1 927 890 921,18. In 2016 R786 630 547,06. In 2017 R239 478 467,72. In 2018 R156 344 160,00 and 2019 R2 619 809,25 bringing the total paid
10 between 1 April 2012 and 31 March 2019 to R3 432 869 565,21 paid to CSR in respect of the 95 locomotive transaction.

CHAIRPERSON: Yes thank you.

ADV MAHLAPE SELLO: Okay so that – that takes care then of the 95 locomotive transaction. You have the next heading as 100 locomotive transaction.

MS HELEN JANET WALSH: That is correct.

ADV MAHLAPE SELLO: You may deal with that one.

MS HELEN JANET WALSH: Again the 100 locomotive transaction the payments were paid to CSR. In 2013 and 2014 no payments were made
20 that is due to the timing of the transaction. In 2015 payments totalling R3 032 720 439,81 were made. In 2016 payments totalling R1 911 410 141,31 were made. In 2017 R58 675 246,14. In 2018 R152 352 199,20. In 2019 R4 321 628,45 bringing the total over the period to R5 158 831 654,91. The 1064 locomotive transaction follows.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: There were four original equipment manufacturers are for original equipment manufacturers or OEM's in that transaction and the payments are split per OEM. The first one is payments made to GE or General Electric.

ADV MAHLAPE SELLO: Hm

MS HELEN JANET WALSH: Which began in the 2015 financial year. An amount of R965 712 588.14 was paid. In 2016 R564 939 592.24. In 2017 R3 068 427 141.62. In 2018 R3 605 822 510.61 and in 2019 R1 386 446 283.63 bringing the total paid to GE to R9 592 348 no sorry

10 my apologies Chair.

CHAIRPERSON: No millions.

MS HELEN JANET WALSH: I lost track of my zeros.

CHAIRPERSON: Yes.

MS HELEN JANET WALSH: R9 592 348 116.24.

ADV MAHLAPE SELLO: Unless I misheard did you say 9 million or 9 billion?

MS HELEN JANET WALSH: I said 9 billion.

ADV MAHLAPE SELLO: Okay.

MS HELEN JANET WALSH: And then 592 million.

20 **ADV MAHLAPE SELLO:** Thank you. Yes. Thank you. Yes.

MS HELEN JANET WALSH: The next OEM as reflected on the schedule is CSR again payments started in 2015. In that first financial year payments totalling R2 066 597 586.00 were made. In 2016 payments totalling R4 447 933 803.57. In 2017 R2 894 581 708.11. In 2018 R3 250 6040409.78 and in 2019 R2 251 034 414.20 bringing the

total paid over the period to CSR to R14 910 751 921.66.

ADV MAHLAPE SELLO: Okay.

MS HELEN JANET WALSH: Through you Chair the next OEM listed is China North Rail CNR payments beginning in 2015. In that financial year payments totalled R1 133 958 541 .28. In 2016 R573 546 451.99. No payments were made to CNR in the 2017 financial year. In 2018 payments totalling R745 156 870.58 were made and in 2019 payments totalling R2 314 458.28 were made. Bringing the total paid to CNR for that period to R2 454 976 322.13. The last OEM listed on HJW1 is BT
10 Bombardier Transport payments again began in 2015 and amounted to R2 681 358 717.11. In 2016 payments were made of R1 371 559 718.42. In 2017 R8 852 863.80 was paid. In 2018 R897 402 – R897 402 686.31 was paid and in 2019 R1 058 392 315.91 was paid bringing the total paid to BT to R6 017 566 301.55 and just under that number it brings the total paid to the four OEM's for period disclosed here to R32 975 642 661.58.

ADV MAHLAPE SELLO: So that is the 1064 transaction. Okay we can move onto the next which you have listed under the heading relocation costs.

20 **MS HELEN JANET WALSH:** Relocation costs were paid to two of the OEM's in relation to the 1064 transaction. The first OEM was China North Rail and payment was made in 2016 financial year amounting to R368 893 451.58 and that was the total paid to them in that regard. For the BT relocation an amount of R190 361 103.08 was paid in the 2016 financial year. In the 2018 financial year R43 242 522.18 was

paid. And in the 2019 financial year a further R1 106 846.04 was paid. The total paid to BT over that period was therefore R248 710 471.30. The total paid to those two OEM's in relation to relocation costs therefore was R617 603 922.88. The last...

ADV MAHLAPE SELLO: The last one.

MS HELEN JANET WALSH: Identified transaction Chair through you was payments made to transaction advisors in relation to the 1064. Payments were made to two entities Regiments Capital and McKinsey and Company. The payments to Regiments began in 2014 and in that
10 financial year an amount of R25 735 500.00 was paid. In 2015 R90 259 500.00 was paid. In 2016 R189 240 000.00 was paid bringing the total paid to Regiments to R305 235 000.00. Payments made to McKinsey began in the 2014...

CHAIRPERSON: Well just before that I see that in relation to Regiments in the first year in which payment was made the amount was R25 million – R25,7 million to round it off and then the following year it almost was four times more than that being 90 million – 90.2 million to round it off and in 2016 even that 90 million of the previous year was more than doubled in the following year. Is that correct more or less?

20 **MS HELEN JANET WALSH:** That is correct Chair.

CHAIRPERSON: Yes.

MS HELEN JANET WALSH: Yes.

CHAIRPERSON: Okay. You may proceed.

MS HELEN JANET WALSH: Thank you Chair. Chair the payments made to McKinsey in relation to the transaction advisory began in the

2014 financial year where an amount of R11 003 389.01 was paid and that was the only amount paid. That brings the total fees paid in relation to transaction advisors for the 1064 transaction to R316 238 389.01.

ADV MAHLAPE SELLO: Take your time.

MS HELEN JANET WALSH: Apologies Chair. I think it was all those millions and billions tickled my throat.

ADV MAHLAPE SELLO: Those were huge figures you just read out.

MS HELEN JANET WALSH: Yes. Thank you I am done.

10 **ADV MAHLAPE SELLO:** Thank you.

CHAIRPERSON: If these figures do this to you as a financial person imagine somebody who is not a financial person.

MS HELEN JANET WALSH: Yes Chair.

ADV MAHLAPE SELLO: And the – the last entry of – of that page you have a total spent per annum and then you provide a grand total (intervenes).

MS HELEN JANET WALSH: That is through you Chair that is correct. So the total spend on the 95 locomotive transaction, 100 locomotive transaction, 1064 locomotive transaction as well as the relocation costs
20 and transaction advisors are then totalled and in 2013 total payments by Transnet in relation to those transactions amounted to R306 294 060. In 2014 amounts of R50 350 489.01 were paid.

In 2015 the amounts totalled R11 897 850 293.52. In 2016 those amounts totalled R10 405 514 809 – I am going to start that number again. In 2016 the total payments amounted to

R10 405 514 809.25. In 2017 ...

CHAIRPERSON: I am sorry. That is 10 billion?

MS HELEN JANET WALSH: That is 10 billion yes Chair.

CHAIRPERSON: Sorry?

MS HELEN JANET WALSH: 10 billion yes Chair.

CHAIRPERSON: Shoo.

MS HELEN JANET WALSH: 10 405 billion.

CHAIRPERSON: Ja, okay and the previous one was 11 billion?

MS HELEN JANET WALSH: 11.8 billion yes Chair – 11.9.

10 **CHAIRPERSON:** Yes.

MS HELEN JANET WALSH: Yes.

CHAIRPERSON: Yes, okay.

MS HELEN JANET WALSH: In 2017 payments totalled R6 270 015 427.39. In 2018 the payments totalled R8 850 925 358.66 and in 2019 the payments totalled R4 720 235 755.76. Meaning that over the total period in relation to the identified transactions payments made to the suppliers mentioned came to a total of R42 501 186 193.59.

20 **ADV MAHLAPE SELLO:** Now that – that is up to 2019. Do you know whether – whether or not in respect of anyone of these transactions any further payments are expected to be made going forward or have all transactions being settled now? Would you know?

MS HELEN JANET WALSH: Chair through you the 95 – the transactions that I do know that have terminated or contracts with Regiments Capital and McKinsey & Co ...

ADV MAHLAPE SELLO: Thank you.

MS HELEN JANET WALSH: And accordingly it is also why the schedule shows no payments subsequent to the 2016 financial year.

ADV MAHLAPE SELLO: But insofar as 1064 is concerned are there any further claims to be made by the OEMs to Transnet to your knowledge?

MS HELEN JANET WALSH: By Transnet to the OEMs?

ADV MAHLAPE SELLO: No by the OEMs to Transnet? Is Transnet still owing any of the OEMs in respect of 1064?

10 **MS HELEN JANET WALSH:** Yes.

ADV MAHLAPE SELLO: So further payments are still to be made?

MS HELEN JANET WALSH: Further payments are still to be made.

ADV MAHLAPE SELLO: Then based on your answer do you have a sense of – I am looking at 1064. Your total there is 32 9-odd billion. Would you know what percentage that represents relative to the total payable to each OEM? Is that 32 billion 40 percent of the ...

MS HELEN JANET WALSH: Chair through you I ...

ADV MAHLAPE SELLO: Of the contracts? Are you able to say?

20 **MS HELEN JANET WALSH:** Through you I am not in a position to answer that question.

ADV MAHLAPE SELLO: Would the Process Owners be in a position to assist us in that regard?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Thank you. Thank you Mr Walsh – Ms Walsh for that detailed response. You – at paragraph 17 you inform the Chair

on how he should read the volumes that you have submitted. These are in BB13B and C. Is that so?

MS HELEN JANET WALSH: Through you Chair yes.

ADV MAHLAPE SELLO: And you indicate that volume one relates to the 95 locomotive transaction. All invoices and payments are in volume one?

MS HELEN JANET WALSH: That is correct.

ADV MAHLAPE SELLO: Volume two is in respect of 100 locomotives?

MS HELEN JANET WALSH: Correct.

10 **ADV MAHLAPE SELLO**: Volume three is 1064?

MS HELEN JANET WALSH: Correct.

ADV MAHLAPE SELLO: Volume four is relocation costs and volumes five contains transaction advisors costs?

MS HELEN JANET WALSH: That is correct.

ADV MAHLAPE SELLO: So based on your HJ1 - one armed with HJ1 which is the table you have just taken us through if they wanted verification in respect of any particular transaction or payment to any of the listed entities you have listed one needs to first identify the right volume and in that volume they will find the supporting documentation?

20 **MS HELEN JANET WALSH**: Correct yes.

ADV MAHLAPE SELLO: Thank you. If then you may turn to your paragraph 18 and explain the approach you have adopted in presenting this evidence to the Chairperson this morning.

MS HELEN JANET WALSH: Each of the – I have prepared from the records of Transnet a detailed payment listing which – that detailed

payment listing lists details captured in relation to every invoice received from anyone of the OEMs or the transaction advisors in relation to the identified transactions.

The total of that listing which includes the value of the payments made. Then agrees to the numbers that I have disclosed on my HJW1.

ADV MAHLAPE SELLO: Huh-uh.

MS HELEN JANET WALSH: I have then taken the first transaction the first payment made to anyone of those suppliers and attached in my
10 affidavit the invoice associated with that payment as well as the SAP Remittance Advice showing that payment was made by Transnet to that supplier through our accounting system.

For each of the identified transaction I followed the same process. As I have mentioned I have not applied any reason to what I have chosen. I have simply chosen the first payment made. All of the payments are therefore at the top of the list of the detailed payment listing.

ADV MAHLAPE SELLO: Okay. Then let us turn to the detailed payment listing and you deal with the first one relating to the 95
20 locomotive transaction from your paragraph 19 and in this regard you refer us to your annexure HW – HJW2.

MS HELEN JANET WALSH: Chair ...

ADV MAHLAPE SELLO: So then if we may turn to HJW2 and you explain with reference thereto the approach you have adopted.

MS HELEN JANET WALSH: Chair through you thank you. So HJW2

which appears on page 17 states at the top of the – of the first page that it is in relation to payments made for the 95 locomotive transaction. Each one of the payments has been allocated an item number and because this is the first identified transaction the item number starts with item number one and it goes across the three pages provided that contain the detailed listing to reflect a total of 94 items which is the number of invoices received in relation to the transaction.

If I stay with item number one we include it on the detailed listing is the invoice number. The description of the payment which is
10 taken from the invoice. The value of the invoice showing on the schedule as the amount. The VAT if any raised on that invoice and therefore the total amount being the sum of the amount plus the VAT and then last column is the payment date the date on which payment was made.

ADV MAHLAPE SELLO: My apologies. Before – before you move on this – your list of – this listing runs over three pages?

MS HELEN JANET WALSH: Correct yes.

ADV MAHLAPE SELLO: Ending at page 19?

MS HELEN JANET WALSH: Correct.

20 **ADV MAHLAPE SELLO:** At page 19 right bottom corner you have listed a number of payments identified as March 2013, 2014 and so forth until 2015?

MS HELEN JANET WALSH: Yes Chair. Those – what that is, is a summary of the payments made per annum and that summary per annum agrees to HJW1 the numbers that I read out earlier and the total

of those payments made again agrees to the total of the payments made in relation to the transaction on HJW1.

ADV MAHLAPE SELLO: So technically HJW1 just reflects the total amounts in this respect on 95 as appear at page 19?

MS HELEN JANET WALSH: That is correct.

ADV MAHLAPE SELLO: And that same system then you apply to all the other transactions?

MS HELEN JANET WALSH: Absolutely. They are identical.

ADV MAHLAPE SELLO: And each transaction you provide a – you call
10 it a payment listing?

MS HELEN JANET WALSH: Correct.

ADV MAHLAPE SELLO: Giving detail in the payment listing of every single invoice that was issued to Transnet the payment that was made in respect of that invoice and the date of payment. At the conclusion of which you provided a total of payments made in each particular year and the grand total made to that – in respect of that transaction as reflected in H – HJW1?

MS HELEN JANET WALSH: Through you Chair yes that is correct.

ADV MAHLAPE SELLO: Alright. We understand. Now you have – you
20 say when – when we consider the – the listing in respect of each listing you have taken the first payment?

MS HELEN JANET WALSH: Correct.

ADV MAHLAPE SELLO: And for us to understand the invoices and the payments you will deal with the first payment in each listing?

MS HELEN JANET WALSH: That is correct Chair.

ADV MAHLAPE SELLO: And once we understand that approach we can apply it to all other – to the rest of the items listed here?

MS HELEN JANET WALSH: That is correct.

ADV MAHLAPE SELLO: On 94?

MS HELEN JANET WALSH: Yes that is correct.

ADV MAHLAPE SELLO: Okay. Then we are at your page 17. We see that your item one which is your first is an advanced payment of 10 percent of the total contract price of 268 million to CSR which was effected on 21 December 2012?

10 **MS HELEN JANET WALSH:** That is correct yes.

ADV MAHLAPE SELLO: Okay. You may proceed

MS HELEN JANET WALSH: If I then move to page HJW21.

ADV MAHLAPE SELLO: Say that again ma'am?

MS HELEN JANET WALSH: I said if I move to page ...

ADV MAHLAPE SELLO: Page?

MS HELEN JANET WALSH: HJW21 or page 21.

ADV MAHLAPE SELLO: Page 21.

MS HELEN JANET WALSH: Page 21.

20 **ADV MAHLAPE SELLO:** Page 21. I just got confused. I thought you were talking about an annexure yes.

MS HELEN JANET WALSH: Apologies. Sorry Chair.

ADV MAHLAPE SELLO: And that will be for the record your Annexure HJW2A?

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: Thank you, alright.

MS HELEN JANET WALSH: If I move to HJW2A, yes. That is the invoice that the item number one refers to.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: On the top left hand side one can see that it says CSR E-loco Supply (Pty) Ltd. The word “invoice” appears in the top middle of the page. On the right hand side it says invoice number SA95NEL/01 and that is identical to the reference on the payment listing.

ADV MAHLAPE SELLO: Yes.

10 **MS HELEN JANET WALSH:** The description on the payment listing is based on the description contained on the invoice.

ADV MAHLAPE SELLO: Huh-uh.

MS HELEN JANET WALSH: Which says advanced payment and the amount reflected on the invoice is R268 679 000 and that is the amount reflected on the payment listing.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: If we then move to my Annexure HJW2B that is the SAP Remittance Advice or payment advice from the system – the ERP System.

20 **ADV MAHLAPE SELLO:** Sorry. Before – before – you are too – we are dealing with your 2A.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Annexure 2A which has got two documents. The first being the invoice appearing at page 21.

MS HELEN JANET WALSH: That is correct in fact.

ADV MAHLAPE SELLO: That is the invoice we have just dealt with.

MS HELEN JANET WALSH: That is the invoice ...

ADV MAHLAPE SELLO: That is then followed by another document before we get to HJW2B, okay.

MS HELEN JANET WALSH: Through you Chair that is correct.

ADV MAHLAPE SELLO: Thank you.

MS HELEN JANET WALSH: Advocate Sello if I can just – I left something out when I was speaking to that invoice.

ADV MAHLAPE SELLO: Okay.

10 **MS HELEN JANET WALSH:** One will see under the invoice number the space for the VAT number and it says there awaiting registration. Accordingly CSR was not yet registered as a VAT vendor in terms of South African VAT legislation and – and the invoice therefore did not include any VAT amount. Once CSR was registered for VAT if I can refer to page 22.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: They issued then a tax invoice which they could do because they were a registered vendor and raised VAT at the rates that were prevailing at the time of 14 percent amounting to 37
20 million.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: Reflecting that the total payable by Transnet in relation to this first invoice was then R306 294 060.

ADV MAHLAPE SELLO: So the two invoices really relate to the same service so to speak. Just that the one is VAT inclusive and the other

one is VAT exclusive?

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: And which one did Transnet pay on?

MS HELEN JANET WALSH: Transnet paid on both. On the first invoice they paid the invoice amount and on the second invoice they paid the VAT then subsequently charged and that is reflected in – the VAT is reflected separately on item two of the detailed payment listing.

ADV MAHLAPE SELLO: Okay; and then your – your – the payment is reflected at your Annexure HJW2B. Am I correct?

10 **MS HELEN JANET WALSH:** Through you Chair yes that is correct.

ADV MAHLAPE SELLO: And at page 24 this is the payment of 268 million which is in respect of the advanced payment?

MS HELEN JANET WALSH: Correct, VAT exclusive.

ADV MAHLAPE SELLO: VAT exclusive?

MS HELEN JANET WALSH: Correct.

ADV MAHLAPE SELLO: Thank you and overleaf it is the same invoice for the same advance payment?

MS HELEN JANET WALSH: Overleaf is the payment advice showing that the VAT was then paid – page 25.

20 **ADV MAHLAPE SELLO:** I am with you.

MS HELEN JANET WALSH: Ja.

ADV MAHLAPE SELLO: So what we have then at page 25 as the 268 which is VAT exclusive. Then reflects the 306 million which is VAT inclusive?

MS HELEN JANET WALSH: Correct.

ADV MAHLAPE SELLO: Indicating that the VAT then that was subsequently paid was for 37 650 million?

MS HELEN JANET WALSH: And R60, through the Chair, yes.

ADV MAHLAPE SELLO: And R60, yes.

MS HELEN JANET WALSH: That is correct.

ADV MAHLAPE SELLO: The correct figure, thank you. I take short cuts sometimes with figures but that is – that is how we read it?

MS HELEN JANET WALSH: Yes that is correct.

ADV MAHLAPE SELLO: Before we leave then that invoice and
10 payment if you can just go back to paragraph – to page 21 which is the actual invoice received from CSR. I – you spoke earlier about a Process Owner. Correct?

MS HELEN JANET WALSH: Correct.

ADV MAHLAPE SELLO: And I see on that invoice at the top right corner in manuscript the following is noted and I quote:

“Based on confirmation received (attach
correspondence) I agree that payment can proceed.
It is signed and dated 20/12/2012 –
20 December 2012, *ja* and designation Program
20 Manager New ...”

I cannot read the rest.

MS HELEN JANET WALSH: Chair through you New Rolling Stock.

ADV MAHLAPE SELLO: New Rolling Stock, thank you. Who – who has written there in manuscript and who is the person who has signed? I know they call themselves Program Manager New Rolling Stock but in

relation to this particular transaction what role does he play? He or she – if I may correct myself.

CHAIRPERSON: I did not want to correct you.

ADV MAHLAPE SELLO: I am glad I realised it before you correct me Chair.

MS HELEN JANET WALSH: Thank you Chair through you. I cannot – based on the documentation before me I could not answer that question ...

ADV MAHLAPE SELLO: Okay.

10 **MS HELEN JANET WALSH:** Clearly.

CHAIRPERSON: You would not know who was Program Manager?

MS HELEN JANET WALSH: No.

CHAIRPERSON: You would not know?

MS HELEN JANET WALSH: No.

CHAIRPERSON: Okay, alright.

ADV MAHLAPE SELLO: Okay. Further then down on the document I will skip on the extreme left what looks – I think it is a signature of Mr Wang An in Mandarin of some Chinese dialect. We will not deal with that. We will confine ourselves to the English version or the English notations on the right. It is dated 20/12/2012.

Which is 20 December 2012 – the year and it reads again in manuscript:

“All suspensive conditions have been met per the attached email.”

And that appears to be a slightly different signature from the

one we were dealing with at the top of the invoice. Do you see that?

MS HELEN JANET WALSH: I do.

ADV MAHLAPE SELLO: Are you able to shed light on who would then have written this and signed accordingly?

MS HELEN JANET WALSH: Through you Chair no.

ADV MAHLAPE SELLO: Looking at this invoice then you indicated to the Chair that by the time it gets to finance – the Finance Department it would have been received within Transnet in the right department. It would have been presented to the Process Owner who would verify the
10 correctness of the claimed amount and that the work done which is being claimed for has indeed been delivered and the Process Owner would sign.

Based on this invoice as an example how do we determine who the Process Owner is? Is there a way we can do – we can do so?

MS HELEN JANET WALSH: Chair through you one cannot do it with the invoice in isolation. As noted at the top attached correspondence. All of that would have to be obtained. In addition Chair as you correctly questioned earlier in my testimony Program Managers/Process Owners sit throughout the business. As I mentioned in my affidavit the
20 payments and the – and the authorised signatories are based on delegations of authority.

All of that would have to be obtained to follow the trail for approval of the – of the invoice and my testimony and the evidence I have accordingly provided is limited to proof that the payment was made by Transnet. All of that documentation which precedes this point

has not been included as (intervenes).

ADV MAHLAPE SELLO: (Intervenes) available today?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: And would it be available from the Finance Department still?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Okay. I note that all invoices are not necessarily signed by the Process Owner before they get to – to the Finance Division and yet they are paid. By way of example if you could refer – let us refer to volume two which deals with the 100 transaction and that would be in BB13B Chair and ...

CHAIRPERSON: Which 13 – A or B?

ADV MAHLAPE SELLO: BB13B.

CHAIRPERSON: B?

ADV MAHLAPE SELLO: B Chair.

CHAIRPERSON: Okay.

ADV MAHLAPE SELLO: And under tab volume two at page 2-7-5 and this is in respect of 100 locomotives. That is an invoice emanating from CSR for 1.5-odd billion. I am not reading out the full number.

20 **CHAIRPERSON:** Is that at page 100?

ADV MAHLAPE SELLO: 2-7-5.

CHAIRPERSON: 2-7-5?

ADV MAHLAPE SELLO: Under tab written volume two and as Ms Walsh has indicated volume two are all documents relating to the 100 locomotives transaction. The invoice appears at 2-7-5 Chair.

CHAIRPERSON: Yes I am getting there. *Ja.*

ADV MAHLAPE SELLO: And the Chair will note Ms Walsh that that invoice is for a total of 1.5-odd billion. I see at – it has got no signature, no stamp, no manuscript as with the previous invoice we looked at but when I turnover leaf at page 276 there is a payment advice for the exact amount. You see that?

MS HELEN JANET WALSH: Yes I do Chair.

ADV MAHLAPE SELLO: Now in a situation like this how would the Finance Department have satisfied itself that that tax invoice is valid
10 and is due and payable?

MS HELEN JANET WALSH: The – there would be a lot more information attached as noted on the previous example. So in each instance I have attached only the invoice and SAP Remittance Advice but there would be other documentation attached to this that the finance staff would have placed their reliance on.

ADV MAHLAPE SELLO: Okay. So if we were in truth to get all documentation supporting each and every invoice and payment in respect of that invoice we are talking 10 volumes?

MS HELEN JANET WALSH: Probably ...

20 **ADV MAHLAPE SELLO:** You spared the Chair ...

MS HELEN JANET WALSH: More than 10 volumes. In the – in the – if I may Chair. For example in the case of in particular locomotives there is quite a process to not so much in terms of the advanced payments which is – which is a portion of the contract but in terms of for example if you are paying for acceptance of a locomotive there is a lot of

documentation that is associated with that.

So with one invoice if you are paying a percentage for 10 locomotives that have been accepted by Transnet you will have 10 acceptance certificates. You will have all sorts of other documentation associated – attached to it and without all the documentation I can say that I have seen six lever arch files just in relation to the locomotive transactions to date and that does not include all the payment documentation.

So – so I would – I would – I would not like to – to say that as
10 an accountant I can confirm it is nine or 10 volumes ...

CHAIRPERSON: Yes.

MS HELEN JANET WALSH: But it is a lot of paper.

CHAIRPERSON: *Ja.*

ADV MAHLAPE SELLO: Okay. I appreciate that. Staying with 2-7-5 I note that CSR in respect of this particular transaction an invoice does indicate who the contract person is – left – on the left ...

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Under buyer. It is Transnet SOC Ltd identified thereafter followed by contact name Ms Lindiwe Mdletshe and
20 giving details of her email and address.

MS HELEN JANET WALSH: That is – Chair through you that is not necessarily the contract owner but that would be the person that was identified by Transnet or Transnet Freight Rail as being the recipient of the invoices.

ADV MAHLAPE SELLO: Okay.

MS HELEN JANET WALSH: Who – who it must go to. So there is – you know – in addition to a process owner there would also be somebody that each supplier would be advised who do we send our documentation to ...

ADV MAHLAPE SELLO: Huh-uh.

MS HELEN JANET WALSH: In order to ensure that it gets received and the process then followed for payment.

ADV MAHLAPE SELLO: Okay, thank you. I think by now we understand how to work our way through your – your volumes one to
10 five and you have dealt with your paragraphs 19 to 21. You attach yet another ...

CHAIRPERSON: Ms Sello ...

ADV MAHLAPE SELLO: Chair.

CHAIRPERSON: It may be helpful if – I mean these – (clearing throat) excuse me – lever arch files for EXHIBIT 13A and B they appear to be quite well arranged but you did say that under each volume are documents relating to ...

ADV MAHLAPE SELLO: Indeed.

CHAIRPERSON: 100 or 164 - if there could be something written to
20 indicate ...

ADV MAHLAPE SELLO: Identifying that?

CHAIRPERSON: *Ja.* So if I look at it six months from now ...

ADV MAHLAPE SELLO: Indeed Chair.

CHAIRPERSON: I can – I can tell what it relates to.

ADV MAHLAPE SELLO: We shall update the files accordingly. Thanks

for the direction Chair.

CHAIRPERSON: Okay.

ADV MAHLAPE SELLO: Thank you. I would like now – I would like to turn to your HJW3 which you refer to in your paragraph 21 and that appears – HJW3 appears from your page 26 which is the covering page. The actual annexure at page 27.

MS HELEN JANET WALSH: Chair yes.

ADV MAHLAPE SELLO: Yes. Please work us through that annexure.

MS HELEN JANET WALSH: Chair through you what we have done is
10 for each of the OEMs in relation to the locomotive contracts. So the 95, the 100 as well as the 1064. We have from our financial records as well as the records of locomotive acceptances created a graft – a chart which shows per financial year of Transnet, the amounts that were paid as referenced earlier in the HJW1 and reflects underneath the number of locomotives accepted into deliver – accepted by Transnet in each financial year.

So on page 27 in the financial year ended 31 March 2013 in relation to the 95 locomotive transaction we accepted no locomotives into production but payments of 306.29 million – I am going to round
20 the number off ...

ADV MAHLAPE SELLO: *Ja.*

MS HELEN JANET WALSH: As they are in the chart – were made. Those payments reconciled to my HJW1 as well as to the detailed listing that we discussed earlier.

ADV MAHLAPE SELLO: Before you go any further on that Annexure. If

I may apologize, Chair. This Annexure was intended to come to have been presented in colour. It makes better sense that way.

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: And we will endeavour to get a colour version of it for easier reading.

CHAIRPERSON: Okay. Thank you.

ADV MAHLAPE SELLO: Thank you.

MS HELEN JANET WALSH: And the financial year ended March 2014.

Also no locomotives were accepted into production and payments of
10 13.61 million were made. In March 2015 however, 85 of the 95 locos
were accepted into production, accepted by Transnet and that your
payments amounting to 1.9 billion were made. In the following financial
year being March 2016, the final 10 of the 95 locomotives were
accepted and payments amounting to R786 million were made.

CHAIRPERSON: I am sorry. The previous figure, is it 1 billion comma
nine?

MS HELEN JANET WALSH: 1.9 billion, yes Chair.

CHAIRPERSON: Okay thank you.

MS HELEN JANET WALSH: And then one can see that at the end of
20 March 2016 all 95 locomotives had been delivered and payments
continued beyond those dates in, really based on the contract that was
concluded but by the date all locomotives had been accepted by
Transnet.

ADV MAHLAPE SELLO: So when we look at HJW3, at the top you have
the heading and inside the chart you have another heading CR95 Class

20 elocos 3,432,000,000 and all?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Okay. That figure corresponds with the figure you have allocated to CSR for the 95 locos in HJW1.

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: What you are providing here is your correlating delivery of the locos with the payment for each specific year.

MS HELEN JANET WALSH: Chair, through you that the correct. I am
10 correlating acceptance.

ADV MAHLAPE SELLO: Acceptance? Yes, that is what.

MS HELEN JANET WALSH: In the context of these contract delivery and acceptance are defined terms.

ADV MAHLAPE SELLO: Absolutely.

MS HELEN JANET WALSH: So I am correlating acceptance with payments made, yes.

ADV MAHLAPE SELLO: Okay. Alright so now we know how to understand HJW3. Basically it is an overview of the entire 95 transaction?

20 **MS HELEN JANET WALSH**: That is correct, yes Chair.

ADV MAHLAPE SELLO: In terms of acceptance and payments, okay.

MS HELEN JANET WALSH: Thank you.

ADV MAHLAPE SELLO: Thank you. So then and then you are suggesting to the Chair that when we go into the volumes and look specifically at 95, we should follow the same format?

MS HELEN JANET WALSH: Yes, Chair.

ADV MAHLAPE SELLO: In respect of each invoice?

MS HELEN JANET WALSH: In respect of each invoice absolutely.

ADV MAHLAPE SELLO: So we understand how you do it and how you move on to the 100 locomotive transaction at from your paragraph 22 page 6.

MS HELEN JANET WALSH: Yes, Chair through you.

ADV MAHLAPE SELLO: Yes

MS HELEN JANET WALSH: I have again attached.

10 **CHAIRPERSON**: I am sorry; what paragraph are we on now?

ADV MAHLAPE SELLO: Sorry, Chair. We are at her paragraph 22 statement page 6.

CHAIRPERSON: Thank you.

ADV MAHLAPE SELLO: Thank you.

MS HELEN JANET WALSH: Through you, Chair, I have been in relation to the 100 locomotive transaction first also provided a detailed listing of all payments made in relation to that transaction.

ADV MAHLAPE SELLO: Hm.

MS HELEN JANET WALSH: Which is in my Annexure HJW4.

20 **ADV MAHLAPE SELLO**: We are at HJW4 page 29.

MS HELEN JANET WALSH: Again the payments made for this contract run over more than one page on to two pages in this instance.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: And on page 30 we again have the summary of the value of the payments made in each financial year

coming to the total of 5 billion over the period which again reconciles back to my HJW1; the summary of the payments made in relation to the 100 locomotive transaction.

ADV MAHLAPE SELLO: Before you move on, I see at HJW4 that listing you provide for 100.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Extreme left under item number, I see you started 95.

MS HELEN JANET WALSH: 95, yes.

10 **ADV MAHLAPE SELLO:** Please explain.

MS HELEN JANET WALSH: So the item numbers are running sequentially for ease of reference. So the 95 locomotive transaction which was the first one we pulled out there were 94 invoices.

ADV MAHLAPE SELLO: Okay.

MS HELEN JANET WALSH: So those ran from item number one for the first invoice all the way through to 94. In relation to the 100 locomotives then I have started with 95 and each invoice I have therefore referenced 95 and going down.

ADV MAHLAPE SELLO: And that will then.

20 **MS HELEN JANET WALSH:** To 141.

ADV MAHLAPE SELLO: Take us to 141.

MS HELEN JANET WALSH: 141.

ADV MAHLAPE SELLO: So when you say first listing in respect of 100, it is actually item number 95?

MS HELEN JANET WALSH: It is actually item number 95.

ADV MAHLAPE SELLO: And that is for ease of our reference?

MS HELEN JANET WALSH: Correct, yes.

ADV MAHLAPE SELLO: Yes, you may proceed.

MS HELEN JANET WALSH: So thank you for that, Chair. On that basis I have then selected item number 95 being the first payment on that detailed listing and similar to the previous transaction I have attached to the affidavit as HJW4A, the invoice that Transnet received.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: It was again with CSR.

10 **ADV MAHLAPE SELLO**: And that is appearing at page 32?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: Again the invoice reflects the suppliers, CSRE Loco supplier. Their VAT number because they were previously registered, our VAT number, the contact person is also reflected and the description and the values contained on the invoice of the same as those reflected on my detailed payment listing.

ADV MAHLAPE SELLO: Yes.

20 **MS HELEN JANET WALSH**: In this instance it is an amount of a total for the invoice amounting to R1,504,000,800 being advance payment for the 100, 20 e-locomotives which was the contract we are looking at. And... (intervention).

ADV MAHLAPE SELLO: For the record claimed by China South Rail?

MS HELEN JANET WALSH: China South Rail.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: That is correct. And then I have attached as HJW4B confirmation of the payment made by virtue of a sap remittance advice from Transnet system and then again reflects the sum total of the payment made of 1.5 billion.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: R 4,800,000.

ADV MAHLAPE SELLO: Okay. And then at you HJW5, you once again provide a better view of acceptance of locomotives and payments to CSR in terms of 100 locos over the March 13 to March 2019.

10 **MS HELEN JANET WALSH:** Yes, Chair through you indeed. The first payments were made as reflected on the chart in the financial year ending 31 March 2015 amounting to 3 billion but there was no acceptance of locomotives. But all 100 locomotives were accepted during the course of the financial year ended March 16 and a further payment of 1.9 billion was paid during that. Subsequent payments were also made in line with the contract.

ADV MAHLAPE SELLO: Okay. And once again or I will just follow the same format in dealing with the invoices 100.

MS HELEN JANET WALSH: Correct.

20 **ADV MAHLAPE SELLO:** Andrew also draw a conclusion that you have drawn at Annexure 5B, Annexure 5?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Of your statement.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: We then move on to the 1064 locomotive

transaction.

MS HELEN JANET WALSH: So for the 1064 locomotive transaction, Chair.

CHAIRPERSON: Yes.

MS HELEN JANET WALSH: Yes. I have followed the same process. My Annexure HJW6 starting on page 38 is then the detailed payment listing for all payments made to General Electric was one of the successful OEMs. Again the item number starts with 142.

ADV MAHLAPE SELLO: Ma'am if I may and I do beg your pardon.
10 Before we move to 1064, it is something is drawn to my attention here perhaps that might, we might benefit from your explanation in regard thereto. If I may take you back to the 100 locomotive and the invoice you have provided. I am starting at page 32 of your statement BB13A. that gives me, that is the invoice for 1.5 billion.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: It tells me it is, that is the advance payment?

MS HELEN JANET WALSH: Correct.

ADV MAHLAPE SELLO: in respect of the 100?

MS HELEN JANET WALSH: Correct.

20 **ADV MAHLAPE SELLO**: When we turn overleaf at HJW4B which is the payment advise at page 34, at there is a breakdown of that amount of 752,400,000. Two of them which do add up to 1.5 billion.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: What we are trying to understand, as that breakdown of 752 million is not, does not seem to arise from the

invoice. What is the source of that information that it was broken down in two?

MS HELEN JANET WALSH: I do not know, Chair.

ADV MAHLAPE SELLO: Okay. Looking at this payment advise, who could return to for clarification? Is there anything on this payment advise that would assist us?

MS HELEN JANET WALSH: If I, yes. The finance department.

ADV MAHLAPE SELLO: Okay.

MS HELEN JANET WALSH: I am sure would be able to advise why on
10 the sap system notwithstanding that it is a single payment as reflected on this document.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: Why it was captured on two line items.

ADV MAHLAPE SELLO: Okay. Should it become necessary we shall seek their assistance. Thank you.

MS HELEN JANET WALSH: Thank you.

ADV MAHLAPE SELLO: I had interrupted you Ms Walsh. You had now turned to 1064. So if you may go back there.

MS HELEN JANET WALSH: Chair, thank you. So with the 1064 as we
20 noted on the 100 transactions, the item number ended on 141 which meant that GE, the first invoice based GE is therefore referenced as item 142 on the detailed payment listing.

ADV MAHLAPE SELLO: Hm.

MS HELEN JANET WALSH: The detailed payment listing goes over four pages.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: And on the last page provides a total of R9.5 billion page to date to the end of 31 March 2019.

ADV MAHLAPE SELLO: And that detailed listing is, you have included as your Annexure HJW6. Am I correct?

MS HELEN JANET WALSH: That is correct Yes.

ADV MAHLAPE SELLO: Yes. Which appears on your page 38?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: And the first again of those is not item 142.

10 **MS HELEN JANET WALSH:** Item 142.

ADV MAHLAPE SELLO: Okay.

MS HELEN JANET WALSH: That is correct, yes.

ADV MAHLAPE SELLO: I have located it.

MS HELEN JANET WALSH: And from item 142, I have then attached as HJW6A the invoice.

ADV MAHLAPE SELLO: Hm.

MS HELEN JANET WALSH: Received from General Electric in relation to that.

ADV MAHLAPE SELLO: Yes.

20 **MS HELEN JANET WALSH:** As an aside, I do apologize. This is the best quality that we could get of the invoice.

ADV MAHLAPE SELLO: Okay.

MS HELEN JANET WALSH: I know it is not very legible.

ADV MAHLAPE SELLO: And that invoice for record purposes, you have as Annexure HJW6A.

MS HELEN JANET WALSH: Correct yes.

ADV MAHLAPE SELLO: Starting at page 42 actual invoice at page 43.

MS HELEN JANET WALSH: That is correct, yes.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: And then also attached as HJW6B.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: Starting at page 44 with the actual payment advise is the sap remittance advice showing that payment was made to GE South Africa Technologies on the 28th of March 2014.

10 **ADV MAHLAPE SELLO**: Okay. Going back to the actual invoice at page 43, again there is quite a bit written there. A manuscript, the gist of which is to request payment on this invoice.

MS HELEN JANET WALSH: Correct, yes.

ADV MAHLAPE SELLO: And it would appear that is allocated to two separate accounts and the total is 960 million odd. Correct?

MS HELEN JANET WALSH: That is correct, yes.

ADV MAHLAPE SELLO: There is a signature under that manuscript dated 27 March 2014.

MS HELEN JANET WALSH: Yes.

20 **ADV MAHLAPE SELLO**: Are you, do you recognize that signature at all?

MS HELEN JANET WALSH: No

ADV MAHLAPE SELLO: No, okay. And then you say at 6B at page 45. This if I may go back to your 43. 43 is an invoice for payment of 960 million.

MS HELEN JANET WALSH: Correct.

ADV MAHLAPE SELLO: I turned to 45 which is supposed to be the payment advise for that invoice.

MS HELEN JANET WALSH: Yes, sorry.

ADV MAHLAPE SELLO: It has two invoices there paid. The invoice we are dealing with is the first entry of 960 and there is another invoice that appears there for 1.3 billion giving a total of 2.3 odd billion.

MS HELEN JANET WALSH: That is correct, yes.

ADV MAHLAPE SELLO: Yes. How, looking at 45 I see how it relates
10 to the invoice we have just dealt with at page 44. Talk to us about the 1.3 billion. Where is the invoice for that?

MS HELEN JANET WALSH: Chair.

ADV MAHLAPE SELLO: Are you able to assist?

MS HELEN JANET WALSH: No. Chair, through you I would have to understand the payment made.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: And whether it was in relation to this particular contract which is where I have confined my.

CHAIRPERSON: Ja.

20 **MS HELEN JANET WALSH**: Evidence to. Sitting here I cannot, I do not have the supporting documents to be able to confirm that or not.

ADV MAHLAPE SELLO: Let us look at it differently then. Would your payment listing reflect that 1.3 odd billion?

MS HELEN JANET WALSH: That is what I cannot answer.

ADV MAHLAPE SELLO: That is what you cannot answer. Chair, I see it

is just gone past your teatime. Perhaps in that during the tea break, we might try and locate that 1.3 billion payment and the invoice in respect thereto.

CHAIRPERSON: Okay. We will take the tea adjournment and resume at 11h30

ADV MAHLAPE SELLO: Thank you, Chair.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

10 **ADV MAHLAPE SELLO**: We are now at page 8, page 8 of your statement, which is completed the General Electric payments in respect of ...(intervention)

CHAIRPERSON: One second. Thank you.

ADV MAHLAPE SELLO: Thank you Chair. We've just completed the payments to General Electric in respect of the 1064 transaction, from paragraph 39 – 30 I apologise, at page 8 you then turn to deal with payments to China South Rail.

MS HELEN JANET WALSH: Chair through you yes.

20 **ADV MAHLAPE SELLO**: Sorry again if you could just move the mic closer to you. Yes, thank you, alright.

MS HELEN JANET WALSH: I have again attached in this instance marked, Annexure HJW8 a detailed listing of payments made to date to China South Rail in relation to the 1064 locomotive transaction.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: Again it appears over a number of pages,

three in this instance, pages 49 – sorry four, 49 to 52...(intervention).

ADV MAHLAPE SELLO: And for the record that would be items 260 the invoice is in the volume to 394.

MS HELEN JANET WALSH: That's correct yes.

ADV MAHLAPE SELLO: Yes totalling R14 910 751 921.66.

MS HELEN JANET WALSH: That's perfect yes.

ADV MAHLAPE SELLO: Thank you

CHAIRPERSON: So Ms Sello you are familiar with these high figures?

ADV MAHLAPE SELLO: Been practicing Chair.

10 **MS HELEN JANET WALSH:** Chair through you again I've chosen the first item on the list, the detailed listing, number 260 and I've attached to my affidavit as HJW8 (A) the invoice received from China South Rail in the amount of R2 065 000.00 rounded off and similarly I've attached ...(intervention).

CHAIRPERSON: That total is not very clear.

MS HELEN JANET WALSH: No Chair, unfortunately the...(intervention).

CHAIRPERSON: At least on my copy.

20 **MS HELEN JANET WALSH:** No and on all copies unfortunately the ...(intervention).

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: Just to ...(intervention).

CHAIRPERSON: Oh I see in the handwritten annotation is it there at the bottom, is that the same amount?

MS HELEN JANET WALSH: that is the same amount Chair, yes.

CHAIRPERSON: Okay.

ADV MAHLAPE SELLO: Thank you Chair, yes Ms Walsh.

MS HELEN JANET WALSH: And then again I've attached as Annexure HJW8 (B) starting on page 55 but reflecting on page 56 the payment advice showing that the invoiced amount was paid for by Transnet.

ADV MAHLAPE SELLO: The amount of 2billion odd?

MS HELEN JANET WALSH: Correct yes.

ADV MAHLAPE SELLO: Yes and once again at your HJW9 you give an
10 overview of payments to China South Rail, against acceptance of the locomotives in the period March 14 to March 19.

MS HELEN JANET WALSH: That's correct yes Chair.

ADV MAHLAPE SELLO: Yes and we see on this HJW9 that before any units were accepted, slightly over 2billion had already been paid to China South Rail, is that a correct interpretation, in March 2015?

MS HELEN JANET WALSH: Yes so in March 2015 – in the 2015 financial year amounts in excess of 2billion were paid in the 2016 financial year 4.4billion was paid and in the 2017 financial year the first 80 locomotives were accepted into production.

20 **ADV MAHLAPE SELLO:** So before the acceptance of 80 just over 6.5 – close to 6.5billion had been paid to China South Rail?

MS HELEN JANET WALSH: That's correct yes in relation to this contract yes.

ADV MAHLAPE SELLO: In relation to this contract and the process manager, I guess, is better placed to explain to the Chair how that

situation arose that 6billion is paid before acceptance of the first locomotive?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Thank you. So then that takes us to your paragraph 32 and payments to China South Rail in the 1064, you next deal from your paragraph 33 at page 9 with payments now to China North Rail?

MS HELEN JANET WALSH: Correct yes Chair, through you, I have attached again the detailed listing of all payments made to China North
10 Rail in this instance it's only one page and at...(intervention).

ADV MAHLAPE SELLO: And that's your HJW10?

MS HELEN JANET WALSH: That's HJW10 yes.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: And for the record the item number starts with 395 and goes down to 418.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: And on the right-hand side bottom of the page one can see that it agrees to the total payments made of 2.4billion. I would just like to clarify that on this one, we have separate
20 the payments made to China North Rail as noted originally in my affidavit between the 1064 transaction and the relocation costs. This schedule includes all payments made to CNR inclusive of the relocation costs but I have pulled those out separately later in my affidavit, that's why...(intervention).

ADV MAHLAPE SELLO: Sorry by those you mean the relocation costs?

MS HELEN JANET WALSH: The relocation costs yes.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: So the total payments made to CNR are 28billion and then the relocation cost as previously advised is 368 meaning that the total paid to CNR excluding the relocation cost is the 2.4billion reflected on the far right bottom of the page, it's very small printing.

ADV MAHLAPE SELLO: It is then if we look at that – those columns, the first is 2.8 odd billion?

10 **MS HELEN JANET WALSH:** Yes.

ADV MAHLAPE SELLO: That's total paid to CNR.

MS HELEN JANET WALSH: Correct.

ADV MAHLAPE SELLO: That's including cost of acquisition of the locomotives together with the relocation costs?

MS HELEN JANET WALSH: That's correct yes.

ADV MAHLAPE SELLO: Your second column then indicates to us, of that 2.8billion, how much was for relocation and reflects the 368 which, once again, is reflected in your HJW1?

MS HELEN JANET WALSH: Correct yes.

20 **ADV MAHLAPE SELLO:** And the remainder of 2.4billion goes to the actual acquisition of the locomotives.

MS HELEN JANET WALSH: That's correct yes Chair.

ADV MAHLAPE SELLO: Okay we understand, yes?

MS HELEN JANET WALSH: I've then selected item 395 being the first payment on that listing and attached again as Annexure HJW10 (A)

the tax invoice we received from CNR which is on page 62.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: And similarly I've attached Annexure HJW10 (B) starting on page 63 but reflected on page 64 the payment advice reflecting the payment of the invoice made. Again, similar to the previous example there's one payment advice showing the VAT amount paid and one payment advice for the invoiced amount exclusive of VAT.

ADV MAHLAPE SELLO: Okay and that is a total of 1.3 odd billion
10 inclusive of VAT?

MS HELEN JANET WALSH: That's – 1.133 yes.

ADV MAHLAPE SELLO: Once again I see that the payment advice at page 64 reflects two payments, correct?

MS HELEN JANET WALSH: Correct yes

ADV MAHLAPE SELLO: Now if one has regard to your HJ10 and we look at the first entry on your listing which is the one you say you've provided documentation for, the 395 – item number 395 is for the advance payment, total amount R994 odd excluding VAT.

MS HELEN JANET WALSH: Correct yes.

20 **ADV MAHLAPE SELLO:** Okay and that is a payment that appears in the first – as a first item on that payment advice, 994?

MS HELEN JANET WALSH: Correct.

ADV MAHLAPE SELLO: But we have another one now of 1.1 billion plus and it looks like this is the same case as we had with a previous payment advice to...(intervention).

MS HELEN JANET WALSH: Through you Chair, to CSR in relation to the 95 locomotives.

ADV MAHLAPE SELLO: In relation to the 95?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: And on this R1 133 958 541.28 can you comment on that payment, do you know anything about that payment?

MS HELEN JANET WALSH: So, Chair through you again, this is the 994 is the VAT exclusive amount which was the first amount paid which is reflected on page 65 and on this page 64 it showing that we then
10 processed the VAT inclusive amount of 1.133 but we'd already paid the 994 so it's just the VAT amount, 139 being paid.

ADV MAHLAPE SELLO: Okay so what we don't have is the payment advice for the 994?

MS HELEN JANET WALSH: Chair, through you, no we do that's on 65, I think what we don't have – apologies, to clarify what we don't have is on the payment listing the 395 is for invoice 00001 that document is – I was unable to find.

ADV MAHLAPE SELLO: Okay, alright we'll take – we note that. Before you proceed I – Chair I made a monumental error in making a
20 mental note when we broke for tea to get clarification from Ms Walsh on something and no sooner had tea, that note completely escaped me. With your permission if I may go back.

CHAIRPERSON: Ja.

ADV MAHLAPE SELLO: Ms Walsh I am back to your Annexure 6 (B) – 6 (A) sorry at page 43. We dealt with this invoice and this is from

General Electric for 960million odd and at page 45 is the payment advice.

MS HELEN JANET WALSH: Correct yes.

ADV MAHLAPE SELLO: And we indicated that, that payment advice actually includes two payments which come to the total of 2.3odd billion.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: The first one is the 960 which we can relate back to the invoice that we just looked at. The second one is 1.3odd
10 billion.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: And you had indicated that you would like to give an explanation to the Chair about the 1.3billion and how you propose you deal with it.

MS HELEN JANET WALSH: Chair, thank you. The 1.3billion is not reflected on the detailed payment listing, I will therefore need to look into the supporting documentation for this payment to understand whether or not it relates to this particular transaction and with your indulgence and through you, have agreed that I will provide that
20 explanation through ...(intervention).

CHAIRPERSON: Yes, no that's fine.

ADV MAHLAPE SELLO: So you'll provide a statement to explain what that 1.3million relates – billion relates to?

MS HELEN JANET WALSH: That's correct yes.

ADV MAHLAPE SELLO: And then check and understand whether it has

anything to do with the 1064 transaction or whether it was for other services provided.

MS HELEN JANET WALSH: Correct yes.

ADV MAHLAPE SELLO: Thank you and then if we may proceed on your statement we were – we've now just completing China North Rail and at paragraph 35 of your statement you give us Annexure HJW11?

MS HELEN JANET WALSH: Chair, yes, through you, HJW11 is the – again the picture representation of...(intervention).

ADV MAHLAPE SELLO: Page 67 for the record.

10 **MS HELEN JANET WALSH:** Yes page 67, the payment profile against the actual acceptance of locomotives and in this instance it reflects as noted on HJW1 payments to CNR of 1.1billion in the 2015 financial year, 573million in the 2016 financial year, there were no payments made in 2017 but in 2018, 21 locomotives were accepted, the first time that locomotives were accepted.

ADV MAHLAPE SELLO: And by then roughly 1.6billion had been paid to China North Rail?

MS HELEN JANET WALSH: That's correct yes.

20 **ADV MAHLAPE SELLO:** Okay, yes you may proceed we're now turning to Bombardier Transportation.

MS HELEN JANET WALSH: Chair through you, and with reference to paragraph 36 of my affidavit on page 10, I've attached Annexure HJW12 which is the detailed payment listing of payments made to Bombardier in relation to the 1064 transaction, the payments cover three pages from pages 69 to 71 and the total payments made to Bombardier of

6.2billion is reflected at the bottom right of page 71, again Bombardier was also paid an amount of – amounts totalling 248million in relation to relocation costs which is dealt with later. So again the amount of 6.2billion is inclusive of the relocation costs, the amount exclusive of the relocation costs is therefore just over 6billion rand.

ADV MAHLAPE SELLO: Okay.

MS HELEN JANET WALSH: I – these invoices are referenced as item numbers 419 on page 69.

ADV MAHLAPE SELLO: 419?

- 10 **MS HELEN JANET WALSH:** 419 yes down to 501 on page 71 and again I've taken the first item number being item number 419 and attached as Annexure HJW12 (A) the invoice received from Bombardier in relation to the payment being for Milestone One totalling an amount of R1 338 848 568.43 and I've attached as HJW12 (B) starting on page 74 and reflected on page 75 the SAP remittance advice for that payment of 1.338billion and again I've attached the chart in Annexure HJW13 reflecting payments made to Bombardier against locos accepted and in March 2015 payments totalling 2.681billion had been made to BT in the 2016 financial year a further 1.371billion was paid in the March
- 20 2017 financial year 8 – just under 9million was paid and in March – the financial year ended March 2018 we see that we accepted 10 locomotives and payment of just under 900million was made in that financial year.

ADV MAHLAPE SELLO: So then, according to HJW13 before the first ten were accepted an amount roughly in the region of 4billion had been

paid to Bombardier Transportation?

MS HELEN JANET WALSH: Through you Chair, that's correct yes.

ADV MAHLAPE SELLO: Okay, we understand, starting then at your paragraph 39 at page 11 you now turn to the relocation costs.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: And we will recall from your testimony earlier with reference to HJW1 that only two OEM's were paid relocation costs, China North Rail and Bombardier Transportation.

MS HELEN JANET WALSH: Correct yes.

10 **ADV MAHLAPE SELLO:** Against that background you can take us through the payments of the relocation costs.

MS HELEN JANET WALSH: Through you Chair, thank you, I've attached as Annexure HJW14 the payment listing, it was a bit grand for a single payment, but the payment listing for the payment made to China North Rail...(intervention).

ADV MAHLAPE SELLO: And that's at your page?

MS HELEN JANET WALSH: That's at my page 79.

ADV MAHLAPE SELLO: Yes.

20 **MS HELEN JANET WALSH:** And following the convention around numbering it, I've numbered it item number 400 and the total relocation cost there is reflected as 368million which reconciles to my HJW1 summary. I've again, as the only line item, I've attached as Annexure HJW15 starting – no I haven't.

ADV MAHLAPE SELLO: This is a different one, you haven't yes?

MS HELEN JANET WALSH: My head went before my eyes, apologies

Chair. Because I've already attached an invoice from CNR and taken it through the process - payment process I've simply reflected here separately for ease of reference the payments made to China North Rail, so my HJW15 then is similarly a detailed payment listing, it starts on page 80 and is reflected on page 81. The payment listing for relocation costs made to Bombardier Transport. In that instance it reflects from items numbers 427 to 471 and it totals R248 710 471.30 which again reconciles to my HJW1 summary.

ADV MAHLAPE SELLO: Okay let's deal first then with your Annexure
10 14, that is the relocation costs claimed by CNR.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: For a total of 368 odd million.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: What we do not have attaching to this listing is the actual invoice and payment.

MS HELEN JANET WALSH: That's correct, through you Chair, but we do have it our volume 4.

ADV MAHLAPE SELLO: Our volume 4. Perhaps if we go over lunch we might just locate it in volume 4 for the Chair so that we can make a
20 note here and see that we have the actual – that the amount was claimed and the amount was paid.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Okay then if we go to your Annexure HJW15, that now is a listing for relocation payments made to Bombardier.

MS HELEN JANET WALSH: That's correct yes.

ADV MAHLAPE SELLO: And unlike with China North Rail it's a few payments, you have numbered them items 427 to 471.

MS HELEN JANET WALSH: That's correct yes.

ADV MAHLAPE SELLO: And at the bottom toward the right corner, you give us the total being 248million plus.

MS HELEN JANET WALSH: That's correct yes.

ADV MAHLAPE SELLO: And you give us the payment details on the right-hand corner.

MS HELEN JANET WALSH: Yes, Chair through you again, I haven't
10 attached an example.

ADV MAHLAPE SELLO: Once again yes.

MS HELEN JANET WALSH: But they are all contained in volume 4.

ADV MAHLAPE SELLO: Okay now if you go to your – if you go to your HJW1 you reflect against the relocation – at page 15 you reflect against a payment for relocation to Bombardier the first one being in 2016 in the amount of 190million plus you see that?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Now if you keep you – we have kept our finger hopefully at Annexure 15 at page 81, that first item against item 427 is
20 12 August 2015, so the 2016 that you referred to in HJW is the financial year, it's a payment made between April 2015 and March 2016.

MS HELEN JANET WALSH: That's correct yes.

ADV MAHLAPE SELLO: And you reflect it under 2016 as the year.

MS HELEN JANET WALSH: That's correct.

ADV MAHLAPE SELLO: Okay and as you point out, once again we will

try and locate the invoice and payment in respect of this Bombardier relocation cost and provide to the Chair?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Thank you, so we have then dealt with the two relocation cost and their payments and we turn to your final transaction which is in relation to the transaction advisors. You start with that from your paragraph 42 at page 11 of your statement.

MS HELEN JANET WALSH: That's correct yes. Transaction advisors were specifically appointed in relation to the 1064 transaction and in
10 terms of those appointments, payments were made to Regiments and McKinsey as noted in para 42.1 305million was paid to Regiments and in para 42.2 McKinsey an amount of 11million rand was paid.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: I've attached as HJW16 again a detailed listing of all payments, there isn't a listing per advisor this listing is a consolidated listing and that's reflected on pages 83 to 88 attached to my affidavit.

ADV MAHLAPE SELLO: And now – and you have that against items 502 to 837.

20 **MS HELEN JANET WALSH:** That's correct yes.

ADV MAHLAPE SELLO: What we must understand from this Annexure is that it reflects all payments to both Regiments and McKinsey?

MS HELEN JANET WALSH: That's correct yes.

ADV MAHLAPE SELLO: And these payments are strictly for advisory fees – advisory fees in the 1064 transaction?

MS HELEN JANET WALSH: No in fact two points of clarification.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: These are payments made – all payments made to Trillion as well as McKinsey and Regiments and relates to work provided to Transnet which included but was not limited to the 1064 advisory transaction and I think as noted later in my affidavit the additional information is provided in – to be transparent about the fees that were paid and not to limit the payments to 1064.

ADV MAHLAPE SELLO: Okay so now we understand then from your
10 page 83 to page 88 you deal with all payments for McKinsey, Regiments and Trillion by Transnet, is this over a specific period?

MS HELEN JANET WALSH: Chair yes, it would be since 2010 with the – almost, I'm not quite sure how to refer to it, the starting point of the investigation into the loco transaction.

ADV MAHLAPE SELLO: Okay so it's from – at least the payments here are 2010 to 2019?

MS HELEN JANET WALSH: Yes financial years.

ADV MAHLAPE SELLO: Financial years, and at page 88 you provide us a total of 1.9 plus billion.

20 **MS HELEN JANET WALSH:** That's correct yes.

ADV MAHLAPE SELLO: And this is what was paid between the three of them?

MS HELEN JANET WALSH: Between the three of them and over the nine financial years.

ADV MAHLAPE SELLO: Yes so we must understand that although

these are fees paid to the three of them they don't strictly all relate to the locomotive acquisition?

MS HELEN JANET WALSH: No.

ADV MAHLAPE SELLO: And in fact if we look at page 83 for instance, one that sticks out is item 548 following on that page to the end of that page and that's suppose to be in relation to the Maputo Corridor transaction.

MS HELEN JANET WALSH: That's correct yes.

ADV MAHLAPE SELLO: So – and Maputo Corridor is not part of your
10 evidence today?

MS HELEN JANET WALSH: Correct yes.

ADV MAHLAPE SELLO: Alright, we understand how to read that listing, you may proceed.

MS HELEN JANET WALSH: Chair on – through you I have attached as Annexure HJW17 a – on pages 89 and 90 a summary of that detailed payment listing which also summarises what I've just said which is total listing made was in relation to a number of assignments, not limited to 1064 and on that page 90 one can see that item – that line number 1 refers to the 1064 transaction advisory but there's item numbers 2 to 18
20 which cover other work that was done by those service providers (indistinct) Transnet. To that end the amounts that I note that were paid in my paragraph 42 of my affidavit are restricted to the amounts in line item1 on page 90 being my HJW17.

ADV MAHLAPE SELLO: Yes okay, we understand you may proceed.

MS HELEN JANET WALSH: So to that end an amount of – as I said

previously an amount of 305million was paid to Regiments ad an amount of 11million paid to McKinsey again the invoices and the SAP payment advices are not attached to my affidavit but are included in volume 5 of the documents that we've submitted and again I'm happy to find those and make those available.

ADV MAHLAPE SELLO: That would be quite helpful thank you.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Now you have dealt – at paragraph 44 you indicate 5million was paid to Regiments, at your page 90 that listing it
10 reflects 267, does that – does this listing indicate amounts claimed excluding VAT is that the reason for the...(intervention).

MS HELEN JANET WALSH: That's right.

ADV MAHLAPE SELLO: So we should note all these amounts here at page 90 are excluding VAT?

MS HELEN JANET WALSH: The amounts on page 90...(intervention).

ADV MAHLAPE SELLO: The amount you referred to and say was paid to Regiments and for transaction advisory services of 305 is the same amount including VAT?

MS HELEN JANET WALSH: Correct, yes correct.

20 **ADV MAHLAPE SELLO:** Then overleaf at paragraph 45 you then deal with payments to McKinsey?

MS HELEN JANET WALSH: McKinsey yes. According to our – to the accounting records which I have accessed in order to provide all of this information McKinsey was not paid for transaction advisory services and that is reflected on the – on my page 90 the summary. However

McKinsey in email correspondence with Transnet advised to a recipient of the two invoices relating to it that the invoices were in relation to the 1064 locomotive procurement transaction. So I have included it as such but it is not disclosed as a payment in 1064 transaction advisory on page 90 it is actually included under line item 3 being Swat 1 that is where the payment was allocated according to Transnet's accounting records.

ADV MAHLAPE SELLO: So McKinsey claimed for R11 million I think – R11 million.

10 **MS HELEN JANET WALSH:** Yes.

ADV MAHLAPE SELLO: And – is it 3 300.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: That amount was paid?

MS HELEN JANET WALSH: The amount was paid yes.

ADV MAHLAPE SELLO: Except Transnet allocated that payment to another project?

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: Which is what you say is listed at your page 90 under item 3 Swat 1.

20 **MS HELEN JANET WALSH:** That is correct yes.

ADV MAHLAPE SELLO: Incidentally what is Swat 1? Is it something we should know?

MS HELEN JANET WALSH: Swat 1 it is just – it was just a – it is a project that was being done for Transnet and the word Swat was chosen.

ADV MAHLAPE SELLO: Okay.

MS HELEN JANET WALSH: It is not an acronym.

ADV MAHLAPE SELLO: Yes. And then we understand from what you just stated that in response to an enquiry from Transnet it is McKinsey that indicated that the R11 million paid was for transaction advisory services in 1064?

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: Are you able to explain how Transnet got to allocate that payment to Swat 1 which is completely un-associated with
10 1064?

MS HELEN JANET WALSH: No.

ADV MAHLAPE SELLO: Are we able to track down how that could have happened at all?

MS HELEN JANET WALSH: Yes. We could ask either the process owner that allocated it or look at the invoices and determine if the – the process owner would be the appropriate person.

ADV MAHLAPE SELLO: With the – with the leave of the Chair of course may we request that you do that and as part of your supplementary statement explaining that invoice we referred to that
20 shows two payments. If you could just explain how this perhaps came about or what your documents revealed in that respect.

MS HELEN JANET WALSH: That I can do through you Chair.

ADV MAHLAPE SELLO: And in your statement then before the Chair you are indicating that the R11 million is – was paid to McKinsey as transaction – for transaction advisory services and you derive that fact

strictly from what McKinsey advised you not so much from your records?

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: Alright we have noted that. You then refer us to HJW18.

MS HELEN JANET WALSH: Thank you through you Chair yes. Albeit that the...

ADV MAHLAPE SELLO: Sorry before you take us there. You make – you make an important note at paragraph 47 that perhaps you might
10 want to highlight?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Yes please do.

MS HELEN JANET WALSH: Notwithstanding that the payment listing that we referred to in HJW16.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: Dated from 2010 Transnet has looked at all payments made to the named suppliers and to this end we noted that payments were made by Transnet to Regiments as – in 2005 and that payments were made to McKinsey in 2006 and dates following. My
20 HJW18 therefore is a chart reflecting to the best of our knowledge and going back into our records as far as the systems allow reflects payments made to these entities outside of or before the 1064 transaction advisory and transactions.

ADV MAHLAPE SELLO: And your HJW18 you speak of is from your page 92?

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: So if we can go there. You have got a few charts appearing on that page.

MS HELEN JANET WALSH: Yes. So

ADV MAHLAPE SELLO: Two to be precise.

MS HELEN JANET WALSH: The chart – the chart consolidates a lot of information.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: It shows that payments were made to
10 Regiments and or Trillian.

ADV MAHLAPE SELLO: Hm.

MS HELEN JANET WALSH: From in the top chart 2005 through to 2017 which one would expect. It also reflects the specific operating division in Transnet that made the payments being Transnet Freight Rail reflected as TFR in the slide, Transnet Group Capital reflected as TGC and Transnet Group Services which is reflected as TGS.

ADV MAHLAPE SELLO: Hm.

MS HELEN JANET WALSH: And what the slide does is it shows the total payments made per financial year.

20 **ADV MAHLAPE SELLO:** Yes.

MS HELEN JANET WALSH: Again from April to March of each financial year and then below that it shows the payments made to each legal entity across all of those financial years. So one can see that when we make reference to Regiments and Trillian it is Regiments Capital, Trillian Capital Partners, Trillian Asset Management and Regiments

Capital PTY Limited.

ADV MAHLAPE SELLO: And in respect of the two Regiments and Trillian and if there was a subsidiary – perhaps there are various subsidiaries the first recorded payment is from 2005?

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: Your earlier table only records payments from 2010?

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: Okay.

10 **MS HELEN JANET WALSH:** And a similar exercise was done for McKinsey.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: In other words not just from 2010 and that is contained in my annexure HJW19 and...

ADV MAHLAPE SELLO: At page 94.

MS HELEN JANET WALSH: Page 94 in particular which reflects payments made by Transnet to McKinsey starting in 2006.

ADV MAHLAPE SELLO: With an amount of R75.84 million the first figure I read in the chart.

20 **MS HELEN JANET WALSH:** That is correct yes.

ADV MAHLAPE SELLO: Okay and spreading right through in this case to 2014?

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: This is McKinsey?

MS HELEN JANET WALSH: That is McKinsey yes.

ADV MAHLAPE SELLO: So the Chair should read page 93 and 94 together with annexure HJW17 starting at – at page 19?

MS HELEN JANET WALSH: Correct yes.

ADV MAHLAPE SELLO: So if we want to – an understanding as to how much Transnet has expended on the three we read the two annexures together and the response would be from the year 2006 until 2018, March 2018 that will give you a sense of how much has been expended on each of the entities.

MS HELEN JANET WALSH: I do just want to point out that there is
10 duplication.

ADV MAHLAPE SELLO: There is duplication?

MS HELEN JANET WALSH: There is duplication.

ADV MAHLAPE SELLO: Because of the overlap of the years?

MS HELEN JANET WALSH: Because of the overlap of the financial years.

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: So you do read them together but there would – you need to just track the financial years and make sure they are not double counted.

20 **ADV MAHLAPE SELLO:** Okay. But then just for the record have you investigated whether the payments prior to 2010 were due and payable? Firstly have you investigated exactly what they were in respect of – what transactions?

MS HELEN JANET WALSH: No.

ADV MAHLAPE SELLO: Have you – and you have not investigation

whether there is anything untoward in those transactions?

MS HELEN JANET WALSH: No.

ADV MAHLAPE SELLO: Are you currently doing so?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Okay. And may we assume that once you have the answer you shall revert to the Chair as regards those transactions? So say whether or not there are issues that the Chair should concern himself with.

CHAIRPERSON: She means you will revert to her and her to me.

10 **MS HELEN JANET WALSH**: Thank you Chair.

ADV MAHLAPE SELLO: Through me, of course yes Chair.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: Okay. Alright thank you. And then you – you have an annexure HJ20 that is for McKinsey, am I correct? At page 96.

MS HELEN JANET WALSH: Yes if I may?

ADV MAHLAPE SELLO: Yes.

MS HELEN JANET WALSH: The HJW18.

ADV MAHLAPE SELLO: Yes.

20 **MS HELEN JANET WALSH**: Was a consolidation across the different Transnet business units. HJW19, 20 and 21 simply break that down across the three divisions that are reflected on HJW18 being Freight Rail, Group Capital and Group Services. It is just a breakdown.

ADV MAHLAPE SELLO: Okay. Alright and then you deal lastly with you annexure HJW21.

MS HELEN JANET WALSH: Yes and that is Trans – payments made by

Transnet Port Terminals.

ADV MAHLAPE SELLO: Okay.

MS HELEN JANET WALSH: To McKinsey.

ADV MAHLAPE SELLO: Because I am blessed Chair with a very efficient junior if I may then go back slightly and I want to go particularly to the relocation costs.

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: What we did not have in – in your file is when the claim was made for relocation and when it was paid. Ms Molefe
10 advised that if we go to Volume 4 page 1008 and if you may just quickly confirm Ms Walsh.

MS HELEN JANET WALSH: Getting there. Yes I am there Chair through you.

ADV MAHLAPE SELLO: Okay. Volume 4 page 1008 that is the China North Rail invoice for relocation costs.

MS HELEN JANET WALSH: Correct yes.

ADV MAHLAPE SELLO: And we do overleaf at 1009 that is the payment for the relocation cost?

MS HELEN JANET WALSH: That is correct yes.

20 **ADV MAHLAPE SELLO:** And insofar as Bombardier is concerned if we go to 10, 11 same Volume 4 1011 that is the first invoice of a number of invoices issued by Bombardier for relocation costs and it is for an amount of R126 907 402 005.02 okay?

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: And 5 cents no...

MS HELEN JANET WALSH: And 5 cents yes.

ADV MAHLAPE SELLO: I cannot short change Transnet in 5 cents thank you. And following is then the payment advice.

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: For that amount and thereafter follows the various invoices issued by Bombardier for the Trans – for the relocation costs and their corresponding payment advices?

MS HELEN JANET WALSH: That is correct yes Chair.

ADV MAHLAPE SELLO: Thank you. Then you please have regard to
10 paragraph 49 and you would like to draw the Chair's attention?

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: To the fact that...Yes you may.

MS HELEN JANET WALSH: Thank you. Thank you Chair through you. As I noted regarding payments prior to January 2010 which are – is included in the information provided I am personally not aware of any investigations in respect thereto and the outcomes if any and the information is being provided as I noted earlier for completeness.

ADV MAHLAPE SELLO: Okay. Now once again I am provided with the documents that are not part of your bundle. You offer annexures but
20 are in the bundles. Transactions advisors for the record I would like to read them in the record? The Regiments – the first of the Regiments invoices for transaction advisory services as at Volume 5 page 1044 that is the actual invoice, do you confirm?

MS HELEN JANET WALSH: I do yes.

ADV MAHLAPE SELLO: And the payment appears at page 1045.

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: Of Volume 5. And thereafter from pages 1046 to 1071 are all Regiments invoices and payments?

MS HELEN JANET WALSH: That is correct yes.

ADV MAHLAPE SELLO: Okay. We shall revert – we will revert to the Chair as regards the McKinsey issue because it has been misallocated.

MS HELEN JANET WALSH: Yes.

ADV MAHLAPE SELLO: By Transnet.

MS HELEN JANET WALSH: Yes.

10 **ADV MAHLAPE SELLO:** And there is no documentation regarding McKinsey payment of R11 million currently in the files, is there?

MS HELEN JANET WALSH: No.

ADV MAHLAPE SELLO: Okay. Is there anything else you – as regards these payments and these transactions Ms Walsh you would like to bring to the Chair's attention that we perhaps omitted to talk about?

MS HELEN JANET WALSH: Chair through you no thank you very much we have covered everything.

ADV MAHLAPE SELLO: And Chair unless the Chair has any questions for Ms Walsh that is Ms Walsh's evidence.

20 **CHAIRPERSON:** Thank you very much – very much for evidence Ms Walsh. If we need you to come back we will ask you again and I am sure you will assist. You will of course assist with the part that Ms Sello mentioned in the course of your evidence but thank you very much and you are excused.

MS HELEN JANET WALSH: Thank you Chair.

CHAIRPERSON: Thank you.

ADV MAHLAPE SELLO: Thank you Chair. Chair we have another witness lined up. This witness has previously appeared before you Chair Mr Francis Callard.

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: And he appears to day to deal with responses to his Rule 3.3's.

CHAIRPERSON: Ja.

ADV MAHLAPE SELLO: Mr Callard is available he is here in the
10 building if I may request five minutes just to...

CHAIRPERSON: Ja.

ADV MAHLAPE SELLO: Sort out ...

CHAIRPERSON: Okay we will adjourn for five minutes.

ADV MAHLAPE SELLO: Thank you Chair.

CHAIRPERSON: And once you are ready we will resume.

ADV MAHLAPE SELLO: Thank you Chair.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

20 **INQUIRY RESUMES**

CHAIRPERSON: Are you ready?

ADV MAHLAPE SELLO: We are ready thank you Chair.

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: Chair before I request that Mr Callard be sworn in ...

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: We are continuing with the Transnet evidence.

The Chair will recall that in May – I will get the – the exact date for the Chair. We presented Mr Francis Quentin Callard ...

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: Former Engineer at Transnet.

CHAIRPERSON: *Ja.*

ADV MAHLAPE SELLO: And he appeared from 17 May before you. We present Mr Callard again today to – before you Chair to deal and
10 comment – to deal with and comment on the responses received pursuant to the issue of 3.3 arising from his statement.

CHAIRPERSON: *Ja.*

ADV MAHLAPE SELLO: To give the Chair a sense Mr Callard's statement produced 37 Rule 3.3 notices which were directed to firstly individuals directly implicated by his evidence, members of the Board, the Bid Adjudication Committee and the Finance Team that negotiated the 1064. We identified the members of each of those bodies and served them with notices as well as companies or different entities that are implicated.

20 That gave us a total of 37 Rule 3.3. In response we have received two responses to these 3.3s and in particular from Mr Yousuf Laher who is one of the implicated persons - persons referred to Mr Yusuf Mohamed. The other 35 have neither responded nor provided a version. Mr Yousuf ...

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: Mr Yousuf Laher and both Mr Mohamed have provided versions in response to the specific allegations that Mr Callard made. Neither of them have applied to cross-examine Mr Callard. So we called Mr Callard here today to come to deal on record with what Mr Laher and Mr Mohamed says in regard to the allegations he had made concerning them. With ...

CHAIRPERSON: Okay, thank you.

ADV MAHLAPE SELLO: In that context Chair if then I may ...

CHAIRPERSON: Thank you for coming back Mr Callard.

10 **MR FRANCIS QUENTIN CALLARD:** Thank you.

CHAIRPERSON: Thank you.

MR FRANCIS QUENTIN CALLARD: Thank you Chair.

CHAIRPERSON: Thank you. Please administer the oath or affirmation.

REGISTRAR: Please state your full names for the record.

MR FRANCIS QUENTIN CALLARD: Francis Quentin Callard.

REGISTRAR: Do you have any objection with taking the prescribed oath?

MR FRANCIS QUENTIN CALLARD: No.

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

MR FRANCIS QUENTIN CALLARD: I do.

REGISTRAR: Do you swear that the evidence you will give will be the truth, the whole truth and nothing but the truth if so please raise your right hand and say so help me God.

MR FRANCIS QUENTIN CALLARD: So help me God.

MR FRANCIS QUENTIN CALLARD: (duly sworn, states)

REGISTRAR: Thank you.

ADV MAHLAPE SELLO: Thank you. Chair you should have the statement and annexures of Mr Callard previously submitted. These were submitted into and accepted into evidence as EXHIBIT BB4A and BB4B. We would now like to hand up the statements by Mr Yousuf Laher and by Mr Mohamed.

We have taken the liberty of marking them Chair as BB4F for Mr Yousuf Laher and BB4G for Mr Yusuf Mohamed.

10 **CHAIRPERSON:** Thank you.

ADV MAHLAPE SELLO: The Chair will note insofar as Mr Yousuf Laher is concerned that there are two statements with annexures. The reason for that is before we received and finalised Mr Callard's statement Mr Laher had provided a – a witness statement to the Commission. When Mr Callard's statement and evidence was received we then issued a 3.3 for Mr Laher and he then subsequently filed another statement in response thereto.

20 BB4F the arch lever files therefore contains both these statements divided into BB4F1 and BB4F2 and there – there should be a divider in – in the file and those will be the statements that we have received from Mr Yousuf Laher Chair. We have provided a separate bundle.

The last time I called it a black folder and the Chair corrected me. A plastic folder containing Mr Yusuf Mohamed's statement.

CHAIRPERSON: Was the correction not about the colour?

ADV MAHLAPE SELLO: Chair.

CHAIRPERSON: Was the correction about the colour?

ADV MAHLAPE SELLO: What is the question about the ...?

CHAIRPERSON: Was the correction about the colour?

ADV MAHLAPE SELLO: The correction definitely was about the colour Chair. I – I opted for the colour of the back of that folder which was a certain colour and the Chair pointed out that the front is a clear plastic. So I ...

CHAIRPERSON: *Ja.*

10 **ADV MAHLAPE SELLO:** I shall not commit myself with regards colours.

CHAIRPERSON: *Ja.*

ADV MAHLAPE SELLO: And for Mr Yusuf Mohamed is exhibit – I have taken the liberty of marking EXHIBIT BB4G. With your permission then Chair if you may accept them as marked?

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: I have handed up them both to you.

CHAIRPERSON: Thank you.

ADV MAHLAPE SELLO: Thank you.

20 **CHAIRPERSON:** Now they are the first, second and third supplement – supplementary statements of Mr Callard. There is that file. That relates to something that has already been ...

ADV MAHLAPE SELLO: My apologies Chair. I forgot to mention that goes with BB14A. B - the two arch lever files ...

CHAIRPERSON: Hm.

ADV MAHLAPE SELLO: C, D and E are in that little folder and all those were submitted during the testimony of Mr Callard previously.

CHAIRPERSON: Okay. Let us - let us get this right.

ADV MAHLAPE SELLO: Yes.

CHAIRPERSON: This one?

ADV MAHLAPE SELLO: Yes sir.

CHAIRPERSON: Has this being entered already?

ADV MAHLAPE SELLO: It has already been entered into evidence. It is Mr Callard's original supplementary statement.

10 **CHAIRPERSON:** Oh. This is just for convenience?

ADV MAHLAPE SELLO: It goes together with the two arch lever files for Mr Callard. So ...

CHAIRPERSON: Oh.

ADV MAHLAPE SELLO: That were on the Chair's desk already.

CHAIRPERSON: Oh, yes okay.

ADV MAHLAPE SELLO: Yes.

CHAIRPERSON: All of that has been entered already?

ADV MAHLAPE SELLO: All that has been entered into evidence.

20 **CHAIRPERSON:** Okay and then there is the file relating to Mr Yusuf Mohamed – EXHIBIT BB4G?

ADV MAHLAPE SELLO: That is what we propose it be marked Chair. That is Mr Yusuf Mohamed's statement together with its annexures.

CHAIRPERSON: Excuse me. The file containing the statement of Mr Yusuf Mohamed and annexures will be marked EXHIBIT BB4G and then there is this lever arch file ...

ADV MAHLAPE SELLO: The lever arch ...

CHAIRPERSON: For Mr Laher.

ADV MAHLAPE SELLO: Yes.

CHAIRPERSON: Did you say it has two statements ...

ADV MAHLAPE SELLO: Indeed.

CHAIRPERSON: Of his plus annexures?

ADV MAHLAPE SELLO: It has got two statements each with annexures.

CHAIRPERSON: Each with annexures, *ja*.

10 **ADV MAHLAPE SELLO:** Yes.

CHAIRPERSON: But they are all in this lever arch file?

ADV MAHLAPE SELLO: They are all in that lever arch file and we – we propose that the first statement as appear in your file Chair be marked BB4F1 and the next one statement be F2.

CHAIRPERSON: Where is the second one?

ADV MAHLAPE SELLO: If the Chair goes further there is a bind – there is a divider.

CHAIRPERSON: Number?

20 **ADV MAHLAPE SELLO:** No, no. What the Chair has is a file with the first statement ...

CHAIRPERSON: Hm.

ADV MAHLAPE SELLO: And ...

CHAIRPERSON: That is a statement that goes up to page 20.

ADV MAHLAPE SELLO: That goes up to page 20 ...

CHAIRPERSON: *Ja*.

ADV MAHLAPE SELLO: And it will run until page 2-7-9 it is – it is final annexure. That is the first statement dated 15 April 2019.

CHAIRPERSON: Yes. So those are its annexures?

ADV MAHLAPE SELLO: Yes Chair.

CHAIRPERSON: *Ja.*

ADV MAHLAPE SELLO: And at – there should be a divider there and there following starting will be Mr Yousuf Laher's statement of June which once again starts from page 1.

CHAIRPERSON: Well should you not – should this divider be written
10 something like Mr Laher's second statement or supplementary statement or whatever it is?

ADV MAHLAPE SELLO: We – we try Chair. We called it the EXHIBIT BB4F2 right. The covering page calls it a statement and annexures in response to Rule 3.3 Notice.

CHAIRPERSON: But you see all along when we have a lever arch we give an exhibit number to the whole lever arch file.

ADV MAHLAPE SELLO: Yes Chair.

CHAIRPERSON: Now we said this is EXHIBIT BB4F ...

ADV MAHLAPE SELLO: Yes Chair.

20 **CHAIRPERSON:** But that EXHIBIT BB4F relates to – then you have got F21 ...

ADV MAHLAPE SELLO: Yes Chair.

CHAIRPERSON: And this is F.2 ...

ADV MAHLAPE SELLO: Point 2.

CHAIRPERSON: But it is confusing. Oh it is - why could you not ...?

ADV MAHLAPE SELLO: We – we (intervenes).

CHAIRPERSON: Why could you not just have it as BB4F and the – the contents can then relate – indicate that there are two statements?

ADV MAHLAPE SELLO: We ...

CHAIRPERSON: So it is one exhibit ...

ADV MAHLAPE SELLO: Yes.

CHAIRPERSON: But it has got two statements and each statement has got its own annexures and the index ...

ADV MAHLAPE SELLO: Shows that.

10 **CHAIRPERSON:** The index shows - shows that.

ADV MAHLAPE SELLO: We – we are happy to do so Chair.

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: As the file currently stands it is correctly ...

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: Marked then BB4F.

CHAIRPERSON: Yes just F4, *ja*.

ADV MAHLAPE SELLO: So – and that is what the spine reads.

CHAIRPERSON: Yes, *ja*.

20 **ADV MAHLAPE SELLO:** Then in the index we will indicate that there are actually two statements each with - with annexures.

CHAIRPERSON: Yes, *ja*.

ADV MAHLAPE SELLO: The one shall be F ...

CHAIRPERSON: Yes.

ADV MAHLAPE SELLO: One and the other F2.

CHAIRPERSON: Yes and – and for convenience where you have that

divider before the second statement ...

ADV MAHLAPE SELLO: Yes Chair.

CHAIRPERSON: You could just also write – you know – second statement ...

ADV MAHLAPE SELLO: Second statement.

CHAIRPERSON: Or something like that, *ja*.

ADV MAHLAPE SELLO: We will do so Chair.

CHAIRPERSON: Then – then all one needs is to know that one is dealing with EXHIBIT BB4F and if one wants to find the first statement
10 it is at page 1.

ADV MAHLAPE SELLO: And ...

CHAIRPERSON: If one wants to find the second statement it is at page 2 whatever.

ADV MAHLAPE SELLO: Okay.

CHAIRPERSON: *Ja*.

ADV MAHLAPE SELLO: We will do so Chair.

CHAIRPERSON: Okay, alright.

ADV MAHLAPE SELLO: At least for now ...

CHAIRPERSON: Yes.

20 **ADV MAHLAPE SELLO:** We allocate to Mr Yousuf Laher's statements BB4F.

CHAIRPERSON: Yes, yes.

ADV MAHLAPE SELLO: Yes Chair.

CHAIRPERSON: The lever arch file containing Mr Yousuf Ismael – I am sorry. Am I on the right ...?

ADV MAHLAPE SELLO: Mr Yousuf Ismael Laher, yes.

CHAIRPERSON: Oh.

ADV MAHLAPE SELLO: They are both Mr Yusuf.

CHAIRPERSON: They are both Yusuf.

ADV MAHLAPE SELLO: Yes Chair.

CHAIRPERSON: So that is what is confusing me. The lever arch file containing the two statements of Mr Yousuf Ismael Laher will be marked EXHIBIT BB4F.

ADV MAHLAPE SELLO: Thank you Chair.

10 **CHAIRPERSON:** *Ja.*

ADV MAHLAPE SELLO: I think I have handed in all the documentation required to deal with Callard today. Now Mr Callard you have been provided with both the statements by Mr Yousuf Laher and Mr Yusuf Mohamed in response to allegations you made against them in your original statement marked BB4A. Is that so?

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: Okay. I have considered both statements and I suggest that we deal firstly with the one set which is relating to Mr Laher and thereafter we will turn our attention to the statement of
20 Mr Yusuf Mohamed.

MR FRANCIS QUENTIN CALLARD: Fine.

ADV MAHLAPE SELLO: Now insofar as Mr Yousuf Laher is concerned his statement in response to a Rule 3.3 issued to him following receipt of your statement I identify five issues that he takes issue with you and I have listed them in this manner or identified them as such. He takes

issues with the – what you say in relation to the increase of the Estimated Total Cost in respect of the 100 locomotives.

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: The second one is the foreign exchange issue in respect of the 100 transaction. The use of Yen and Dollar or Yen versus Dollar.

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: The third is what you state about advance payments made by Transnet both in respect of the 100 locomotive
10 transaction and 1064 transaction.

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: He then deals with the 1064 business case and claims you made in respect thereto that impact him and lastly he deals with the question of the negotiation spreadsheets relating to the 1064 negotiation process.

MR FRANCIS QUENTIN CALLARD: Correct.

ADV MAHLAPE SELLO: So those are the five issues that I have identified that specifically relate to you in Mr Laher's statement ...

MR FRANCIS QUENTIN CALLARD: Yes.

20 **ADV MAHLAPE SELLO:** And I propose to deal with them under those specific headings. So if we – we may then turn to the first which is the increase of the ETC relating to the 100. In order for us to have appropriate context I suggest perhaps that we start with your own statement BB4A and we turn to that part where you deal with this increase of the ETC and that you do at Chair BB4A page 15 and that is

done at pages 64 and 66 – *ag* – my apologies. Paragraphs 64/66 page 15.

CHAIRPERSON: Yes I have got it. Thank you.

ADV MAHLAPE SELLO: You in those paragraphs summing up the – the issue really you make is:

“There was an increase in the estimated total cost of the acquisition of the 100 locomotives from 3.871 billion to 4.8 billion.”

MR FRANCIS QUENTIN CALLARD: Correct.

10 **ADV MAHLAPE SELLO:** That you say at 64.

MR FRANCIS QUENTIN CALLARD: Correct.

ADV MAHLAPE SELLO: At 66 you then say – you express a view that:

“The increase was excessive and it was difficult to justify.”

MR FRANCIS QUENTIN CALLARD: Correct.

ADV MAHLAPE SELLO: If then we could turn to Mr Laher’s statement – second statement which is the direct response and Mr Laher deals with your – what you state there in various paragraphs. He does so starting at paragraph 26.

20 **MR FRANCIS QUENTIN CALLARD:** Sorry. Paragraph?

ADV MAHLAPE SELLO: 26 of his statement.

MR FRANCIS QUENTIN CALLARD: 26? *Ja*.

ADV MAHLAPE SELLO: And that would be at page 5 of ...

MR FRANCIS QUENTIN CALLARD: Five?

ADV MAHLAPE SELLO: Five of his second statement to your

response. So he deals with that from paragraph 26 into 27, 28, 31, 32, 36 and 38.

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: You have had opportunity to apply your mind to what Mr Laher states?

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: And if – if you could deal – a comment to Mr Laher’s responses.

CHAIRPERSON: Well either you or Mr Callard must just say what
10 Mr Laher’s ...

ADV MAHLAPE SELLO: The gist of the points.

CHAIRPERSON: Points are – responses are first or response before dealing with it.

ADV MAHLAPE SELLO: Then I can do that.

CHAIRPERSON: *Ja.*

ADV MAHLAPE SELLO: I have summarised them. I think it will be easier and quicker for me to do so.

CHAIRPERSON: *Ja.*

ADV MAHLAPE SELLO: In the paragraphs I have mentioned which is
20 26 to 28, 31, 32, 36 and 38 this is what we are able to extract from Mr Laher’s statement. Firstly he does not deny that the increase of a billion in the ETC was excessive. There is not direct denial. He demonstrates how that increase of one billion was arrived at with reference to a particular annexure he has added to his statement and in his calculation he arrives at a figure of 41 million per locomotive which

would translate to 4.1 billion.

The number we are chasing so to speak is 4.8 billion. He indicates that Mr Molefe and Mr Singh had been in charge of the negotiations with – regarding the cost of these locomotives and this is from CN – CNR – CSR – the 100.

MR FRANCIS QUENTIN CALLARD: These were from CSR.

ADV MAHLAPE SELLO: CSR, thank you. I tend to confuse them. My apologies; and at 27 he indicates to the best of his knowledge CSR had requested a price of 49 million per locomotive which brings us to 4.9
10 billion for the 10 and the Chairperson at the time pitched the price at 38.5 million and at 28 he then deals with what transpired from that negotiation and he says that the parties agreed at 44 million per locomotive which takes us to 4.8 billion. He then speaks to the analysis ...

CHAIRPERSON: Well you – you know better what you have in front of you ...

ADV MAHLAPE SELLO: Yes Chair.

CHAIRPERSON: But I – I suggest that you take it in manageable ...

ADV MAHLAPE SELLO: In manageable bites?

20 **CHAIRPERSON:** *Ja, ja* bites and see what – what he says and let us hear what Mr Callard's response is.

ADV MAHLAPE SELLO: Alright.

CHAIRPERSON: Then – then I will follow.

ADV MAHLAPE SELLO: You will follow better?

CHAIRPERSON: *Ja.*

ADV MAHLAPE SELLO: I am happy to Chair. If I refer you then Mr Callard to page 4 of Mr Yousuf Laher's response to your 3.3. He has got a heading there:

"Pertinent Facts Relating to the 100 Locomotive Deal".

He provides some facts.

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: But I think we should turn our attention to his paragraph 26. At 26 he indicates that he was requested to prepare a
10 reasonability calculation.

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: Which he did ...

MR FRANCIS QUENTIN CALLARD: Which he did.

ADV MAHLAPE SELLO: And which reflected at YL24.

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: Now if we may turn to YL24 and then I am going to request your comment thereon. I apologise Chair. Unfortunately my ...

MR FRANCIS QUENTIN CALLARD: YL24.

20 **ADV MAHLAPE SELLO:** File does not have tabs this time. That would be at page 45 ...

MR FRANCIS QUENTIN CALLARD: Page 45.

ADV MAHLAPE SELLO: Of the second statement. The second statement Chair after the divider. The one that we call Laher second statement.

CHAIRPERSON: And what page would that be?

MR FRANCIS QUENTIN CALLARD: Page ...

ADV MAHLAPE SELLO: It is page 45.

CHAIRPERSON: Oh.

ADV MAHLAPE SELLO: Each – each statement has its own numbering.

CHAIRPERSON: Oh. I am looking for the ...

ADV MAHLAPE SELLO: So it is not a continuation.

CHAIRPERSON: Pagination number.

10 **ADV MAHLAPE SELLO:** What you are looking for is the tab marked two ...

CHAIRPERSON: Huh-uh.

ADV MAHLAPE SELLO: That separates the two statements. It is the big tab Chair.

CHAIRPERSON: I – I saw – I saw it earlier.

ADV MAHLAPE SELLO: Yes.

CHAIRPERSON: I seem to struggle to see it now. That is in BB4A hey?

ADV MAHLAPE SELLO: Chair.

20 **CHAIRPERSON:** That is in BB4A?

MR FRANCIS QUENTIN CALLARD: It is BB4F.

ADV MAHLAPE SELLO: No BB4F.

CHAIRPERSON: Oh.

ADV MAHLAPE SELLO: Ja, apologies Chair. BB4F the one we submitted this morning.

CHAIRPERSON: Okay.

ADV MAHLAPE SELLO: Now there would be a big divider ...

CHAIRPERSON: Ja.

ADV MAHLAPE SELLO: Indicating two. That is the second statement which of course we shall rename that divider.

CHAIRPERSON: Yes. Okay. You said page?

ADV MAHLAPE SELLO: We are now at page 45.

CHAIRPERSON: Okay. Thank you.

ADV MAHLAPE SELLO: And at page 45 Chair is Annexure YL24 which
10 at paragraph 26 of his statement Mr Laher says:

“It was the result of a reasonability calculation he undertook at the request of Mr Singh.”

And then I will invite your comment both on what he states at paragraph 26 how that came about and the content of YL24 itself.

MR FRANCIS QUENTIN CALLARD: Certainly. Well as Mr Laher says that Mr Singh requested that he personally prepare a reasonability calculation on the expected price of the 20E that was purchased from CSR in October 2012 adjusting for the 2012 price for inflation, forex movements and any other items that would impact the price. He arrives
20 at a calculated figure of approximately 44 million.

If we may now look at page 45. He gives an analysis of how he arrived at that price. Firstly ...

ADV MAHLAPE SELLO: And just for the record – I apologise. Page 45 is Annexure YL24.

MR FRANCIS QUENTIN CALLARD: It is Annexure YL24 ...

ADV MAHLAPE SELLO: Thank you.

MR FRANCIS QUENTIN CALLARD: And it is page 45 ...

ADV MAHLAPE SELLO: Thank you.

MR FRANCIS QUENTIN CALLARD: Of the bundle.

ADV MAHLAPE SELLO: Yes.

MR FRANCIS QUENTIN CALLARD: In – in the first block the – the page's heading:

“100 20E Electrics Price Recalculation”

And just below that on the right hand side it has YL. I take it
10 that stands for Yousuf Laher recalculation.

ADV MAHLAPE SELLO: Yes.

MR FRANCIS QUENTIN CALLARD: He then puts this – some first figures in a – in a block which he indicates first the Rand portion of the locomotive. Then he has a US portion of \$1 950 000. Then he has two figures. One a rate used by CSR 7.4 and I interpret this as that was the Dollar rate used by CSR in their calculation and then he has a rate at the date of signature of 22 October 2012 at 8.635.

It is my understanding that this relates to a comment that he made in – in his statement where believed that the rate of exchange
20 was excessive and in that I would like to point out to item 31 of his statement.

ADV MAHLAPE SELLO: We will get to 31.

MR FRANCIS QUENTIN CALLARD: Certainly. Right, thank you.

ADV MAHLAPE SELLO: Let us just deal with YL24, thank you.

MR FRANCIS QUENTIN CALLARD: And from that he calculates at the

last line in that block a calculated exchange rate impact. He gives us a base price of the locomotive and then he adds various elements, exchange rate, escalation on the Dollar portion, escalation on the South African portion, additional set up costs, hedging costs. He adds duty, a price excluding options.

He then adds options of pneumatically controlled braking and Wire Distributed Power that is the WDT and he comes to a price including options of 41 099 733. So it is 41.1 million to all intents and purposes. May – and ...

10 **ADV MAHLAPE SELLO:** So – yes please go on.

MR FRANCIS QUENTIN CALLARD: It would be my understanding ...

ADV MAHLAPE SELLO: Yes.

MR FRANCIS QUENTIN CALLARD: That this would be the total price of a locomotive fit for purpose ready for use.

ADV MAHLAPE SELLO: So when you say fit for purpose in layman's terms would be if at the time Transnet paid 41 million and gets the locomotive it is ready to run on the rails?

MR FRANCIS QUENTIN CALLARD: That is correct because the base price of the locomotive certainly which we had in the business case ex
20 – included the necessary options over and above the manufacturers offered price that would be required to render a locomotive fit for purpose.

ADV MAHLAPE SELLO: And now with reference to YL24 you – do – is that – is it your interpretation or do you support Mr Laher's view that he arrived at the 41 million per locomotive having taken into consideration

escalation for inflation and foreign exchange fluctuations from October 2012 to February 2014 adjusted for variations for design, additional steel costs, setup costs, hedging costs, duties and options.

Taking all those costs into consideration he arrives at a final figure. Total cost to Transnet ...

MR FRANCIS QUENTIN CALLARD: Correct it is my ...

ADV MAHLAPE SELLO: Of 41 million.

MR FRANCIS QUENTIN CALLARD: Understanding of his calculations, yes.

10 **ADV MAHLAPE SELLO:** If the locomotives are acquired by February 2014?

MR FRANCIS QUENTIN CALLARD: Correct.

ADV MAHLAPE SELLO: And that he states at 26. So you are in agreement with him – with the manner of calculation there?

MR FRANCIS QUENTIN CALLARD: Manner of calculation, yes.

ADV MAHLAPE SELLO: And is that an – a correct approach in your view to calculating a cost of acquisition of - of such locomotive over a period of time as happened in this case?

MR FRANCIS QUENTIN CALLARD: I agree with the methodology.

20 **ADV MAHLAPE SELLO:** Okay. At paragraph 27 he indicates that there were negotiations held between Transnet and CSR. Now he informs us that at the time CSR requested 49 million and the Chairperson pitched the price as 38.

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: Now he does say:

“During his involvement in the negotiation process.
No decisions were taken at the meeting and the
final price that was agreed to was not agreed to in
the meeting which I was involved.”

He says that at 27.

MR FRANCIS QUENTIN CALLARD: Agreed, yes.

ADV MAHLAPE SELLO: He however informs us at paragraph 28 that:

10 “Subsequently thereto a day or so later Mr Singh
informed him - Mr Laher – that Mr Brian Molefe had
agreed with CSR that Transnet will acquire the
locomotives at 44 million per locomotive ...”

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: “...and that the contract must be
drafted accordingly.”

MR FRANCIS QUENTIN CALLARD: That is ...

ADV MAHLAPE SELLO: Do you have ...?

MR FRANCIS QUENTIN CALLARD: I looked at his statement
accordingly, yes.

20 **ADV MAHLAPE SELLO:** Yes. Do you have any comment on – on those
two paragraphs?

MR FRANCIS QUENTIN CALLARD: Yes I have one comment and in
that I would like to refer to Mr Laher’s original first statement ...

ADV MAHLAPE SELLO: Yes.

MR FRANCIS QUENTIN CALLRD: Which may be found on – in support
and amplification of that his first statement would be his paragraph 28

...

ADV MAHLAPE SELLO: That is our FF4 ...

MR FRANCIS QUENTIN CALLARD: Hm.

ADV MAHLAPE SELLO: F1 for the record. BB4F1, first statement in that FF4.

MR FRANCIS QUENTIN CALLARD: It is page 14 of his ...

ADV MAHLAPE SELLO: 1-4.

MR FRANCIS QUENTIN CALLARD: 1-4 of his statement BBF – BB4F.1.

ADV MAHLAPE SELLO: Yes.

10 **MR FRANCIS QUENTIN CALLARD:** And I would read verbatim from his

...

CAIRPERSON: Hm.

MR FRANCIS QUENTIN CALLARD: Paragraph 54.

CHAIRPERSON: I am sorry. I am sorry.

MR FRANCIS QUENTIN CALLARD: *Ja*.

CHAIRPERSON: Should we not drop the point one because later on we – we will not have point one and point two for the transcript?

ADV MAHLAPE SELLO: So we should make reference thereto first statement.

20 **CHAIRPERSON:** *Ja, ja*. Well you should just say first statement and second statement.

ADV MAHLAPE SELLO: Yes Chair.

CHAIRPERSON: So that it will not be confusing, *ja*. Okay.

ADV MAHLAPE SELLO: Then perhaps for – for the purpose of the transcription Mr Callard has now referred us to BB4F which is

Mr Yousuf Laher's statement and in particular to the first statement.

MR FRANCIS QUENTIN CALLARD: The first statement. Correct.

ADV MAHLAPE SELLO: And in this regard you wanted us to turn to page 14 of that first statement.

MR FRANCIS QUENTIN CALLARD: And his paragraph 54.

ADV MAHLAPE SELLO: We are at paragraph 54. Yes.

MR FRANCIS QUENTIN CALLARD: I would read verbatim from his paragraph.

10 “The impression I gained during the negotiations
was that the Chairperson's negotiation tactic was
very much focused on the overall price and not
focused on the detailed elements that made up the
price such as for example escalation, batch pricing
etcetera. Even though the detailed elements may
have been spoken about at various times during the
negotiations it appeared not to be Singh and
Jiyane's main focus. The effect of this was that as
much as these components were self-standing
components of the negotiations in the end it was
20 the overall price that the Chairperson focused on.
The Subcommittee made the final decision on
pricing.”

ADV MAHLAPE SELLO: So then what is your understanding of what he is saying that the negotiated price is 44 million, his calculation is 41 million? That is what you stated.

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: So in referring us to that particular paragraph what – what do you make of Mr Laher’s response remembering that it is in the context of your finding that you could not justify the increase?

MR FRANCIS QUENTIN CALLARD: Well I would then further take us to another statement and I would jump to this one too. Mr Laher’s statement – his paragraph 33 on page 6 of his second statement.

ADV MAHLAPE SELLO: Yes.

MR FRANCIS QUENTIN CALLARD: This is in his second statement.

10 **CHAIRPERSON:** What paragraph?

MR FRANCIS QUENTIN CALLARD: Paragraph 33.

CHAIRPERSON: Okay.

MR FRANCIS QUENTIN CALLARD: Page 6.

ADV MAHLAPE SELLO: Yes.

MR FRANCIS QUENTIN CALLARD: And I would again quote verbatim from his statement.

“In 2014 post the negotiation process ...”

ADV MAHLAPE SELLO: Huh-uh.

20 **MR FRANCIS QUENTIN CALLARD:** “...Mr Singh explained to me the principle elements of items he would like included in a memorandum detailing the reasons of why the price had increased from the business case submission. He explained to me the detail of the format in which he wanted the numbers presented. Mr Singh requested that I type these into a draft of

the memorandum prepared by the Transnet Group
Capital Department.”

ADV MAHLAPE SELLO: Now based on what you have just read from
both statements ...

MR FRANCIS QUENTIN CALLARD: My conclusion ...

ADV MAHLAPE SELLO: Yes.

MR FRANCIS QUENTIN CALLARD: That I interpret from this reading
the first statement in context the Chairperson was focus – that there
was a focus on the final price. That there was the detail which made
10 up that price was of lesser significance. We have seen the range of the
prices which were involved that was the 38.5 million and the 49 million.
Finally agreed price of 44 million.

Post event Mr Laher is now asked to justify - come up with
reasons as to why the price of 44 million was (intervenes).

ADV MAHLAPE SELLO: But before he does that he arrived at 41
million?

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: He calculated it in detailed form ...

MR FRANCIS QUENTIN CALLARD: Yes.

20 **ADV MAHLAPE SELLO:** For us ...

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: At YL24. We looked at that annexure.

MR FRANCIS QUENTIN CALLARD: Yes.

ADV MAHLAPE SELLO: He tells us in his statement that he is told that
the negotiated price is 44 million?

MR FRANCIS QUENTIN CALLARD: Correct.

ADV MAHLAPE SELLO: My reading and you correct me if I am wrong is that his calculation – no the negotiated price is in consistent with his calculation?

MR FRANCIS QUENTIN CALLARD: Correct, correct.

ADV MAHLAPE SELLO: There is as 3 million difference between the two?

MR FRANCIS QUENTIN CALLARD: Correct.

ADV MAHLAPE SELLO: Okay and he does not seek at least thus far
10 too explain that difference ...

MR FRANCIS QUENTIN CALLARD: I cannot ...

ADV MAHLAPE SELLO: In that price?

MR FRANCIS QUENTIN CALLARD: Find an explanation of that difference. He does mention that he said to Mr Singh that the escalation – the escalation used – correction.

ADV MAHLAPE SELLO: Do you want – want to refer to the exchange rate used?

MR FRANCIS QUENTIN CALLARD: Exchange rate.

ADV MAHLAPE SELLO: We will get to the exchange rate issue.

20 **MR FRANCIS QUENTIN CALLARD:** But I can – do not find a calculation which supports that. I cannot find an explanation of the difference - why the difference between the price which he calculated ...

ADV MAHLAPE SELLO: Yes.

MR FRANCIS QUENTIN CALLARD: And the price which was finally

agreed on.

ADV MAHLAPE SELLO: At 44?

MR FRANCIS QUENTIN CALLARD: The 44.

ADV MAHLAPE SELLO: Thanks. Chair it has been brought to my attention that always over running three minutes into your lunch hour.

CHAIRPERSON: What is your estimation of how long we might need Mr Callard?

ADV MAHLAPE SELLO: Two hours Chair.

CHAIRPERSON: (Indistinct).

10 **ADV MAHLAPE SELLO:** Your mic Chair.

CHAIRPERSON: If we resume at two that is up to four?

ADV MAHLAPE SELLO: Yes.

CHAIRPERSON: How is your availability tomorrow Mr Callard?

MR FRANCIS QUENTIN CALLARD: I am available tomorrow Chair.

CHAIRPERSON: You are available tomorrow?

MR FRANCIS QUENTIN CALLARD: I am available tomorrow to continue if need be.

CHAIRPERSON: Yes. I am not feeling terribly well.

ADV MAHLAPE SELLO: Okay Chair.

20 **CHAIRPERSON:** I think it might help if we stopped. Then I can do what I need to do to try and make sure that tomorrow I feel better.

ADV MAHLAPE SELLO: Back on your feet. Yes Chair.

CHAIRPERSON: So maybe rather than adjourn now for lunch and come back and proceed up to four and then tomorrow I am worse. It might be better that we adjourn now and adjourn for the day.

ADV MAHLAPE SELLO: We are happy to do so Chair.

CHAIRPERSON: *Ja, ja.*

ADV MAHLAPE SELLO: We confirm our availability as well for tomorrow morning.

CHAIRPERSON: Yes. I – I have asked that arrangements be made for another witness to – Mr Ntshisi to be here tomorrow at 10.

ADV MAHLAPE SELLO: Yes.

CHAIRPERSON: But I think what we will do is start with Mr Callard since he is in the middle of the evidence and then continue and then
10 when he finishes then I can hear Mr Ntshisi because there was no other witness you had for tomorrow. Is that ...?

ADV MAHLAPE SELLO: I was done today Chair.

CHAIRPERSON: *Ja, ja.* No that is fine. Then Mr Callard we will ask that you come back tomorrow at 10.

MR FRANCIS QUENTIN CALLARD: Certainly.

CHAIRPERSON: I am sorry that we cannot proceed.

MR FRANCIS QUENTIN CALLARD: I understand.

CHAIRPERSON: I think it is going to be much better in the long term that we adjourn now. We will adjourn now and then tomorrow we will
20 resume at 10 o' clock. We adjourn.

ADV MAHLAPE SELLO: Thank you Chair.

MR FRANCIS QUENTIN CALLARD: Thank you.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 11 JULY 2019