

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

17 JULY 2019

DAY 135

20

PROCEEDINGS COMMENCE ON 17 JULY 2019

CHAIRPERSON: Good morning Mr Pretorius, good morning Mr Zuma, good morning everybody. Are you ready Mr Pretorius?

ADV PAUL JOSEPH PRETORIUS SC: Morning Chair thank you.

CHAIRPERSON: Thank you.

ADV PAUL JOSEPH PRETORIUS SC: Mr Zuma I would like to go back please just to two brief matters dealing with evidence yesterday. In relation to Mr Maseko as the CEO of GCIS I understand from your evidence and I understand it to be correct that that post is the
10 equivalent of a head of a department post.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS SC: And that certain provisions of the relevant legislation would apply. I do not intend to debate those provisions with you but I need in fairness to ask certain questions about the process leading up to the termination of Mr Maseko's employment as head of GCIS and the transfer to the Department of Public Service and Administration. And as I understand your evidence you made no decision...

CHAIRPERSON: I am sorry Mr Pretorius I think Mr Sikhakhane
20 indicates he wishes to say something. Let us allow him.

ADV MUZI SIKHAKHANE: Chair as I said I am sorry to break what I promised.

CHAIRPERSON: Yes.

ADV MUZI SIKHAKHANE: I do think this is problematic.

CHAIRPERSON: Hm.

ADV MUZI SIKHAKHANE: We get a list of names of people that are going to be – well whose evidence is going to be dealt with, right?

CHAIRPERSON: Yes.

ADV MUZI SIKHAKHANE: Andy my client has to deal with Mr Maseko and it moves to Barbara Hogan. And when we dealing with Barbara Hogan my learned friend goes back to – I think it is a problem.

CHAIRPERSON: Why is it a problem?

ADV MUZI SIKHAKHANE: Because I think – I think we need to have a structure about what we doing.

10 **CHAIRPERSON:** Hm.

ADV MUZI SIKHAKHANE: It is quite difficult because we think we done with a name and it is back. I just – it is a – I think it is a procedure [indistinct].

CHAIRPERSON: Well I would – I would agree that preferably when we are done with questioning the witness or Mr Zuma about the evidence of a particular witness then we are done.

ADV MUZI SIKHAKHANE: Yes.

20 **CHAIRPERSON:** But I do not think there would be anything fundamentally wrong if one realises after that witness has been – the evidence of that witness has been done that maybe there was some questions that were overlooked that are important provided Mr Zuma is able to deal with them. The timing if need be one can look at that. I certainly also may have something in regard to Mr Maseko that I might wish to say but it is important that – preferably it should be structured in a way as you say that when we are done with one the evidence of

one witness that should be so but we all know sometimes that later on one might think something and then say you know there may be unfairness if we do not deal with this. So my prima facie view is that as long as Mr Zuma is able to deal with it I mean from my point of view even if it was to be said well maybe it is not the best time to deal with it when we have started with Ms Hogan.

ADV MUZI SIKHAKHANE: Yes.

CHAIRPERSON: And have not finished with her maybe we must finish with her and then before we go to the next witness...

10 **ADV MUZI SIKHAKHANE:** Yes Chair.

CHAIRPERSON: Then – that for me is fine as well.

ADV MUZI SIKHAKHANE: We may have made a mistake Chair because we saw a list.

CHAIRPERSON: Yes.

ADV MUZI SIKHAKHANE: We were quite keen to move to Minister Gordhan.

CHAIRPERSON: Yes.

ADV MUZI SIKHAKHANE: Quite quickly.

CHAIRPERSON: Yes.

20 **ADV MUZI SIKHAKHANE:** But – and the name was shifted.

CHAIRPERSON: Yes.

ADV MUZI SIKHAKHANE: But it is fine we – I think the Chair is making a reasonable...

CHAIRPERSON: But I must also say I was going to raise with Mr – part of what you say I was also going to raise with Mr Pretorius. On my

bundle.

ADV MUZI SIKHAKHANE: Yes.

CHAIRPERSON: After we had dealt with Mr Maseko's evidence and Ms Mentor's evidence my bundle suggested the next witness was to be Minister – Mr Nene.

ADV MUZI SIKHAKHANE: Yes.

CHAIRPERSON: That – that is in terms of mine. I am assuming that his is the same and yours is the same. So I was wondering why he moved to Ms Hogan before going to dealing with Mr Nene's one. But –
10 but I will hear what he says but the principle of an issue a question being raised after we think that we are done with one witness I think there is no problem with it. But it may be that – there may be nothing wrong to say let us finish with the one we have already started but maybe before we go to the next one then let us cover whatever may have been forgotten.

ADV MUZI SIKHAKHANE: Yes [indistinct] [mumbling] structure there is nothing but I will take what the Chair suggests.

CHAIRPERSON: Yes. Yes, yes okay thank you very much.

ADV PAUL JOSEPH PRETORIUS SC: May I just say Chair.

20 **CHAIRPERSON:** Yes.

ADV PAUL JOSEPH PRETORIUS SC: In answer to that. Very often when one considers overnight the evidence given, the questions asked and the answers given one understands that it may be appropriate to put certain issues to the witness concerned in this case the former President. Not only in order to ensure that the questioning has been

full and proper and in accordance with the mandate of investigation that the commission holds but also in order to be fair to the witness. Because from the evidence certain conclusions may be drawn particularly in relation to the evidence of the former President in relation to the transfer of Mr Maseko which requires in fairness confirmation of certain facts or certain facts to be put to him so that when later it is sought to draw conclusions from that evidence the witness has had an opportunity to comment on those possible conclusions. So there can be no unfairness that happens regularly in
10 proceedings particularly of this nature where there are vast amount of issues to examine. And I also have a question in relation to Ms Mentor. I am not sure that it is not appropriate now at the beginning of the day to deal with it but if you say I must wait until Ms Hogan is – matters are finished...

CHAIRPERSON: Well I

ADV PAUL JOSEPH PRETORIUS SC: I am happy to do that it is not a problem.

CHAIRPERSON: I would not want to fix a hard and fast rule but even for the transcript it may be that it is convenient if once we have started
20 with the evidence or questions relating to the evidence of a particular witness we finish that – the questions relating to that witness and then before we go into the next one if there is anything to catch up with regard to previous witnesses we do that. I do not as I say – we do not fix as a hard and fast rule but I do not think it would prejudice you either.

ADV PAUL JOSEPH PRETORIUS SC: It certainly will not Chair but what I do find particularly disturbing is the manner in which control is sought to be exercised over the way the legal team has planned and is asking its questions.

CHAIRPERSON: Well let me say this. I have thought of saying this before but I am going to say it now. The legal team of the commission is there to do a certain job. The legal team for the former President is there to do a certain job. I am there to do a certain job. All of us have our own jobs to do. The legal team for the former President has no
10 power to prescribe to the commission's legal team how to do their job nor has the legal team of the commission has power nor has the legal team of the commission power to prescribe to the former President's legal team how to do their job. They may have views about each other's way of doing their respective jobs but in the end each side needs to do what it has to do. One with a view to allowing the proceedings to proceed as smoothly as possible however without comprising their own position. So those are the two things that I think would guide all sides. Whatever I also do in terms of questions I allow, rulings I might make they are aimed at 1. Ensuring a smooth a flow of
20 proceedings as possible. Fairness to all concerned but without any compromise on my part on the job that I have to do. So when either the former President's legal team makes any submissions to me which they are entitled to make as to any objection to certain questions or any objection to anything I will look at it in the way that I as Chairperson should look at it. If they are right I will uphold them. If they are wrong

I will reject their submissions. I will do the same with the legal team of the commission. And if questions are asked to the former President that I feel are unfair I will intervene. If questions are asked that his team or even he feels maybe unfair if I feel there is nothing unfair with them I will allow them. So to the extent that the commission's legal team may feel that the counsel for Mr Zuma is trying to control anything the legal team of the commission must resist that. The commission's legal team must do its job and resist anything that may not be appropriate. Mr Zuma's legal team they will also be trying to do their

10 job in terms of protecting their client if they think there is anything unfair but if the legal team of the commission believes there is nothing unfair they have to – to make that clear. And where I need to make a ruling I will. Whereas yesterday I think a discussion might produce a result that allows us to proceed I will do that. So – so I just want to say and I think in regard to that I want to point out that it is important to draw attention to – in terms of the role of the legal team to draw attention to Rule 3.2 of the Rules of the Commission. And I draw this just so that there is no confusion.

20 "A member of the commission's legal team may put questions to a witness whose evidence is presented to the commission by the commission's legal team including questions aimed at assisting the commission in assessing the truthfulness of the evidence of a witness. Subject to the directions of the Chairperson the commission's legal team may

ask leading questions.”

I do not understand – it is not my understanding that anything that the – that Mr Zuma’s legal team has said either in the past two days or today. I do not understand that anything they have said is something that suggests that Mr Zuma should not be asked questions aimed at establishing the truthfulness of any of the issues and the commission’s legal team is free to do its job the way they believe they should carry it out and if in doing so Mr Zuma’s legal team feels there is a problem they will raise it and if necessary I will make – I will make a ruling. So
10 I think that on the issue that was raised by Mr Sikhakhane a few minutes ago my understanding is that he understands the attitude taken by the Chairperson and he mentioned something that was of concern. I think once I have explained – I had explained my attitude he was not rigid about it. Thank you.

ADV PAUL JOSEPH PRETORIUS SC: Thank you Chair. Mr Zuma yesterday when we adjourned we were dealing with the evidence of Ms Hogan and she had testified as was pointed out to you in regard to how Chief Executive Officers and board members of state owned entities were appointed in the normal course and she described a process with
20 which I understood you largely agreed and that appears at page 403 of the bundle GG[b] – GG[b].

CHAIRPERSON: Have you got the right one Mr Zuma? The right file?

MR JACOB GEDLEYIHLEKISA ZUMA: I hope so. That is...

CHAIRPERSON: On the spine it should be written GG[b] on the spine. If it is written GG[b] it will be the right one.

MR JACOB GEDLEYIHLEKISA ZUMA: Ja GG[b].

CHAIRPERSON: Okay. Thank you.

ADV PAUL JOSEPH PRETORIUS SC: Do you have apge 403 Mr Zuma?

MR JACOB GEDLEYIHLEKISA ZUMA: 403 the red ink?

ADV PAUL JOSEPH PRETORIUS SC: Red number yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS SC: Having set out in her evidence the normal processes or processes that she recorded as normal she says in paragraph 22 something different. She says that in practice
10 however and I am referring to paragraph 22 there were parallel behind the scenes processes.

“As the ruling party the ANC had expectations that they would have influence over who was appointed to boards via the deployment committee of the ANC. When that ANC came into power in 1994 the deployment committee played a useful role in identifying appropriate candidates from among the ranks of progressive forces to fill crucial positions as the state at that time was staffed entirely by the
20 previous apartment government appointees.”

A matter that has concerned the commission’s investigation is how senior people in the boards and executive posts of state owned entities are appointed. Whether those appointments are appropriate or have resulted in the appropriate fulfilment of tasks and whether that has influenced in any way what has happened in the state owned entities

over an extended period. And one of the issues raised by Ms Hogan was the issue of deployment. Does the practice and perhaps you can help us with your knowledge and experience to understand the deployment process if it exists – understand why it exists and understand how it is exercised and what influence it plays in appointments at state owned entities at board level and senior executive level. Could you tell us a little please about deployment? If it exists firstly and secondly if it does exist how it is employed or utilised as a manner of influencing selection of board members and

10 SOE's and senior executives in SOE's?

MR JACOB GEDLEYIHLEKISA ZUMA: Thank you Chair. Yes there is a deployment committee in the ANC. The ANC took a decision that given the fact that it was a ruling party. It is given that position because it has won elections. In other words people in the country feel that the ANC can lead them better on the basis of its policies. Now the ANC has an interest once it has put its government because the government would have come as a result of the ANC having been accepted by the voters that the programmes and policies that it is putting across would indeed be implemented. And therefore it took a decision that there

20 must be some assistance to government in terms of finding people to do specific things. And also Ministers as they search for people to put into positions they would also rely to the party to say I want to deploy so and so or a person in this kind of position is there any person capable for this that you could recommend etcetera. In other words the interest of the ANC is to ensure that there are [indistinct] who will

implement the programmes appropriately. So they interact with the deployment committee in the process as you would be looking for somebody you – where you head hunt at times. At times they do not have to come to the committee if they have got individuals they believe that can do the job. But once that is done then the processes of the government will kick in. And at times the Minister might say look I think I have got a better candidate I do not think this one will fit. The deployment committee assisted that process because its aim is that things should be done. It does not impose them whether you like it or

10 not it is a discussion that takes place and then once that process has been done there will have to be a government process as well wherein people go through interviews. Where the Minister appoints or put together a number of colleagues to help in the process of interviews. A person perhaps that the deployment committee felt this could be the right person to this position might actually fail the – the interviews. So it is not that once you have taken that decision then it is a foregone conclusion because you might find that the person does not have the necessary things that are needed for a particular job. It is all done to help that when you make the - or you put people you do not just get

20 restricted to one person. There is a variety of people that you look at. And that is what happens. And Ministers will go to the deployment committee to say I am looking for a person or the deployment committee could say Minister we have people that you could look at. So it is a process that fits into the process of the government the one that comes from the political – ah what you call a – deployment

committee. In other words it helps the government firstly to make the candidates available and also to look at specific people. At times the committee has nothing to do because there will be no need at all and the Minister could be knowing what they are doing, find somebody and bring that somebody. It does not mean that each and every person who gets appointed goes through this process. That is generally how it works.

ADV PAUL JOSEPH PRETORIUS SC: As I understand it there are three issues that you have emphasised and I would like to understand
10 them to see if I have it correct. The first is that the deployment committee of the ruling party is involved in decision making from time to time in the appointment of board members of state owned entities and senior executives. Do I understand that correctly?

MR JACOB GEDLEYIHLEKISA ZUMA: The deployment committee does not necessarily appoint. It recommends.

ADV PAUL JOSEPH PRETORIUS SC: It is involved I was getting to that.

MR JACOB GEDLEYIHLEKISA ZUMA: In the process.

ADV PAUL JOSEPH PRETORIUS SC: It is involved in the process of
20 appointment either in hearing from Ministers what – who their candidates might be and giving input on that or suggesting candidates to the Minister that – in that process.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS SC: I understand you to also say that the deployment committee is not decisive in that process but that the

final decision would rest as I understand you with the Minister following the selection procedures interviews and the like.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS SC: Is that correct.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes correct.

CHAIRPERSON: Does that mean that the deployment committee would have a list of people with indications of what their qualifications are, what their experiences are, in what sectors and so on so that whenever they are consulted by a Minister in regard to a particular post they could go to that list and see who do we have in our list who have 10 qualifications that are relevant for this post and experience and then we could – they could say here are some of the people you could look at or is there no list they work – simply work on the basis of people that they know?

MR JACOB GEDLEYIHLEKISA ZUMA: They do not necessarily keep a list for that. I think it happens that the ANC knows – the party knows its people and it knows some of them, their capacities. Some may not know. So when that situation arises they will then look at those. It might be some other lists etcetera. Once they know what type of – or 20 what type of person is wanted to assist the process. Not that every time it happens they must go to the deployment committee to look at a list not at all. At times it does not happen at all. But when it happens that is a recommendation the deployment committee will make to assist those in government.

CHAIRPERSON: Thank you.

ADV PAUL JOSEPH PRETORIUS SC: Who would ordinarily sit on the deployment committee Mr Zuma?

MR JACOB GEDLEYIHLEKISA ZUMA: Sorry?

ADV PAUL JOSEPH PRETORIUS: Who would ordinarily sit on the Deployment Committee Mr Zuma?

MR JACOB GEDLEYIHLEKISA ZUMA: Sorry.

CHAIRPERSON:

ADV PAUL JOSEPH PRETORIUS: Who would ordinarily sit on the Deployment Committee? Is it appointees of the party? Is it people who
10 fulfil particular posts? Can you assist us there?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes. The people – there are people who are appointed ever since it has existed. Normally it is the person who has been chairing. It would be the Deputy President. Why the Deputy President because the Deputy President is a Deputy President of the party and Government. He would also understand what is needed in Government.

So you do not have a person who is chairing this Committee who knows nothing about what is happening in Government because he would not be able to assist to get the kind of people that are really
20 needed in Government and – and that is why he sits there to chair. Some of the members of the Deployment Committee would be Ministers of a particular type.

Also who will be knowledge about what happens in Government. So the – the members are not just members handpicked because they are there. They are people who will help this process.

CHAIRPERSON: And are they elected or appointed at (intervenes)?

MR JACOB GEDLEYIHLEKISA ZUMA: Appointed – appointed by the structures – senior structures of the movement.

CHAIRPERSON: Would it be the NEC that would appoint?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes absolutely.

CHAIRPERSON: Okay.

ADV PAUL JOSEPH PRETORIUS: Would the sitting President sit on the Deployment Committee?

MR JACOB GEDLEYIHLEKISA ZUMA: No he does not sit. He does
10 not sit but can – if he has ideas about things he can also interact with the Chair whatever but does not sit. It is the Deputy President who chairs. The highest kind of officer would be in that Committee. The President no.

CHAIRPERSON: Do they have – that is the Deployment Committee – do they have a term like whenever there is a new NEC that new NEC appoints a Deployment Committee for the duration of the life of the NEC or they were appointed at a certain stage and they continue irrespective of the change of the NEC or what is the position?

MR JACOB GEDLEYIHLEKISA ZUMA: Ja. It – it goes with the term.

20 **CHAIRPERSON:** The term of the NEC?

MR JACOB GEDLEYIHLEKISA ZUMA: With the term, yes.

CHAIRPERSON: Yes, okay.

MR JACOB GEDLEYIHLEKISA ZUMA: You might find new members if there is a new term but you might – you do not have to be appointing and appointing in the process of the five years.

CHAIRPERSON: Yes, okay.

MR JACOB GEDLEYIHLEKISA ZUMA: So that is how it goes. It goes together with the term.

CHAIRPERSON: Okay, *ja*.

ADV PAUL JOSEPH PRETORIUS: One more general point by way of introduction Mr Zuma. Does the Deployment Committee involve itself with the appointment of Boards of SOEs or Board Members of SOEs, Senior Executives in SOEs as well as appointments in Government Departments?

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** At times because they might – they might recommend if they know some people who have experience in the Boards. They might recommend if that kind of activity comes.

ADV PAUL JOSEPH PRETORIUS: As well as Government Departments?

MR JACOB GEDLEYIHLEKISA ZUMA: Government Departments in what sense?

ADV PAUL JOSEPH PRETORIUS: Well an appointment to a Head of a Government Department for example. Would that be something that might fall within the ...

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** That could also – that could also go to ...

ADV PAUL JOSEPH PRETORIUS: Jurisdiction or ambit of the activities ...

MR JACOB GEDLEYIHLEKISA ZUMA: *Ja*. Particularly ...

ADV PAUL JOSEPH PRETORIUS: Of the deployment?

MR JACOB GEDLEYIHLEKISA ZUMA: Particularly at the leadership level of the department.

ADV PAUL JOSEPH PRETORIUS: At paragraph 23 on page 404 Ms Hogan expressed some views - quite firm views in fact on the usefulness of the Deployment Committee and the effectiveness in effect of its process. She says in paragraph 23:

“However, the usefulness of such a Deployment Committee these days is debatable.”

And she asks the question:

10 “How can just a handful of people possibly have the institutional knowledge and resources to pronounce on suitable candidates for every senior position in Government and the private sector?”

Let us leave aside the word “every” there and may I ask you to comment on that - that observation of hers. She is saying in effect as I understand it that people in the Committee would not have the institutional knowledge and resources to pronounce on suitable candidates for senior positions in Government and the private sector.

MR JACOB GEDLEYIHLEKISA ZUMA: Well I do not know. This would
20 be her views as an individual but the organisation has taken a decision to have these kind of structures ...

ADV PAUL JOSEPH PRETORIUS: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Because here she is just expressing her own views.

ADV PAUL JOSEPH PRETORIUS: No I understand.

MR JACOB GEDLEYIHLEKISA ZUMA: This is not accurate. The views are not accurate because as I said setting up that Committee there are Ministers who serve there who have the institutional memory who serve there chaired by the Deputy President who sits in the Cabinet and every Cabinet Committee. So it is not a correct argument that she is putting. She is just expressing her view.

ADV PAUL JOSEPH PRETORIUS: I just want to take a step back and explain why these questions are being asked because it is a matter of concern or a matter that is part of the issue that this Commission is
10 investigating and that is how senior appointments in SOEs take place but let us move on. She says that – in paragraph 23 in the second sentence:

“It cannot be that closeness to or Membership of the ANC, or any of its Alliance structures (or to factions within the structures), should be the determining factors in the selection of candidates for senior positions.”

Do you have a comment on that?

MR JACOB GEDLEYIHLEKISA ZUMA: No. I think she is still pursuing
20 her argument really. How she is looking at this.

ADV PAUL JOSEPH PRETORIUS: Yes I understand that.

MR JACOB GEDLEYIHLEKISA ZUMA: That is how it is – it is her view but the manner in which we – we handle this is the manner in which I have just explained.

ADV PAUL JOSEPH PRETORIUS: What I think she is saying in

substance is that the Deployment Committee would inevitable favour for appointment to important positions in SOEs persons who are close to or members of the ruling party and close to or members of Alliance structures. That there is a – there is a bias in their favour in the activities of the Deployment Committee in the process. I think that is what she is saying.

MR JACOB GEDLEYIHLEKISA ZUMA: Well I do not know what she – she thinks should happen. Why the people who must be appointed should not come from the people who either – the people know and they
 10 know the experiences and in the process of that the people who are here are people who would be known either because of their profession or their performance but also that are people who would implement the policies appropriately and who – who might – who may not be opposed to the policies that made the party to be elected to Government.

ADV PAUL JOSEPH PRETORIUS: Do I understand from what you are saying that the Deployment Committee would consider as an important attribute for appointment to Senior Executive positions and Boards the ability or willingness of a candidate to implement policies of the ruling party. Is that correct?

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** Yes I see it so. That is part of the elements.

CHAIRPERSON: Well I do not know whether Mr Pretorius might have been accurate in suggesting to you that what Ms Hogan says in paragraph 23 in the second sentence that she is suggesting that the – there might be bias in favour of people put up by the Deployment

Committee but I do see that in that sentence she says and this is a sentence that Mr Pretorius did read.

“It cannot be that closeness to or Membership of the ANC, or any of its Alliance structures (or to factions within the structures), should be the determining factors in the selection of candidates for senior positions.”

My impression is that she seems to suggest that Membership of the ANC or of the Alliance partners is the determining factor that
10 either the Deployment Committee looks at or those in Government who are given names by the Deployment Committee taken into account. That is my understanding of it. I do not know whether now that I have read it to you – you also have the same understanding of what she is saying but if I am correct it is important to put your understanding of what the true position is.

MR JACOB GEDLEYIHLEKISA ZUMA: That is why I was saying she is of course putting her own views on - on the matters. In other countries for example when one party wins elections and let us say to clarify the issue it has been the – the opposition wins the elections. When they
20 come to the office they do not take people who are there. They remove everybody out and put their people.

It is a general practice in the world. We are not even doing that. It is a question of how the party looks at not only to the members. Even those who are not members at all. That is what we do. In other countries it is extreme. They come even with a sweep everybody else

of the new party because they must implement the party policies that was accepted by the people.

You cannot take people because the opposition would not do so. So – that is why I am saying she is just raising more - her views about this.

ADV PAUL JOSEPH PRETORIUS: Chair as I understand the purpose of certainly this tranche of questions and answers Mr Zuma is in a unique position given his history and association with leadership in this country over the past many years to assist us in this and I would not
10 want to confine the questions and answers to the precise wording. It is an issue that is raised and we might narrow the questions and answers to closely if we simply ...

CHAIRPERSON: *Ja.* No I ...

ADV PAUL JOSEPH PRETORIUS: Deal with the precise wording and opinion of Ms Hogan.

CHAIRPERSON: No.

ADV PAUL JOSEPH PRETORIUS: We are interested in this investigation in how the President can – former President can assist us and understanding the issue of deployment.

20 **CHAIRPERSON:** Well the – I mean counsel for Mr Zuma will indicate if they have a problem but my – my inclination is that since the issue of the Deployment Committee is being raised here if you have questions relating to the Deployment Committee on which you think Mr Zuma can assist in enlightening the Commission you should be able to put those.

He has indicated that the Deployment Committee is chaired

by the Deputy President. He was Deputy President at a certain stage. I am sure he therefore chaired the Deployment Committee. So he should be quite well informed at least how it has been functioning and I am sure he will – he will assist us as far as he is able to.

ADV PAUL JOSEPH PRETORIUS: Thank you Chair. If I could just then attempt to understand your evidence in relation to the activities of the Deployment Committee in appointments that we have discussed. Your emphasis is not so much as I understand it on closeness or Membership of the ANC. Your emphasis is on an ability and willingness
10 to implement the policies of the ruling party in those posts. Have I got it correct?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes generally.

ADV PAUL JOSEPH PRETORIUS: Is that correct?

MR JACOB GEDLEYIHLEKISA ZUMA: *Ja* generally.

ADV PAUL JOSEPH PRETORIUS: Thank you.

MR JACOB GEDLEYIHLEKISA ZUMA: That is what – that is what it is.

ADV PAUL JOSEPH PRETORIUS: She says in the last sentence of paragraph 23 Mr Zuma:

20 “Directorships on Boards should never be granted to the favoured few as a reward for loyalty to a party or a faction of a party or as a retirement benefit for the well connected.”

Her evidence there it seems is to say that such appointments as maybe directed or suggested by the Deployment Committee should never be granted as a reward simply for loyalty to a party or faction of

a party. Do you have a view on that?

MR JACOB GEDLEYIHLEKISA ZUMA: I think once again she is expressing her views.

ADV PAUL JOSEPH PRETORIUS: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: She is expressing her views because as I was explaining the party cannot just allow a situation where you take anybody anyway that we have no knowledge of. Now those people including her they – whilst they are because of their loyalty to the – to the party - to the organisation. They believe in the
10 policies of the organisation.

Now who will say deliberately let us forget about those people and just find some other people. I do not understand the logic.

CHAIRPERSON: I ...

MR JACOB GEDLEYIHLEKISA ZUMA: I am explaining this because it maybe her own view because of certain cases. She may be aware of if such a thing happened. It is not – it is not meant to take your friends this one if you are a member of this. You do not take your friends. You look at – because the Committee discusses it would discuss what type of a person we want. It is not going to be which friend we take.

20 I think the point she is make – she is putting a point her own point because she might be having an experience of that nature but in terms of the process it is not done in the manner in which she is putting it.

CHAIRPERSON: Maybe I can just say Mr Zuma that sometimes a witness will be expressing his or her view but it may be important if you

know – you have knowledge in relation to the – that issue to indicate whether that view is correct or is justified or not but you may elect that you do not want to enter into that but I am just saying that because the way this is put here suggests that the Deployment Committee might not be doing what you have testified it is doing.

You have said that the Deployment Committee looks at people within the organisations who have certain skills. So that when there are positions in Government that need to be filled they are able to say to Ministers here are some names. We are not saying you must take
10 them. We say they must go through the normal appointment processes and – and ultimately the Government functionaries make the decisions. That is my understanding of what your evidence says.

MR JACOB GEDLEYIHLEKISA ZUMA: Hm, yes.

CHAIRPERSON: But this sentence suggests that her understanding is that people who might not be deserving to be appointed to certain positions are suggested or put forward by the Deployment Committee for the – for the reasons that she gives and she says:

“It is a favoured few, as a reward for loyalty to a party by faction of a party, or as a retirement
20 benefit for the well-connected.”

So I – I am just putting that because it may be important for the bigger picture for the Commission to understand what is the role of the Deployment Committee and have two facts. So I thought I would just explain that. Obviously you can decide when you say well I want to engage with that view because I think it is not correct or it is not

justified about the Deployment Committee or about whatever or you might say look I do not – I do not – I have no comment or something but you do not have to add anything now that I have said this unless you want to.

I was just wanting to make sure that as we move forward you – you understand that it may be important some times to engage or give a view in regard to another view but you – you might say no I do not want to. I have no comment. Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: Thank you, thank you Chair. I
10 think the – the last sentence is very clear. She has views. She – maybe she has some experience and then she is saying look when we do this selection it must not be based on - on these things that she is talking about but for example the way she is putting it must not be an award for loyalty.

CHAIRPERSON: And you might say you agree with that or not?

MR JACOB GEDLEYIHLEKISA ZUMA: No Chair I am – I am just making the point.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: If you say it must not be loyalty
20 to the party.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Why should you no – not take people who are not loyal to the party ...

CHAIRPERSON: Yes. Well ...

MR JACOB GEDLEYIHLEKISA ZUMA: If they have ...

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: Skills and everything.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: You know them. They are people who interact all the time.

CHAIRPERSON: Well ...

MR JACOB GEDLEYIHLEKISA ZUMA: Why must we say no because you are loyal to the party we are not taking you.

CHAIRPERSON: Well you – you might say it would be wrong to say
10 somebody must be appointed simply on the basis of loyalty to the party
and on no other basis ...

MR JACOB GEDLEYIHLEKISA ZUMA: Hm.

CHAIRPERSON: But if loyalty to the party is one of a number of factors including qualifications, experience and whatever then you – you might have – you might have – you might say there is nothing wrong with that. I am not sure.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes absolutely true. I am not necessarily saying all other elements that she is putting here ...

CHAIRPERSON: Yes.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** You should. The fact that she should – it should not also be loyalty to the faction etcetera. She is expressing a view. She must be having a particular experience because indeed you - you cannot have a – a kind of a Government which is based on factions.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: That is not the issue.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: I am not saying the statement is wrong ...

CHAIRPERSON: Hm, hm.

MR JACOB GEDLEYIHLEKISA ZUMA: But ...

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: It is her view because she must have come across something.

10 **CHAIRPERSON:** Yes, okay.

MR JACOB GEDLEYIHLEKISA ZUMA: I am sure.

CHAIRPERSON: Yes, okay.

MR JACOB GEDLEYIHLEKISA ZUMA: I am saying those people look at the capabilities and suitability's of people not whether this person agrees with me politically or whatever.

20 **ADV PAUL JOSEPH PRETORIUS:** Just to summarise then. As I understand what you have said Mr Zuma about the issue of loyalty is that loyalty is an indicator of the willingness and ability to implement the policies of the ruling party. Do I understand your evidence correctly?

MR JACOB GEDLEYIHLEKISA ZUMA: No I – I am not saying loyalty covers all of those elements.

ADV PAUL JOSEPH PRETORIUS: Is it part of it?

MR JACOB GEDLEYIHLEKISA ZUMA: That is why – that is why I made a very broad point as an example that there is no party in the world

that wins elections and then forgets about the supporters and the people and look for other people who do not know whether they are going to sabotage your work in order to make you to lose the next elections.

ADV PAUL JOSEPH PRETORIUS: Alright. Can we move on then to what is said in paragraphs 24 and 25? I am not sure it is appropriate to enter into an historical debate about the issues raised by Ms Hogan in paragraphs 24 and 25 and I will try and summarise it and if you wish to take your time to read those paragraphs please do so but what she
10 has said is that after the Polokwane Conference which she describes as divisive there were factions within the ANC and these factional battles as she calls them in the ANC had an effect on who was appointed. She says her own words are:

“These factional battles in the ANC only served to encourage and entrench nepotism and patronage from within the ranks of the ANC and the Tripartite Alliance, and this would have very damaging consequences for SOEs and our economy.”

If one takes – expressed in a more neutral fashion I think
20 what she is saying and would invite your comment on Mr Zuma is that there were factions in the ANC after Polokwane and that membership of or loyalty to one or other faction was a factor in the appointment of people to SOE Boards and positions and that was damaging to those SOEs and the economy. That is sanitised of the language what I think is being said.

MR JACOB GEDLEYIHLEKISA ZUMA: Well Chair I am not sure how deep we get into these issues. I was trying to indicate that she is expressing her own views here. I do not know whether I should now debate those views because it is not true after Polokwane. It is not true that people entrenched their own sides. It is not true.

ADV PAUL JOSEPH PRETORIUS: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: There is evidence that comrades that would have been on opposite sides in terms of supporting a candidate. They were put in these structures of Government and other places. It is not true. I am not sure whether I
10 am keen to debate her views. I was trying to run away from this because ...

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: She is expressing her views.

CHAIRPERSON: Well let me say this that as you will have seen when you read her statement ...

MR JACOB GEDLEYIHLEKISA ZUMA: Hm.

CHAIRPERSON: Later on she talks about maybe to put neutrally certain challenges that she says she met with in trying to have CEOs
20 appointed to certain SOEs and – and Boards and it may well be that in saying this she is trying to indicate that these problems of factions affected - ultimately affected maybe governance in SOEs and so on.

So I – I am just saying that at this stage but I am – I am quite happy to leave it to you when you are given a chance to comment to make your judgment at this stage if you do not think it is – it is

important but and – and Mr Pretorius if he feels that he – he – it is important to have your views he – he will indicate but the first opportunity is to get – for you to get a chance to say oh this is what this witness is saying and this is what I have to – I have to say about that if I have anything.

MR JACOB GEDLEYIHLEKISA ZUMA: Hm.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: No my problem Chair is that here is a report to – to the Commission. It gets into some happenings
10 in the party and they are not accurate. They are not accurate. We will end up now discussing the ANC politics because I do not - if – if you put that statement generally you have got to do ...

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Your selection fairly ...

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Partly it cannot be that as – as for an example the Deployment Committee it is a Committee. You cannot have that Committee with almost everybody coming from a particular faction. It cannot be. People there are – they – they are not
20 appointed on the basis of that. They are actually appointed by the structures.

You know firstly the – there is a working Committee that this looks at this then the NEC that appoints these people of the Deployment Committee. You cannot say the whole NEC is a faction and therefore it has appointed its faction. I am not sure we want to get into

those discussions. That is why I kept on saying looking she is more or less expressing her own views. She was part of the process.

CHAIRPERSON: Well ...

MR JACOB GEDLEYIHLEKISA ZUMA: I am not sure we want to debate that.

CHAIRPERSON: Well let me – let me say – say this. The – the ANC is the ruling party and has been the ruling party since 1994. It may be that certain things that it does or certain things it does not do may be said to affect Government in certain ways. With that understanding it is
10 possible that there are certain things that are really party things. That are ANC that the Commission might have to look – look at insofar as it can be said that they may have had or they may have a bearing on how Government has been working or how it has dealt with certain things.

So I just want to mention that. It might be difficult. There might be different views as to which one falls legitimately within that ambit which one falls outside but I just want to say it might be that just because certain things are things that happen within the ANC it maybe that they cannot be excluded completely because of the status of the ANC being the ruling party but obviously somewhere one must draw –
20 draw the line.

So I – I think that I would leave it to Mr Pretorius to see how it deals with it but I think what – what the Commission – what one would be looking at is that and what everybody would be looking at is that as the former President of the ANC you would be very knowledgeable about its structures and processes and therefore you

are in a position to enlighten the Commission on anything.

If there are views that are expressed which do not correctly reflect the ANC you are in a position to say no that is not the ANC. This is the ANC's position and to the extent that the ANC – where you think the ANC needs to be defended in regard to how it is impacting on Government it maybe that you would do that. Maybe that it is somebody else. I am not sure.

So I would leave it to Mr Pretorius to see how far he takes it but as long as you know that whenever these questions are put to you
10 first and foremost it is an opportunity to comment if you – you think you should and if you do not think you want to comment then you can say that.

MR JACOB GEDLEYIHLEKISA ZUMA: No Chair.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: For an example she quotes a particular conference ...

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: And what happened thereafter.

CHAIRPERSON: Yes, yes.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** Now it is not true.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Also ...

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: This process is very thorough. If for example you talk about selecting other Heads of Department

whatever - whatever are the processes even if the process started with the Deployment Committee once the Minister if you take the DG has gone through the process. Firstly it is a Committee that sits to interview and there would be scoring at the points as they interview and you cannot say somebody who has scored very poorly because he is my – he is in my faction ...

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: No sorry about his work would I want this one. It is never done. It is the process of the people who are sitting there who might not necessarily be in one grouping politically because they are looking at are we getting the right person. That process is taken to the – this Committee is small. What then they recommend finally is taken to the Cabinet Committee and the Cabinet Committee is – is a big Committee.

The President, the Deputy President participates in those discussions discussing these very individuals. Then the Cabinet Committee recommends to the Cabinet that – that person wherever that person started will end up being discussed by the Cabinet to take the final decision. So I do not know how do you succeed to have your clique with you because these people who are meeting here they may have different views about these matters.

They are looking at the capability of the candidate and it is discussed there now with the entire Cabinet. In fact there is a serious debate even discussing individuals in the Cabinet. Some people would say look this candidate is not right. I know these are the witnesses'

etcetera. At times the Cabinet will say we are not accepting this candidate. It is not just like as you – you pick and walk. The process is thorough. That is the point I am just making.

CHAIRPERSON: No I – I think – I think that way of responding probably is important because in effect I think you – you are saying she may be saying these things because of certain specific instances that she knows of but you are – you are saying your understanding and your experience of how the Deployment Committee and Government handles these things is the following. So yes thank you. Mr Pretorius.

10 **ADV PAUL JOSEPH PRETORIUS:** I am about to move to a new topic. It is 14 minutes past. Is this a convenient time?

CHAIRPERSON: We will take the tea adjournment and resume at half past 11. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Before Mr Pretorius proceeds I just want to go back to an issue that we dealt with earlier about loyalty to a party and appointments. You posed a question and I do not know whether you
20 expressed a view, and I want to establish that, you posed a question as to why loyalty to the party should not count in an appointment, whether somebody should be appointed. Did I understand that part correctly that you posed a question along those lines, or did I misunderstand?

MR JACOB GEDLEYIHLKISA ZUMA: No I did not pose a question.

CHAIRPERSON: Oh did you express a view?

MR JACOB GEDLEYIHLEKISA ZUMA: I was just explaining what happens.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Because that's a universal thing.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Parties cannot take people who have - who do not like party to come and work for the government of that party, that's a point I was just making.

10 **CHAIRPERSON:** Yes, maybe let me just ask is it your understanding that loyalty to the ruling party or a political party should be a factor in appointments that are made in government?

MR JACOB GEDLEYIHLEKISA ZUMA: No I am not necessarily saying that should be the case, I am saying political parties, globally, once they win elections they take their people to the government to place them, because those people are expected to implement the policies, so loyalty goes without saying, it is not the only, but it does not mean you cannot take somebody who is a professional, who is willing to participate in government. I was just dealing with it insofar as it
20 appears here as a point that was made.

CHAIRPERSON: Yes no I think I understand you to say loyalty to a party should never be the only factor.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

CHAIRPERSON: That part I understand. The question I ask is whether it should be a factor at all, whether you ...(intervention)

MR JACOB GEDLEYIHLEKISA ZUMA: No that's ...(intervention)

CHAIRPERSON: So, and I'm simply asking it because you and I had an engagement earlier on around that, and I thought you had asked the question why should it not be – why should it not be considered, but I think you have said no you were not asking a question, so then I think maybe it might be good because somebody else might have understood the way that I understood, it might be important if you have view on that to make it clear what your view is and – because it leads to the question of what would have been expected of government ministers, and the President himself, and the Deputy President who sits on the
10 Deployment Committee, when among the names that they see for a particular post they see somebody that comes from the deployment committee, were they expected to take into account that this must be a loyal – this must be somebody with loyalty to the party or were they not supposed to, and you can answer in terms of your understanding which may be right, which may be wrong but your own understanding with the experience that you have both in the ANC and in government.

MR JACOB GEDLEYIHLEKISA ZUMA: No what I was saying, I was not saying that it should be one of the things that you said for it does not
20 even arise generally in the discussions.

CHAIRPERSON: In the appointments yes.

MR JACOB GEDLEYIHLEKISA ZUMA: The problems that it is here as if it is a big factor, it is not.

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: That's why I – rather than to get

into the details I was saying all parties in the world when they win elections they bring people they trust, people who are loyal to the party, people who have got professions, it's not a factor, it's not the only factor. In fact in the discussions you will find that this issue has never arisen are you loyal to the ANC, you can't. That's why I was saying these are individual views perhaps emanating from individual experiences I don't know.

CHAIRPERSON: Yes, okay well as you explained now I had some things to the effect, it's not the only factor, so I go back to the question
10 whether as far as you know with your experience in the ANC, with your experience in government, is it something – was it one of the factors that at least the ANC as the ruling party expected government ministers and the President and Deputy President, to have regard to when they select who should fill certain positions.

MR JACOB GEDLEYIHLEKISA ZUMA: No not necessarily.

CHAIRPERSON: Not necessarily?

MR JACOB GEDLEYIHLEKISA ZUMA: When for an example advertisements are made for a particular position, many citizens in the country, some of whom we don't even know they belong to which party
20 or they believe in what policy, they apply and they go through the process, no one in that kind of interview ask the political issues, it does not feature, it is as a given.

CHAIRPERSON: Okay, yes. Okay thank you. Mr Pretorius?

ADV PAUL JOSEPH PRETORIUS SC: Thank you. Mr Zuma on page 405, paragraph 28 and following Ms Hogan relates her experiences in

relation to Transnet, and appointments within Transnet and certain of the detail of her narrative mentions engagements with yourself and I therefore need to put them to you for your comment. Just by way of background in paragraph 28 Ms Hogan refers to the resignation of Ms Maria Ramos as CEO of Transnet in February 2009. She then says that the Transnet Board, after a careful selection process, and extensive engagement with the then Minister of Public Enterprises, Brigitte Mabandla, recommended Pravin Gordhan. Do you know of those events, it's not necessary to go into any detail but just by way of
10 background to what follows?

MR JACOB GEDLEYIHLEKISA ZUMA: I think that happened ja.

ADV PAUL JOSEPH PRETORIUS SC: Yes, and she says in paragraph 30 a week later Mr Gordhan withdrew his candidature and several months later he became the Minister of Finance. That again by way of background.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS SC: But what she says in paragraph 30 is that what she describes as a fiction arose at the time which was untrue that Siyabonga Gama, Mr Gama, then CEO of Transnet
20 Freightrail was second on the list of preferred candidates for the position of Transnet CEO. She says there was no such preferential list. Do you know anything about that?

MR JACOB GEDLEYIHLEKISA ZUMA: There was no?

ADV PAUL JOSEPH PRETORIUS SC: Preferential list. She says that at the time there was a belief or an understanding amongst some, a

fiction she says, that there was a list of preferred candidates and that second on that list was Mr Gama, do you know anything about that?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes, I remember that ja.

ADV PAUL JOSEPH PRETORIUS SC: I'm sorry.

MR JACOB GEDLEYIHLEKISA ZUMA: I say I remember that.

ADV PAUL JOSEPH PRETORIUS SC: Now do you say there was such a list, she says there was no such list. If you let me just ask you to look at paragraph 30 and read to you what she says.

10 “A fiction arose at that time which was untrue that Siyabonga
Gama, Mr Gama, then CEO of TFR [that's Transnet Freightrail]
was second on the list of preferred candidates for the position
of Transnet CEO. There was no such preferential list.”

Do you have a comment?

MR JACOB GEDLEYIHLEKISA ZUMA: Well I may not remember the details of who was in the list or not but all I know is that Gama himself had also applied and I know that Mr Gordhan as well so when he withdrew his candidature, and I think the discussion was this – the second one, instead of starting another process, because Gama was known, he had worked there for a long time, his capabilities and
20 everything, and in the process those who were doing the process felt that here is a man who will fit in into this kind of situation. There was then I think a bit of a discussion, you know people who wanted that we should have another round or something, but at the end the – this process that I am talking about that many people get involved the view – the view in the process was that but this man we know him, he has

been working here, he is capable enough, and then at the end I think there was kind of a stronger view that no let us take the decision that we should take him.

It was a process of the discussion, particularly from I think the Cabinet Committee even to the Cabinet, so it was a discussion, it was not one person talking to the other, it was that process I talked about that produced that result.

ADV PAUL JOSEPH PRETORIUS SC: Alright, that would have occurred shortly before or after May 2009. You say there was discussion about
10 the next in line, Mr Gama, being appointed to the position. But she says something in paragraph 31, as follows:

“After Mr Gordhan’s withdrawal ...(intervention)

CHAIRPERSON: I’m sorry Mr Pretorius, you said he said the next in line that might suggest as if you are saying he said the next on the list, whereas he said he didn’t – he wouldn’t know details about the list so you might wish to – you might not have intended that.

ADV PAUL JOSEPH PRETORIUS SC: Well what did you say about Mr Gama being discussed in the absence of Mr Gordhan? I understood you said that his candidature was recommended by some as being the
20 next person for consideration? I do not want to get into a debate about in line or lists or anything ...(intervention)

MR JACOB GEDLEYIHLEKISA ZUMA: Because he had applied himself.

ADV PAUL JOSEPH PRETORIUS SC: ...that’s districting. Sorry?

MR JACOB GEDLEYIHLEKISA ZUMA: Ja, he as far as I remember he

had applied as well for the job, so in a sense in the selection committee I think he was one of those who had applied.

ADV PAUL JOSEPH PRETORIUS SC: And did some feel that he should in the absence of Mr Gordhan ...(intervention)

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS SC: ...be appointed to the post?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes, yes, that's what I remember.

ADV PAUL JOSEPH PRETORIUS SC: Okay. The selection committee
10 you're referring to what selection committee are you referring to?

MR JACOB GEDLEYIHLEKISA ZUMA: The Minister, the Minister if he or she wants to appoint a DG, she then forms a panel that will be interviewing people.

ADV PAUL JOSEPH PRETORIUS SC: Right.

CHAIRPERSON: That would – would that be, you're talking about a DG now, Mr Gama wasn't going to be a DG but you are making an example?

MR JACOB GEDLEYIHLEKISA ZUMA: Ja, an example yes.

CHAIRPERSON: In the case of a DG would that selection committee,
20 that the relevant minister creates or establishes would it include cabinet ministers?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes, yes, cabinet ministers and deputy ministers as well.

CHAIRPERSON: And would it consist only of members of the Executive or it could include people outside of the Executive?

MR JACOB GEDLEYIHLEKISA ZUMA: No generally people of the Executive.

CHAIRPERSON: People of the Executive, okay.

MR JACOB GEDLEYIHLEKISA ZUMA: Ja.

CHAIRPERSON: That is in the case of a DG?

MR JACOB GEDLEYIHLEKISA ZUMA: Not only the DG, even board members.

CHAIRPERSON: Even board members.

MR JACOB GEDLEYIHLEKISA ZUMA: Even board members.

10 **CHAIRPERSON:** And CEO's ...(intervention)

MR JACOB GEDLEYIHLEKISA ZUMA: But the process is the same.

CHAIRPERSON: And CEO's of SOE's?

MR JACOB GEDLEYIHLEKISA ZUMA: Absolutely.

CHAIRPERSON: Okay, thank you. Yes Mr Pretorius?

ADV PAUL JOSEPH PRETORIUS SC: In paragraph 31, again by way of background Mr Zuma, and that is on page 406, Ms Hogan said:

20 "After Mr Gordhan's withdrawal the Board had difficulties getting a firm direction from Government. They wanted to commence with a new search but could not get an unequivocal endorsement to do this. At this point the election had begun."

She does say that:

"Minister Mabandla did however approve the appointment of the Chief Financial Officer of Transnet, Mr Chris Wells, as the Acting CEO of Transnet and Arnot Singh, a Transnet employee as the Acting Chief Financial Officer of Transnet."

Again by way of background do you have any comment, do you recall this happening?

MR JACOB GEDLEYIHLEKISA ZUMA: I'm not sure because the withdrawal of Pravin brought some activities, and I might not have – I may not remember everything, but there was activities, this may be so, it may not, but I cannot remember exactly.

ADV PAUL JOSEPH PRETORIUS SC: Okay.

CHAIRPERSON: Ja.

ADV PAUL JOSEPH PRETORIUS SC: In relation to the further search
10 it is said in paragraph 32 on page 406:

“The Transnet Board nevertheless embarked on a further search as they felt that they could not abandon their fiduciary responsibilities. On the 18th of June 2009 the Transnet Chairperson, Mr Phaswana, met with me and submitted a memorandum dated 9 June 2009, which was annexed to the original statement, which amongst other things recommended the appointment of a candidate for the position of CEO. This was a highly capable and experienced black candidate who had the requisite experience and admirable managerial
20 capabilities.”

It seems that in this narrative being related here that there was a further search embarked upon by the Transnet Board and this resulted in a memorandum being submitted to the Minister for the appointment of a highly experienced – capable and experienced black candidate. It appears that that person was Siphosiso Maseko, do you know of that?

MR JACOB GEDLEYIHLEKISA ZUMA: Well I don't remember exactly now whether – but the name Sipho Maseko I remember, I can't just remember the background, the details.

ADV PAUL JOSEPH PRETORIUS SC: And she says:

“It is important to note that the Board had nominated only one candidate for the appointment, that is Mr Maseko.”

MR JACOB GEDLEYIHLEKISA ZUMA: Hmm.

ADV PAUL JOSEPH PRETORIUS SC: In any event if we could go then to paragraph 33 because this now becomes directly relevant to your
10 own involvement Mr Zuma. She says in paragraph 33 at the bottom of page 406:

“Approximately a month after my appointment as the Minister of DPE I met with President Zuma and gave him a full background about the developments in Transnet. I informed him that the Transnet AGM was coming up very soon and that a GCEO and a Chairperson of Transnet would have to be appointed as a matter of urgency. I briefed him about the Board's candidate of choice whom I too endorsed and the enquiry potentially implicating Mr Gama.”

20 Do you recall that engagement?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes I do.

ADV PAUL JOSEPH PRETORIUS SC: Is that a fair summary of what was discussed?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS SC: Then in paragraph 34 on page

407 Ms Hogan says the following:

“I was shocked and disappointed when President Zuma informed that he was adamant that Mr Gama was his only choice for GCEO. I informed him that that was not possible and that Mr Gama was not the Board’s choice and I could not override the Board as they had undergone a very professional selection process.”

Do you have any comment about that?

MR JACOB GEDLEYIHLEKISA ZUMA: May I just read it.

10 **ADV PAUL JOSEPH PRETORIUS SC**: Please.

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: I don’t remember myself saying these things. How could I have said this when somebody is being charged with serious charges, and I would say no take the person, I don’t remember me insisting on this.

ADV PAUL JOSEPH PRETORIUS SC: Well perhaps in fairness we should take it step by step Mr Zuma. What she says is at that meeting you informed her that Mr Gama was your only choice for GCEO.

MR JACOB GEDLEYIHLEKISA ZUMA: Was?

20 **ADV PAUL JOSEPH PRETORIUS SC**: Your choice for GCEO.

MR JACOB GEDLEYIHLEKISA ZUMA: No, I can’t recall.

CHAIRPERSON: And not just choice, you were right, your only choice.

MR JACOB GEDLEYIHLEKISA ZUMA: It couldn’t be like that, we don’t work like that. As I say there is a process that determines how becomes either the winning candidate. When – or what the Ministers at

times do they will come to the President just to brief the President, and only to discuss whether we should do this or not, and I am not even fond of making such determined statements, I would not have said this, not at all.

CHAIRPERSON: Well I just want to say this is one of those parts of her statement where it is quite important that your answer be the answer that is really to the best of your recollection because the way she has put it is quite emphatic and so it is important to distinguish between you don't recall and I didn't say it or I couldn't have said it, so
10 that one can understand it.

MR JACOB GEDLEYIHLEKISA ZUMA: I think I will say I could not have said this.

CHAIRPERSON: You could not have said this?

MR JACOB GEDLEYIHLEKISA ZUMA: No.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Because it means I would also be undermining the process itself, at a level when the Minister consults you might express a view or not, but it does not determine the final decision, because the final decision must be a product of the process.
20 I would not have said this because I would have been saying this is my person, finished, it does not work like that.

CHAIRPERSON: But certainly that's the impression that comes out of that paragraph.

MR JACOB GEDLEYIHLEKISA ZUMA: Not at all.

CHAIRPERSON: That's the impression that one gets when one reads

that paragraph, that you were saying this is my only choice and you were not prepared to look at another candidate. That's my impression of what she is saying.

MR JACOB GEDLEYIHLEKISA ZUMA: No I could not have said that.

CHAIRPERSON: You could not have said so?

MR JACOB GEDLEYIHLEKISA ZUMA: No.

CHAIRPERSON: Mmm.

ADV PAUL JOSEPH PRETORIUS SC: Yes, I understand two things from your answer Mr Zuma, firstly that you would not have said that, 10 secondly as I understand what you said that a statement such as that would show that this was a complete deviation from the proper process.

MR JACOB GEDLEYIHLEKISA ZUMA: Absolutely because I would be saying there was no need for discussions. This is a choice I've made finished. No. The process doesn't work like that

ADV PAUL JOSEPH PRETORIUS SC: It follows that the second sentence would also not have been part of that conversation but let me not make any assumptions and let me put it to you. I informed him, that is Ms Hogan informing yourself, that that was not possible and that Mr Gama was not the Board's choice and I could not override the Board 20 as they had undergone a very professional selection process. Do you recall that being said at the meeting?

MR JACOB GEDLEYIHLEKISA ZUMA: I don't recall this.

ADV PAUL JOSEPH PRETORIUS SC: And then do you recall being informed that Mr Gama was the subject of an enquiry?

MR JACOB GEDLEYIHLEKISA ZUMA: Sorry?

ADV PAUL JOSEPH PRETORIUS SC: Do you recall being informed by Ms Hogan at that meeting that Mr Gama was the subject of an inquiry?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes there was a time where Mr Gama was accused, I remember the period. I'm not very sure whether we discussed this, I think it came as just a report about Mr Gama, not a discussion whether we should take him or not. That's why I'm saying these answers that are put here that I said them I don't remember having said this.

CHAIRPERSON: Are you saying you do have a recollection of the fact
10 that at some stage you got to know that Mr Gama was facing some disciplinary process but you can't say whether you were told that in a meeting with Ms Hogan?

MR JACOB GEDLEYIHLEKISA ZUMA: No.

CHAIRPERSON: You are not sure about that.

MR JACOB GEDLEYIHLEKISA ZUMA: In fact it was a well known fact that Gama faced charges, everybody knew in the country.

CHAIRPERSON: Yes, yes, and is your recollection that that was known at the time when an appointment of GCEO of Transnet was supposed to happen.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: Because the allegations against Gama took a long time.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

CHAIRPERSON: Okay.

ADV PAUL JOSEPH PRETORIUS SC: In the last four lines of that paragraph Ms Hogan says the following. She says:

“President Zuma said that if that was my view no appointment whatsoever was to be made at Transnet until Mr Gama’s disciplinary process was over. We agreed that I would provide him with more detailed information for him to further apply his mind to.”

10 Do you recall anything of that nature being said at that consultation with yourself?

MR JACOB GEDLEYIHLEKISA ZUMA: I’ve got difficulties with this report because a consultation that the Ministers do they will be reporting, they will be saying this is what has happened, and me as a Minister this is what I think or the Board this is what the Board thinks, and then is there any other process that is going forward you report that, and from the position of the President you say fine go ahead, when things are okay you would come back. I don’t remember discussing an individual like Gama to say this cannot happen, this is my choice. I could not have said so.

20 **CHAIRPERSON:** Maybe I could say this and maybe something that comes later in her statement.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

CHAIRPERSON: I’m saying I want to say something that maybe comes later in her statement.

MR JACOB GEDLEYIHLEKISA ZUMA: Okay.

CHAIRPERSON: Maybe the noise of the aircon might be affecting us, we will see what we can do if it interferes. I think at some stage in her statement when one reads it one gets the impression, and I want to put it no higher than that, gets the impression that she may in regard to these appointments whether of a CEO of an SOE or the Chairperson of a Board that she would be putting forward to cabinet that she would want first to have an idea whether the President has no problem with the particular candidate. That's the impression I get, she might not be saying that, and in a way when I read that I thought well maybe if you
10 are going to a certain meeting and you want to put in a proposal you might want to check with certain people who are important in that meeting if they have any problem with your proposal, because if they have a problem you might wish to rethink, but if they are fine you will confident to then take it forward to a bigger meeting.

That's what I was thinking. So it may well be that to the extent – if she did come to you with the names maybe that the idea was to check whether you had any problem with the names. Would that sound like something that would happen at cabinet ministers?

MR JACOB GEDLEYIHLEKISA ZUMA: No, normally ministers would
20 come to the President before, it's not just a thing which perhaps does not happen, it does.

CHAIRPERSON: It does happen yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Ja, to say the DG I am recommending this one or whatever for the President to know.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: They could also engage in the discussion, it is possible.

CHAIRPERSON: Yes, yes.

MR JACOB GEDLEYIHLEKISA ZUMA: And the President might have views and say we will check this or whatever, but what I am saying the President can't say you can't do this.

CHAIRPERSON: Yes, okay.

MR JACOB GEDLEYIHLEKISA ZUMA: Because that decision must be taken by the collective.

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

ADV PAUL JOSEPH PRETORIUS SC: And do your comments apply equally to an SOE as well as a Government Department?

MR JACOB GEDLEYIHLEKISA ZUMA: Sorry?

ADV PAUL JOSEPH PRETORIUS SC: It's just been brought to my attention that your comments might have been directed at government departments, rather than State Owned Entities.

MR JACOB GEDLEYIHLEKISA ZUMA: Even the State Owned Enterprises they come as well.

20 **ADV PAUL JOSEPH PRETORIUS SC:** She proceeds in paragraph 35 Mr Zuma to say the problem was that President Zuma, two of my cabinet colleagues and elements within the ANC and the Tripartite Alliance, including the Secretary General Gwede Mantashe, were very vocal that the candidate of their choice, Mr Gama, would become the next GCEO of Transnet, despite the fact that the black dominated board of Transnet after a rigorous and professional selection process were

clearly of the view that Mr Gama was not an appropriate candidate. Her comments then are extended insofar as they relate to support for Mr Gama to arrange with other persons and entities, or persons rather, do you have any comment on that?

MR JACOB GEDLEYIHLEKISA ZUMA: Well I'm not sure here because she is now including many people.

ADV PAUL JOSEPH PRETORIUS SC: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Around this name, she knew ... (intervention)

10 **ADV PAUL JOSEPH PRETORIUS SC:** If I may just put it to you on a basis that is fair to you, she says they were very vocal about it.

MR JACOB GEDLEYIHLEKISA ZUMA: That's what she is saying.

ADV PAUL JOSEPH PRETORIUS SC: Yes, do you have any knowledge of that?

MR JACOB GEDLEYIHLEKISA ZUMA: I don't know, I don't know because you don't meet as an alliance to discuss those matters, those are just government matters. So I am not sure, as you can see this is really pulling everybody to an issue of a specific government putting the Secretary General and everybody else, we never discuss this with
20 the Secretary General or other Alliance people. As a Minister maybe from the human point of view people must have been coming to her, I don't know.

ADV PAUL JOSEPH PRETORIUS SC: She said there was vocal support and widespread vocal support for Mr Gama to be appointed as the next GCEO of Transnet. It may be that she implies, maybe not but

perhaps I should put it to you that it was well known that many people supported Mr Gama.

MR JACOB GEDLEYIHLEKISA ZUMA: I'm sure as Minister because they also do consult with the Unions, because at times Unions have views about people who are appointed for the fact that she said people are vocal, it means she has maybe been canvassing or talking to many people.

CHAIRPERSON: I guess that amounts to saying you can neither admit or deny that, that's what she says and it's possible.

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

CHAIRPERSON: Ja, okay.

ADV PAUL JOSEPH PRETORIUS SC: What was your view Mr Zuma about the appointment of Mr Gama as GCEO of Transnet?

MR JACOB GEDLEYIHLEKISA ZUMA: What?

ADV PAUL JOSEPH PRETORIUS SC: What was your view as to whether he should be appointed or not?

MR JACOB GEDLEYIHLEKISA ZUMA: I think I was looking at the process that whatever happened at the end that would be the decision, I did not put my preferences on Gama or whoever.

20 **CHAIRPERSON:** What would you have – what do you think would have been your view if she told you, as she says she did, that there was a rigorous selection process that had been followed by the Board considering a number of candidates, one of whom was Mr Gama, but that after considering all the candidates the Board had recommended Mr – is it Maseko?

ADV PAUL JOSEPH PRETORIUS SC: Yes.

CHAIRPERSON: Mr Maseko, do you have an idea what your normal reaction would be when a Minister comes with names after a process like that, would your natural or normal reaction be if that is what the Board wants and you are happy then it's fine or would your position be just give me some more information about this candidate or all these candidates, I want to look at them, I want to scrutinise them or take it to cabinet and we will see what cabinet says. What would be your normal reaction when a Minister comes with candidates – a candidate's
10 name after such a process?

MR JACOB GEDLEYIHLEKISA ZUMA: No in fact in the majority of cases that is what the Ministers do. To say here is a process. The board looked at this. They prefer this one. The Minister might give some details and it might not give some details to say therefore the process is moving forward. Boards recommend. The boards themselves know that their recommendation could be accepted or not accepted by cabinet. And that there is no process that can be stopped halfway. It would just be to alert the President about what has happened. Partly because in the cabinet the President would be
20 chairing most of the time. The debate would be among the Ministers. Just making the President aware that these are the issues and the Minister could also express her own preference and the reasons why he or she feels this would be the right person.

CHAIRPERSON: And maybe I could ask this as well? Do you have any recollection whether in such a process when a Minister comes to

cabinet with a name whether he or she would include information about other candidates who were not successful according to the board or it would just be in – for the information about the candidate that is being recommended, is that something that you are able to remember or is that something you do not remember?

MR JACOB GEDLEYIHLEKISA ZUMA: At times – at times the Minister would give information about others for an example you might say there were so many candidates, this one is one. The concentration would be on this one. In the process of the discussion people can say, let us
10 hear number 2, what was he – what was the kind of thing? Or the Minister could mention it even at the beginning. In other words it varies how they present the matter.

CHAIRPERSON: Okay thank you.

ADV PAUL JOSEPH PRETORIUS: In relation to SOE board appointments do I understand it correctly...

CHAIRPERSON: Okay I am sorry I think Mr Sikhakhane has got something.

ADV MUZI SIKHAKHANE: Chair.

CHAIRPERSON: Yes.

20 **ADV MUZI SIKHAKHANE:** This is – this is poor. This is really poor.

CHAIRPERSON: Please come forward so I can hear you.

ADV MUZI SIKHAKHANE: I know you said Chair I cannot tell you about your jobs but I will now.

CHAIRPERSON: No, no, no, no. I said you can make submissions and everyone must do their job.

ADV MUZI SIKHAKHANE: Chair this is ...

CHAIRPERSON: Yes.

ADV MUZI SIKHAKHANE: I must say this is poor.

CHAIRPERSON: Hm.

ADV MUZI SIKHAKHANE: This witness right comes here – you have Annexure D which tells you what the process is. This is no expert in those processes. You have it in Annexure D in your document and you are told by the Minister. I do not think it is fair to ask someone who was head of state to explain to you the process of selecting people
10 when you have the document that tells you from the right person. I do not think it is fair to this witness.

CHAIRPERSON: Well Mr Sikhakhane sometimes you have a laid down process and you have a different understanding of persons of what the actual process was that was followed. Sometimes a laid down process is not followed so the question was meant to get what his understanding was of what the process was as opposed to what the process was that was prescribed by law.

ADV MUZI SIKHAKHANE: Then Chair if I may ask?

CHAIRPERSON: Yes.

20 **ADV MUZI SIKHAKHANE:** What has that got to do with fraud and corruption?

CHAIRPERSON: It is has got to do with whether where it is alleged that as it is here that he said he had only one choice of a candidate. Whether it is possible that the – his understanding of the process is different from what is laid down. Genuine understanding.

ADV MUZI SIKHAKHANE: Chair I do not know. This is really poor. He – he has told you what he – that he could not have said it. We have spent 35 minutes on a question my client has answered and he is – you are asking him – you are not asking him what – whether he wanted a deviation. He is being asked about how does the process unfold. You have a document that tells you that.

CHAIRPERSON: Well Mr Sikhakhane I have just said to you – you can have a law that says this is the process and you can have people who are supposed to apply that process having a different understanding.
10 And the question is aimed at establishing whether his understanding – what his understanding was of the process.

ADV MUZI SIKHAKHANE: Okay thanks Chair.

CHAIRPERSON: Thank you.

ADV PAUL JOSEPH PRETORIUS: Chair to just make one comment from the legal team's point of view on this issue.

CHAIRPERSON: Yes.

ADV PAUL JOSEPH PRETORIUS: At the beginning of this commission you made it public that its task and the task of the investigators and the legal team was to try and understand in relation to its terms of
20 reference what happened.

CHAIRPERSON: Yes.

ADV PAUL JOSEPH PRETORIUS: To try and understand how it happened.

CHAIRPERSON: Yes.

ADV PAUL JOSEPH PRETORIUS: And to make recommendations in

regard to the correction or assurance that it – whatever is found to have happened ultimately in your recommendations would not happen again.

CHAIRPERSON: Yes.

ADV PAUL JOSEPH PRETORIUS: The appointment of persons to state owned entities is an integral part of all three legs of that inquiry. It is something which is being debated intensely up to now by other witnesses and it is something that the former President with his knowledge and experience can assist with and I am quite sure he is
10 willing to assist with it. He is not being accused of anything in that process.

CHAIRPERSON: And again Mr Zuma I just want to say that where you do not know feel free to say that I do not know. Thank you.

ADV PAUL JOSEPH PRETORIUS: In any event Mr Zuma if we may continue. In paragraph 36 the deponent to this affidavit Ms Hogan raises another concern about Mr Gama's candidacy and it was a report that he had been engaged in a contractual relationship with a cabinet colleague Mr Nyanda. Did you know anything about this allegation at the time?

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** Yes I remember slightly that there was something that had happened between the two.

ADV PAUL JOSEPH PRETORIUS: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS: And do you recall that there were allegations about the propriety or lawfulness of those engagements

between Mr Nyanda and Mr Gama.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS: Do you recall anything about – you do?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes I remember that. I do not remember the detail but I remember the incident.

ADV PAUL JOSEPH PRETORIUS: She goes on in paragraph 37 to say:

10 “Notwithstanding all this Mr Gama’s supporters
 claimed he was being victimised by an anti-
 transformation white cabal that had instituted inquiry
 and later disciplinary proceedings to prevent him
 from being appointed the GCEO.”

Do you know anything about those sentiments expressed by Mr Gama’s supporters? Not from – need dwell there too much but ...

MR JACOB GEDLEYIHLEKISA ZUMA: I think there were murmurs about the victimisation whatever. I do not remember the details but I know that this as I said the Gama thing was a well-known thing in the country. The problems that he had with the – with the company. But I cannot remember the details.

20 **ADV PAUL JOSEPH PRETORIUS**: Alright. She does note in paragraph 39 on page 408 that Mr Gama was later found guilty of unwarranted criticism of Transnet executives a charge serious enough to warrant dismissal. I do not want to go into the details of the inquiry and the charges but that is what she says. Do you recall that there was a guilty finding in relation to Mr Gama’s inquiry?

MR JACOB GEDLEYIHLEKISA ZUMA: I think there was some conclusion but I do not cannot remember exactly how – what was – how the final conclusion was.

ADV PAUL JOSEPH PRETORIUS: I think to assist you it will become clearer later so we can park that for the moment.

MR JACOB GEDLEYIHLEKISA ZUMA: Okay.

ADV PAUL JOSEPH PRETORIUS: She says in paragraph 40 on page 408.

10 “On or about 28 July 2009 I sent President Zuma a comprehensive report attached hereto marked D with annexures detailing the selection process. The strong motivation for the appointment of the candidate that had been recommended to me by the Transnet board. Details of the procurement irregularities under investigation by the Transnet Audit Committee. The Corporate Governant aspects of CEO appointments in including the legal opinions prepared by Mr Michael Katz and Advocate Wim Trengrove SC in this regard. However President
20 Zuma did not respond.”

Did you recall receiving such a report? Would you have read it or would a subordinate of yours have read it and advised you? What would the position have been?

MR JACOB GEDLEYIHLEKISA ZUMA: No I received the report. It was just a report like all other reports for me to know.

ADV PAUL JOSEPH PRETORIUS: Right. And did you note it, did you read it or did you ask somebody to advise you about it.

MR JACOB GEDLEYIHLEKISA ZUMA: I read it. I read it.

ADV PAUL JOSEPH PRETORIUS: Right.

MR JACOB GEDLEYIHLEKISA ZUMA: But it was a report like all other reports.

ADV PAUL JOSEPH PRETORIUS: Right. Paragraph 40 – the report itself is at page 422 of bundle GG[b], Exhibit GG[b] and it is headed Decision Memorandum. It is addressed to you as President from Ms
10 Barbara Hogan. It is dated the 28 July 2009.

MR JACOB GEDLEYIHLEKISA ZUMA: What page are you in?

ADV PAUL JOSEPH PRETORIUS: 422 – red 422.

MR JACOB GEDLEYIHLEKISA ZUMA: 4 –

CHAIRPERSON: Mr Pretorius.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes I have got it.

ADV PAUL JOSEPH PRETORIUS: I am sorry I thought you were looking at it.

MR JACOB GEDLEYIHLEKISA ZUMA: No I have...

ADV PAUL JOSEPH PRETORIUS: Thank you.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** I have got it.

ADV PAUL JOSEPH PRETORIUS: Let us leave aside the legal advice contained in the report for the moment. We may return to it if it is necessary or you want to but there is a summary of the report at page 423 which says in paragraph 2.1

“Following the resignation of Ms Ramos the board

initiated a CEO recruitment process to ensure continuity in Transnet business operations. As a consequence of the withdrawal of the boards unanimously recommended preferred candidate Mr Pravin Gordhan it says it should not be the board extended its search for a suitable candidate and has now recommended a further preferred candidate with two other short listed preferred candidates for appointment as CEO.”

10 In paragraph 2.2 she says or the report says:

“The recruitment and selection process conducted by the board raised questions regarding the appropriate authority to appoint the CEO as well as the correct process to follow.”

Let us leave that aside for the moment. It says in 2.3:

20 “The recruitment process was initiated at an unfortunate time when the board was also undertaking investigations into alleged corrupt activities against some of the senior executives at Transnet. This time overlap may have raised concerns regarding the process and criteria followed in the recruitment and selection of candidates. The process conducted by the board has been assessed and found to be robust insofar as it was referenced to labour law compliant and internationally recognise

candidate profiling.”

The important point in this summary at least is made at paragraph 2.4.

“Due to the delay in the appointment of the CEO and media speculation it has now become critical for the shareholder to resolve on the appointment of the CEO and to re-establish leadership stability at Transnet. This memorandum serves to address questions and concerns raised with a view to agreement on the way forward in appointing a CEO for Transnet as soon as possible.”

10

Do you have any comment in relation to 2.4? I would assume but perhaps I should not that – that it would be in any state owned entity critical for there to be leadership stability at all times and thus would include Transnet and that undue delay in the appointment of a suitable candidate to CEO position would in general circumstances be undesirable. Would you accept that?

MR JACOB GEDLEYIHLEKISA ZUMA: Hm.

ADV PAUL JOSEPH PRETORIUS: He is still reading.

CHAIRPERSON: I was not sure – I am not sure whether...

20 **ADV PAUL JOSEPH PRETORIUS**: I am sorry did you not – I missed that.

CHAIRPERSON: That was an answer – whether there was an answer or not?

MR JACOB GEDLEYIHLEKISA ZUMA: No I was saying yes there was.

ADV PAUL JOSEPH PRETORIUS: Thank you.

CHAIRPERSON: Oh.

ADV PAUL JOSEPH PRETORIUS: Thank you.

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: I thought I – I thought I nodded
[indistinct].

ADV PAUL JOSEPH PRETORIUS: Sorry. It is just that the record
would not pick up a nod.

MR JACOB GEDLEYIHLEKISA ZUMA: Oh okay, okay, okay.

ADV PAUL JOSEPH PRETORIUS: We may be filmed for other reasons
10 but not for that reason. In paragraph 3.13 she summarises the object
of the memorandum it is at page 426 Mr Zuma she says:

“In view of the aforementioned it is considered
prudent that the board ...”

MR JACOB GEDLEYIHLEKISA ZUMA: Sorry where are you?

ADV PAUL JOSEPH PRETORIUS: Page 426 paragraph 3.13.

MR JACOB GEDLEYIHLEKISA ZUMA: 426.

ADV PAUL JOSEPH PRETORIUS: I am sorry I ...

CHAIRPERSON: 426.

ADV PAUL JOSEPH PRETORIUS: 426, red 426 paragraph 3.13.

20 **CHAIRPERSON**: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: Okay.

ADV PAUL JOSEPH PRETORIUS: Do you have it Mr Zuma?

MR JACOB GEDLEYIHLEKISA ZUMA: Ja.

ADV PAUL JOSEPH PRETORIUS: Yes. She says:

“In view of the aforementioned it is considered

prudent that the board in consultation with the relevant Minister conducts a recruitment and selection process for a CEO and recommends suitable candidates to the Minister for consideration and appointment subject to approval by Cabinet.”

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS: That is in very, very broad summary the process.

MR JACOB GEDLEYIHLEKISA ZUMA: Ja.

10 **ADV PAUL JOSEPH PRETORIUS:** And I think you have agreed to that.

MR JACOB GEDLEYIHLEKISA ZUMA: Hm.

ADV PAUL JOSEPH PRETORIUS: She then details the recruitment and selection process of the CEO of Transnet that was followed and she goes into some detail in paragraph 3.2.2 of the type of procedures conducted in such a process by the board’s corporate governance and nominations committee. Probably not necessary to go into any detail but just to remark that there is a thorough process of examination of candidates on a number of criteria. You note that.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

20 **ADV PAUL JOSEPH PRETORIUS:** And that is in accordance with your own understanding?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes. Yes.

ADV PAUL JOSEPH PRETORIUS: The paragraph 3.2 various candidates are mentioned including Mr Gama and several others and then in paragraph 3.2.4 by way of background there is a recordal that

the board unanimously recommended Mr Pravin Gordhan. But I would like to go to the next page if I may? Because we know that his candidate here was withdrawn to the top of page 428 where it says:

“The preferred internal candidate Mr Siyabonga Gama was thoroughly considered but the board is of a view that his assessment showed that there are important gaps relative to the requirements for the position. According to the independent assessment and board evaluation he currently requires greater cognitive development to handle the complexity of this position.”

- 10 You say you would have had regard to this report. Do you recall that observation being conveyed to you?

MR JACOB GEDLEYIHLEKISA ZUMA: Which one? I was just looking at the – at page.

ADV PAUL JOSEPH PRETORIUS: I am sorry. Page 428.

MR JACOB GEDLEYIHLEKISA ZUMA: Because I mean paragraph.

ADV PAUL JOSEPH PRETORIUS: If you want the first paragraph.

MR JACOB GEDLEYIHLEKISA ZUMA: Page 30 – 3.

CHAIRPERSON: 428 I think. Did you say 438?

ADV PAUL JOSEPH PRETORIUS: 428.

- 20 **CHAIRPERSON:** At the top.

MR JACOB GEDLEYIHLEKISA ZUMA: 428.

CHAIRPERSON: 428 at the top. Must I ask somebody to come and assist you?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: You can do so.

CHAIRPERSON: Yes could – Lerato. Go and look for page 428 at the top.

MR JACOB GEDLEYIHLEKISA ZUMA: Is it page – even on the right what you call it.

CHAIRPERSON: On the right one.

MR JACOB GEDLEYIHLEKISA ZUMA: Oh okay.

CHAIRPERSON: Yes. Each time we talk about a page it will be the red numbers at the top.

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** Yes okay.

CHAIRPERSON: Yes okay.

MR JACOB GEDLEYIHLEKISA ZUMA: Fine I was looking at the paragraphs.

CHAIRPERSON: Oh okay.

ADV PAUL JOSEPH PRETORIUS: Are you holding me to that DCJ?

CHAIRPERSON: Well you had to deviate yesterday at some stage. Ja okay. Do you want to read it and then put your question again?

ADV PAUL JOSEPH PRETORIUS: Yes may I read it to – perhaps I should go...

20 **CHAIRPERSON:** Are you reading it from page 27 up to 28 – 428.

ADV PAUL JOSEPH PRETORIUS: Yes correct Chair.

CHAIRPERSON: Okay the paragraph he is going to read Mr Zuma starts on the previous page which is 427 at the bottom and continues at the top of page 428.

ADV PAUL JOSEPH PRETORIUS: Paragraph 3.2.5 on page ...

CHAIRPERSON: Page 427.

ADV PAUL JOSEPH PRETORIUS: Red 427. I am going to read it.

“In addition...

CHAIRPERSON: But I think he must see it as well.

ADV PAUL JOSEPH PRETORIUS: Alright.

CHAIRPERSON: Can you see it?

MR JACOB GEDLEYIHLEKISA ZUMA: What is the paragraph?

CHAIRPERSON: 42 – 32...

ADV PAUL JOSEPH PRETORIUS: 3.2.5.

10 **CHAIRPERSON**: Ja.

MR JACOB GEDLEYIHLEKISA ZUMA: 3...

CHAIRPERSON: At the bottom.

MR JACOB GEDLEYIHLEKISA ZUMA: 3.2.5.

ADV PAUL JOSEPH PRETORIUS: On the bottom of page red 427.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes, yes.

ADV PAUL JOSEPH PRETORIUS: Do you have it?

CHAIRPERSON: Yes okay.

ADV PAUL JOSEPH PRETORIUS: It reads:

20 “In addition the board disclosed the names of all the candidates short listed for final interviews. The list was not presented in order of priority and comprised of the following names: Ms Moses, Mr Gama, Mr Tloti, Mr Ketso Gordhan and Mr Pravin Gordhan. Regarding the assessment of the other candidates the board reported to the Minister that “the other

candidates were found to be less suitable for the position or not suitable at all.” The preferred internal candidate Mr Siyabonga Gama was thoroughly considered but the board is of a view that his assessment showed that there are important gaps relative to the requirements for the position. According to the independent assessment and board evaluation he currently requires greater cognitive development to handle the complexity of this position.”

10

In short the board’s position was that after consideration of his assessment including an independent assessment it determined that he was not suitable for appointment to the post. Where you aware of that sentiment and that that was the sentiment of the board?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes I think so.

ADV PAUL JOSEPH PRETORIUS: Right.

MR JACOB GEDLEYIHLEKISA ZUMA: Hm.

ADV PAUL JOSEPH PRETORIUS: That sentiment is repeated in paragraph 3.2.7 on page 428 which reads:

20

“On 9 March 2009 the Transnet board provided the Minister with a summary of assessments of all the short listed candidates and in addition informed the Minister of allegations of misconduct involving one of the short listed candidates Mr Siyabonga Gama. The board cited the reasons why Mr Siyabonga Gama was

not recommended for appointment in the first place and the inherent pending uncertainty regarding the outcome of the investigations against him as why – as to why it should read he should not now be appointed to the position of CEO.”

Were you aware of those sentiments?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS: And then it concludes – well a conclusion in paragraph 3.2.12 on page 429.

10 “After the interviews were conducted the corporate governance and nominations committee recommended three preferred candidates who could fill the position of CEO namely Mr Siphon Maseko, Mr Tau Morwe and Mr Kgomo Phihlela with full and unanimous support of the Transnet board recommended Mr Siphon Maseko for appointment as CEO.”

And then it goes into the reasons why he was recommended. Were you aware of that recommendation?

20 **MR JACOB GEDLEYIHLEKISA ZUMA**: I think so yes.

ADV PAUL JOSEPH PRETORIUS: Then there is a section of the report addressed to you dealing with the further processes particularly those conducted on Transnet’s behalf by Ernst and Young and others in relation to various matters relevant to the board’s conclusion. And if one goes to page 433 if I may? Paragraph 3.4.1 the report reads:

CHAIRPERSON: Let him get there first.

ADV PAUL JOSEPH PRETORIUS: Paragraph 4 – page 433.

MR JACOB GEDLEYIHLEKISA ZUMA: Hm.

ADV PAUL JOSEPH PRETORIUS: Paragraph 3.4.1. Do you have it?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS:

10 “As executive authority and shareholder representative of the state it is incumbent upon the Minister of Public Enterprises to exercise the rights of the shareholder to appoint the CEO of Transnet in general meeting. In keeping with company law and corporate good governance codes such as King3 it is important that the shareholder engages in a meaningful and constructive fashion with the board in selecting a CEO to the lead a company – to lead the company.”

Do you have comment on that? Would you agree with that sentiment?

MR JACOB GEDLEYIHLEKISA ZUMA: Ja.

ADV PAUL JOSEPH PRETORIUS SC: “In this regard ...”

20 The paragraph continues:

“...finding a suitable candidate for appointment as Transnet’s CEO considering the company’s impact on the economy the magnitude of its infrastructure, built program and global economic context is a task with high impact and potential risk.”

Would you agree with that sentiment?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS SC: Then if we may proceed to page 434 the conclusions of this section relating to the process from a factual point of view are set out in paragraph 3.4.5 on page 4-3-4. Do you have that?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS SC: The first bullet – if I may summarise mentions that:

- 10 “The recruitment process conducted by the Board has been robust in assessing both internal and external candidates.”

The second bullet says:

“The investigation of alleged misconduct on the part of Mr Siyabonga Gama is not trumped up or trivial but potentially significant and the Board will be failing in its fiduciary duty if it does not complete the investigation in accordance with due process.”

- 20 You would have been informed then of both those observations I take it?

MR JACOB GEDLEYIHLEKISA ZUMA: (No audible reply).

CHAIRPERSON: The – the microphone must be able to catch the response.

MR JACOB GEDLEYIHLEKISA ZUMA: Okay.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Okay, okay.

CHAIRPERSON: Was your answer yes?

MR JACOB GEDLEYIHLEKISA ZUMA: Okay.

CHAIRPERSON: Yes okay.

ADV PAUL JOSEPH PRETORIUS SC: The third bullet reads:

“The Board is confident that the substance and method of the recruitment and selection process were kept discreet from the investigation.”

Discreet in that sense means separate from as I understand
10 the sentiment there. At page 4-3-5 that is over the page the third,
fourth and fifth bullets if I may read the first bullet:

“At no stage did the Board indicate that it has shortlisted Mr Gama as second in line preferred candidate to Mr Pravin Gordhan and the Board embarked on an extended search after the withdrawal of Mr Pravin Gordhan as it was not confident that the other candidates available including Mr Siyabonga Gama were suitable for the position.”

20 The Board would have communicated or that would have been
communicated to you in the report. Am I correct?

MR JACOB GEDLEYIHLEKISA ZUMA: I think so.

ADV PAUL JOSEPH PRETORIUS SC: The next bullet reads:

“I have had an opportunity to peruse the independent assessments in respect of all the

candidates interviewed by the Board and have confidence in the recommendation by the Board that Mr Sipho Maseko, Tau Morwe and Kgomotso Phihlela are in order of preference the most suitable candidates for appointment as CEO.”

That also would have been communicated to yourself in the report ...

MR JACOB GEDLEYIHLEKISA ZUMA: Hm.

ADV PAUL JOSEPH PRETORIUS SC: That this had the Board’s approval and Executive authority approval?

10 **MR JACOB GEDLEYIHLEKISA ZUMA**: Yes.

ADV PAUL JOSEPH PRETORIUS SC: And then in the last bullet the urgency of the appointment is stressed. It reads:

“In the interest of establishing leadership stability at Transnet, an appointment of a CEO be made without undue delay and that the ultimate criteria should be the confidence that the Board and the shareholder has in the competence of the candidate to lead the organisation.”

Do you have any comment in relation to that observation?

20 **MR JACOB GEDLEYIHLEKISA ZUMA**: No, no comment.

ADV PAUL JOSEPH PRETORIUS SC: Do you agree with it? Do you disagree with it?

MR JACOB GEDLEYIHLEKISA ZUMA: Sorry.

ADV PAUL JOSEPH PRETORIUS SC: Do – do you accept that?

CHAIRPERSON: Well he says no comment. No comment says he has

no opinion on the ...

ADV PAUL JOSEPH PRETORIUS SC: You do not wish to comment or because you have no issue with it?

MR JACOB GEDLEYIHLEKISA ZUMA: I said no comment.

ADV PAUL JOSEPH PRETORIUS SC: That is what I wanted to clarify. Do you have any issue with that ...?

MR JACOB GEDLEYIHLEKISA ZUMA: No I do not have an issue.

ADV PAUL JOSEPH PRETORIUS SC: And then finally the recommendation is at page 4-3-6.

10 “It is recommended that the President notes the contents of this memorandum; and approves the submission of a Cabinet Memorandum recommending the appointment of Mr Siphon Maseko as Transnet’s CEO.”

 It seems – before I ask you to comment Mr Zuma that the process here was that the Board would have undertaken its selection process, recorded that selection and presented it to you in this memorandum. I do not know what other processes might have been followed and asked you to approve the submission of a Cabinet
20 Memorandum recommending the appointment of Mr Siphon Maseko’s Transnet CEO.

 So you would have been involved prior to it going to Cabinet as I understand it here as a matter of fact whatever the other processes might have been. Did you respond to this recommendation?

MR JACOB GEDLEYIHLEKISA ZUMA: I think so. I think I responded if

I remember.

CHAIRPERSON: Maybe before you make a final answer on that or move on to this I see that in – at the end of that report Ms Barbara Hogan was asking you to note the contents of the report ...

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

CHAIRPERSON: And to approve that the – to approve the submission of a Cabinet Memorandum recommending the appointment. I am – I am saying – I am mentioning it because earlier on I think you did emphasis that Ministers would come to the President for the President to note ...

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

CHAIRPERSON: Before certain matters where they would then be taken to Cabinet.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

CHAIRPERSON: Yes, okay thank you.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

ADV PAUL JOSEPH PRETORIUS SC: Just before we leave the report Mr Zuma again this is really a – a request for some information and assistance from you. If one goes to page 446 this is part of an opinion ...

20 **CHAIRPERSON:** Well I am sorry. I am sorry Mr Pretorius.

ADV PAUL JOSEPH PRETORIUS SC: Yes.

CHAIRPERSON: I think I may have interrupted both you and Mr Zuma. You had asked him a question whether he had responded to this report and I think he had indicated that he thought he had ...

ADV PAUL JOSEPH PRETORIUS SC: Yes. I will come back to that

Chair.

CHAIRPERSON: But you might not have finished.

ADV PAUL JOSEPH PRETORIUS SC: Because I just ...

CHAIRPERSON: Yes.

ADV PAUL JOSEPH PRETORIUS SC: Do not want to leave the report now and I am (intervenes).

CHAIRPERSON: Yes. Well I want – I want to know the answer

ADV PAUL JOSEPH PRETORIUS SC: Allow me to do so.

CHAIRPERSON: No but I want to know the answer.

10 **ADV PAUL JOSEPH PRETORIUS SC**: Well ...

CHAIRPERSON: Yes. Mr Zuma did you respond to this memorandum if you remember – this report?

MR JACOB GEDLEYIHLEKISA ZUMA: There were so many memorandums.

CHAIRPERSON: You cannot remember?

MR JACOB GEDLEYIHLEKISA ZUMA: You know – if they come like this unless there is a problem ...

CHAIRPERSON: Yes.

20 **MR JACOB GEDLEYIHLEKISA ZUMA**: Where you could say this – no I cannot move generally.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: They – because you are not deciding the final thing.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Let us allow the process to go.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

CHAIRPERSON: So normally you would allow ...

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

CHAIRPERSON: You would grant the approval that a Minister is asking for unless there was a problem?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes.

CHAIRPERSON: (Intervenes).

MR JACOB GEDLEYIHLEKISA ZUMA: At times Ministers do not even
10 come. At times they send the document ...

CHAIRPERSON: Yes, yes.

MR JACOB GEDLEYIHLEKISA ZUMA: And look at the document.
What is important is that if at all there is a problem I will then indicate
that no do not take it to the Cabinet right now ...

CHAIRPERSON: As yet?

MR JACOB GEDLEYIHLEKISA ZUMA: Until we discuss but generally
...

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: It is just – it is just a formality.

20 **CHAIRPERSON:** Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Ja.

CHAIRPERSON: But as to what you did with regard to this one you are
not able to remember or you are able to remember?

MR JACOB GEDLEYIHLEKISA ZUMA: No I am saying I am not able to
remember ...

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: Because they come all the time (intervenes).

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: To remember one in the ...

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Many of them ...

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: Because it is not coming – it is
10 not coming for me to discuss.

CHAIRPERSON: Yes, yes.

MR JACOB GEDLEYIHLEKISA ZUMA: It is to say this is what we have
done.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: The process has come up to
this point.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: We are now going to the
Cabinet.

20 **CHAIRPERSON:** Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Normally if I did not for an
example say anything the memorandum goes.

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: If there is anything that is
particular I would then say Minister, memorandum so and so there is a

problem I would like to discuss with you ...

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Or I will discuss the problem.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: It does not mean if for an example I did not respond.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: Then the – the memorandum does not go. It goes a process ...

10 **CHAIRPERSON:** Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Particularly the officials they will be talking more.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: For example the official from the Minister will say to the official who deals with the Cabinet things.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: Is – is – has the President said anything on this one.

CHAIRPERSON: Hm.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** He will say no, no nothing no problem. It goes.

CHAIRPERSON: Yes, yes.

MR JACOB GEDLEYIHLEKISA ZUMA: I am just saying and there are many.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Where that happens.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: I think if we take that process.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: It did not necessarily – even if you do not agree with it or not.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: It must go to Cabinet.

CHAIRPERSON: Yes, yes.

10 **MR JACOB GEDLEYIHLEKISA ZUMA:** Yes.

CHAIRPERSON: So if – if ever the President were to say to a Minister no do not take this one to Cabinet as yet I want to discuss something with you about it. It would be something quite important?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes absolutely.

CHAIRPERSON: If it is not something so important the – the idea would be to say take it there we will discuss at Cabinet?

MR JACOB GEDLEYIHLEKISA ZUMA: Absolutely.

20 **CHAIRPERSON:** Yes but in the Presidency would there be records of any correspondence if for example - you cannot remember now – but if you did respond by way of a memorandum to the Minister or a letter would you know whether there would be such a record in the Presidency or you would not know?

MR JACOB GEDLEYIHLEKISA ZUMA: In this process we do not necessarily write to ...

CHAIRPERSON: To Ministers?

MR JACOB GEDLEYIHLEKISA ZUMA: To the Ministers.

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: Either you ask the Minister to come to say I seek the clarification or so.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Or you talk to the – even to the official ...

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: From the Presidency ...

10 **CHAIRPERSON:** Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: Or the people who are in charge of the Cabinet itself.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: The Secretariat.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: You say tell Minister so and so there is this kind of an issue.

CHAIRPERSON: Okay.

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** Maybe we will clarify it in the meeting or whatever.

CHAIRPERSON: Yes, okay.

MR JACOB GEDLEYIHLEKISA ZUMA: Unless the matter is more serious ...

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: When the President feels this –

this cannot pass.

CHAIRPERSON: Yes, okay.

MR JACOB GEDLEYIHLEKISA ZUMA: Simply because the deeper discussion about anything here will be in the Cabinet.

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: The President at time might feel this one but I should not ...

CHAIRPERSON: Stop it?

MR JACOB GEDLEYIHLEKISA ZUMA: Delay this ...

10 **CHAIRPERSON:** Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: But in the meeting the President will say at his own time.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: Minister just clarify this one.

CHAIRPERSON: Hm.

MR JACOB GEDLEYIHLEKISA ZUMA: It depends how it goes.

CHAIRPERSON: Yes, okay thank you.

20 **ADV PAUL JOSEPH PRETORIUS SC:** May I ask Mr Zuma the memorandum having been submitted to you with a recommendation who would have in your office had to ensure that it went further to Cabinet? Would there be a responsibility within the Presidency to do that? How would (intervenes)?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes. It is – it is the Cabinet Secretariat who do the up and down whether the thing must go or not go and whatever. For the President is to look at the thing. He would

be aware of what is happening. Also with an aim of guiding the meeting properly and the Secretariat if there is something for an example because they know the process that they do not think it is fine.

They could even deal with the department on their own to say please put this right or something ...

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: Or alert the President.

CHAIRPERSON: Yes, okay.

ADV PAUL JOSEPH PRETORIUS SC: Before we leave the report or
10 memorandum that was given to you I would just like to ask you one
question to assist you. If you have no recollection or ability to answer
that is also fine but if one goes to page 446 red 446. At the bottom of
the page paragraph 5 you will see reference to a Protocol and under
the heading "General" at 5.1 it reads:

20 "The Protocol was published by the Department of
Public Enterprises in 1997 with a view to
inculcating good governance in the SOEs in
accordance with King Code of 2002. The Protocol
thus does not have legislative effect but sets out
the principles of corporate governance for SOEs.
The Protocol also deals with the appointment,
disqualification and removal of Directors."

Do you know anything about that protocol?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes I remember it slightly, *ja*. I
think there is. I cannot remember the details in it.

ADV PAUL JOSEPH PRETORIUS SC: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: There was a protocol.

ADV PAUL JOSEPH PRETORIUS SC: There is just an interesting paragraph quoted in the next paragraph under the heading “Appointment of Directors.” Paragraph “5.1.6.1”. It reads:

10 “The performance of the SOE depends on the capabilities and performance of its Board. It is therefore imperative that when appointing Directors, the shareholder should ensure that the Board is properly constituted. In this regard, the Board should, at all times, comprise of individuals with integrity and accountability, competence, relevant and complimentary skills, experience and expertise. This is aimed at avoiding possible dominance by any one Director or blocks of Directors and, above all, ensuring commitment to the success of the SOE and the satisfaction of the shareholder.”

Were you aware of that or do you have any comment in relation to that?

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** No. No comment.

CHAIRPERSON: You – you put two questions at the same time Mr Pretorius. The one was whether he was aware of that.

ADV PAUL JOSEPH PRETORIUS SC: Yes.

CHAIRPERSON: The other was whether he has comments. He has already said he has no comment. Were you aware of that at the time?

MR JACOB GEDLEYIHLEKISA ZUMA: Yes I think there was this ...

CHAIRPERSON: That paragraph?

MR JACOB GEDLEYIHLEKISA ZUMA: Provision, *ja*.

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: I think so.

CHAIRPERSON: Okay, thank you.

ADV PAUL JOSEPH PRETORIUS SC: We have heard this morning in relation to the appointment of Board Members of State Owned Entities your comments Mr Zuma and I think you said it was normal or happened
10 most of the time. Correct me if I am wrong but the Minister would engage with the president from time to time to discuss candidates.

MR JACOB GEDLEYIHLEKISA ZUMA: Yes I said so.

ADV PAUL JOSEPH PRETORIUS SC: Is that correct?

MR JACOB GEDLEYIHLEKISA ZUMA: Hm.

ADV PAUL JOSEPH PRETORIUS SC: Did this apply to Heads of Government Departments as well?

MR JACOB GEDLEYIHLEKISA ZUMA: *Ja*, it ...

ADV PAUL JOSEPH PRETORIUS SC: That practice.

MR JACOB GEDLEYIHLEKISA ZUMA: It would. It would apply as well.

20 **ADV PAUL JOSEPH PRETORIUS SC:** Chair I am about to go back to the statement of Ms Hogan. Perhaps I should just conclude. Paragraph 40 on page 408.

MR JACOB GEDLEYIHLEKISA ZUMA: Paragraph?

ADV PAUL JOSEPH PRETORIUS SC: 40 on 400-and – page - red 408.

MR JACOB GEDLEYIHLEKISA ZUMA: 400-and ...?

CHAIRPERSON: Page 448 but the paragraph Mr Pretorius you said what paragraph?

ADV PAUL JOSEPH PRETORIUS SC: 40 – 4-0.

CHAIRPERSON: I cannot see 4-0 at page 448.

ADV PAUL JOSEPH PRETORIUS SC: 4-0-8. Chair have I ...?

CHAIRPERSON: Page 4-0-8 or page 4-4-8? Let us talk about the page first.

ADV PAUL JOSEPH PRETORIUS SC: 4-0-8.

CHAIRPERSON: Okay. I may have misled Mr Zuma. I thought you
10 said 4-4-8.

ADV PAUL JOSEPH PRETORIUS SC: Oh, 4-4-8 I am sorry.

CHAIRPERSON: Hm.

ADV PAUL JOSEPH PRETORIUS SC: I am following instructions. Red
4-0-8.

CHAIRPERSON: 4-0-8, okay. That is the page.

ADV PAUL JOSEPH PRETORIUS SC: Paragraph 40.

CHAIRPERSON: Let us get there first. Let us get there first then we
can talk about the paragraph. I am at page 4-0-8 and I can see
paragraph 40. Are you there Mr Zuma?

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** Ja, I am there.

CHAIRPERSON: Okay, thank you.

ADV PAUL JOSEPH PRETORIUS SC: In that paragraph she said that
she sent the memorandum to you. She describes it as comprehensive
report on or around 28 July 2009 and then she says in the last
sentence:

“However, President Zuma did not respond.”

I presume she means to her. Do you know whether you did respond to her or not?

MR JACOB GEDLEYIHLEKISA ZUMA: No I do not – I do not remember. As I said earlier if the report comes in the majority of cases for the President to – to understand and read the report but not necessarily to respond at all material times because that – the report does not end with the President. The reports are - the final area of looking at the report is the Cabinet.

10 **ADV PAUL JOSEPH PRETORIUS SC:** Right. Chair would that be a convenient time?

CHAIRPERSON: Yes. We will take the lunch adjournment now and we will resume at 2 o’ clock. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Let’s proceed.

ADV PAUL JOSEPH PRETORIUS SC: Thank you Chair. Mr Zuma if we could go to page 408, we had dealt with paragraph 40 before the long
20 adjournment, do you have that paragraph?

CHAIRPERSON: What is it, just repeat for me the page Mr Pretorius and the paragraph?

ADV PAUL JOSEPH PRETORIUS SC: 408.

CHAIRPERSON: Ja. Paragraph?

ADV PAUL JOSEPH PRETORIUS SC: 40, we had completed paragraph

40 and I would like to go on from there.

CHAIRPERSON: Okay.

MR JACOB GEDLEYIHLEKISA ZUMA: Chair I'm sorry, I'm sorry to make this interruption. I have a problem.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: I have a problem because I am being made to go through the details that are the details of the officials and expected to remember every other detail on the work that generally is done by the DG's and the officials. The, the, the question this morning, we have gone into those details. I have a problem because I
10 am not an officer or cabinet secretary, those who take minutes etcetera.

CHAIRPERSON: Hmm.

MR JACOB GEDLEYIHLEKISA ZUMA: The manner in which I think I'm being asked questions on the details that I cannot even remember properly, because I was not working with those details. Now naturally this will have its own results, the results that would make the Commission to take some conclusions. Now I thought there are serious issues or policy issues that one could be bogged down to deal with.
20 Now if we take this document either the DG or the Secretary for Cabinet or something they would know everybody – they worked on it, and I am not sure about the purpose of me having to remember where the i's were dotted and the t's were crossed.

CHAIRPERSON: I think it is fair to say that as President there would be certain things that you might not know because they will be dealt

with by officials and other people and that there will be certain things that you would be expected to know, I think that's fair, fair comment. Where there may be difficulty, and I think we can have a look, and I did say earlier on you are free to say look I don't know that, I wouldn't have known that you know, and I think Mr Pretorius may going forward have to maybe apply his mind more in terms of what is important that you are likely to have known or to have dealt with to the extent that maybe some of the questions might be questions that might not have fallen within what you would have known, but I think what he may be
10 trying to do is to make sure that in the light of the allegations that Ms Barbra Hogan has made for example that you interfered with the processes of the appointment of for example the CEO, Group CEO for Transnet, and she goes into details into her interactions with you on her version.

It may be important for the Commission to understand for example when you go to that report that Mr Pretorius took you through to say do you remember having received this report, did you note some of these points that she made for example that the Board had made a certain recommendation. Some of those may be important because
20 when a decision has to be made as to whether what she says you said was actually said or whether you said it or not, it might be important to have that full picture, but at any time feel free to say those kind of details wouldn't have been part of what I would deal with, and I would simply say to Mr Pretorius as we go forward do have a look in terms of what's important for purposes of Mr Zuma in terms of what you are

looking at, so in principle I accept the point that there may be details that as president you wouldn't know but I think that maybe that Mr Pretorius doesn't want a situation where he doesn't put certain things to you only to find that later on they become relevant in terms of what exactly happened and then you have not been given a chance, that's my thinking of what he is doing, but I think going forward it may be that he might wish to bear your concern in mind as he goes forward.

MR JACOB GEDLEYIHLEKISA ZUMA: I hear you Chair, I hear you, but my problem does not go away.

10 **CHAIRPERSON:** Yes?

MR JACOB GEDLEYIHLEKISA ZUMA: For an example the allegation as put forward by the Minister is that I interfered.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: I don't know what does that mean, I don't know, because a President talks to his ministers about the work they do. I don't understand what is it, if for example there were to be an appointment of an officer, they consult with the President the President might have views insofar as discussing that thing. I don't understand this very broad word "he interfered", in what way?

20 **CHAIRPERSON:** Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: We are not getting for example that point. We are going to paragraph one line I don't understand, that's my problem.

CHAIRPERSON: Well to a certain extent we are at that point because we have dealt with a point where she says she had a meeting with you,

where she briefed you on the process for the appointment of the Group CEO at Transnet, and she says at that meeting she told you that the Board had recommended a certain candidate after considering a number of candidates including Mr Gama, and she says she was shocked and disappointed when you said, according to her, you have only one choice, that is Mr Gama.

Now that seems to me if it is true what she says happened may well be an interference, I am not saying it is, it may well be an interference, I am not sure. You might be able as you say to say a
 10 President and a Minister would discuss such issues as – a Minister of Public Enterprises would discuss issues as to candidates to be considered but the President if he has a view would express a view but would not be saying his view is the only view or the decisive view and that gives me at least another version to say well she says this is what was said but you say this is what happens, not what she is saying.

So in terms of that report Mr Pretorius was going through it because he is still looking at that issue and I did indicate earlier on that in terms of her statement of – in terms of accusations that she makes that's one of the very important accusations that she makes that
 20 must be dealt with properly, so it may be that there are certain details where you say look I really don't know that part, and I wouldn't know it as President and that's legitimate, so I am saying I hear your concern and I want to urge Mr Pretorius to bear it in mind as we go forward to try and avoid details that you might not have known about as President.

MR JACOB GEDLEYIHLEKISA ZUMA: Chair the allegation is that the

President interfered, and she makes the statement which I have – I mean responded to.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: I would have never said so, because I don't as a President, I can't say I want this and it succeeds because it is going to go through the processes, even if I talked to her. No matter what was the end of the discussion, the matter is going to a discussion which will determine even if – just for argument sake I had a view that view might not work at the end. Now I have answered the
10 question that I never said that. That must be the understanding of the Commission.

Now if we go through the details I just have a problem, because I am no longer dealing with that allegation as it were.

CHAIRPERSON: Well let me make this other point and some of this might be something that I need to explain, if for example as we have in relation to this accusation that she makes that you interfered with the appointment process in relation to the Group CEO of Transnet she says you interfered and you say no I never interfered and actually it is not true that I said I had a choice of the candidates, not even to speak
20 about one – only one choice, or if I said anything about candidates all I may have said was maybe Mr Gama might have been okay but let's go and talk at Cabinet, or you might say I don't think I expressed any preference in either way and that's not how I normally dealt with these matters and that's not how as far as I know a President deals with these matters.

At a certain stage she might have to be called back to deal with the fact that you have said you couldn't have said that and because in the end I may have to make a finding as to did the meeting that she talks about take place between the two of you, and is it true that you said what she says she said, and when I look at that I can't look just at that, I have got to look at a number of factors relating to the circumstances of the whole matter. That's where some of the things might be relevant.

MR JACOB GEDLEYIHLEKISA ZUMA: Chair my problem you see if she
10 said I came and I said (indistinct) with this one, it is my only candidate.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: And I didn't do so, these matters where you take the decision it is at the cabinet. In the Cabinet all members including the President has a right to express a view in the Cabinet. Now that's why I'm saying I have a problem with the – if I'm looking for that or the Commission is looking for that kind of thing, that now I must go through the detailed page by page, paragraph by paragraph.

CHAIRPERSON: Well maybe the paragraph by paragraph might not be
20 the best way, it may be that Mr Pretorius must look at the gist of certain portions of her statement and be able to put those to you rather than paragraph by paragraph there. There I think you may have a point there, you know Mr Pretorius will respond but it may be that he needs to look at a number of paragraphs and get the gist and put it, particularly because your version is I could not have said this, this is

not how things have worked and therefore it might not be helpful to go into certain details because my version is it could not have happened and I am now putting my own words – it may be that you say couldn't have happened this way because if it happened this way it would have been improper and I wouldn't have done that kind of thing.

So if it is fine with you I want to urge Mr Pretorius to look at trying things that way and let us see how it goes and if there is still a concern then you can raise it again.

MR JACOB GEDLEYIHLEKISA ZUMA: Chair I hear you and I
10 appreciate what you say.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: I am being really cross-examined, very thoroughly on the details and I don't know what will be the outcome of that.

CHAIRPERSON: Well – were you still in the middle of saying something, I don't want to interrupt you.

MR JACOB GEDLEYIHLEKISA ZUMA: Sorry?

CHAIRPERSON: Were you in the middle of making a certain point, I don't want to interrupt you?

20 **MR JACOB GEDLEYIHLEKISA ZUMA:** No I was just making the very same point that if we are looking on that particular allegation you know as I was – like dealing with her report insofar as what happened in the conference of the ANC for an example about groups or cliques or whatever. I said she is expressing her own views here, and these are matters that even any ordinary ANC member will take issue with that, in

the manner in which she has written her stuff here.

Now I'm saying if I go through all of that and the Commission is not taking my answer to the question whether I interfered or not, even if I've given the answer we will still go to the details. For me what other answer must I give that will make the Commission to be satisfied, is it to go to the details in one form or the other?

CHAIRPERSON: Well you see when Ms Barbra Hogan gave her version to say you interfered the Commission didn't accept what she said as true, as necessarily true, that's how I should put it. Equally when you
10 say what she is saying is not true, the Commission doesn't necessarily at this stage say what you are saying is true, at this stage the Commission is hearing different witnesses saying what they have to say on certain issues, there will come a time when the Commission must weight up all the evidence and see and decide what it decides is true, but at this stage it – just because you have said what she says happened is not true the Commission cannot say that is the end of the matter, it must still look at all relevant circumstances so that when at the end of its work it has to weigh up and decide it has a full picture, that is the attempt, to make sure that it has a full picture from all sides
20 before that time comes.

Maybe I should allow Mr ...(intervention)

MR JACOB GEDLEYIHLEKISA ZUMA: But the details Chair they will include me not remembering these details because they are not even mind and I don't know what would you do where I perhaps am saying I cannot remember, I cannot comment, you will weigh all of that, that is

my point.

CHAIRPERSON: Yes.

MR JACOB GEDLEYIHLEKISA ZUMA: If you made me to go through every other thing here which it could not be my, (indistinct) of my activities, and that is why I have got a worry.

CHAIRPERSON: Yes, let me hear what Mr Pretorius has to say.

ADV PAUL JOSEPH PRETORIUS SC: Well Chair if Ms Hogan implicates in her evidence Mr Zuma directly we are not only duty-bound to put it, but it is fair to put it in all its relevant detail. If Mr Zuma cannot remember that is the end of the story, but if a report dealing with a particular request and stressing the urgency of the request is addressed to Mr Zuma and Mr Zuma says he received the report and he considered its contents then its contents may or may not be relevant but certainly should be put in the sense that Mr Zuma has a chance to comment, so that when submissions are made at the end of the day one just does not say here's the report, Mr Zuma acknowledged receiving it, he is in a sense – must be accept to have agreed to its contents. That would be unfair.

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But I understand the complaint in relation to stressing detail and I am about to get to the gist of the matter now, in which I will put as up to this point at least in broad summary what Ms Hogan is saying to enable Mr Zuma to answer.

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CHAIRPERSON: So I think maybe what you should try and do is to try and avoid the kind of details that might not help in deciding what actually happened with regard to this incident, and just bear in mind his

concerns, his concern.

ADV PAUL JOSEPH PRETORIUS SC: Right.

CHAIRPERSON: So we will bear it in mind. If the attempt that will be made after some time it looks like it still does not meet your concern please feel free to raise it again. Sometimes it is not as easy as it is but Mr Pretorius will try. Okay.

Mr Zuma is not agree – oh I'm sorry, Mr Sikhakane, I didn't see your hand.

ADV MUZI SIKHAKANE: Chair I am going to be very cautious, you
10 raised your voice last time I raised this complaint, so I am going to
...(intervention)

CHAIRPERSON: Yes?

ADV MUZI SIKHAKANE: I think I am going to have to repeat what I
said to you and Mr Pretorius in a private place in chambers, I don't
want to do that, but what I need to do now I would like to have an
adjournment, I have a view that my client was brought in here under
false pretences, and now I am need him to take, to make up his mind
whether he wants to be cross-examined, because it is clear, it has just
been confirmed he is being cross-examined. All I am asking Chair, all I
20 am asking, I am going to repeat the things I said to both you and Mr
Pretorius, but for now because I advised my client to respect this
process, come here, cooperate with it, I want him to consider that
position, because I think I advised him in *bona fide* but I do not think I
was right, and I would like him to consider his position, because now it
is clear to me he is being cross-examined on the version, not his

version, on what people said. I do think I need an adjournment with him.

CHAIRPERSON: Okay, how much time do you need?

ADV MUZI SIKHAKANE: Chair if you give me 30 minutes, I will come back at three, so that ...(intervention)

CHAIRPERSON: At three o'clock?

ADV MUZI SIKHAKANE: Yes.

CHAIRPERSON: Okay I will give you, we will adjourn for 30 minutes, we will resume at three. Thank you, we adjourn.

10 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: I had said we would resume at three o'clock it did not happen. That was because there were still discussions that were going on. As you know we adjourned because the former President had expressed certain concerns with regard to the details or questions or some of the questions that he was being asked and his counsel expressed those concerns as well and requested an adjournment so that the former President and his legal team could reflect on the situation. The – there has been a discussion involving me and the
20 legal team of the commission as well as the legal team for the former President. They – both sides made a certain suggestion which I have agreed to. This commission would like to make sure that as far as possible it takes everybody on board. At least it should make attempts as far as possible to do so. The former President has expressed certain concerns and what has been agreed is that there should be an

opportunity for both the commission's legal team and the former President's legal team to look at the concerns and see whether a way can be found in which they can be accommodated without the commission's legal team compromising their job that they need to do in terms of the investigation. It has been decided that we should adjourn the proceedings for the day and we should not sit tomorrow in order to give a full opportunity to the commission's legal team and the former President's legal team which would involve the former President as well because he is concerned in the matter to see whether a way can be

10 found in which his concerns are addressed without the commission's legal team compromising any part of their obligations. We – I must take this opportunity to say that I said yesterday I think I said it yesterday that I believed that all sides were trying to find solutions to whatever issues arose and I indicated yesterday for example that the former President's counsel or legal team indicated that they did not want Mr Pretorius to be looking over his shoulder as he was asking questions. They did not want to keep on raising to raise objections. They were going to raise objections only if it was something really serious. So there have been an issue now they will come together and

20 they have discussed and a decision has been taken that let there be time to look at issues and see if common ground can be found so that then we can continue. So we are therefore going to adjourn the proceedings until Friday morning. I am confident that a way that there are reasonable prospects that a way will be found to make sure that we can proceed with a certain understanding. So we will have to wait until

Friday but tomorrow all sides will be interacting with one another – with each other to try and see how or the concerns that have been raised by the former President can be accommodated. I am confident that it ought to be possible to find a way. Unless there is anything that counsel for the former President or Mr Pretorius wants to say I am happy that we adjourn. I think both indicate that they have nothing to say. We therefore adjourn until Friday 10:00 am. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 19 JULY 2019

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