

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

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10

**11 JULY 2019**

**DAY 131**

20

**PROCEEDINGS COMMENCE ON 11 JULY 2019**

**CHAIRPERSON**: Good morning Ms Sello, good morning everybody.

**ADV MAHLAPE SELLO**: Morning Chair.

**CHAIRPERSON**: Good morning Mr Callard. Are you ready?

**ADV MAHLAPE SELLO**: We are ready thank you Chair.

**CHAIRPERSON**: Thank you.

**ADV MAHLAPE SELLO**: Mr Callard when we adjourned yesterday we were dealing with the first of the five topics we had agreed Mr Laher deals with in his statement regarding the evidence you gave. And this  
10 first topic relates to the increase in estimated total costs of the 100 locomotive acquisition, you remember?

**MR FRANCIS QUENTIN CALLARD**: Correct yes.

**ADV MAHLAPE SELLO**: We had not finished that topic and I would invite us to do so now. We had indicated that Mr Laher deals with these issues in certain paragraphs in particular 26, 27, 28, 31, 32, 36 and 38 of his statement.

**MR FRANCIS QUENTIN CALLARD**: Yes.

**ADV MAHLAPE SELLO**: Now if you refer to...

**CHAIRPERSON**: I am sorry which Exhibit are we using?

20 **ADV MAHLAPE SELLO**: My apologies Chair that would be Exhibit BB4[f]. Now what the Chair has immediately in front of him Mr Callard – is Mr Callard's range which is his statement and annexures. I am at F4F.

**CHAIRPERSON**: Yes.

**ADV MAHLAPE SELLO**: And in particular we are looking at the second

statement under Tab 2. It is written second statement.

**CHAIRPERSON**: Okay. Thank you.

**ADV MAHLAPE SELLO**: And for ease of...

**CHAIRPERSON**: Ja I see it is written like that.

**ADV MAHLAPE SELLO**: Yes Chair we tried to update your files.

**CHAIRPERSON**: Thank you.

**ADV MAHLAPE SELLO**: Thank you. For ease of reference Chair I would request the Chair to please have regard to Mr Callard's own statement BB4[a].

10 **CHAIRPERSON**: Yes.

**ADV MAHLAPE SELLO**: And his statement in BB4[a] will run from page 1. As I indicated yesterday having identified the issues that Mr Callard – Mr Laher deals with we will be reading both statements. We understand...

**CHAIRPERSON**: Okay.

**ADV MAHLAPE SELLO**: What Mr Callard testified to and then see what Mr Laher's response is.

**CHAIRPERSON**: Yes.

20 **ADV MAHLAPE SELLO**: In particular on this aspect we are now at page 15 of Mr Callard's BB4[a] at paragraphs 64 and 66. That is where – of Mr Callard BB4[a].

**CHAIRPERSON**: At 64?

**ADV MAHLAPE SELLO**: At 64 – paragraph 64.

**CHAIRPERSON**: Okay.

**ADV MAHLAPE SELLO**: Page 15. You have the statement Chair?

**CHAIRPERSON**: I have got the statement.

**ADV MAHLAPE SELLO**: If the Chair...

**CHAIRPERSON**: Let me just make sure. My page 64 seems to be something else.

**ADV MAHLAPE SELLO**: No, no, no Chair page 15 paragraph 64.

**CHAIRPERSON**: Oh page 15.

**ADV MAHLAPE SELLO**: My apologies if I caused confusion yes.

**CHAIRPERSON**: Page 15.

**ADV MAHLAPE SELLO**: The page is 15 the paragraph is 64.

10 **CHAIRPERSON**: Oh okay. Yes I have got it.

**ADV MAHLAPE SELLO**: And while then when we are on 15 at 64 and 65 Mr Callard you will recall Chair is expressing a view that he could not justify the increase from 3.87 billion to 4.8 billion. So what we are dealing with is now Mr Callard – Mr Laher's response thereto.

**CHAIRPERSON**: Okay.

**ADV MAHLAPE SELLO**: Thank you.

**CHAIRPERSON**: Hm.

20 **ADV MAHLAPE SELLO**: And just to – to wrap up what – how far we had gone yesterday we indicated that as far as our determination goes in the paragraphs in Mr Laher's statement where he deals with this issue he does not firstly deny that the increase was excessive.

**MR FRANCIS QUENTIN CALLARD**: No correct.

**ADV MAHLAPE SELLO**: He does not. We dealt with annexure YL24 to the second statement appearing at page 44 of Mr Laher's second statement where Mr Laher demonstrated how he did his calculations

which brought him to a figure of 41 million per locomotive. He then – we then dealt with the aspect that Mr Laher claims that Mr Singh advised that Mr Molefe had agreed already to a price of 44 million and we are now at the point whether – of dealing with the justification for the 44 million. Okay. Now at – for this we need to go to Mr Laher's page 36 – paragraph 36 I apologise. And that paragraph 36 Chair appears at page 7. Now in this page 36 before we deal with the facts that Mr Laher speaks of I note that he introduces two concepts that perhaps we might benefit from an explanation of. He speaks of a  
10 concept of rebase lining the price that is on the one hand. On the other hand he speaks of a concept of walk forward.

**MR FRANCIS QUENTIN CALLARD:** Yes he does.

**ADV MAHLAPE SELLO:** Now before we deal with what he says are you familiar with both concepts?

**MR FRANCIS QUENTIN CALLARD:** I have a view on both concepts.

**ADV MAHLAPE SELLO:** Okay can you then perhaps for edification tell us what rebase lining means and involves?

**MR FRANCIS QUENTIN CALLARD:** Certainly. In my understanding rebase lining would imply the following. I have the price of an article  
20 for in this instance a locomotive which is perhaps two years in the past. I wish now and that is a locomotive which and let us call it an over the counter price fit for purpose.

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** That I can take it off, put it on the rails and it would operate. I wish to understand the price of that

locomotive today again an over the counter price it for purpose locomotive. One examines the price of the locomotive two years ago one used known factors such as escalation and foreign – movement in foreign exchange rates. One applies those factors against known tables and historical data to escalate and rebase line the price to today's date. So one takes the historical over the count price using those known factors one can do a calculation to bring it to today's date with reference to that data. That is the rebase lining to today.

**ADV MAHLAPE SELLO:** Okay.

- 10 **MR FRANCIS QUENTIN CALLARD:** The second point was the walk forward.

**ADV MAHLAPE SELLO:** Yes.

- MR FRANCIS QUENTIN CALLARD:** If I wish to now predict – predict the price of the locomotive in the future I have today's price using assumptions, reasonable assumptions on escalation and using projections of foreign exchange movements into the future which projections would be obtained from forex from banks and similar sources. One would then do a deterministic calculation and I stress the word deterministic calculation to arrive at a future price of the locomotive. Of course this is still subject to the – assumptions on escalation maybe marginally out and of course the further one projects into the future the greater the risk in terms of the foreign exchange assumption predicting the rand/dollar rate for example while you into the future is quite different to predicting it seven years into the future. But they are deterministic calculations based on data provided by
- 20

reliable third parties. That is my understanding of the term walk forward to arrive at a price of an article in this case a locomotive into the future.

**ADV MAHLAPE SELLO:** So the process of walk forward then if I understand you correctly is to understand what the future price will be.

**MR FRANCIS QUENTIN CALLARD:** Correct.

**ADV MAHLAPE SELLO:** So the process will tell me what the price ought to be.

**MR FRANCIS QUENTIN CALLARD:** Correct.

10 **ADV MAHLAPE SELLO:** Thank you. Now when – if I refer to paragraph 6 of Mr Laher’s statement at paragraph 36 and I am reading second sentence which is about fourth line in Chair.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** When he states and I quote:

20 “Mr Singh told me to prepare a ‘walk forward’ calculation from the business case price to the final contracted price the walk forward would entail taking the price as reflected in the business case of 34 million per locomotive and adding or subtracting any elements that impact the price to that price in order to end up at the final contracted price.”

Does that accord with your understanding of the – of walk forward as you just explained?

**MR FRANCIS QUENTIN CALLARD:** No.

**ADV MAHLAPE SELLO:** I see in this paragraph that he explains –

whereas you say the walk forward helps us determine the future price he explains that in this instance there was a final contracted price and then he was requested to conduct a walk forward towards that price.

**MR FRANCIS QUENTIN CALLARD:** It is my understanding and interpretation of this sentence that this walk forward was not a determination of the final price it was a justification of the final price to try and find a justification of the final price. Not a determination of the final price.

**ADV MAHLAPE SELLO:** Now remembering that in your statement you  
10 had said you were finding difficulty in justifying the increase by a billion of that price.

**MR FRANCIS QUENTIN CALLARD:** Correct.

**ADV MAHLAPE SELLO:** If you then turn overleaf to paragraph 38 of Mr Laher's statement. Mr Laher states that Mr Singh provided the guidance for the remaining elements that made up the price of 44 million. And in this regard he refers to annexure YL25 of his second statement which would appear in your record at – starting at page 46 of Mr Laher's statement.

**MR FRANCIS QUENTIN CALLARD:** Ja.

20 **ADV MAHLAPE SELLO:** And in this regard he refers us to table 2 – sorry table 1. It is a memorandum he refers us to table 1 of that document.

**MR FRANCIS QUENTIN CALLARD:** Page 50.

**ADV MAHLAPE SELLO:** At page 50. Now if you look at that table are you familiar with what is – with the calculations set out therein?



**MR FRANCIS QUENTIN CALLARD:** With the format of the calculations yes.

**ADV MAHLAPE SELLO:** Yes. So we know now Mr Laher says: “Insofar as – and before I do that. A reading of table 1 has got indications of costs – various costs taken into consideration to arrive at the total figure of 44, is that correct?”

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Now on the – after the description of the cost he then has in descending order items numbered A to F.

10 **MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Now if we refer back to his statement he tells insofar as items C, D, E, F on table 1 – this table we are looking at these were provided by Mr Singh?

**MR FRANCIS QUENTIN CALLARD:** Singh guidance on those elements.

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** That made up the price were provided by Mr Singh, yes.

**ADV MAHLAPE SELLO:** Okay now does that table assist you in determining how the price of 44 million was arrived at?

20 **MR FRANCIS QUENTIN CALLARD:** No it does not.

**ADV MAHLAPE SELLO:** Why not?

**MR FRANCIS QUENTIN CALLARD:** We dealt with this in my original evidence where I discussed this table in some details and said that I could not understand the derivation of these figures from data that I could glean, understand and reasonability based assumptions. Where

we stand now and through what we have in the statement from Mr Laher

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** There is nothing which adds to the table or enables a further determination of the table in the deterministic manner of a walk forward which I was mentioning. None of those – that data or methodology for a calculation of that walk forward is provided. It is covered as I in my reading of this under the guidance of Mr Singh who provided those elements. But it does not elucidate or add to an understanding of how the final 44 million was derived at other than  
10 these figures we have no understanding of how the figures were derived in a deterministic or traceable manner. That is my understanding of this.

**CHAIRPERSON:** Is the concept of a walk forward meant to help when you want to look at how much a product is likely to cost in the future?

**MR FRANCIS QUENTIN CALLARD:** Yes indeed Chair. The concept of a walk forward perhaps not in that term but is what we would use when we are costing a project to determine the final estimated total cost of the project. We have a cost element in – of an item in the past. We bring it forward to today's cost in a business case scenario and then  
20 recognising that it might be delivered over two or three years into the future we then do those deterministic projections as to a future cost add a small amount – add an amount for contingency because there is inevitably some risk and uncertainty related to [indistinct] future the is added to that amount and that is then what we would say is the estimated total cost to the organisation. The correctness of that figure

is important because it determines the cash flow of the organisation which is vital for it – in a sustainable business.

**CHAIRPERSON**: Hm.

**MR FRANCIS QUENTIN CALLARD**: So yes the concept of the walk forward, the deterministic forward looking view.

**CHAIRPERSON**: Hm.

**MR FRANCIS QUENTIN CALLARD**: Forward looking determination of a price is absolutely vital.

**CHAIRPERSON**: Yes thank you.

10 **ADV MAHLAPE SELLO**: So in this instance then to summarise Mr Laher's evidence what he was requested to do and what he did was to walk forward to a contracted price?

**MR FRANCIS QUENTIN CALLARD**: To walk forward to a pre-determined price of that 44 million which he was given.

**ADV MAHLAPE SELLO**: So the walk forward in this instance if – would I be correct in my understanding the walk forward did not determine the price?

**MR FRANCIS QUENTIN CALLARD**: No.

20 **ADV MAHLAPE SELLO**: In your experience is that something that is done where you determine a price at which to contract and then you attempt to walk forward to that price?

**MR FRANCIS QUENTIN CALLARD**: I have not come across that methodology in the past. It is most unusual – highly unusual. In fact I would go so far as to say irregular because we are now trying to justify a price which has been given as he mentioned in his statement earlier.

That he was given the price he is now trying to justify the price as in the walk forward.

**CHAIRPERSON**: Well I take it that there ought to be no problem with the idea of saying look we have already determined the price for this but maybe there is something we should have done before which we did not do – that is the walk forward. Let us try and see where we would have arrived – at what price we would have arrived if we had done the walk forward before determining the price because if we do that now the result might assist us to see how far we are from where we would  
10 have been had we done the walk forward. Which might go to the point you made earlier on that they were trying to – they were using the walk forward to justify the price. But in principle is there any objection to that accepting that normally it is supposed to happen before but if you have already determined it and maybe objections are being raised and you want to see how much difference it would have made anyway, would that be a problem with that?

**MR FRANCIS QUENTIN CALLARD**: I would respond to that Mr Chair in two points.

**CHAIRPERSON**: Yes.

20 **MR FRANCIS QUENTIN CALLARD**: Mr Laher in his statement points out in his annexure 24 that he already had a lesser price.

**CHAIRPERSON**: Yes.

**ADV MAHLAPE SELLO**: If I may Chair and that 24 appears at your page 44 to Mr Laher's second statement.

**CHAIRPERSON**: Thank you. Yes.

**MR FRANCIS QUENTIN CALLARD:** He then points out further on his statement and I take one there to page 5 of his statement paragraphs 27 and 28.

**CHAIRPERSON:** Yes

**MR FRANCIS QUENTIN CALLARD:** In paragraph 27 he states that the negotiations the chairman pitched a price of 38.5. CSR requested a price of 49 and refused to come down. I move then down to Mr Laher's statement paragraph 28 subsequently a day or two later Mr Singh told us that the Group Chief Executive Mr Molefe had agreed upon the  
10 payment terms and a price of 44 million. Now – then moving forward to his statement – to Mr Laher's statement on 36 which we have just been dealing with.

**CHAIRPERSON:** Yes.

**MR FRANCIS QUENTIN CALLARD:** He was post event asked to perform a walk forward to justify the 44 million.

**CHAIRPERSON:** Hm.

**MR FRANCIS QUENTIN CALLARD:** He had already determined a lower price. The indications are in his statement that he had already advised here he thought the price was in fact excessive in terms of incorrect  
20 exchange rates being used. He is now post event asked to perform the walk forward to justify the 44 million.

**CHAIRPERSON:** But maybe I should say in theory can it be done – can a walk forward be done where the price has already been determined for purposes of seeing how much difference there is between the price that has been – that has already been determined and the price that

would have been determined if the walk forward had been done timeously?

**MR FRANCIS QUENTIN CALLARD:** Oh yes that is – that is certainly possible. If we have the – we have the - for an example in this case we have the 44 million already given. It is possible subsequently to do a walk forward in the sense to say well what should the price have been done. That has been done on a number of occasions in this one.

**CHAIRPERSON:** Yes

**MR FRANCIS QUENTIN CALLARD:** And we would have seen that  
10 figure has come out in the Fundudzi Report.

**CHAIRPERSON:** Yes.

**MR FRANCIS QUENTIN CALLARD:** Even if we were to accept Mr Laher's ...

**CHAIRPERSON:** Yes.

**MR FRANCIS QUENTIN CALLARD:** Figures at face value they would come out at a lower price.

**CHAIRPERSON:** Hm.

**MR FRANCIS QUENTIN CALLARD:** I also came out at different variations of the price.

20 **CHAIRPERSON:** Yes.

**MR FRANCIS QUENTIN CALLARD:** So yes they indicate a walk forward has indicated a different price to that which was finally contracted.

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

**ADV MAHLAPE SELLO:** Abut then if I may follow up on that? You walk

forward to determine what the price would be or in this case should have been?

**MR FRANCIS QUENTIN CALLARD:** Should have been yes.

**ADV MAHLAPE SELLO:** As a concept?

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** You do not walk forward towards a determined price that is now walk forward anymore?

**MR FRANCIS QUENTIN CALLARD:** That is not a walk forward. That is a justification.

10 **ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** That is a post fact justification.

**CHAIRPERSON:** Is it a walk backwards?

**MR FRANCIS QUENTIN CALLARD:** It is a walk backwards.

**ADV MAHLAPE SELLO:** Maybe a sideway walk Chair.

**MR FRANCIS QUENTIN CALLARD:** Mr Chair I think you have summarised it beautifully. A walk forward would be prior to the event to determine the price. Post event would be walk backward to justify it. It think you summarised it beautifully.

20 **ADV MAHLAPE SELLO:** So then we have YL24 to Mr Laher's second statement which is his own calculations.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Would you say what is happening in YL24 is a "walk forward"?

**MR FRANCIS QUENTIN CALLARD:** YL24 "would have been a walk forward" it was prior to the event prior to the 44 that was a walk

forward.

**ADV MAHLAPE SELLO:** So his walk forward landed him at 41 million?

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Okay. You took us then to table 2 – table 1 of YL25.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Which Mr Laher cross-refers to regarding how 44 million was arrived at.

**MR FRANCIS QUENTIN CALLARD:** Yes

10 **ADV MAHLAPE SELLO:** You just commented to the Chair that you have dealt with that table previously in your evidence before the Chair and it is precisely the contents of that table that you say make it difficult for you to justify this increase of a billion?

**MR FRANCIS QUENTIN CALLARD:** Because it was a walk backwards. It was excessive and difficult to justify.

**ADV MAHLAPE SELLO:** Yes. Now – now that Mr Laher has responded to your evidence and has given you the two – the table at YL25 and YL24 are you in a better position to justify? Has your position improved from when you last appeared before the Chair?

20 **MR FRANCIS QUENTIN CALLARD:** Not at all. I am in no better position to justify this table. There is no additional data or deterministic calculation to enable me to support this table so I stand by my point that it was excessive and difficult to justify. We have no data or deterministic calculation enabling or informing us on the makeup of these figures.



**ADV MAHLAPE SELLO:** Okay.

**MR FRANCIS QUENTIN CALLARD:** Other than that they were provided under the guidance of Mr Singh.

**ADV MAHLAPE SELLO:** Which does not help you to calculate?

**MR FRANCIS QUENTIN CALLARD:** Not a calculation.

**ADV MAHLAPE SELLO:** Thank you. Thank you Chair. Unless there is anything I have omitted I think we have dealt now comprehensively with Mr Laher's response to your evidence regarding the unjustifiability of the increase of the ETC.

10 **MR FRANCIS QUENTIN CALLARD:** I believe so.

**ADV MAHLAPE SELLO:** With – okay. Then we move onto the next topic that Mr Laher deals with and this is what I have – I have termed the foreign exchange issue the use of the Yen and the Dollar in the 100 acquisition. You deal with this firstly at your paragraph 67 in BB4[a] at page 16 and in that paragraph you have a quotation. This quotation you get from paragraph 5.a of the memorandum, the business case.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And ...

**MR FRANCIS QUENTIN CALLARD:** Of the memorandum yes.

20 **ADV MAHLAPE SELLO:** Yes. And you – it states that the foreign exchange rates used was – the foreign exchange used was the Japanese Yen.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And then it deals with the depreciation of the Rand against the Japanese Yen and therefore that paragraph suggests

that an adjustment must be made accordingly. You conclude at that paragraph 67 that what you did not understand is these locomotives were being acquired from China South Rail which trades in Dollars, US Dollars?

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And yet the calculations in this business case are in Japanese Yen?

**MR FRANCIS QUENTIN CALLARD:** Yes

**ADV MAHLAPE SELLO:** Which is what the original intended  
10 manufacturer Mitsui trades in.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And you conclude there by inviting both Mr Singh and Mr Laher to talk to this anomaly.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** So that is what you testified to last time.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Mr Laher deals with that aspect of your evidence starting from his paragraph 35 of the state – of his second statement and the second half of 36.

20 **MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Now let us look at each paragraph independently. My reading of 35 and you have it before you, you will correct me if I am wrong. The gist of that paragraph is that and I am reading the fourth sentence which is about the fifth line and I quote: “At no stage did Mr Callard raise any queries with me about the draft

memorandum or its contents including the issues he raised in his statement to the commission about the use of Yen to rebase – to rebase-line the price.”

I will stop there – end of quote. In this paragraph has Mr Laher addressed the anomaly you have identified in your paragraph 67 in your view?

**MR FRANCIS QUENTIN CALLARD:** No the anomaly is not addressed.

**ADV MAHLAPE SELLO:** He is – in his – pointing out the Chair that you failed to raise that anomaly to him or before him when you became  
10 aware of it when you were requested to calculate the NPV.

**MR FRANCIS QUENTIN CALLARD:** In that Mr Laher is correct.

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** I did not raise the issue of the Yen with him at the time of the memorandum. I confine myself to the original request which was to recalculate the NPV which I did and I found that NPV positive.

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** However the fact that I failed to raise that anomaly with Mr Laher at the time I reject the concept or the  
20 notion that my failure to raise that anomaly with Mr Laher resulted in this final anomaly propagating or being forward or that I was responsible per se for that anomaly.

**ADV MAHLAPE SELLO:** Okay.

**CHAIRPERSON:** Well I do not know whether later on in his statement Mr Laher deals with the criticism in substance or not. But I guess that

maybe part of what he is saying is, if it was wrong he would have expected you to have raised it at the time and why did you not raise it?

**MR FRANCIS QUENTIN CALLARD:** I had raised already the – that the award of the locomotives to CSR was in my opinion flawed. I had already raised that with Mr Gama and Mr Gianni and I have testified to that earlier. The award was now au fait accompli. When the memorandum came through to justify the price I had already raised my concerns. I did not and I confined myself...

**CHAIRPERSON:** Yes.

10 **MR FRANCIS QUENTIN CALLARD:** To the NPV only which of what I was asked to do.

**CHAIRPERSON:** Yes.

**MR FRANCIS QUENTIN CALLARD:** Was the NPV still positive? I recalculated the NPV.

**CHAIRPERSON:** Yes.

**MR FRANCIS QUENTIN CALLARD:** That...

**CHAIRPERSON:** So basically the explanation is you had expressed your objections that this whole thing was flawed but it was being pursued and you confined yourself to ...

20 **MR FRANCIS QUENTIN CALLARD:** I confined myself to the NPV yes.

**CHAIRPERSON:** Ja.

**MR FRANCIS QUENTIN CALLARD:** It – and I reflect ...

**CHAIRPERSON:** Okay.

**MR FRANCIS QUENTIN CALLARD:** That the – I reflected afterwards certainly that the justification for the price increase in – for the price

increase when it was motivated on Yen – when it was a Chinese locomotive where the foreign component should have been in Dollars that was certainly strange because it appears to account for a post justification for the 44 million.

**CHAIRPERSON**: Yes thank you.

**ADV MAHLAPE SELLO**: I do not know if this is a fair question to put to you Mr Callard but I will nonetheless and if you consider it unfair please state so I will withdraw it accordingly.

**MR FRANCIS QUENTIN CALLARD**: Right.

10 **ADV MAHLAPE SELLO**: So you raise an anomaly of using the Yen when you are contracting from a Dollar based manufacturer?

**MR FRANCIS QUENTIN CALLARD**: Yes.

**ADV MAHLAPE SELLO**: Mr Laher's response thereto is but you had the memorandum that indicated that Yen was being used to calculate ...

**MR FRANCIS QUENTIN CALLARD**: *Ja*.

**ADV MAHLAPE SELLO**: And you failed to raise it to me?

**MR FRANCIS QUENTIN CALLARD**: Yes.

**ADV MAHLAPE SELLO**: Or with me? I am looking at Mr Laher's original statement and he – you do not have to go there. I am reading  
20 from it. He tells the Chair that he is a Chartered Accountant. He has been employed at Transnet since September 2005 within the Finance Department discharging different functions over the period including financial reporting, procurement and the like.

**MR FRANCIS QUENTIN CALLARD**: Yes.

**ADV MAHLAPE SELLO**: Now what is your take to a suggestion that

you failed Transnet by you – Mr Callard the Engineer – of not bringing to the attention of the Chartered Accountant employed as such in Transnet with such experience that what was happening in this business case is that they were using a Yen instead of a Dollar where the manufacturer is Dollar based?

**MR FRANCIS QUENTIN CALLARD:** Forgive me. I – I think I alluded to that earlier when I said I reject the notion or the insinuation that I might have been accountable for this anomaly. I think you have highlighted in – in what you have just stated very succinctly that others with perhaps  
10 the financial background should equally have raised that anomaly and been aware of that anomaly particularly as they were been intimately involved in the preparation of the memorandum.

**ADV MAHLAPE SELLO:** Thank you.

**CHAIRPERSON:** I – I guess Ms Sello is asking whether you think a Chartered Accountant should have been told by an Engineer that this was not supposed to be in a particular currency.

**MR FRANCIS QUENTIN CALLARD:** I – I would - I would think a person with a qualification of a Chartered Accountant should have raised that – identified that anomaly in – in their own which but I – I must add then  
20 which Mr Singh – which Mr Laher did to Mr Singh. He mentions it in his statement but he was then given – he used the words – if I may ...

**ADV MAHLAPE SELLO:** We will – we will get to that ...

**MR FRANCIS QUENTIN CALLARD:** *Ja.*

**ADV MAHLAPE SELLO:** Aspect yes. In fact you say as a Chartered Accountant he should have identified. You said he was working with

this memorandum. Dare I say he should have uncovered the anomaly before you did before the – the Commission?

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Thank you.

**MR FRANCIS QUENTIN CALLARD:** Yes I am.

**ADV MAHLAPE SELLO:** You remember I had said that he responds to this issue at his paragraphs 35, 36. So we have disposed of 35. Let us look at his paragraph 36 and in particular he picks it up in the second half of paragraph 36.

10 **MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Overleaf and if you could just consider what he states and comment thereon. I do not want to summarise because that in my view is actually the explanation of why the Yen is used.

**MR FRANCIS QUENTIN CALLARD:** That is the explanation and taking from the first point of Mr – from the first line at the top of page – at the ...

**ADV MAHLAPE SELLO:** Page 8.

**MR FRANCIS QUENTIN CALLARD:** Top of page 8.

**ADV MAHLAPE SELLO:** Yes.

20 **MR FRANCIS QUENTIN CALLARD:** Where:

“Singh explained that the assumptions used in the business case was a Rand/Yen rate and that business case was based on the price obtained from Mitsui.”

While Mr Laher had raised it with – I understand – raised it with

Mr Singh.

“Mr Singh through his explanation said you will continue to use the Yen based rate.”

However it still does not explain the (intervenes).

**ADV MAHLAPE SELLO:** Before – before you go – before you go any further I see following on what you have just read Mr Laher states:

10 “Singh explained that the business case was based in Yen and as such as the price must be escalated for the Yen movement from the business case submission ...”

And in this regard he refers to YL23 page 20.

“...to the date of contracting in order to show the impact of the change in the Rand/Yen rate on the business case price.”

**MR FRANCIS QUENTIN CALLARD:** But what I still fail to understand in this is I have a price for locomotive. I am now buying a Dollar – a Dollar based locomotive into the future why I should now be using Yen into the future in justification or determining a Dollar based locomotive. I still do not understand that anomaly and I still have nothing in here to  
20 address that anomaly other than that the first line.

“Mr Singh explained that the assumptions used in the business case and should be carried forward.”

Nothing further to me explains that anomaly.

**ADV MAHLAPE SELLO:** And earlier you – you indicated to the Chair that in truth Mr Laher appears to have picked up this anomaly early on



...

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And at that very same paragraph 36 continuing then in that paragraph he states and I quote:

“I pointed out that there would be more than one currency involved. However he indicated that the business case was premised on the Yen rate and thus the entire price must be escalated for the change in the Yen rate.”

10 So he was aware of this anomaly.

**MR FRANCIS QUENTIN CALLARD:** He was aware and he further states:

“I prepared the calculation accordingly ...”

**ADV MAHLAPE SELLO:** “...because Mr Singh had requested me to do so.”

**MR FRANCIS QUENTIN CALLARD:** *Ja.*

**ADV MAHLAPE SELLO:** He completes that paragraph with an insinuation he says he rejects that he suggests you make about him. Would you like to comment thereon?

20 **MR FRANCIS QUENTIN CALLARD:** From the two points raised in that – in the determination of the price there is nothing which has enabled us to come to a realistic - improve our knowledge of how the price was arrived at. Secondly in that the only explanation that I can pick up from Mr Laher’s statement for the continued use of the Yen was that Mr Singh explained the assumptions and take that as a guidance from

Mr Singh.

To me that still does not address the anomaly that I raised earlier as to the – how the price was arrived at or any reasonable determination of the price of that 44 (intervenes).

**ADV MAHLAPE SELLO:** Mr Singh – sorry – Mr Laher deals with the use of the Yen not the Dollar in paragraph 35 and 36?

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** This is the sum total of his explanation?

**MR FRANCIS QUENTIN CALLARD:** Yes.

10 **ADV MAHLAPE SELLO:** In your view you heard – let me say at your paragraph 67 you had invited both he and Mr Singh to talk to this anomaly. Now in your view has Mr Laher cast any light on this anomaly?

**MR FRANCIS QUENTIN CALLARD:** He has talked to it but not cast any light on it.

**ADV MAHLAPE SELLO:** He concludes at 60 ...

**MR FRANCIS QUENTIN CALLARD:** Except that the only light that I interpret that he has cast on it is that it was all under the direction, guidance equivalent synonyms from Mr Singh.

20 **ADV MAHLAPE SELLO:** So now reading your own allegations and reading Mr Laher's statement is there still an anomaly?

**MR FRANCIS QUENTIN CALLARD:** I contend there is still an anomaly.

**ADV MAHLAPE SELLO:** Okay and since you had invited both Messieurs Singh and Laher to talk to this anomaly and you conclude Mr Laher has thus far not done so – has failed to do so in his statement

I guess if the Chair can then only rely on Mr Singh perhaps to explain the anomaly going by your invitation?

**MR FRANCIS QUENTIN CALLARD:** I would concur with that conclusion and say that is to me that is the only reasonable conclusion that one could – could refer to. Mr Laher has attempted to or has tried to address it in his two paragraphs but in those paragraphs he defers both – in both those paragraphs he to Mr Singh. I believe then Mr Singh should answer – address the anomaly.

**ADV MAHLAPE SELLO:** Now he concludes on this issue and I am  
10 reading his last sentence of paragraph 36 at page 8 to the – and I quote:

“To the extent that Mr Callard is insinuating at paragraph 67 of his statement that the calculation was incorrect. It is clear from the above that he misunderstood the basis of the calculation.”

Do you have any comment to that?

**MR FRANCIS QUENTIN CALLARD:** There is nothing to inform the calculation or any calculation. Nothing has been provided here which as I said would enable a realistic determination of the calculation. The  
20 anomalies as I have pointed out have not been explained. We have talked and – and addressed. This is a post fact backward justification of the price but without any supporting data the anomalies remain and I still find it difficult to justify.

**CHAIRPERSON:** So you say there has been no response in substance

...

**MR FRANCIS QUENTIN CALLARD:** No response to the substance.

**CHAIRPERSON:** To the point that you raised and just reliance on what Mr Singh may have said to him does not go to the substance of the point?

**MR FRANCIS QUENTIN CALLARD:** Correct, correct.

**ADV MAHLAPE SELLO:** Thank you Chair and – and according to my notes that brings us then to the end of this issue about the use of the Yen versus the Dollar. Would you concur? Is there anything else ...

**MR FRANCIS QUENTIN CALLARD:** Okay.

10 **ADV MAHLAPE SELLO:** Perhaps we have missed? Okay. That then brings us to the third topic and the third topic is the question of advance payments. Both in - in regard to the 100 locomotives and 1064. Let us start with your statement BB4A. You first introduce this concept at your paragraph 60 – 6-0 – but you deal with it in further detail from your paragraphs 141 to 152?

**MR FRANCIS QUENTIN CALLARD:** Correct.

**ADV MAHLAPE SELLO:** And that would be at BB4A starting at paragraph 34. That is where 141 starts. Page 34, yes. Thank you and before we look at those paragraphs just for the – to place things in  
20 their proper context. At your page – at your paragraph 60 you had stated the following:

“On March, the 21<sup>st</sup> – on 21 March 2014 I and colleagues in finance received an email from Mr Yousuf Laher with spreadsheets of the final cash flows as at 17 March ...”

**CHAIRPERSON:** I am sorry. I am at 34. I am on the wrong page?

**ADV MAHLAPE SELLO:** Page 34 Chair. That is where paragraph 141 starts and that is where Mr Laher – Mr Callard deals in detail with advance payments.

**CHAIRPERSON:** Starting with it is my considered opinion?

**ADV MAHLAPE SELLO:** Yes Chair.

**CHAIRPERSON:** Okay.

**ADV MAHLAPE SELLO:** You are at the right page. What I have done I indicated that he introduced the concept at his paragraph 60.

10 **CHAIRPERSON:** Oh.

**ADV MAHLAPE SELLO:** We need not go there. I can just read it.

**CHAIRPERSON:** Okay.

**ADV MAHLAPE SELLO:** Just to place what then Mr Callard says from paragraph 141 and at paragraph 60 of your statement BB4A you stated:

20 “On 21 March 2014 I and colleagues in finance received an email from Mr Yousuf Laher with spreadsheets of the final cash flows as at 17 March 2014. I was shocked and astounded to note that the advance payments guarantee for the CSR 100 was 30 percent, the design review 30 percent, payment on acceptance per locomotive 37 percent and rotation three percent. This translates to a 60 percent upfront payment before a single locomotive is received.”

That is your paragraph 60?

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Then from your paragraph 141 at page 34 you then detail why this shocked and surprised you and I will just summarise and you have testified to this. You indicate that in both transactions 1064 and 100 the bidders themselves had offered – had requested upfront payments of – I will give you a range – between 1.62 – 1.62 percent of the contract price and eight percent ...

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Of the contract price. That you do at 144.

10 **MR FRANCIS QUENTIN CALLARD:** Correct.

**ADV MAHLAPE SELLO:** In respect of the other transaction the range was between 1.8 percent of the contract price and 25 percent?

**MR FRANCIS QUENTIN CALLARD:** 25 percent yes.

**ADV MAHLAPE SELLO:** *Ja.*

**MR FRANCIS QUENTIN CALLARD:** For one, yes.

**ADV MAHLAPE SELLO:** At your paragraph 147 you have a table there. The first column is identifying the relevant cost. The next four columns address the offers made by Bombadier, China South Rail, GE and China North Rail respectively?

20 **MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** When you last testified you said the last two columns must be read in respect of what was paid to China South Rail and GE as what was contracted for?

**MR FRANCIS QUENTIN CALLARD:** Correct.

**ADV MAHLAPE SELLO:** Now you stated then in all of this that if the

offers by the bidders ranged up to 10 percent what actually happened was that advance payments were offered by Transnet in respect of CSR at a rate of 60 percent way in excess of what CSR had originally tabled.

**MR FRANCIS QUENTIN CALLARD:** May I use the words - may I use the word the final contacts were concluded at 60 percent.

**ADV MAHLAPE SELLO:** At – I am happy to do that – at 60 percent – better clarity.

**MR FRANCIS QUENTIN CALLARD:** In respect of what they bargained, yes.

10 **ADV MAHLAPE SELLO:** Yes; and insofar as GE is concerned it is 70 percent?

**MR FRANCIS QUENTIN CALLARD:** Correct yes.

**ADV MAHLAPE SELLO:** If we turn overleaf you indicated and you have testified to this previously at your paragraph 151 at – and 152 that this increase in advance payments to both CSR and GE resulted in Transnet having to cough up in a single year by April 2014 7.37 billion for advance payments?

**MR FRANCIS QUENTIN CALLARD:** Yes.

20 **ADV MAHLAPE SELLO:** You go further at 152 and you say as a consequence of this Transnet had to increase its foreign borrowings.

**MR FRANCIS QUENTIN CALLARD:** As a consequence of the payment schedule ...

**ADV MAHLAPE SELLO:** Of the payment schedule.

**MR FRANCIS QUENTIN CALLARD:** Overall payment schedule.

**ADV MAHLAPE SELLO:** Of 7.37 billion.

**MR FRANCIS QUENTIN CALLARD:** The payment schedule – the 7.37 was the designed payment ...

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** Was the payment on – on the concluding of the – on the signing of the contract. The design review payments which went into the following year led to paragraph 1-5-2.

**ADV MAHLAPE SELLO:** And – so this was over a two year period? Are you suggesting ...?

**MR FRANCIS QUENTIN CALLARD:** Over a one year period. Close of  
10 the one year it – between March 2014 when the contracts were concluded. The financial year ended on 31 March.

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** So the upfront payment of 7.37 had to be made by the – I put on or before 1 April ...

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** And then the next tranche of payments had to be made during the following year.

**ADV MAHLAPE SELLO:** And ...

**MR FRANCIS QUENTIN CALLARD:** But all related to the table which  
20 we have mentioned here.

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And then you testify – last time you demonstrated to the Chair how those borrowings spiked ...

**MR FRANCIS QUENTIN CALLARD:** Yes.



**ADV MAHLAPE SELLO:** Over the – the successive years.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And that is the gist of your – your testimony as regards these advance payments. Mr Laher deals with all that you have stated from his paragraph 39 at page 9 of his second statement.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Up to 42 ...

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And the gist of what he says is having  
10 considered what you said at paragraph 40.

“I was not involved in the management of Transnet’s cash or funding. During the 1064 and 100 locomotive transactions Mr Singh told the Negotiating Team that Transnet had the funding available and that the advanced payments were affordable. I did not have the delegation to accept the advance payments proposal from bidders. It is my understanding that the Locomotive Subcommittee of the Steering Committee was  
20 delegated to and he would have accepted the advanced payments proposals as part of the page deal including the price offered by bidders.”

At paragraph 41 he continues.

“The quantum of the advanced payments would have put a strain on Transnet’s funding and cash

position should the rail volumes as envisaged in the market demand strategy not have materialised.”

**MR FRANCIS QUENTIN CALLARD:** Correct.

**ADV MAHLAPE SELLO:** And I stop there. On my reading that is the sum total of Mr Laher’s response to the issues you raise at your paragraph 60 which I read into the record and paragraphs 142 to 152.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Which is your shock and dismay ...

**MR FRANCIS QUENTIN CALLARD:** *Ja.*

10 **ADV MAHLAPE SELLO:** At an increase of payment – of advance payments. Up to 70 percent in one instance and 60 percent in the other instance. My question to you based on what you know you have testified to has Mr Laher taken issue with your evidence thus far based on what I read into the record?

**MR FRANCIS QUENTIN CALLARD:** No. No there is no issue to it. He has not taken issue with it at all. The key point of his statement of what he had – of his response and I take that from paragraph 40 ...

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** Is that:

20 “Mr Singh told the Negotiation Team that Transnet had the funding available and the advance payments were affordable.”

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** And that in his next sentence:

“I did not have the delegation to accept the advance

payments proposals from bidders.”

Again this talks to me as a difference to Mr Singh in this regard. That is it.

**ADV MAHLAPE SELLO:** That is it?

**MR FRANCIS QUENTIN CALLARD:** That is it.

**ADV MAHLAPE SELLO:** Now at 41 he – he states that the cash position of Transnet would have been negatively impacted if the MDS strategy had not materialised if the real volumes envisaged in the MDS strategy had not materialised.

10 **MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Now previously you – when you appeared before the Chair you testified as to your criticisms on the fundamentals of that MDS ...

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Insofar as it was predicated on a sharp increase in rail volume.

**MR FRANCIS QUENTIN CALLARD:** It was effectively ...

**ADV MAHLAPE SELLO:** Do you recall that?

20 **MR FRANCIS QUENTIN CALLARD:** Predicated on a doubling of general freight volumes over the seven year period, yes.

**ADV MAHLAPE SELLO:** And we – we know that you – you did an analysis before the Chair to demonstrate that there was no objective evidence that the volumes would increase in the manner anticipated by the MDS.

**MR FRANCIS QUENTIN CALLARD:** I highlighted a number of cases

which I pulled – which brought the MDS in my understanding into a sharp question.

**ADV MAHLAPE SELLO:** So then Mr Laher tells us that if those very – but nonetheless if I may say no, no corrections or adjustments were made to the MDS?

**MR FRANCIS QUENTIN CALLARD:** No, no.

**ADV MAHLAPE SELLO:** The volumes that you said were unjustified – objectively unverifiable were retained?

**MR FRANCIS QUENTIN CALLARD:** Yes.

10 **ADV MAHLAPE SELLO:** So Mr Laher tells us well if those volumes would not be achieved then that would place a strain on Transnet and place it in a negative cash position?

**MR FRANCIS QUENTIN CALLARD:** That says ...

**ADV MAHLAPE SELLO:** At 41.

**MR FRANCIS QUENTIN CALLARD:** That is number 41. Here it says paragraph 41 yes.

**ADV MAHLAPE SELLO:** Do you know if those volumes were achieved or was that – was that long after you had left the employ of Transnet?

**MR FRANCIS QUENTIN CALLARD:** It is after my – it is sometime after  
20 I had left the current – where we are now but it is my understanding that the MDS volumes have absolutely not been achieved from the original tonnages proposed. We were going up to 70 – 170-odd million tonnes in 2017/2018. Forgive me. We just have to check that year.

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** We are running at the moment. It

is – it is my understanding - correction – it is somewhere between 90 and 100 million tonnes. Way below the – the MDS which has put some strain on the finance of the organisation.

**ADV MAHLAPE SELLO:** And you are – you are giving the Chair your understanding because you are no longer in the employ of Transnet and you do not have the facts at your – your disposal to make a definitive statement in that regard. That is ...

**MR FRANCIS QUENTIN CALLARD:** I – I do not have the detail breakdown of the tonnes ...

10 **ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** At my disposal.

**ADV MAHLAPE SELLO:** But Mr Laher is in a – an advantageous position in that he is still within Transnet. So perhaps he might assist the Chair in understanding whether or not the volumes were met.

**MR FRANCIS QUENTIN CALLARD:** Well I could add that the – the Transnet financial year has just closed. Those figures would be available of the latest figures and would know certainly that the MDS figures have not been met. So to talk of the - should the real volumes not have been materialised to – to talk in – to be speculative about  
20 should they not been materialised when we know in fact that they have not materialised.

**ADV MAHLAPE SELLO:** Okay. Then that aspect we will take – pick up with Mr Laher when he does appear before the Chair. Now lastly he states at his paragraph 42 on this issue and I quote. You recall I read paragraph 60 into the record and this is his direct response to

paragraph 60.

“I note at paragraph 60 of Mr Callard’s statement that Mr Callard says that he was shocked with the extent of the upfront payments. At no stage prior to 2008 did Mr Callard contact me regarding this and he did not express any shock or surprise to me.”

Do you have any comment to the address – to that response?

**MR FRANCIS QUENTIN CALLARD:** I – yes.

**ADV MAHLAPE SELLO:** Yes. What is your comment?

10 **MR FRANCIS QUENTIN CALLARD:** Having received the figures from Mr Laher I did not feel obliged or I was under no obligation to respond to him in this format. He – he was part of the negotiation team, gave me the figures – the cash flow figures to present. I had previously expressed my shock and concern at many of the – at the figures to other colleagues in finance.

Particularly when we were asked about the – in the cash flow - in the payments which had to be made - the upfront payments which had to be made and you will recall my SMS exchange with members of the – in finance where I said:

20 “My giddy hat we are shocked at these figures.”

And:

“These guys are cowboys. What are they playing at?”

Was – so I did not feel it necessary to take it up with Mr Laher again because it was now fait accompli.

**ADV MAHLAPE SELLO:** Okay. I think that brings us to the conclusion of Mr Laher's response to your evidence regarding these advance payments. Is there anything perhaps I omitted to highlight?

**MR FRANCIS QUENTIN CALLARD:** No.

**ADV MAHLAPE SELLO:** You are comfortable?

**MR FRANCIS QUENTIN CALLARD:** (No audible reply).

**ADV MAHLAPE SELLO:** The next topic that we turn to then is what we term the 1064 business case. That you dealt with in your BB4A starting at page 19 paragraph 81. The detail of that you set out in 83 to 115.

10 **MR FRANCIS QUENTIN CALLARD:** *Ja*.

**CHAIRPERSON:** What page again?

**ADV MAHLAPE SELLO:** It is page 19 of BB4A Chair.

**CHAIRPERSON:** Thank you.

**ADV MAHLAPE SELLO:** So your evidence regarding the 1064 business case runs from paragraph 83 to 1-1-5.

**MR FRANCIS QUENTIN CALLARD:** Yes.

20 **ADV MAHLAPE SELLO:** You may just flip through to reacquaint yourself. Mr Laher responds to that evidence at his paragraphs 64 and 66 of his second statement and that would be Chair Mr Laher's second statement starting at page 16.

**CHAIRPERSON:** Yes I have got it.

**ADV MAHLAPE SELLO:** Have you located it Mr Callard?

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Once again the gist of your issues regarding the 1064 business case related in the main to how that business case

was developed to arrive at a figure of 38-odd billion?

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** You speak about the involvement of McKinsey and the issue really is about whether or not that 38.6 billion as approved by the Board in 2014 whether it was inclusive of foreign exchange and escalation.

**MR FRANCIS QUENTIN CALLARD:** The year would have been 2013.

**ADV MAHLAPE SELLO:** 2013?

**MR FRANCIS QUENTIN CALLARD:** Yes.

10 **ADV MAHLAPE SELLO:** Yes. I ...

**MR FRANCIS QUENTIN CALLARD:** Whether it included hedging and escalation.

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** You - you look at various documentation and – and those paragraphs and you conclude that the 38.6 billion did include forex and escalation.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** I am summarising.

20 **MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Okay. If I have it right then let us consider what Mr Laher says in response thereto starting at paragraph 64 of his statement. Just a second.

**CHAIRPERSON:** That is 64 of Mr Laher's statement?

**ADV MAHLAPE SELLO:** Mr Laher's statement.



**CHAIRPERSON:** Huh-uh.

**ADV MAHLAPE SELLO:** I think it should be 65 Chair. 64 deals with a different issue which we are still to get to.

**MR FRANCIS QUENTIN CALLARD:** Yes 64 is a different issue.

**ADV MAHLAPE SELLO:** Yes. It is 65 ...

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And 66 and at 65 ...

**MR FRANCIS QUENTIN CALLARD:** It would be paragraph 66 of Mr Laher's statement.

10 **ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** At 65 he talks about the BAFO.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** The BAFO price and the negotiation and the normalising of the BAFO price.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** But in essence what he says at 65 really does not explain the increase from 38 billion to 49?

**MR FRANCIS QUENTIN CALLARD:** No, no.

20 **ADV MAHLAPE SELLO:** And neither does he say anything about whether or not the 38 included forex and escalation?

**MR FRANCIS QUENTIN CALLARD:** Paragraph 65 ...

**ADV MAHLAPE SELLO:** At 65.

**MR FRANCIS QUENTIN CALLARD:** Does not deal with that.

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** The forex and escalation comes in at 66.

**ADV MAHLAPE SELLO:** At 66.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** You are quite correct and he points out that you were involved – you were involved in the development of the 1064 business case.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** You admit that?

10 **MR FRANCIS QUENTIN CALLARD:** (No audible reply).

**ADV MAHLAPE SELLO:** You admit that Mr Callard?

**MR FRANCIS QUENTIN CALLARD:** Sorry. I was not.

**ADV MAHLAPE SELLO:** Okay.

**MR FRANCIS QUENTIN CALLARD:** What did you ...?

**ADV MAHLAPE SELLO:** He says – it does mention here that Mr Callard was also involved in the 1064 business case compilation in 2013. You have no issue with that?

**MR FRANCIS QUENTIN CALLARD:** No issue.

**ADV MAHLAPE SELLO:** He says:

20                    “You were requested to update the NPV calculation for the draft memorandum to the Board requesting an increase in ETC May 2014.”

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And that was now the increase from 38 billion to the new 48 billion?

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And you agree you were requested to do that?

**MR FRANCIS QUENTIN CALLARD:** I was requested to do that, *ja*.

**ADV MAHLAPE SELLO:** He further states:

“Mr Callard whilst updating the NPV calculation would have seen that the draft memorandum recorded that the ETC excluded escalation and forex hedging costs.”

**MR FRANCIS QUENTIN CALLARD:** Correct. That is the statement.

10 **ADV MAHLAPE SELLO:** Come again.

**MR FRANCIS QUENTIN CALLARD:** Sorry. That is what he says, yes.

**ADV MAHLAPE SELLO:** Okay. Do you have a comment to that? Did you noted – did you realise when you were updating the NPV calculation that that particular draft memorandum suggested that the 38.6 billion excluded escalation and forex?

**MR FRANCIS QUENTIN CALLARD:** No I did not. I did not see that in the memorandum. Received the memorandum on the – on a Thursday. It is dated on a Thursday. There was a subsequent memorandum on the same day with the spreadsheet calculations which we have been  
20 talking to which also said please update the NPV. I responded to Mr Laher on the – the Sunday and I believe I have copies of those emails available.

I did not respond in the body of the memorandum itself but it was on an email where I offered three scenarios as to how the NPV should be dealt with. I cannot recall that I read the memorandum in

detail at that time. I was focusing on the NPV calculation but no I did notice it in that memorandum at the time. Mr Laher's is correct there.

It was in the memorandum. I have subsequently seen it but I did not see it or respond to it at the time.

**ADV MAHLAPE SELLO:** Okay. He proceeds then and says:

“Mr Callard withheld this information and did not inform me or anyone else that the basis of the memorandum was correct knowing that the ETC and the business case actually included escalation and  
10           forex hedging costs.”

**MR FRANCIS QUENTIN CALLARD:** Well ...

**ADV MAHLAPE SELLO:** Can you comment?

**MR FRANCIS QUENTIN CALLARD:** As I did not see it in the memorandum and I responded with the NPV I deny that I deliberately withheld anything. I did not see the information in the memorandum and this memorandum came to the fore – sorry – the hedging and escalation came to the fore in January 2018 following the Werksmans statement that the business case did not include hedging and escalation.

20   **ADV MAHLAPE SELLO:** And – and just to – to clarify on that. You testified that in January 2018 you were part of a team ...

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** That was requested to conduct an exercise - if my memory serves me well to calculate – to determine *inter alia* whether the 38.6 billion included forex and hedging and – and to seek

to – to find a justification if you can for the increase from 38 to 48.

**MR FRANCIS QUENTIN CALLARD:** The ...

**ADV MAHLAPE SELLO:** I am misquoting the brief?

**MR FRANCIS QUENTIN CALLARD:** Effectively the involvement in January 2018 ...

**ADV MAHLAPE SELLO:** *Ja.*

**MR FRANCIS QUENTIN CALLARD:** Was to do a backward walk.

**ADV MAHLAPE SELLO:** Okay.

**MR FRANCIS QUENTIN CALLARD:** From the 49 billion ...

10 **ADV MAHLAPE SELLO:** Okay.

**MR FRANCIS QUENTIN CALLARD:** To the 38 to try and find what it – where it should have been. I did a – we landed up doing a forward walk from the 38 and arrived at figures which he says - which Mr Laher in facts quotes in other parts of his statement to some lesser figure than the 49.

**ADV MAHLAPE SELLO:** And now that team that was requested to do that exercise in January 2018 was made up of yourself, Mr Yousuf Laher and Mr Moola?

**MR FRANCIS QUENTIN CALLARD:** Mr Moola and there were others ...

20 **ADV MAHLAPE SELLO:** There were others.

**MR FRANCIS QUENTIN CALLARD:** Who – who played a lesser role in that they were ...

**ADV MAHLAPE SELLO:** But the three of you were directly involved?

**MR FRANCIS QUENTIN CALLARD:** The three us.

**ADV MAHLAPE SELLO:** Now in that – in that – on that Mr Callard

continued that Mr ... - Mr Laher – I apologise.

“Mr Callard knew this fact which is that the ETC included forex and hedging of 38.6 billion – knew this fact whilst we were performing the reconciliation in January 2018 and never told Mr Moola or I about this at the outset of the reconciliation exercise. I only found out in 2018 that the business case calculations actually included forex escalations after we performed this reconciliation.”

10

So Mr Laher only learnt in January 2018 that the 38.6 billion ETC for the 1064 locomotives actually included escalation and forex only in January 2018 when he was doing the reconciliation. Any comment to that statement?

**MR FRANCIS QUENTIN CALLARD:** Yes. That it is not correct that they only learnt of this after we performed the reconciliation. As I said in my testimony of the January/February 2018 reconciliation exercise. The first point which we dealt with was the escalation and hedging as part of the business case. That was the first part. So it was not after

20 the reconciliation.

It was prior to the reconciliation. Once we had dealt with the hedging and escalation and got that out of the way to reference to the business case and perusal of the business case we then started on the reconciliation – the financial reconciliation of that. So it was not afterwards. It is correct or it is or it is quite possibly correct that he

only – sorry – let me restate.

I was unaware up until Mr Laher's memorandum now or sorry – correction – his statement now that of his memorandum that he sent to me in his YL36 his May 2014 memorandum that in fact that included the – his memorandum in fact that included hedging and escalation. I only picked that up now on reading it. As I said I had not opened that memorandum. I responded to the NPV *per se*.

**ADV MAHLAPE SELLO:** Now Mr Laher says he only became aware of that fact at the conclusion of that exercise.

10 **MR FRANCIS QUENTIN CALLARD:** It was at the ...

**ADV MAHLAPE SELLO:** That was his position.

**MR FRANCIS QUENTIN CALLARD:** It was at the beginning of the exercise not the end.

**ADV MAHLAPE SELLO:** Now my question is from your paragraph 142 of your statement to 153 ...

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And taking into consideration your oral testimony to the Chair you took the Chair through a number of documents where you definitely demonstrated that the original 30 –  
20 approved 38.6 billion did in fact include forex and escalation. That was the sum – the gist of your evidence?

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Okay. Mr Laher has now responded to you what you have taken – we have taken – you and I have taken the Chair through and Mr Laher's response. Mr Laher – I understand Mr Laher to

10 speak of when he became aware of that fact and not to dispute that the 38.6 billion indeed included forex and escalation. Is that – do you have the same reading of his paragraph (intervenes)?

**MR FRANCIS QUENTIN CALLARD:** I have the same reading that he does not dispute that at all. He informs as to when he became aware of it but he does not dispute it.

**ADV MAHLAPE SELLO:** And once again I – as a Chartered Accountant in the position he held against you he will clarify to the Chair how come he becomes aware of that fact so late in the day and not at the time he was dealing with this business case. That is not for you to comment. That is an issue that the Chair will take up with Mr Laher unless you would like to.

**MR FRANCIS QUENTIN CALLARD:** It is normal practice for all our tenders and business cases of this nature to include forex and escalation in the business case itself. Therefore it would have been unusual and almost a – a red flag to pick up a tender of this magnitude which did not include forex and forex hedging and escalation in the tender document.

**ADV MAHLAPE SELLO:** And particularly because the project of this magnitude was – had a significant portion of foreign currency in it?

**MR FRANCIS QUENTIN CALLARD:** Yes it would have had. It would have had depending on the nature of the locomotive anything between 42 to 55 percent foreign currency exposure.

**ADV MAHLAPE SELLO:** And if – we – we go back to what Mr Laher states in his statement he was well aware that there is a foreign



exchange component in this project.

**MR FRANCIS QUENTIN CALLARD:** Undoubtedly.

**ADV MAHLAPE SELLO:** And he stated so in many – in so many terms.

**MR FRANCIS QUENTIN CALLARD:** It is common knowledge that our locomotives have a foreign exchange component in it.

**ADV MAHLAPE SELLO:** Now I – you – you may or may not know that Ms Mathane Makgatho appeared before the Chair. She is a former employee of Transnet involved in Treasury. Mr Makgatho – Ms Makgatho submitted a document and she spoke to it. The detail of  
10 which is not relevant for our purposes right now.

As BB190A Chair and that document is titled – BB10A is her whole file. This is Annexure MM2 to BB10A. This is Ms Makgatho's evidence now.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** This MM2 is and I quote:

“Guidelines as Provided by Transnet to Explain and Assist in Establishing Supplier Agreements, Forex Payments, the Hedging Process and Exchange Control.”

20 That is the name of the policy.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Are you familiar with that policy?

**MR FRANCIS QUENTIN CALLARD:** I have not seen the policy myself but aware of some of the precepts of that policy which we applied in our locomotive business case which was to include hedging and

escalation in the business case.

**ADV MAHLAPE SELLO:** And that policy has been applied in Transnet. It is dated 27 July 2008. So by the time you were doing 1064 the policy was in operation ...

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** And our reading of it – we do not have to go into the detail. It is quite correct that if you are going to transact in any currency but ZAR you have to consider forward ...

**MR FRANCIS QUENTIN CALLARD:** Cover.

10 **ADV MAHLAPE SELLO:** Hedging forward cover.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Hedging and escalation?

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** But you are not in a position to deal in detail with this document?

**MR FRANCIS QUENTIN CALLARD:** Not at all.

**ADV MAHLAPE SELLO:** I - that is one of the issues I guess we will have to establish from Mr Laher whether he is – he was familiar with in 2014. I think that brings us – and that is the – the sole response  
20 Mr Laher has to the issues you – the problems you raised about this increase from 38.6 billion in the 1064.

Just that he only found out that it was included in the - forex and escalation were included in the original 38.6 billion ETC when he did the reconciliation with you and others in January 2018.

**MR FRANCIS QUENTIN CALLARD:** That is ...

**ADV MAHLAPE SELLO:** He raises no other issue?

**MR FRANCIS QUENTIN CALLARD:** No other issue.

**ADV MAHLAPE SELLO:** That then would bring us to the end of your – the fourth issue that Mr Laher has raised with you. That leaves us with the last point – the last issue which is reconciliation and Chair it is brought to my attention that I – as usual I have encroached Chair on your tea.

**CHAIRPERSON:** How long do you anticipate ...

**ADV MAHLAPE SELLO:** I – I ...

10 **CHAIRPERSON:** Being on that one?

**ADV MAHLAPE SELLO:** It is five minutes but I still have Mr Mohamed to deal with. Remember there are two statements.

**CHAIRPERSON:** Oh, okay.

**ADV MAHLAPE SELLO:** I have just disposed of Mr Laher right now or we will be doing so.

**CHAIRPERSON:** Oh, okay.

**ADV MAHLAPE SELLO:** Then we turn to Mr Mohammed but if I may Chair Mr Yousuf Mohamed is very narrow. If we get to 10 minutes it will be a lot.

20 **CHAIRPERSON:** Yes and – and he on this point that is remaining?

**ADV MAHLAPE SELLO:** Hm.

**CHAIRPERSON:** Would be about?

**ADV MAHLAPE SELLO:** I am under the guidance of my junior. She says 10 minutes. I will take issue with that.

**CHAIRPERSON:** I am sure we can rely on that.

**ADV MAHLAPE SELLO:** I can say that I have in the past when I have relied it has never let me – she has never let me down.

**CHAIRPERSON:** Yes.

**ADV MAHLAPE SELLO:** So I would think comfortably including perhaps any questions the Chair may have to Mr Callard we have 15 minutes left with Mr Callard.

**CHAIRPERSON:** Yes. Okay. I think let us take the tea adjournment ...

**ADV MAHLAPE SELLO:** Yes Chair.

**CHAIRPERSON:** And then we will continue after that.

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

**CHAIRPERSON:** We will resume at 25 to 12.

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

**CHAIRPERSON:** We adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** You may proceed.

20 **ADV MAHLAPE SELLO SC:** As we had indicated Mr Callard. We are now moving onto the last topic which is the issue of reconciliation. You deal with this in your original statement at BB4A starting at page 51 and in particular paragraph 197. Let us say 196 basically. At 196 you indicate that you were approached to assist in reconciling the 38.6 billion posited by the business case to 49.5.

**MR FRANCIS CALLARD:** Correct.

**ADV MAHLAPE SELLO SC:** From your paragraph 197 you indicate that

the team was primarily comprised of Mr Hugh Soflaher, Mr Mohammed Muller and yourself?

**MR FRANCIS CALLARD:** Yes.

**ADV MAHLAPE SELLO SC:** And the succeeding paragraphs you indicate what issues you were investigating as regards the makeup of this ETC, what steps you took and you have earlier testified to this and you conclude that your paragraph 211. That Mr Lahore is the primary author of the Excel spreadsheets that front part of your investigation. Further that he is a signatory to the Bafo evaluation of January 2014  
10 and was a member of the negotiating team. As 211 one overly page 56, you do not express of you and you said, you state that Mr Lahore said had certain relevant information to the exercise you were to undertake and you state with this knowledge I was disappointed that the exercise undertaken January 2018 was in good faith but Lahore with full knowledge of the pricing details and negotiations chose not to share this knowledge including the spreadsheets and evaluation reports with the members of the team to arrive at an honest and accurate assessment of the increase in ETC from 38.6 billion to 49.55 billion or 54 billion options are included. You see that?

20 **MR FRANCIS CALLARD:** Correct.

**ADV MAHLAPE SELLO SC:** Mr Lahore deals with what you state that from paragraph 197 as regards to this exercise you undertook in your conclusion that I have just read in the view you expressed in your disappointment in his paragraphs 64 and 65 of the statement; second statement of Mr Lahore.

**MR FRANCIS CALLARD:** Yes.

**ADV MAHLAPE SELLO SC:** It is from pages 16 onto 17 of Mr Lahore's statement. At 64 he says with reference to your paragraph 211.1 and 211.1 is where you express your disappointment with his conduct that he had full knowledge the pricing details but he did not share it. He chose not to share it with the team. In this regard he says, I do not the insinuation by Mr Callard that I had somehow deliberately and without just cause withheld information from him or any other person. I signed a confidentiality agreement for this tender and as such could not share  
10 any augmentation with a third-party including Transnet employees not involved in this tender unless I received express permission to do so from a delegated authority which in this case I did not get. You see that?

**MR FRANCIS CALLARD:** Yes.

**ADV MAHLAPE SELLO SC:** Would you like to comment on Mr Lahore's response to your disappointment and how he conducted himself in this exercise by failing to share information?

**MR FRANCIS CALLARD:** Well, I fully respect the confidentiality agreements which agreement which Mr Lahore may, which Mr Lahore  
20 signed that it does not take away from the point that he had full knowledge of the details negotiations in the spreadsheets. We were led into an exercise where he had knowledge of the detailed negotiations and spreadsheets but much of that in fact, by far the greater part of that work could have been avoided or simplified by saying I have knowledge of these detailed spreadsheets and negotiations. I cannot

share them because of confidentiality agreements and the negotiation, and the reconciliation exercise. The backward looking exercise would have taken a different path; would have said either we need to have access to those formally as a team or restrict the team to those who could have access to this knowledge. We were now effectively operating in the dark but Mr Lahore still had full knowledge of the negotiations and spreadsheets.

**ADV MAHLAPE SELLO SC:** Now my reading of Mr Callard's paragraph 64 and what you stated in your statement.

10 **CHAIRPERSON:** Mr Lahore's one?

**ADV MAHLAPE SELLO SC:** Mr Lahore, I apologize. What did I call?

**MR FRANCIS CALLARD:** Mr Lahore 64.

**ADV MAHLAPE SELLO SC:** Thank you. Mr Lahore. Is what we know is this reconciliation exercise takes place in 2018?

**MR FRANCIS CALLARD:** Yes.

**ADV MAHLAPE SELLO SC:** January 2018 to be precise?

**MR FRANCIS CALLARD:** Yes.

**ADV MAHLAPE SELLO SC:** The contracts were; the negotiations were in the beginning of 2014?

20 **MR FRANCIS CALLARD:** The negotiations were in March 2014.

**ADV MAHLAPE SELLO SC:** And the contracts concluded shortly thereafter?

**MR FRANCIS CALLARD:** If serves me correctly they were signed on the 17<sup>th</sup> of March.

**ADV MAHLAPE SELLO SC:** 2014?

**MR FRANCIS CALLARD:** 2014.

**ADV MAHLAPE SELLO SC:** So by January 2018 the contracts were concluded and the OEMs were executing and Transnet were executing this contract?

**MR FRANCIS CALLARD:** Correct.

**ADV MAHLAPE SELLO SC:** Now this confidentiality agreement signed not to share information regarding the negotiations. Of what relevance was it in 2018 when the contracts were already concluded?

**MR FRANCIS CALLARD:** I cannot comment with detail on that because  
10 I had not seen the or was aware of the confidential, no. I was not aware of the detail of confidentiality agreements which the members the evaluation committee had signed. I was aware that they had signed confidentiality agreements at the time in 2013 beginning 2014. This aspect was never discussed or raised, correction. In 2018 when we did this exercise as I mentioned in my evidence, there was a brief presentation where some of the detail from the spreadsheets was put up on a screen and as I said I believed that that was germane to the reconciliation and was told that we could not get them. Now they will put up a presentation where Mr Lahore and others were present. We  
20 said we could not get them. I said if we are to do a full reconciliation we should get them. I only got those reconciliations, correction. I only got those gained access to the spreadsheets after we had completed our reconciliation, our backward looking model and that was what disturbed me no end. That the information was available but we could not bring it into nor could Mr Lahore bring it into nor was there any



statement to the effect of this is relevant information which we should be bringing into our reconciliation calculation. But was silent the aspect and as I have testified only gained access to those afterwards

**ADV MAHLAPE SELLO SC:** He goes further in that paragraph to state that documentation and the spreadsheets reading into 1064 was always maintained by supply-chain.

**MR FRANCIS CALLARD:** Yes.

**ADV MAHLAPE SELLO SC:** He says access is and was strictly restricted and controlled by Ms Mdletshe from SCS. Now at the time  
10 you were undertaking this exercise, did Mr Lahore indicate to you that gentleman, all information you require actually exists? It is going cold by Ms Mdletshe. I am bound by confidentiality agreement and therefore cannot disclose it to you. Did he ever state anything of the sort?

**MR FRANCIS CALLARD:** To the best of my recollection, and the presentation when the one spreadsheet was shown by one of Mr Lahore's subordinates on the screen, I said that is what we need. They said, terribly sorry that confidential. We cannot get access to that or share that with the team. I cannot state categorically whether Ms Mdletshe's name was mentioned or not mentioned at the time. I cannot  
20 say.

**ADV MAHLAPE SELLO SC:** But did he give you any kind of direction as to how to overcome this difficulty; who to address in order to get access to this information that is called and quote confidential?

**MR FRANCIS CALLARD:** The best of my recollection he said yes you would have to get that information from the chief financial officer at the

time which path I subsequently followed and that is how I eventually got hold of the information.

**ADV MAHLAPE SELLO SC:** He does state in his paragraph 35 that you eventually got the information.

**MR FRANCIS CALLARD:** Yes.

**ADV MAHLAPE SELLO SC:** What I do not seem to see is that you managed to get access to the information after you had completed the exercise.

**MR FRANCIS CALLARD:** I got access to the information after we had  
10 completed the exercise.

**ADV MAHLAPE SELLO SC:** And.

**MR FRANCIS CALLARD:** Or certainly.

**ADV MAHLAPE SELLO SC:** Yes.

**MR FRANCIS CALLARD:** It was not in time to affect the, to affect the exercise. I want say how long at the moment after the exercise whether it was a day or two or it was a day before the exercise was completed but we had effectively completed the exercise when the information became available.

**ADV MAHLAPE SELLO SC:** And is this the first and be here that Mr  
20 Lahore did not provide you with that information purely because he had signed a confidentiality agreement or did you become aware of that fact beforehand?

**MR FRANCIS CALLARD:** The thrust of my disappointment lies in the element in the point that with knowledge of the information contained in the spreadsheets.

**ADV MAHLAPE SELLO SC:** Yes.

**MR FRANCIS CALLARD:** And what as I have described the timeline that the special provides as to how the final price was as to the final price.

**ADV MAHLAPE SELLO SC:** Yes.

**MR FRANCIS CALLARD:** And while it does not always reflect a determination of the price. It reflects the price itself and there are, I would use the phrase guardedly but there are backward looking calculations in it to justify the final price or forward-looking  
10 calculations. However, they would put at the time with that information in the spreadsheets as to we could not test the validity or the integrity of that information in our forward-looking exercise which we undertook. So while this information was here we were conducting a forward-looking exercise but it was totally unrelated to and could not test or relate to any the substantive elements that existed in the spreadsheet, that existed in the spreadsheet. Hence, so for example the four key elements; what was the baselining escalation, what was the baselining for an exchange to be used from the time at the tender, what was then the forward-looking escalation and what was the forward-looking  
20 hedging and assumptions and tables that would inform those deterministic calculations. None of that was available or as we, as I still understand can be made available. And that was what I was extremely disappointed that it was a single one dimensional view and I am at the view that it was an attempt to do a backward justification of the final price.

**ADV MAHLAPE SELLO SC:** Now just remind us again. When did you complete this exercise?

**MR FRANCIS CALLARD:** It was about early in February 2018.

**ADV MAHLAPE SELLO SC:** I am looking at Mr Lahore's paragraph 64 at the bottom of page 16 and he states after saying that you were eventually provided with spreadsheets and you have testified that that was after the exercise was completed. You say that you only got access to the spreadsheets after you had completed the exercise. Right?

**MR FRANCIS CALLARD:** Yes.

10 **ADV MAHLAPE SELLO SC:** And when he says so you were eventually provided. He does not address the question whether you were able to use them to discharge your duties in terms of the brief you had. He goes further however, he says and I quote, in any case I was not in possession of the final signed finance evaluation reports in January 2018. I requested a copy of the final signed finance evaluation report from Ms Mdletshe in June 2018 and I only received a copy then in June 2018 and he does not say anything further. What value would have been these reports to your investigation if you only requested them in June 2018? Would they have been of any value?

20 **MR FRANCIS CALLARD:** Certainly there would have been as they would have informed the process. At the time of that investigation we also did not have access to those reports.

**ADV MAHLAPE SELLO SC:** Remember in this he does in June 2018. You said the exercise is completed in February 2018.

**MR FRANCIS CALLARD:** The exercise was completed in February 18.

**ADV MAHLAPE SELLO SC:** So what would you have done with them in June 2018?

**MR FRANCIS CALLARD:** In June 2018 nothing. The report would have been; I have completed the exercise in February 2018. So June 2018, no, they would have been of no use to us then. Had they been available at the time in February 2018 as we have seen here they would have informed and they would have informed the analysis which we undertook at that time.

**ADV MAHLAPE SELLO SC:** Yes.

10 **MR FRANCIS CALLARD:** As it was one of the rather specific points was, I brought information to the meeting which was in the public domain which had been obtained through an Access to Information Act on the locomotive tenders. It appeared what was, I say 'appeared' but it was given to me in that meeting that even Mr Lahore and Mr Muller as the co-members of the team had not seen those reports yet though they were in the public domain as various parties had requested them through an Access to information Act. It provided some insight to the information. It would have been useful to have had the signed financial evaluation reports available to for correlation of the information.

20 **ADV MAHLAPE SELLO SC:** He is silent on the next aspect I would like to canvas with you. We know according to him, he then received a copy of these finance evaluation report which you said would have been relevant to the exercise that you undertook and completed in February 2018. You said that you only received them in June 2018.

**MR FRANCIS CALLARD:** I did not receive them... (intervention).

**ADV MAHLAPE SELLO SC:** Now, my question to you is he having received them in June 2018, did you at any time after that date be furnished with the very documents by Mr Lahore?

**MR FRANCIS CALLARD:** No, not by Mr Lahore at all.

**ADV MAHLAPE SELLO SC:** Okay.

**MR FRANCIS CALLARD:** I was, no not by Mr Lahore.

**ADV MAHLAPE SELLO SC:** So now you know what Mr Lahore says in response to your disappointment that you expressed at paragraph 211.1. Has your disappointment minimized in any manner now that Mr  
10 Lahore has explained his position?

**MR FRANCIS CALLARD:** Not at all.

**ADV MAHLAPE SELLO SC:** That would bring us then to the conclusion of the question of the spreadsheets and I would like to find out. Do you have any other comments that are relevant for the Chair in regards to Mr Lahore response in; the whole of Mr Lahore's response which was made available to you as well as his original statement? Is there anything you would like to share with the Chair in respect to the two documents? Insofar as anything in there is relevant to your evidence.

**MR FRANCIS CALLARD:** Insofar as the process goes, I stand by my  
20 point that Mr Lahore had knowledge of the spreadsheets and the detailed information that he was bound by the confidentiality agreement but could have highlighted that to the evaluation group. That we could then either had access to that and proceeded on a more informed basis with our evaluation. The second comment is that nowhere in here or any of the figures in the spreadsheets themselves disputed or brought

into question at all. We have I have testified to anything it is common cause that the spreadsheets reflect the final price paid for the locomotives. I note I testified that they provide a timeline of events and addressed certain anomalies in the spreadsheets themselves which were, came from an analysis spreadsheet. Mr Lahore does not talk to those anomalies. He talked to the anomalies but only in a very specific manner and may I address that matter in which he talks to them.

**ADV MAHLAPE SELLO SC:** You may.

**MR FRANCIS CALLARD:** I would like to then take to; I would like to  
10 start at his paragraph 56 please which is on page and this will be a common tenor through many of the subsequent paragraphs.

**ADV MAHLAPE SELLO SC:** Yes. Starting at page 12. Is that?

**MR FRANCIS CALLARD:** Starting at page 12, the bottom of page 12 paragraph 56.

**ADV MAHLAPE SELLO SC:** Yes.

**MR FRANCIS CALLARD:** With reference to paragraph 208.1 of Mr Callard's statement. The cost of escalations as captured in the spreadsheet were obtained directly from bidder submissions. Refer various Annexures. Then I run to page 13 almost to the end of the  
20 paragraph.

**ADV MAHLAPE SELLO SC:** Yes.

**MR FRANCIS CALLARD:** To the extent that Mr Callard is insinuating that the escalations were inflated, I never inflated any escalations. I simply reported the breakdown of the locomotive price as provided by the bidders is what was finally agreed. That relates to escalations.

**ADV MAHLAPE SELLO SC:** Yes.

**MR FRANCIS CALLARD:** If I go to paragraph 57 it follows a similar tenor in respect of foreign-exchange. With respect to my statement, my paragraph 208.2 foreign-exchange component as captured in the spreadsheets were obtained directly from bidder submissions. I go to the end of the paragraph.

**ADV MAHLAPE SELLO SC:** Yes.

**MR FRANCIS CALLARD:** The extent that Mr Callard is insinuating that the foreign-exchange costs were inflated. I did not inflate any foreign-exchange costs. I simply reported the breakdown of the locomotive price is provided by the bidders and what was finally agreed. A similar tenor goes through paragraph 58. The cost to the reduced batch sizes was merely a record of the bidder submissions based on the outcome of the negotiation process. The end of the paragraph which is at page 14. To the extent that I was insinuating that the batch pricing were inflated, I never inflated any batch pricing. I simply recorded the breakdown of the prices provided by the bidders on what was finally agreed by the subcommittee. Paragraph 59 with reference to again paragraph 208.4 of my statement. It was not my responsibility or any of the members of the finance support team at any stage during this tender to manage local content requirements. I go through to the end of the paragraph. To the extent that Mr Callard is insinuating that I was responsible for the local content requirements or that foreign-exchange amounts were inflated. I never inflated any foreign-exchange component amounts. I simply recorded the breakdown of the local price as given by the bidders



based on what was finally agreed by the subcommittee. I was also not responsible for managing the locomotive content for prices. I submit that I tabled the spreadsheets as reflection of what existed and what is addressed here does not and I highlighted numerous considerable anomalies in the spreadsheet. This does not address any of the anomalies in the spreadsheet except for Mr Lahore's statement that he recorded what the bidders provided.

**CHAIRPERSON:** So in a way, it is like where in relation to another point, he was saying it was Mr Singh who told him the information and  
10 he then went along. So here he says he got it from the bidder's submissions and just recorded it?

**MR FRANCIS CALLARD:** He got it from the bidder's submissions and just recorded it and I have not gone through poor statements like that. My statement on the spreadsheets that they, stands that the anomalies in the spreadsheets still pertain. If Mr Singh just, Mr Lahore just recorded them that is what he says but it does not explain any of the anomalies in the spreadsheets whatsoever.

**CHAIRPERSON:** Thank you.

**ADV MAHLAPE SELLO SC:** And from what you have read those  
20 excerpts from the various paragraphs, when it comes to the foreign-exchange and escalation and all of the various costs based on his progress you have read, his stock answer is that I merely recorded?

**MR FRANCIS CALLARD:** His stock answer is that on those ones that I have given he says, I simply recorded.

**ADV MAHLAPE SELLO SC:** I simply recorded in the spreadsheet.

**MR FRANCIS CALLARD**: I simply recorded.

**ADV MAHLAPE SELLO SC**: Now I think you testified that Mr Hugh Soflahare was part of the finance negotiating team.

**MR FRANCIS CALLARD**: Correct.

**ADV MAHLAPE SELLO SC**: And all... (intervention).

**MR FRANCIS CALLARD**: He says so himself in his statement.

**ADV MAHLAPE SELLO SC**: In his statement. And all he does is record? So he was, according to him he was reduced to a data capturer?

10 **MR FRANCIS CALLARD**: He has stated numerous times, I simply recorded.

**CHAIRPERSON**: He does not seem to have questioned anything?

**MR FRANCIS CALLARD**: I find; I have not seen anything which says I have analysed.

**CHAIRPERSON**: Hm.

**MR FRANCIS CALLARD**: Tested the veracity of.

**CHAIRPERSON**: Hm.

**MR FRANCIS CALLARD**: Added value to.

**CHAIRPERSON**: And given advice as a chartered accountant?

20 **MR FRANCIS CALLARD**: He does mention that in one or two places earlier on the negotiation process on the process of the negotiation and on some figures but insofar as these spreadsheets are going in the paragraphs I have read he limits himself. I read it as limiting to simply recording.

**CHAIRPERSON**: Hm.

**MR FRANCIS CALLARD:** I would further add that with paragraph 60, the sidebar calculation where I mentioned that there were locomotive calculations which indicated indicative locomotive prices... (indistinct). The higher end of 50 to 60 million per locomotive. He says the sidebar calculation has no bearing on the record of the final pricing. I am not aware of the passage talk that Mr... (indistinct) is referring to. However, I will draw a connection between paragraph 28 of his first statement. Where he said that it appeared that the process of negotiation be was to have an upper price and a little price and then negotiate between. I  
10 believe that I contend that those sidebar calculations are but part of that process of an upper price or a lower price.

**ADV MAHLAPE SELLO SC:** Hm okay. Well then Mr Callard before I say Mr Lahore.

**MR FRANCIS CALLARD:** And sorry, the same also holds for paragraph 61 negotiation price recon. To the extent that Mr Callard is insinuating that I reported inexpressible discounts. I did not report the inexpressible discounts on the spreadsheet and the spreadsheet was prepared for illustrative purposes and not used for any purpose on the final recon. So if the final recon was for an illustrative purpose but not  
20 for any recon, I am at losses to understand what... (intervention).

**ADV MAHLAPE SELLO SC:** So the very spreadsheets you required and relied upon to the extent that you could get access to them were not relevant for the recon. They were just.

**MR FRANCIS CALLARD:** This is now what, what would appear from this, yes.

**ADV MAHLAPE SELLO SC:** Okay. I guess he will he had better light when that time comes. That then Mr Callard on my assessment brings us to the conclusion of Mr Lahore's response to your statement and evidence.

**MR FRANCIS CALLARD:** May just make one other point please? I attributed Mr Lahore as being a primary author of the spreadsheet.

**ADV MAHLAPE SELLO SC:** Yes.

**MR FRANCIS CALLARD:** He says he was involved in the spreadsheets. In the negotiation stage he was one of the team and in  
10 the, sorry in the evaluation phase there were team members who had access to the spreadsheet. In the negotiation phase it was him and Donnie Smit. He does not say he was the pri – he says he was not the primary author. However, in discussions which we had previously when it was put to him that he was the main person inputting information in the spreadsheets he said, he agreed that he was; nodded that he was the main person putting information in the spreadsheets. And I think the statements I have referred to here where he said he simply recorded I think correlates with that notion.

**ADV MAHLAPE SELLO SC:** Yes. I think in the main, he takes issue  
20 with the suggestion that he was the primary author not that he was a co-author.

**MR FRANCIS CALLARD:** Ja.

**ADV MAHLAPE SELLO SC:** Okay.

**CHAIRPERSON:** Well, I see him perhaps. Is it true he proceeds with saying he simply recorded? You may have referred us to that one

already but I see there too he says I simply recorded the breakdown of the locomotive price as provided by bidders.

**ADV MAHLAPE SELLO SC:** Yes.

**CHAIRPERSON:** Yes.

**ADV MAHLAPE SELLO SC:** Yes Chair. Okay then that brings us to the conclusion of Mr Lahore's statement in so far as it is relevant to the allegations you have made against him. As we indicated, Chair, there is yet another statement, response to a Rule 33 Mr Yusuf Mohammed. Mr Yusuf Mohammed has been submitted or his statement rather and  
10 Annexures have been submitted into evidence and marked BB4G. It is that little plastic cover, Chair. If then we can turn our attention to Mr Yusuf Mohammed's statement Mr Callard. Have you located it?

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Now it's a very brief statement, the main thing to place on record is according to that statement Mr Yusuf Mohamed states that he is currently employed by Transnet as the GM Office of the Group Chief Financial Officer and he has held this position from 1<sup>st</sup> November 2012 and that he states at 1.1 and has been in full employ of Transnet from 2007 within the Group Finance. He thereafter deals with  
20 his involvement in religious activities so we can pass that, and then he provides a certain context at page 5 of his statement, paragraph 3, where he sets out what his role as GM Office of the GCFO entails, and I don't think that you would have any issues there?

**MR FRANCIS QUENTIN CALLARD:** None.

**ADV MAHLAPE SELLO:** He deals with the issues that you raise in your

statement from page 6 at paragraph 3.6 he states that he had no role on any capacity on the 1064 locomotive project team including but not limited to the following streams, basically all of them, Finance, Procurement, Commercial Operations, Business Case, Technical and Legal. Now let's look at what you had said about Mr Yusuf Mohamad and then we will deal with his response. You deal – you make reference to Mr Mohamad for the first time in your BB4(A) your statement starting at page 26 paragraph 110.

**MR FRANCIS QUENTIN CALLARD:** Ja.

- 10 **ADV MAHLAPE SELLO:** And at 110 you speak a version of a document, the business case that was circulated on the 29<sup>th</sup> of April 2013.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** At 110 you said that version of the business case indicated, and I quote, it's in your 110,

“Accordingly it is recommended that the 1064 locomotive business plan can be approved at a cost of 38.6billion, excluding borrowing costs”.

**MR FRANCIS QUENTIN CALLARD:** Correct.

- 20 **ADV MAHLAPE SELLO:** Overleaf at 111- and this was the position on the 23<sup>rd</sup> of – 29<sup>th</sup> of April 2013- overleaf at 111 you state that on the 30<sup>th</sup> of April 2013, a day later a second version appeared.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Which read,

“Now accordingly it is recommended that that the 1064 local

business case be approved with estimated total cost of the acquisition of 38.6billion as per the corporate plan (excluding the potential effects from Forex hedging, Forex escalation and other price escalations)”,

So the change really between the two versions is what did the 38.6 exclude. In the first version it only excluded borrowing costs and the second version, the next day it's now claimed to exclude Forex hedging, Forex escalation and other price escalations.

**MR FRANCIS QUENTIN CALLARD:** Yes.

- 10 **ADV MAHLAPE SELLO:** You then conclude that the meta data for this file indicates that it was last modified on the machine of Yusuf Mohamad office of the Group Chief Financial Officer Transnet on 30<sup>th</sup> April 2013 at 10h30 AM.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** Mr Mohamad now deals with that at paragraph 4.2 at page 7 of his statement and he states,

“I can confirm that at no stage did I calculate or verify the calculations of Forex hedging, Forex escalation and other price escalations”.

- 20 Unless I misread your statement I did not understand you to suggest that Mr Yusuf Mohamad undertook those calculations?

**MR FRANCIS QUENTIN CALLARD:** That is correct I did not imply or say that he undertook those calculations at all. It was only that he changed – it was on his machine that the final statement was changed.

**ADV MAHLAPE SELLO:** And then if we go overleaf your statement

from paragraph 5, at 5.1 it says,

“Based on a review of the above, which is a list of documents he had listed that are not necessarily relevant to go through at this moment, he says, I would like to draw attention to the following - the attention of the Commission”,

We can skip 5.1.1 which is the documents that he says are relevant and go to 5.1.2 where he now deals with his own conduct which is what – after you said that the changes were made on his machine and he says,

10           “The change was on instruction of Mr Singh to align the business case to the approval memorandum and submissions of the Committees listed above and represented a mere transfer of the information that was already approved. In making the edits that is a further sub-sub, in making the edits of Mr Singh I would have acted upon his instructions and trusted his knowledge as he was intimately involved in the business case”.

**MR FRANCIS QUENTIN CALLARD:** Yes.

20           **ADV MAHLAPE SELLO:** My reading of the statement that, that is the sum total of his response to what you say at your paragraphs 110 and 111.

**MR FRANCIS QUENTIN CALLARD:** Correct.

**ADV MAHLAPE SELLO:** What would you comment to Mr Mohamad’s explanation?

**MR FRANCIS QUENTIN CALLARD:** Perfectly correct, I would add the



following point and I would go to my statement where on paragraph 104 of my statement, that is at page 25 of my statement paragraph 104 and I'll just take the heading, also the 18<sup>th</sup> April (indistinct) emails the Singh – emails Singh the business case and he makes comments there about the foreign – the ethics curve, adjusted fleet estimates, savings, item four there, the updated total cost of ownership as a result of the Forex exchange and five, new funding and Forex hedging section received from Danie this evening. I then go to – refer to paragraph 105, Mr Singh was the acting Chair of the 1064 locomotives steering committee  
10 meeting held on the morning of the 18<sup>th</sup> of April.

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** The draft minutes include that the acting Chairman highlighted *inter alia* and those draft minutes, particularly 105.3 significant amendment, the Forex rates included etcetera.

**ADV MAHLAPE SELLO:** Yes but that is now Mr Singh's role.

**MR FRANCIS QUENTIN CALLARD:** That is in the minutes of the locomotive steering committee meeting on the morning of the 18<sup>th</sup> prior to Capec which took place on the same day – later on the same day on  
20 the 18<sup>th</sup>.

**ADV MAHLAPE SELLO:** Yes we don't have an issue with that yes.

**MR FRANCIS QUENTIN CALLARD:** The only point I wish – the point I wish to make out of that, is that, the resolution of that steering – of that locomotive steering committee states, and I'm ready on 106,

“The estimated total costs as per the corporate plan excluding

the potential effects of Forex hedging, Forex escalation, price escalation, borrowing costs”,

And I state there was an anomaly in those minutes which was unresolved.

**ADV MAHLAPE SELLO:** Yes Mr Callard but let’s confine ourselves to what you said about Mr Mohamad, you said the changes to what was included or excluded from the 38.6billion was made on his machine.

**MR FRANCIS QUENTIN CALLARD:** Yes.

**ADV MAHLAPE SELLO:** That’s all you say about Mr Mohamad.

10 **MR FRANCIS QUENTIN CALLARD:** So I said.

**ADV MAHLAPE SELLO:** Mr Mohamad comes back to you and says, firstly, that the change was on the instruction of Mr Singh and secondly that he would have acted upon Mr Singh’s instruction, that’s the sum total of what (indistinct) says.

**MR FRANCIS QUENTIN CALLARD:** Sum total so in that he confirms that he made the change.

**ADV MAHLAPE SELLO:** Yes.

**MR FRANCIS QUENTIN CALLARD:** He confirms the change was made, he confirmed he made the change. He informs us as to why the change  
20 was made, that it was on instruction from Mr Singh but the anomaly itself would I highlight which propagates through from the morning of the 18<sup>th</sup> of April, as to why Forex escalation – why Forex hedging and escalation were excluded, that remains...(intervention).

**ADV MAHLAPE SELLO:** And the anomaly is an issue to be answered by Mr Singh not by Mr Mohamad?

**MR FRANCIS QUENTIN CALLARD:** Mr Mohamad has now highlighted and addressed this to Mr Singh as having received that instruction and that anomaly propagates through and it remains unanswered.

**ADV MAHLAPE SELLO:** Then that's for Mr Singh to deal with?

**MR FRANCIS QUENTIN CALLARD:** For Mr Singh to deal with.

**ADV MAHLAPE SELLO:** So effectively what Mr Mohamad does in his statement, he does not disagree with your statement that these changes were made on his machine?

**MR FRANCIS QUENTIN CALLARD:** No he does not disagree.

10 **ADV MAHLAPE SELLO:** I have read the rest of the statement and you have also been provided with same, beyond what we have read, Mr Mohamad does not deal with the fact that you testified that the changes were made on his system, he simply gives an explanation of how that came about?

**MR FRANCIS QUENTIN CALLARD:** That is what he does, an explanation of how it came about but he does not resolve the anomaly at all, and refers it to Mr Singh.

**ADV MAHLAPE SELLO:** And that brings us to the conclusion technically then of Mr Mohamad's statement and there is nothing else  
20 Mr Mohamad says about the testimony you've provided to the Chair. Unless Chair there are any other questions, those are the two statements we wanted to put to Mr Callard?

**CHAIRPERSON:** Thank you. Mr Callard thank you very much for having come back to deal with these issues or comments raised by the two persons, if a need arises for us to ask you to come back we will ask

again but once again thank you very much for coming to give evidence. Unless there is something you've thought of in the meantime, Mr Callard you are excused.

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

**ADV MAHLAPE SELLO:** Thank you Chair, that concludes then the evidence of Mr Callard which we had kept open when he was last here. That being the last of the responses to his statement, that concludes his evidence. I'm advised the next witness is ready but we may require, perhaps five minutes for the changing of the guard.

10 **CHAIRPERSON:** Yes that's fine. We'll adjourn for – until half past twelve, we adjourn.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**ADV BAITSENG RANGATA:** Good afternoon Chair.

**CHAIRPERSON:** Good afternoon Ms Rangate, thank you.

**ADV BAITSENG RANGATA:** Thank you very much.

**CHAIRPERSON:** You are ready?

**ADV BAITSENG RANGATA:** Yes I am ready Chair.

**CHAIRPERSON:** Yes.

20 **ADV BAITSENG RANGATA:** Chair we have called Major Ntshisi today, it is a second comeback, we have led his evidence on the 3<sup>rd</sup> of July so there were certain issues that necessitated for him to come back today and I would recommend that he be sworn in given the time lapse since his evidence that he has given, if that is in order I will request that he be sworn in, and he has requested again the services of an interpreter,

and Mr Mnese is here to assist as an interpreter.

**CHAIRPERSON**: Yes no that's fine. Let me swear in Mr Mnese, the interpreter first, and then we can take it from there. Mr Mnese let's do this again, hopefully certain paperwork will be sorted out and we don't have to do it each time. Okay.

**MR STANLEY DUMISANE MNESE (INTERPRETER)**: Thank you Chairperson.

**CHAIRPERSON**: Do you have any objection to taking the prescribed oath?

10 **MR STANLEY DUMISANE MNESE (INTERPRETER)**: No.

**CHAIRPERSON**: Do you consider the oath binding on your conscience?

**MR STANLEY DUMISANE MNESE (INTERPRETER)**: Indeed Chairperson.

**CHAIRPERSON**: Okay, I am going to read the oath and then you are going to say after me, and if I recall correctly it was English to isiXhosa or was it to isiZulu last time?

**MR STANLEY DUMISANE MNESE (INTERPRETER)**: English to Zulu.

**CHAIRPERSON**: English to Zulu.

20 **MR STANLEY DUMISANE MNESE (INTERPRETER)**: That is correct.

**CHAIRPERSON**: That is it, okay, no that's fine. I, and then give your full names, do hereby swear that I will in my capacity as an interpreter faithfully and correctly and to the best of my knowledge and ability interpret in these proceedings from isiZulu to English and from English to isiZulu, both languages in which I am proficient.

**MR STANLEY DUMISANI MNESE (INTERPRETER):** I, Stanley Dumisani Mnese, do hereby swear that I will in my capacity as an interpreter faithfully and correctly and to the best of my knowledge and ability interpret in these proceedings from isiZulu to English and from English to isiZulu, both languages in which I am proficient.

**CHAIRPERSON:** Raise your right hand then and say so help me God.

**MR STANLEY DUMISANI MNESE (INTERPRETER):** So help me God.

**CHAIRPERSON:** Thank you, you are duly sworn in.

**ADV BAITSENG RANGATA:** Thank you Chair.

10 **MR STANLEY DUMISANE MNESE:** Thank you Chairperson.

**CHAIRPERSON:** Okay before Major Ntshisi is sworn in or an affirmation is administered I just want to say to Major Ntshisi that I asked that he be recalled and you can interpret Mr Interpreter.

**MAJOR THABO NTSHISI [through interpreter]:** I understand Chairperson.

**CHAIRPERSON:** That was because there are certain aspects of your evidence on which I would like clarification.

**MAJOR THABO NTSHISI [through interpreter]:** Yes Chairperson.

20 **CHAIRPERSON:** So we will deal with those and we will try not to go over everything, but because your evidence covered a very narrow area it may be that we end up looking at a substantial portion of your evidence.

**MAJOR THABO NTSHISI [through interpreter]:** I understand.

**CHAIRPERSON:** Thank you very much. Now the oath, affirmation can be administered.

**REGISTRAR:** Please state your full names for the record?

**MAJOR THABO NTSHISI [through interpreter]:** Ikamalane Thabo Ntshisi.

**REGISTRAR:** Do you have any objections to making the prescribed affirmation?

**MAJOR THABO NTSHISI [through interpreter]:** No objection.

**REGISTRAR:** Do you solemnly affirm that all the evidence that 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.

10 **MAJOR THABO NTSHISI [through interpreter]:** I truly affirm.

**REGISTRAR:** Thank you.

**CHAIRPERSON:** Thank you very much.

**ADV BAITSENG RANGATA:** Major Ntshisi this Commission is indebted to you agreeing to come back at such a short notice. Chair for the purpose of this evidence that I'm going to lead, we are going to be making reference to the following Exhibits, it's FF1 which is the JCPS report.

**CHAIRPERSON:** Has – somebody must assist to make sure he has got everything.

20 **ADV BAITSENG RANGATA:** Thank you Chair. We are going to be making reference to FF4 which is SANDF Board of inquiry report.

**CHAIRPERSON:** Okay hang on, let them find it first.

**ADV BAITSENG RANGATA:** FF4.

**CHAIRPERSON:** Yes.

**ADV BAITSENG RANGATA:** And we have FF6 that contains three

statements and we have FF13, (b) and (c) they are in one small folder. Chair FF13 (b) and (c) these are the transcripts of the recordings that have already been entered into the record, they have already been entered and been allocated the Exhibit numbers.

**CHAIRPERSON**: Yes one second.

**ADV BAITSENG RANGATA**: I must also identify Chair, that previously...(intervention).

**CHAIRPERSON**: One second – yes?

**ADV BAITSENG RANGATA**: Chair previously the transcripts were  
10 identified as – the recording itself was identified as 13 (a) and the recording 6...(intervention).

**CHAIRPERSON**: The recording hasn't been accepted to the record yet because it was not handed up but the transcripts were.

**ADV BAITSENG RANGATA**: Yes Chair.

**CHAIRPERSON**: Yes.

**ADV BAITSENG RANGATA**: I think let me correct myself, we have 13 (b) – FF13 (b) as the recording 6 and FF13 (c) as recording 7.

**CHAIRPERSON**: Yes.

**ADV BAITSENG RANGATA**: Yes Chair. We can enter that into the  
20 record if that's not already entered.

**CHAIRPERSON**: Thank you – no that was already entered I think.

**ADV BAITSENG RANGATA**: Thank you Chair.

**CHAIRPERSON**: Ja.

**ADV BAITSENG RANGATA**: The Chair will recall that previously there was a discussion that necessitated for us to come here today. Major



Ntshisi you will – I’m going to try to avoid to repeat what has been dealt with previously because your evidence, I’m going to start with reference to FF4. Chair I’m going to straight to page 325 of FF4 which is the transcripts of the Board of inquiry.

**CHAIRPERSON**: Yes, I’m sorry what page?

**ADV BAITSENG RANGATA**: Page 325.

**CHAIRPERSON**: 325?

**ADV BAITSENG RANGATA**: Yes Chair of FF4.

**CHAIRPERSON**: Okay.

10 **ADV BAITSENG RANGATA**: Major Ntshisi, you’ll recall previously my colleague has taken through this – yourself through this transcript.

**INTERPRETER**: What pages?

**ADV BAITSENG RANGATA**: Page 325 to be more specific we will start at line 8 of the transcript. Do you need assistance?

**INTERPRETER**: Line?

**ADV BAITSENG RANGATA**: Line 8, I’m going to go straight to the point, you were requested to comment on this sentence, it was asked whether you confirm or you accept what was stated in the transcript, it stated,

20 “So I spoke to Mr Koloane, that is yourself Major Ntshisi where you were responding to Brigadier Misi, you stated, so I spoke to Mr Koloane, he indicated to me that the sensitivity of the flight is not supposed to be on the *note verbale* because it is a high security risk”.

Yes before you answer to that I’m going to also refer you to the next

paragraph which appears on line 12, you stated there,

“We need to...(intervention).

**CHAIRPERSON**: Line 12?

**ADV BAITSENG RANGATA**: Line 12 on the same page Chair.

**CHAIRPERSON**: Ja.

**ADV BAITSENG RANGATA**: “We need to...(intervention).

**CHAIRPERSON**: Not paragraph 12, line 12?

**ADV BAITSENG RANGATA**: Line 12 sorry I apologise for that,

10 “We need to go ahead with that clearance, although I was not  
happy with that response that is why I even, the second time I  
spoke to Lieutenant Colonel Anderson, she also confirmed that  
I must go ahead because the President authorised that flight”.  
If I recall...(intervention).

**CHAIRPERSON**: One second – I think – I’m not sure if the  
interpretation has been finalised, it’s President authorised the flight.

**ADV BAITSENG RANGATA**: Thank you for that Chair. All this that  
was read to you on that date when you gave evidence was responded  
with,

“That was not my words”.

20 Yes, I want you – you’ve reflected ...(intervention).

**CHAIRPERSON**: Let’s confirm that first. Do you remember this part of  
the transcript of the Board of inquiry being read to you or you being  
referred to it?

**MAJOR THABO NTSHISI [through interpreter]**: Yes I recall it.

**CHAIRPERSON**: Do you remember what your answer was to – your

reply was to the question about this part of the transcript?

**MAJOR THABO NTSHISI [through interpreter]:** Even though it's quite long Chairperson I cannot remember exactly or the exact words that I said.

**CHAIRPERSON:** Okay I'm sorry maybe we might be speaking at cross purposes. I'm not talking about the time when you gave evidence at the Board of inquiry, I'm talking about last week when you were giving evidence.

**ADV BAITSENG RANGATA:** Yes Chair.

10 **MAJOR THABO NTSHISI [through interpreter]:** Yes I remember.

**CHAIRPERSON:** And the question is whether you do remember what your reply was when the question was put to you that this is what you said at the Board of inquiry according to this transcript.

**MAJOR THABO NTSHISI [through interpreter]:** Yes I remember what my answer was.

**CHAIRPERSON:** What was your answer?

**MAJOR THABO NTSHISI [through interpreter]:** My answer was, no, I never said that.

**CHAIRPERSON:** Thank you, do you want to take it from there?

20 **ADV BAITSENG RANGATA:** Thank you Chair, thank you for that Chair. Now that you've reflected on what was said on that particular day is there something that you want to comment on based on what I have just read for you and what the Chair has just clarified, given the answer that you previously gave?

**MAJOR THABO NTSHISI [through interpreter]:** All I can say is that

what is written here now, I can agree with it because I now can remember what I said at the Board of inquiries.

**ADV BAITSENG RANGATA**: Thank you for that, so I ...(intervention).

**CHAIRPERSON**: So I take it that what you had said means that you agree that you did say at the Board of inquiry?

**MAJOR THABO NTSHISI [through interpreter]**: Yes that is true.

**CHAIRPERSON**: What you say you admit you did say is that you spoke – you did say you spoke to Mr Koloane, he indicated to you that the sensitivity of the flight is not supposed to be on the *note verbale* because it is high security risk, is that correct?  
10

**MAJOR THABO NTSHISI [through interpreter]**: That is so.

**CHAIRPERSON**: I take it also that you agree that you also said that we need to go ahead with that clearance, this is now when you were speaking at the Board of inquiry telling them about your conversation with Mr Koloane, you said, we need to go ahead with that clearance although I was not happy with that response that is why I even, the second time I spoke to Lieutenant Colonel Anderson.

**MAJOR THABO NTSHISI [through interpreter]**: Yes indeed Chairperson.

20 **CHAIRPERSON**: And that you then also told the Board that Colonel Anderson also confirmed that you must go ahead because the President authorised that flight.

**MAJOR THABO NTSHISI [through interpreter]**: Yes that is true.

**CHAIRPERSON**: Okay thank you, you want to proceed?

**ADV BAITSENG RANGATA**: Yes Chair, thank you very much for that.

Major Ntshisi I just want to take you a little bit back on the 8<sup>th</sup> of July 2019 Ambassador Koloane was in attendance, he was giving evidence to this Commission. It appeared during the day that the Commission was provided with a recording of the telephone conversation – numerous telephone conversations that took place between yourself and Ambassador Koloane and between yourself and – I’m going to identify some that are important for this Commission – between yourself and Lieutenant Colonel Anderson.

**MAJOR THABO NTSHISI [through interpreter]:** Yes, I recall that.

- 10 **ADV BAITSENG RANGATA:** Yes and the – with the leave of the Chair, the recording – the said recording was played into the record on the 9<sup>th</sup> of July and you were in attendance on that particular date.

**MAJOR THABO NTSHISI [through interpreter]:** Yes I was present.

**ADV BAITSENG RANGATA:** So I want us to deal with two things can I confirm – you confirm your attendance you were in when the recording was played and you have listened to it?

**MAJOR THABO NTSHISI [through interpreter]:** Yes I agree I was present.

- 20 **ADV BAITSENG RANGATA:** Can I ask if you confirm the content and the accuracy of the recording that was played in this sitting?

**MAJOR THABO NTSHISI [through interpreter]:** Yes I agree to that.

**ADV BAITSENG RANGATA:** Thank you, Chair the recordings that I’m talking about – that I’m referring to they have been entered into record, that is FF13 (b) and 13 (c).

**CHAIRPERSON:** Yes you’re referring to those that involved him?

**ADV BAITSENG RANGATA:** Yes Chair.

**CHAIRPERSON:** Yes.

**ADV BAITSENG RANGATA:** In the first recording that we listened to that appears under FF13 (b), it's a recording...(intervention).

**CHAIRPERSON:** Maybe before that let's go back to the Board of inquiry transcript.

**ADV BAITSENG RANGATA:** Yes Chair.

**CHAIRPERSON:** You have now accepted that the part of the transcript of the proceedings of the Board of inquiry to which you were referred a  
10 few minutes ago is correct and it reflects what you said at the Board of inquiry, you remember that?

**MAJOR THABO NTSHISI [through interpreter]:** Yes Chairperson.

**CHAIRPERSON:** Did I understand you correctly that you said you now remember that you did say this?

**MAJOR THABO NTSHISI [through interpreter]:** Yes Chairperson.

**CHAIRPERSON:** What reminded you that this is what you had said at the Board of inquiry?

**MAJOR THABO NTSHISI [through interpreter]:** What made me recall Your Worship is that there was some recording that was played before  
20 the Commission, Chairperson, which then reminded me what happened.

**CHAIRPERSON:** But if I recall correctly, when you gave evidence last week, you did not say that you could not remember what you had said at the Board of inquiry or that you were not sure whether you had said the things that are said here that were attributed to you but you were quite categorical that you had not said these words, is my recollection

correct?

**MAJOR THABO NTSHISI [through interpreter]:** Yes I agree I did say that those are not the words that I said but after the recordings were played before the Commission that's when I then realised that, indeed, this is what I said.

**CHAIRPERSON:** Let me talk about something else that I picked up in your evidence last time. That is that you were quite clear that you did not act as you did because of any pressure by anybody on you but that you only acted as you did in relation to the request for clearance  
10 because of the letter that had come from Ambassador Koloane's PA, is my recollection correct?

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is so Chairperson.

**CHAIRPERSON:** Is that still the position that you take at this stage, that you did not act because of any pressure?

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is true.

**CHAIRPERSON:** Mr Koloane gave evidence here and said that he put pressure on personnel of the Defence Department and my understanding was that you would have been one of those he was  
20 talking about, is that your understanding as well?

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is true.

**CHAIRPERSON:** But you say you did not act out of any pressure from him?

**MAJOR THABO NTSHISI [through interpreter]:** I say that because Mr Koloane himself said that he is the one that put pressure to the

personnel of the Department.

**CHAIRPERSON**: Yes but you maintain that you did not act out of any pressure from him?

**MAJOR THABO NTSHISI [through interpreter]**: Yes that is true Chairperson.

**CHAIRPERSON**: So when in the transcript of the board of inquiry on the page to which we referred earlier on page 25 when you said although I was not happy with that response that is why I even the second time I think that must be you phoned and you spoke to Colonel  
10 Anderson. What unhappiness were you talking about?

**MAJOR THABO NTSHISI [through interpreter]**: The reason for that Your Worship was the reason of the request for the plane that was supposed to land at Waterkloof.

**CHAIRPERSON**: What was it about the reason for the request that made you unhappy?

**MAJOR THABO NTSHISI [through interpreter]**: The reason being that the request and the particulars were not satisfying – were not satisfying about the plane that was coming to land at Waterkloof and it never even stated who are the people and the reason for it to come and land  
20 at Waterkloof.

**CHAIRPERSON**: And if you were not happy with the request because of inadequate information what were you supposed to do with the request in terms of your functions?

**MAJOR THABO NTSHISI [through interpreter]**: That is why at first I asked Mr Koloane to give me something which is written down



[indistinct] or a document which states that he is agreeing to the landing of the plane.

**CHAIRPERSON**: Was that before you received the email that came from Mr Koloane's PA?

**MAJOR THABO NTSHISI [through interpreter]**: Yes that is true it was before I received the email.

**CHAIRPERSON**: Would it then be correct to take that email from Mr Koloane's PA as a direct response to your request to him?

**MAJOR THABO NTSHISI [through interpreter]**: That is true.

10 **CHAIRPERSON**: Do you – you do remember the contents of that email do you not?

**MAJOR THABO NTSHISI [through interpreter]**: Yes I do even though I cannot be able to exactly put the wordings of that email as they are.

**CHAIRPERSON**: What did – what did the...

**ADV BAITSENG RANGATA**: Chair the email is on page 199 of 5...

**CHAIRPERSON**: No it is fine for now maybe later.

**ADV BAITSENG RANGATA**: Thank you.

**CHAIRPERSON**: What to your recollection was the gist of that email to you from Mr Koloane through his PA?

20 **MAJOR THABO NTSHISI [through interpreter]**: The words that were saying it is allowed that the airplane can land at the Waterkloof.

**CHAIRPERSON**: Is that what you had requested Mr Koloane to put in writing to you? No, no just – let us do it again Mr Interpreter. Is what you found in the email what you had requested Mr Koloane to send to you in writing?

**MAJOR THABO NTSHISI [through interpreter]:** Yes Chairperson.

**CHAIRPERSON:** You were here when he gave evident last week, is it not? I am sorry you were here.

**MAJOR THABO NTSHISI [through interpreter]:** Yes I was Chairperson.

**CHAIRPERSON:** Do you recall what he said about that letter, that email?

**MAJOR THABO NTSHISI [through interpreter]:** I recall what he said.

**CHAIRPERSON:** What is your recollection of what he said?

10 **MAJOR THABO NTSHISI [through interpreter]:** He said that the email was actually made or written by his secretary. And that as it was written by his secretary he thinks that she wrote it the way she said it must be.

**CHAIRPERSON:** Well he – Mr Koloane said that the email that was sent to you by his PA did not reflect what had asked his PA to write.

**MAJOR THABO NTSHISI [through interpreter]:** Yes.

**CHAIRPERSON:** Is it your recollection too that that is what Mr Koloane said?

20 **MAJOR THABO NTSHISI [through interpreter]:** That is what Mr Koloane said.

**CHAIRPERSON:** He also said that he did not ask his PA to write that he had approved the request.

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is true.

**CHAIRPERSON:** And he said that either his secretary misunderstood what he was saying – what he had said to her or maybe he failed to

articulate accurately what he wanted his PA to say in the letter, is that your recollection also of what Mr Koloane said [indistinct].

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is what he said.

**CHAIRPERSON:** What do you say to this part of his evidence?

**MAJOR THABO NTSHISI [through interpreter]:** To me Chairperson it is difficult for me to can say something about it.

**CHAIRPERSON:** Well maybe let me make it clear. My understanding of your evidence is that you had a conversation with Mr Koloane and in  
10 the course of that conversation you asked him to send you something in writing that would say that they were approving the landing of the aircraft, is that correct?

**MAJOR THABO NTSHISI [through interpreter]:** Yes Chairperson.

**CHAIRPERSON:** Do you have any doubt at all in your mind that that is what the two of you discussed in terms of something in writing?

**MAJOR THABO NTSHISI [through interpreter]:** Can the Chairperson repeat that?

**CHAIRPERSON:** Do you have any doubt in your mind – do you have any doubt at all in your mind that that is what you said to Mr Koloane in  
20 the telephone conversation namely that you wanted something in writing that would show that they had approved the landing of the flight?

**MAJOR THABO NTSHISI [through interpreter]:** I do not have any doubt this is exactly what we spoke about with Mr Koloane and that is what I asked him to do.

**CHAIRPERSON**: He said in his evidence before me that he did not have any power or DIRCO had no power to approve the landing of the flight of any aircraft at Waterkloof.

**MAJOR THABO NTSHISI [through interpreter]**: Yes I recall that he said that.

**CHAIRPERSON**: What do you say to that? Was he – is that true that he did not have that power or DIRCO did not have that power?

**MAJOR THABO NTSHISI [through interpreter]**: To me that is not the truth.

10 **CHAIRPERSON**: Why do you say that?

**MAJOR THABO NTSHISI [through interpreter]**: I say that because by the time I was speaking to Mr Matjila he then referred me to Mr Koloane. And I say that because Mr Koloane is the highest official at DIRCO.

**CHAIRPERSON**: Yes. Well highest official in a government department would be the Director General.

**MAJOR THABO NTSHISI [through interpreter]**: Yes that is so.

**CHAIRPERSON**: He was not Director General was he?

20 **MAJOR THABO NTSHISI [through interpreter]**: According to my knowledge he was The Chief State Protocol,

**CHAIRPERSON**: Yes so did that position give him power to approve the landing of an aircraft at Waterkloof – Waterkloof?

**MAJOR THABO NTSHISI [through interpreter]**: According to my knowledge that was the case he was supposed to approve.

**CHAIRPERSON**: Was the position not that the approval for the landing

of any aircraft at Waterkloof was something that could only be granted by the relevant officials in the Department of Defence?

**MAJOR THABO NTSHISI [through interpreter]:** No that is not so. The only people that had those powers are the people from DIRCO.

**CHAIRPERSON:** Had it happened before that DIRCO provided approval for the landing of any aircraft at Waterkloof?

**MAJOR THABO NTSHISI [through interpreter]:** All the flights that are entering the borders of South Africa are approved by DIRCO.

**CHAIRPERSON:** But I am now talking about the actual landing and not  
10 entering into South African space. The actual landing at Waterkloof.

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is true.

**CHAIRPERSON:** Is that answer to the effect that yes there had been cases before when DIRCO had approved the landing of aircrafts at Waterkloof?

**MAJOR THABO NTSHISI [through interpreter]:** Yes Chairperson.

**CHAIRPERSON:** Are you able to remember to tell me some of the examples of other occasions when that has happened?

**MAJOR THABO NTSHISI [through interpreter]:** Even though I cannot exactly remember or recall but if there is a request like a request from  
20 Guinea such a request is a request for the President or the Deputy President. Normally such a request will be sent to DIRCO or it will send to us and then we will send that request to DIRCO.

**CHAIRPERSON:** What – what – in those cases what does DIRCO actually approve? Is it the actual landing or do they make – do they approve the visit that will be made by that Head of State and then the

actual landing then gets approved by the Department of Defence or are you saying that the visit and the landing at Waterkloof gets approved by DIRCO? Okay I am sorry I am going to repeat that. Mr Interpreter just listen carefully. In those cases that you talk about where you say DIRCO has previously given approval. Do they approve the visit by a Head of State or a Deputy Head of State and then the Department of Defence approves the actual landing of the aircraft at Waterkloof or does DIRCO approve both?

**MAJOR THABO NTSHISI [through interpreter]:** According to what I  
10 know where I am working at the Command Post the only powers that we have is to give a clearance number.

**CHAIRPERSON:** But when you give the clearance number is the position that not that you are providing approval for the landing of an aircraft?

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is so.

**CHAIRPERSON:** So is your evidence therefore that before an aircraft can land at Waterkloof that is bringing a Head of State or Deputy Head of State there must be two approvals. One approval from DIRCO and another approval from the Department of Defence Force? I am sorry Mr  
20 Interpreter approvals not agreements, approvals.

**MAJOR THABO NTSHISI [through interpreter]:** Chairperson what I know is that the Defence Force is to issue a number. To issue out a clearance number of any flight which is going to enter the country.

**CHAIRPERSON:** But the issuance of that clearance number is it not the final step that allows the – an aircraft to land?

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is so.

**CHAIRPERSON:** So is it – would it be correct that you are saying there must be approval from DIRCO and an approval from the Department of Defence Force?

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is true.

**CHAIRPERSON:** And – and the approval from the Department – from DIRCO where there has been no note verbale what form would it take?

**MAJOR THABO NTSHISI [through interpreter]:** What?

**CHAIRPERSON:** What form would it take? The approval from DIRCO?

10 **CHAIRPERSON:** What form would the approval take?

**MAJOR THABO NTSHISI [through interpreter]:** I do not understand your question.

**CHAIRPERSON:** Well it – let us try. You see when you give your approval at Defence – at the Department of Defence Force you said you give a clearance number.

**MAJOR THABO NTSHISI [through interpreter]:** Yes

**CHAIRPERSON:** That is the form that your approval takes, do you understand?

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is so.

20 **CHAIRPERSON:** But in this case the letter from Mr Koloane's PA that approval took the form of an email, do you understand that? No Mr – no Mr Interpreter. The approval that came from DIRCO came by way of an email from Mr Koloane's PA on this – in regard to this matter.

**MAJOR THABO NTSHISI [through interpreter]:** That is true.

**CHAIRPERSON:** Now the approval that you talk about that you expect

from DIRCO does it always

1. Come by way of a letter or email and
2. Does it say we give approval to the request?

**MAJOR THABO NTSHISI [through interpreter]:** It come in a form of an email which is a letter that contains the particulars.

**CHAIRPERSON:** So you stand by your evidence that you asked Mr Koloane to send you something in writing that would show that there was approval for the request for a clearance?

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is true.

10 **CHAIRPERSON:** And the email that came from his PA satisfied what you were looking for?

**MAJOR THABO NTSHISI [through interpreter]:** Yes because it gave me the right to continue.

**CHAIRPERSON:** He said that he had asked his PA to only send a letter to ask you to process the request.

**MAJOR THABO NTSHISI [through interpreter]:** That – those are his words yes indeed he said that.

**CHAIRPERSON:** And is that true? Is that what the two of you discussed that he would send you simply a letter or something in  
20 writing that would say process the request only?

**MAJOR THABO NTSHISI (through interpreter):** No. He never said he will send anything.

**CHAIRPERSON:** I – I thought that the two of you had a discussion and you asked him to send something in writing and my understanding was that he was going to send you something in writing.



**MAJOR THABO NTSHISI (through interpreter):** I asked for something in black and white but he said he does not have the powers to do that because this is a very sensitive issue that we are talking about.

**CHAIRPERSON:** Yes. So at the end of your conversation with him you did not expect to receive anything in writing?

**MAJOR THABO NTSHISI (through interpreter):** I was expecting that.

**CHAIRPERSON:** *Ja* but how were you expecting that if he had said he could not put this in writing?

**MAJOR THABO NTSHISI (through interpreter):** I was awaiting that  
10 because he said he will – because I asked him to send me something in writing and then – and then indeed he did send me something in writing.

**CHAIRPERSON:** Okay. I am getting a little confused. I thought you said he – he said he would not put this in writing because it was sensitive?

**MAJOR THABO NTSHISI (through interpreter):** Yes that is true.

**CHAIRPERSON:** But I now understand you as if you are saying he actually did promise to send you something in writing?

**MAJOR THABO NTSHISI (through interpreter):** No. That is not what  
20 I am saying.

**CHAIRPERSON:** Okay. Let us try and get this clear. The one thing you are saying is that you did ask Mr Koloane to send you something in writing. Is that correct?

**MAJOR THABO NTSHISI (through interpreter):** Yes.

**CHAIRPERSON:** And the second thing you are saying is that he – he

said he could not put this in writing because it was sensitive?

**MAJOR THABO NTSHISI (through interpreter):** That is true.

**CHAIRPERSON:** Did he thereafter and before your telephone conversation with him ended did he thereafter change his mind and say he would send you something in writing?

**MAJOR THABO NTSHISI (through interpreter):** No. I do not recall.

**CHAIRPERSON:** So how – how come then you expected something in writing from him when he never promised you anything in writing?

**MAJOR THABO NTSHISI (through interpreter):** I was expecting  
10 something in black and white from him even though he said he cannot be able to send it.

**CHAIRPERSON:** Why? Why did you expect him to send you something in writing when he told you clearly I am not going to – I cannot put this in writing it is too sensitive?

**MAJOR THABO NTSHISI (through interpreter):** Chairperson I was not going to continue processing if I did not get anything from DIRCO which said I must continue processing.

**CHAIRPERSON:** I think Mr Ntshisi if you could just repeat your – your response and Mr Interpreter if you can listen. I think you did not  
20 understand his answer.

**MAJOR THABO NTSHISI (through interpreter):** I could not have continued issuing a clearance without anything in black and white which states I must continue and that they approve that I must continue.

**CHAIRPERSON:** Is – is that a position that you made quite clear to Mr Koloane – Koloane at the time of your conversation?

**MAJOR THABO NTSHISI (through interpreter):** Even though I never said those words to him that I would never continue with the clearance but according to my knowledge where I am working there must be something that will tell me that a specific flight can be allowed.

**CHAIRPERSON:** Yes. Normally - (coughing) – normally would that be a note verbale?

**MAJOR THABO NTSHISI (through interpreter):** Yes that is true.

**CHAIRPERSON:** And in this case when you asked for something in writing were you asking for something in writing in the place of the note verbale which was not there?  
10

**MAJOR THABO NTSHISI (through interpreter):** I was actually asking for the note verbale.

**CHAIRPERSON:** Oh you were actually wanting them to provide you with a note verbale?

**MAJOR THABO NTSHISI (through interpreter):** That is true because the note verbale is something that we are working with.

**CHAIRPERSON:** But what you received was not a note verbale?

**MAJOR THABO NTSHISI (through interpreter):** Yes.

**CHAIRPERSON:** But you were prepared to use it as the required approval that you expected from DIRCO?  
20

**MAJOR THABO NTSHISI (through interpreter):** Quite correct Chairperson.

**CHAIRPERSON:** Thank you.

**ADV BAITSENG RANGATA:** Chair I see we have just gone past our lunch time but I – if - with your leave can I just take up this issue just

one – one issue?

**CHAIRPERSON**: Yes. I think we – we can try.

**ADV BAITSENG RANGATA**: And carry on?

**CHAIRPERSON**: We – we can carry on. I think I have covered most of the things.

**ADV BAITSENG RANGATA**: Yes, yes.

**CHAIRPERSON**: That I was interested in.

**ADV BAITSENG RANGATA**: Thank you Chair.

**CHAIRPERSON**: So I think we can try and finish ...

10 **ADV BAITSENG RANGATA**: Finish.

**CHAIRPERSON**: So that when we break we – we break for the day.

**ADV BAITSENG RANGATA**: Thank you Chair. Chair I just want to bring this forward that the – the only luxury that we have as a Commission is the recordings that we have and I think it is important that we – we bear that in mind when we engaging on – on these issues because we do have the benefit of the conversations. So I am just going to ask you one small question.

20 When you spoke to – I am referring to the telephone transcript under file 13C your discussion with – with Colonel – Lieutenant Colonel Anderson. When – when Colonel Anderson explained to you that are you refusing the President – are you refusing the State Protocol because the President knows about this? At that – at that time I want to understand from you when you responded that I will – I will attend to it.

What – what was your understanding at that time because my

understanding is at the time when you – when you were ask – you were waiting for the later or the note verbale you already spoke to Lieutenant Colonel Anderson and at that stage you – you indicated that you will attend to the clearance – at that stage.

So I just want to tie – I want you to explain to me when did this – when did you change to – to you saying I am not satisfied with the requirement that are supposed to be complied with to when you say it is fine. I will – I will attend to the clearance when you spoke to Colonel Anderson. Let me try and make it easy for you. If I look at

10 FF13C on page 13 ...

**INTERPRETER:** FF13 ...

**ADV BAITSENG RANGATA:** C.

**INTERPRETER:** Oh, C.

**ADV BAITSENG RANGATA:** On page 13 of the recording. I am going to go to line 18 where Colonel Anderson says:

“If now I just mention that this is – yoh I must be very careful. This is our – number one knows about this visit.”

And you say:

20 “Ja, he explained that to me ma’am.”

And I am going to jump there. I am going to the last on that page which says:

“Yes, yes that is why now I said now let me confirm with you first.”

What was the – I just want to understand. What were – what

were you saying when you said that? Did that – were you saying that you were going to proceed and issue the clearance number?

**MAJOR THABO NTSHISI (through interpreter):** For me speaking to Colonel Anderson I wanted to know whether Waterkloof is it in a state to accommodate 217 people. I did that because she was working the movement of actually receiving people who are coming in, in a flight and when she said to me the people who are coming in and telling me that she knows those people and referring to the President.

By mentioning that the President knows and that how many  
10 people can be accommodated that is when I took then the decision that yes I will then do that.

**ADV BAITSENG RANGATA:** So do I understand you to say that at that time before you received the email you were in your mind you were – you were convinced that there is – the clearance was supposed to be issued?

**MAJOR THABO NTSHISI (through interpreter):** At that point in time it was already in my mind that I will just continue and give them the clearance number.

**ADV BAITSENG RANGATA:** That – that is - that is correct because  
20 even Ambassador Koloane accepted that by that name dropping – by mentioning the President actually he admitted he was putting pressure. So you concede to that?

**MAJOR THABO NTSHISI (through interpreter):** That is so.

**ADV BAITSENG RANGATA:** Thank you. I – I need to move from that point unless if the Chair wants to – to take it.

**CHAIRPERSON:** Yes. Earlier on we dealt with the question of whether any pressure had been put on you or rather let me rephrase that. We dealt with the question whether you acted in the manner in which you did because of any pressure. My understanding was – was that you said no you did not act in the way you did because of any pressure. Is that correct?

**MAJOR THABO NTSHISI (through interpreter):** That is true Chairperson.

**CHAIRPERSON:** But you have just said yes to a question from  
10 Ms Rangata to say you were going to issue the clearance because of the pressure now that the name of the President had been mentioned.

**MAJOR THABO NTSHISI (through interpreter):** Look all I can say is that by mentioning the President's name does not mean that there was pressure exerted on me but I did that because of what Mr Koloane said to me.

**CHAIRPERSON:** No I think that is not what the witness said. Just repeat your answer Mr Ntshisi and listen carefully Mr Interpreter.

**INTERPRETER:** Thank you Chairperson.

**MAJOR THABO NTSHISI (through interpreter):** When I was speaking  
20 to Colonel Anderson there was mention of the President's name your worship – I mean Chairperson. By mentioning the President that does not mean she is putting me under pressure but what she said is that the President knows about that. I told her that even Mr Koloane said that and then that is when as we were continuing talking I then asked her what are the particulars of the people who are coming to Waterkloof.

She explained that. After she explained that that is when I then said to her I will then continue with the request.

**CHAIRPERSON:** The details that you are talking about were they – were they the requirements before that had to be met before an aircraft could land Waterkloof?

**MAJOR THABO NTSHISI (through interpreter):** Yes Chairperson.

**CHAIRPERSON:** And after she had explained those requirements to you, you then said you would go ahead to give the clearance. Is that what you said?

10 **MAJOR THABO NTSHISI (through interpreter):** Even though when she explained she was just making some reference – she was actually telling me an example that it is possible that an airplane can come – coming in with the President or the Deputy or someone that has been sent by the President.

**CHAIRPERSON:** Yes, thank you.

**ADV BAITSENG RANGATA:** Thank you - thank you Chair. I am going to leave that point. I think we have – we have dealt with it enough.

**CHAIRPERSON:** *Ja, yes.*

20 **ADV BAITSENG RANGATA:** I am going to move to – to my – my other issue. When we – when we listen to the recording – recording seven that appears under FF13C we – we hear your conversation with a lady by the name of Sarah. A very interesting discussion. There is a lot of things but we need to concentrate on what is relevant to this Commission. Okay. Chair on page – I am on page 27 of the – of file 13C.



**CHAIRPERSON:** Yes.

**INTERPRETER:** 27 ...

**CHAIRPERSON:** Well I remember the conversation ...

**ADV BAITSENG RANGATA:** Yes.

**CHAIRPERSON:** Quite well, *ja*.

**ADV BAITSENG RANGATA:** You seem to be interested in some – in some connection of some sort and – and that one cannot wonder but to ask because you make specific reference to – to the discussion of the landing of the – of the Gupta family at – at the base and your  
10 assistance and the favour that you have made.

So I – I want you to put into context in short what is it that you wanted Sarah to do and what did Sarah have to do with the landing of the – of the aeroplane at the Air Force?

**MAJOR THABO NTSHISI (through interpreter):** Can I explain how Sarah came in into this discussion?

**CHAIRPERSON:** Yes.

**MAJOR THABO NTSHISI (through interpreter):** Sarah with whom – Sarah who was speaking - about who is in the recordings is someone who is working at the Licencing Department.

20 **ADV BAITSENG RANGATA:** Yes.

**MAJOR THABO NTSHISI (through interpreter):** When I was speaking to her if you listen to when I started talking to her in the recordings. When we started the discussion when I picked up the phone when I asked her did she get my message she said yes she did.

**ADV BAITSENG RANGATA:** Yes.

**MAJOR THABO NTSHISI (through interpreter):** What I wanted from her is that she knew someone who is in a higher position. That person with a higher position known by Sarah herself whom I did not ever see myself. I wanted her to get me into contact with that particular person because I needed a job.

**ADV BAITSENG RANGATA:** So ...

**CHAIRPERSON:** In which department was this person that you wanted Sarah to speak to?

10 **MAJOR THABO NTSHISI (through interpreter):** I do not know where that person was working but if you listen to our – our conversation – that person was not the person who was working in a department.

**CHAIRPERSON:** I am sorry. Is that – is that in the Department of Defence or are you talking about another department?

**MAJOR THABO NTSHISI (through interpreter):** What I know about that person is that he is someone who is holding a higher position but she never told me ...

**CHAIRPERSON:** High position Mr Interpreter not highest.

**MAJOR THABO NTSHISI (through interpreter):** High position but she never told me where or which department that person was working.

20 **CHAIRPERSON:** Did you say you were asking her to help you to get a job?

**MAJOR THABO NTSHISI (through interpreter):** That is true.

**CHAIRPERSON:** Where did you want to go and work?

**MAJOR THABO NTSHISI (through interpreter):** I wanted to go and work at DIRCO.

**CHAIRPERSON:** But what was the connection of this person with DIRCO?

**MAJOR THABO NTSHISI (through interpreter):** I will speak about the recording. There is somewhere where I am asking Sarah where I ask her to ask on my behalf to ask that particular person whether he or she knows Vusi Koloane.

**CHAIRPERSON:** Yes.

**MAJOR THABO NTSHISI [through interpreter]:** And if that person knows Vusi Koloane that's why I asked Sarah to tell that person to  
10 speak with Koloane on my behalf to get me a job.

**CHAIRPERSON:** So is the position that you wanted to go and work at DIRCO and you wanted somebody that would speak to Mr Koloane on your behalf so that you could get a job in that department?

**MAJOR THABO NTSHISI [through interpreter]:** That is true.

**CHAIRPERSON:** Do you want to take it from there?

**ADV BAITSENG RANGATA:** Yes Chair, so you mentioned something about the favour that you have done for someone, what would be that favour that you're referring to?

**MAJOR THABO NTSHISI [through interpreter]:** If you listen to the  
20 recording the word favour that I use is the word that came in as I was talking to Sarah, that doesn't meant that there is someone specific that I was doing a favour for. I am not talking in terms of the trade people who are on the recordings.

**CHAIRPERSON:** Were you asking Sarah to do you a favour by speaking to that person who would then speak to Mr Koloane on your

behalf?

**ADV BAITSENG RANGATA:** Can I clarify that Chair? Sir because I am working with clearances so there is a favour that I am doing for him right now, so I want us to address it in that context.

**CHAIRPERSON:** Well let's hear his answer first, he has said he only used the word favour when he was speaking to Sarah.

**ADV BAITSENG RANGATA:** Yes.

**CHAIRPERSON:** Were you asking Sarah to do you a favour by speaking to the other person to whom you have referred who would in  
10 turn speak on your behalf to Mr Koloane?

**MAJOR THABO NTSHISI [through interpreter]:** That is true.

**CHAIRPERSON:** Then you can take it from there.

**ADV BAITSENG RANGATA:** And what did that have to do with the Indian aircraft, how does Indian aircraft feature into the whole discussion?

**MAJOR THABO NTSHISI [through interpreter]:** If you remember correctly in our discussion I also involved the name of Mr Koloane.

**ADV BAITSENG RANGATA:** Yes.

**MAJOR THABO NTSHISI [through interpreter]:** When Sarah was  
20 going to speak to that particular person she would then tell the person where Thabo Ntshisi is employed, which was going to be very simple for Mr Koloane to remember when they named Thabo Ntshisi up here as to which person are they talking about.

**ADV BAITSENG RANGATA:** Would you say that your recent engagement with Mr Koloane made it easier for you to make that

request from Sarah?

**MAJOR THABO NTSHISI [through interpreter]:** No that is not like that.

**ADV BAITSENG RANGATA:** If you did not have any engagement, there was no request for the Indian aircraft would you have known or would you have in any event mentioned Koloane's name and request him to intervene or to assist you to look for a job opportunity.

**MAJOR THABO NTSHISI [through interpreter]:** No that is not so.

**ADV BAITSENG RANGATA:** If someone says that you – as much as  
10 you were not happy and I must also mention that out of all the people that we have listened to in this Commission that you were the only person that showed some resistance in terms of granting the clearance or processing the request.

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is so.

**ADV BAITSENG RANGATA:** If someone was to say that you finally gave in because you anticipated to get something to benefit from this activity what would be your comment to that?

**MAJOR THABO NTSHISI [through interpreter]:** No that is not the  
20 truth or it's not like that because I have already stated that when we started talks between myself and Sarah I had sent her a message before. The message was merely asking did she speak to the person that we are referring to, what I can say luck or bad luck was that I got involved in this Indian air flight.

**ADV BAITSENG RANGATA:** And the opportunity at that time was perfect because then you can just drop the name of Ambassador

Koloane, which will speed up the process?

**MAJOR THABO NTSHISI [through interpreter]:** Yes that is true, it was going to be easy for Mr Koloane to remember who Thabo Ntshisi is.

**CHAIRPERSON:** I think you are both speaking at cross-purposes.

**ADV BAITSENG RANGATA:** Yes Chair.

**CHAIRPERSON:** Yes, maybe you could repeat your question.

**ADV BAITSENG RANGATA:** Okay, I am going to try and rephrase my question. What I am saying is at the time it was more convenient for you when you were following up, remember this Commission is not privy  
10 to your first message that you sent to Sarah, we don't know when you spoke to Sarah and what your discussion was but the benefit that we have is when the recording was done you for convenience sake you spoke about Ambassador Koloane and we saw, somebody will say that you saw an opportunity to use the name because it would have been a benefit for you, if you mentioned the name of Koloane.

**MAJOR THABO NTSHISI [through interpreter]:** Yes that's all.

**ADV BAITSENG RANGATA:** Thank you Chair.

**CHAIRPERSON:** Ja, are you saying that yes you did use the opportunity of having a role to play in regard to the clearance request  
20 for the Indian aircraft? No, no Mr Interpreter let's start afresh I think you were too quick. Are you saying that you admit that you saw your role in the request for clearance in regard to the aircraft as providing you with an opportunity to get some favour from Mr Koloane?

**MAJOR THABO NTSHISI [through interpreter]:** No that is not so  
Your Worship.

**CHAIRPERSON:** Yes okay, I did think you may have been at cross-purposes.

**ADV BAITSENG RANGATA:** Okay, I am going to try and maybe just say it in small bits, so that it can be clear. When you spoke to Sarah on the particular day when the recording was done you spoke about, you made reference to the Indian flight.

**MAJOR THABO NTSHISI [through interpreter]:** That is correct.

**ADV BAITSENG RANGATA:** And you spoke about the favour, that favour that you were trying to explain whether it's - I couldn't  
10 understand what the favour is for, but you spoke about doing somebody a favour.

**MAJOR THABO NTSHISI [through interpreter]:** Yes.

**ADV BAITSENG RANGATA:** What I want you to comment on is  
...(intervention)

**CHAIRPERSON:** No I think Mr Interpreter you did not get the interpretation correct. The question that was put to the witness is what was put to him was that during that conversation he mentioned – he made mention of him doing somebody a favour.

**MAJOR THABO NTSHISI [through interpreter]:** That is true.

20 **ADV BAITSENG RANGATA:** And actually the lady interfered and said yes, because you had not finished so you continue saying of an Indian aircraft that must come on the 29<sup>th</sup>, so you were very specific about the favour.

**MAJOR THABO NTSHISI [through interpreter]:** That is true.

**ADV BAITSENG RANGATA:** So I am saying I want your comment on

the following, I'm saying when you spoke to this lady it was opportunist – opportune ...(intervention)

**CHAIRPERSON:** Maybe Ms Rangata let's get to know what favour he was talking about first.

**ADV BAITSENG RANGATA:** Agreed Chair.

**CHAIRPERSON:** What is the favour that you mentioned you were doing or could be doing for somebody in that conversation?

**MAJOR THABO NTSHISI [through interpreter]:** Look as I've already stated in our discussions there was this word favour that emerged but I  
10 did not actually specifically say in fact I did a favour for this specific person.

**CHAIRPERSON:** I think you might just read the extract, you wanted to read the extract at some stage.

**ADV BAITSENG RANGATA:** You qualifying the favour, you continue off an Indian aircraft that must come on the 29<sup>th</sup>, so when I read this statement it's not something that just came out of nowhere, that just dropped in, it has content and you have continued to give content to it and that's what I want you to comment on, that complete sentence.

**CHAIRPERSON:** Okay I think just read the extract so that he  
20 understands the context what the sentence says and the context then before he can comment.

**ADV BAITSENG RANGATA:** Thank you Chair. I am going to read from page 27 of FF13, line 15.

**CHAIRPERSON:** Let's see if he has got it?

**MAJOR THABO NTSHISI [through interpreter]:** Yes.



**CHAIRPERSON:** Okay, alright.

**MAJOR THABO NTSHISI [through interpreter]:** I've got it.

**ADV BAITSENG RANGATA:**

“Major Ntshisi [that's you speaking] so because I am working with (indistinct) clearances so there is a favour that I am doing for him right now. You understand.”

Then the next line is Ms Sarah saying “yes”, and you continue on that next line.

“...of an Indian aircraft that must come on the 29<sup>th</sup>.”

10 **MAJOR THABO NTSHISI [through interpreter]:** Yes that is true, I did say that.

**ADV BAITSENG RANGATA:** So given that context are you able to explain what the favour that you did, what favour it was?

**MAJOR THABO NTSHISI [through interpreter]:** At that moment when I spoke those words I was merely speaking at that specific time, there was no actually fact as to which favour I was talking about.

**ADV BAITSENG RANGATA:** Yes.

20 **MAJOR THABO NTSHISI [through interpreter]:** But when we now look in details at it it looks as if I was doing someone a favour like Mr Koloane.

**ADV BAITSENG RANGATA:** Yes.

**MAJOR THABO NTSHISI [through interpreter]:** If you require the clearance when I was talking with Mr Koloane even though I cannot remember from which time to what time but it was only one day. At the end of our discussions between Colonel Anderson and Mr Koloane when

you look at this recordings or the discussions it looks like as if I was doing them a favour because it took a specific time of the day.

**ADV BAITSENG RANGATA:** And then when you look deep into it like that it looks like I was doing a favour.

**CHAIRPERSON:** Were you not doing them a favour?

**MAJOR THABO NTSHISI [through interpreter]:** No that is not so.

**CHAIRPERSON:** But did you not say in that conversation that you were going to do Mr Koloane a favour?

**MAJOR THABO NTSHISI [through interpreter]:** I never mentioned  
10 any person's name when I was talking about doing someone a favour  
Chairperson.

**CHAIRPERSON:** Yes, thank you. Was there something you wanted to add?

**MAJOR THABO NTSHISI [through interpreter]:** No Chairperson.

**CHAIRPERSON:** Okay, thank you.

**ADV BAITSENG RANGATA:** I agree, you did not mention a name but you were very clear in the next line that is in connection with the Indian aircraft, so you did not – I agree with you, but you're very clear that it's in line with the Indian aircraft.

20 **MAJOR THABO NTSHISI [through interpreter]:** What is written here, yes it's the truth. The person that I'm speaking to who is the fourth person, being Sarah, as I have already explained where she is working there is nothing that connect her to the Indian flight.

**CHAIRPERSON:** Do you still have anything?

**ADV BAITSENG RANGATA:** I wanted to have your last comment, so

when you spoke to Sarah and you make reference to the Indian aircraft, or you mention the name of Ambassador Koloane, did you want him to acknowledge you for what you have done with regard to the Indian aircraft?

**MAJOR THABO NTSHISI [through interpreter]:** I have already stated that when I was speaking to Sarah and asking her to speak with that person on my behalf that specific person when he or she was going to speak with Mr Koloane mentioning the name Thabo Mr Koloane would simply remember who that person is.

10 **ADV BAITSENG RANGATA:** And you – sorry Chair.

**CHAIRPERSON:** I'm sorry from the evidence that Mr Koloane gave here and from what I understand the recordings to indicate he seems to have been very keen that approval be given, was that your understanding of his attitude as well?

**INTERPRETER:** He seems to be very?

**CHAIRPERSON:** He seemed to be very keen to get the Department of Defence to approve the clearance, was that your understanding at the time as well?

20 **MAJOR THABO NTSHISI [through interpreter]:** Let's say it happened that Sarah spoke to that person and let's say when I was speaking to Sarah and asking her to speak with this other person, let's say it happened that person knew Mr Koloane it was going to be simple for that person when he was speaking to Mr Koloane for Mr Koloane to recognise who I was. It was going to be upon Mr Koloane as to what to do about my request, I don't know what he was going to say.

**CHAIRPERSON:** Do you agree that if in handling the request for clearance you did something that made Mr Koloane unhappy that would count against you in your quest to get a job with him, with his department?

**MAJOR THABO NTSHISI [through interpreter]:** Yes I agree.

**CHAIRPERSON:** Okay I am not sure if the interpretation was accurate, let me just repeat, do you agree that if Mr Koloane when he heard that you were looking for a job in his department if he was aware that you had done something that he was unhappy about with regard to the  
10 request for clearance that would have jeopardised your prospects of getting a job through him?

**MAJOR THABO NTSHISI [through interpreter]:** Yes indeed.

**CHAIRPERSON:** Okay, thank you.

**ADV BAITSENG RANGATA:** Thank you Chair, just in closing you can just comment, one can only make a conclusion that you did what you did because you wanted Ambassador Koloane to remember you when the time is right? You can comment.

**MAJOR THABO NTSHISI [through interpreter]:** I do not agree with that and the reason why I do not agree with that, I know Mr Koloane  
20 when I was talking with him telephonically at that time, it was going to depend on him should he agree to give me a job or not. By me doing that again it was going to depend from him whether he is going to offer me the job or not, so I don't agree with the fact that I did that because I needed to get a job at DIRCO.

**ADV BAITSENG RANGATA:** Thank you Chair I don't have

...(intervention)

**CHAIRPERSON:** Thank you.

**ADV BAITSENG RANGATA:** ...any further questions, that will be it for me.

**CHAIRPERSON:** Thank you very much.

**ADV BAITSENG RANGATA:** Thank you.

**CHAIRPERSON:** Thank you very much Major Ntshisi for coming back when you were asked to come back and clarify some of the aspects of your evidence, thank you very much.

10 **MAJOR THABO NTSHISI [through interpreter]:** Thank you Chairperson.

**CHAIRPERSON:** You are excused.

**ADV BAITSENG RANGATA:** Thank you Chair.

**CHAIRPERSON:** Thank you. We will adjourn the proceedings for today and tomorrow we will start at ten, we adjourn.

**INQUIRY ADJOURNS TO 12 JULY 2019**